Energy Choice Matters

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N.Y. Staff: ESCO Customers Inappropriately Avoiding Costs Under Central Hudson MFCs

New York PSC Staff has recommended revising the bypassability of certain components in both the electric and gas Merchant Function Charges (MFC) at Central Hudson Gas & Electric, because certain retail access customers may currently avoid costs they should be allocated, Staff said in testimony filed in Central Hudson's current electric and gas rate cases (09-E-0588 et. al.).

Electric MFC

On the electric side, Central Hudson has unbundled eight components which are: procurement; credit and collections; uncollectibles; bill printing, mailing and receipt services; competitive energy services; meter ownership; meter services; and meter data services.

To recover these costs, Central Hudson has three meter-related MFCs, which Staff does not take issue with, plus an MFC administration rate and an MFC supply rate. The MFC administration rate currently recovers delivery-related credit and collections, delivery-related uncollectibles and an allocated portion of delivery-related call center function costs, along with associated administrative and general (A&G) and rate base items. The MFC supply rate recovers commodity-related credit and collections, procurement, delivery-related advertising and promotions, and an allocated portion of commodity-related call center costs, along with associated A&G and rates base items. Commodity uncollectibles are recovered via the Energy Cost Adjustment Mechanism.

A full service customer is charged both the MFC administration rate and MFC supply rate. A retail

Continued P. 4

IPPNY Suggests Long-Term Contracts to Repower Generation with Reduced Emissions

The New York PSC should consider the use of long-term contracts with generation developers to support the repowering of assets for various reliability, economic and environmental benefits, the Independent Power Producers of New York said in comments on a Staff RPS report (03-E-0188).

As only reported in *Matters*, Staff has recommended maintaining the central procurement model for RPS, and rejected calls for utility-owned generation (Only in Matters, 10/28/09).

IPPNY argued that the RPS should be expanded to include resources which reduce emissions of nitrogen oxides, sulfur dioxide, particulate matter, or carbon dioxide (CO2), perhaps by creating a new tier of projects that will provide emission and other environmental benefits.

"Because of the poor financial market, competitive market signals on their own are not sufficient to bring about repowering of generation that otherwise would make a significant contribution to furthering the state's economic, environmental and reliability objectives," IPPNY argued. IPPNY thus "strongly recommends" that the PSC work with stakeholders to determine what market-based solutions are needed to provide incentives for the repowering of facilities as modern generation that meet New Source Performance Standards.

"The market-based solutions to encourage repowering could be in the form of: (1) non-discriminatory RFPs open to both repowered and new resources, regardless of technology, (2) market-based credits or other incentives similar to the REC market, and / or (3) long-term contracts,"

Continued P. 6

Supplier Interest in Md. Residential Market May be on Hold Until End of 2010 Session

Any widespread interest in the Maryland electric mass market among retail suppliers may be delayed until the spring of 2010, once the next legislative session ends, due to lingering regulatory uncertainty. Suppliers won't have a clear sense of the retail market's future viability until the end the 2010 session in April, as re-regulation will undoubtedly be addressed, said Chris Kallaher, Director of Government & Regulatory Affairs for Direct Energy. Kallaher also serves as the New England Chair for the Retail Energy Supply Association.

Although favorable market conditions have prompted Washington Gas Energy Services to expand its marketing and Dominion Retail to again actively market at Baltimore Gas & Electric, most mass market suppliers have not responded to the favorable headroom, partly due to bad debt concerns, but mostly due to regulatory uncertainty, as Maryland Gov. Martin O'Malley has repeatedly said that re-regulation remains a priority for the next session.

Despite this promise from the governor to pursue re-regulation, several policymakers, including PSC Chair Douglas Nazarian, have said that the future of the market may be in doubt if suppliers did not rush to sign mass market load during the summer due to the favorable headroom, regardless of any regulatory uncertainty (Matters, 6/17/09).

However, whatever opportunity suppliers had during the summer was severely limited from its true potential because of the delayed process in implementing Purchase of Receivables, which is still mired in debates at the PSC.

The PSC adopted COMAR 20.53, requiring either POR or proration of partial payments, in March. Utilities were granted two months to file compliance plans. Despite comments from Nazarian demanding supplier market entry, the Commission did not do suppliers any favor by expediting consideration of the POR compliance plans, which could have facilitated supplier entry prior to the end of the summer. The Commission took nearly four months in ruling on the POR compliance plans, and rejected their cost recovery, potentially delaying their implementation further. Supplemental compliance plans were required and took another month to develop, with debate now moving to the appropriate level of the discount rate (Only in Matters, 11/10/09).

Kallaher agreed that the prolonged POR implementation process has been "frustrating," particularly given the rhetoric from policymakers and the fact that, with POR, suppliers would have been much more inclined to actively seek mass market load during the summer as Nazarian desired. Kallaher contrasted Maryland POR implementation with the process undertaken by the Connecticut DPUC in 2007, which ordered Connecticut Light & Power to implement POR expeditiously, including implementing POR by hand, if necessary, until billing system updates were completed.

Even though 2009, due to the delay of POR, has been something of a lost opportunity for shopping, appreciable increases in residential migration have been seen. Residential accounts on competitive supply in April 2009 versus October 2009 are below:

Maryland Migrated Residential Accounts

	April '09	October '09
Allegheny	79	1,850
BGE	28,034	43,021
Delmarva	1,090	2,135
Pepco	30,197	38,180

However, residential migration is still below 10% in each service area, at 8.0% at Pepco, 3.9% at BGE, and about 1% at Allegheny and Delmarva.

Still, with WGES and Dominion Retail undertaking public marketing efforts as well as lower wholesale and SOS prices, there is a softening towards competition from certain legislators, noted Jay Kooper, President of the Retail Energy Supply Association and Director of Regulatory Affairs for Hess Corporation. In particular, House Economic Matters Chairman Dereck Davis said that he will vote against any re-regulation, and said that re-regulation bills will not consume the committee's work during the 2010 session. Davis prevented re-regulation, which passed the Senate last year, from moving in the House in 2009 because of a lack of information, and has convened a series of hearings on re-regulation since the end of session.

Nevertheless, enough regulatory uncertainty persists to prevent most suppliers from making commitments to the market, even with the coming POR implementation. And that lack of confirmed supplier interest is driving proposals for higher POR discount rates, which, in turn, is further reducing interest among suppliers.

As previously reported, the PSC ordered the utilities to include a risk factor in the POR discount rate to account for the continuation of the supplier-customer relationship. Although the Commission was not entirely clear on what the risk factor was intended to capture, Kallaher reported that, in subsequent working sessions with Delmarva and Allegheny, the utilities have explained that this component is meant to ensure cost recovery even if customers migrate to dual billing in order to avoid a POR discount charge.

The issue, Kallaher said, is that Delmarva and Allegheny do not have any confidence that mass market customer migration will appreciably increase coincident with the introduction of POR, and thus cannot rely on receivables associated with any small customer shopping in setting a discount rate to recover implementation costs.

Thus, they must rely on existing Type II commercial shoppers on utility-consolidated billing to recover administrative and implementation costs. However, these customers, which are less of a credit risk than mass market customers, could opt to leave utility consolidated billing for dual billing to avoid paying any POR discount that suppliers elect to recover in their rates. If such customers start migrating to dual billing, the amount recovered from the discount rate to fund implementation costs will decrease as receivables under POR decrease.

That potential risk of migration to dual billing is why the utilities have proposed an additional risk factor, to supplement the receivables retained to pay for implementation costs. Yet this new risk component raises the discount rate and only encourages more customers to leave utility consolidated billing in favor of dual billing, exacerbating the problem.

As only reported by *Matters*, RESA has suggested a technical meeting to discuss solutions to this problem. However, that will likely mean the delay of POR from the original December implementation dates at Allegheny and Delmarva, though the April 2010 dates at BGE and Pepco are likely still attainable (Only in Matters, 11/24/09).

Meanwhile, suppliers are dedicating capital and other resources to the Connecticut and PPL residential markets in droves, which offer POR, favorable market conditions, and considerably less regulatory uncertainty. The Ameren residential market, with recent POR implementation, could also lure supplier capital away from Maryland, though Ameren's position in the Midwest ISO makes it less enticing for certain suppliers.

To date, only BlueStar Energy Services has confirmed a residential Ameren offer. Integrys Energy Services and FirstEnergy Solutions are the only two other suppliers that Ameren lists as ready to serve residential load on its choice website. Integrys Energy Services, which has scaled back enrollments as it winds down its business, had sought to offer a residential product through an arrangement with New Illinois Cooperative Energy, but the marketing of the product became subject to an Illinois Commerce Commission declaratory order (Only in Matters, 11/17/09).

Acclaim Energy Market Entries Represent Judicious Growth Strategy

Broker-consultant Acclaim Energy Advisors is undertaking a measured growth strategy to expand its energy procurement and management services to customers outside of its native Texas, Acclaim President and CEO John Elder told *Matters*.

As previously reported, Acclaim has received a Connecticut electric aggregator license, has a pending Pennsylvania electric broker license, and has pending gas and electric broker licenses in Maryland (Only in Matters, 10/8/09). It is also entering the New Jersey market, Elder said.

Since its founding in 2003 as Legacy Energy Solutions, Acclaim has focused on the Texas market, initially offering bill auditing, but quickly expanding to procurement and risk management, and also offering energy efficiency and sustainability services, energy information management, and carbon management.

Elder said that Acclaim's decision to expand this year into new markets represents a judicious growth strategy, as Acclaim worked to ensure its backoffice system would be capable of serving customers in new markets at the level of service it provides in Texas. The measured growth also reflects the time it takes to learn the nuances of each retail market, Elder said.

In its new markets, Elder reported that energy procurement is what drives customers to Acclaim, with various energy management services typically added on later. In the new territories, Acclaim is targeting both customers who have an existing relationship with Acclaim for their Texas facilities, as well as other customers with whom Acclaim does not already have a relationship.

Elder reported that suppliers have mostly retreated from their aversion to serving commercial and industrial load on term contracts due to credit concerns compared with the standstill in commercial and industrial contracting a year ago. However, Elder said that aversion still remains for some types of customers, singling out commercial office buildings as a customer type which suppliers are shying away from.

Through mid-year, Acclaim had grown its sales staff 15 percent in order to help capture increased interest in its service offerings and support market expansion.

Central Hudson ... *from 1*

access customer billed on utility consolidated billing is charged the MFC administration rate but avoids the MFC supply rate. A retail access customer on dual billing avoids both the MFC administration rate and MFC supply rate.

Staff said that such rate design allows retail access customers to avoid paying delivery-related rates or other costs they should be allocated.

For example, all retail access customers avoid commodity-related credit and collections recovered in the MFC supply rate, but Staff said that customers on utility-consolidated billing should pay such charges.

Furthermore, delivery-related advertising and promotion costs are being collected through the MFC supply rate, but should be recovered through base delivery rates, Staff said. Retail access customers currently avoid these costs regardless of whether they are on dual on consolidated billing.

Retail access customers on dual billing avoid both the MFC supply rate and the MFC administration rate. That means customers avoid delivery-related credit and collections and delivery-related uncollectibles recovered in the MFC administration rate, which Staff said is inappropriate.

Staff recommended that all delivery-related expenses be collected in base rates, and that the MFC administration rate and MFC supply rate be designed to collect commodity-related expenses. "We believe this methodology is consistent with other utilities' MFC rates," Staff said.

Under Staff's proposal, the MFC administration rate would recover commodity-related credit and collections and an allocated portion of the commodity-related call center function costs, along with associated A&G and rate base items. Retail access customers on dual billing would avoid these costs, but retail access customers on utility-consolidated billing would not be able to bypass these costs.

The MFC supply rate would recover procurement, commodity-related advertising and promotions and an allocated portion of the commodity related-call center function costs, along with associated A&G and rate base items. The MFC supply rate would be avoidable for all ESCO customers regardless of billing method.

Gas MFC

Staff made essentially the same recommendations with respect to Central Hudson's gas MFCs. Central Hudson has unbundled five gas service components which are: procurement; credit and collections; uncollectibles; bill printing, mailing and receipt services; and competitive energy services. Central Hudson recovers such costs through an MFC administration charge and an MFC supply charge.

The MFC administration charge currently recovers delivery-related credit and collections, delivery-related uncollectibles and the delivery-related call center function costs, along with associated A&G and rates base items. The MFC supply charge recovers commodity-related credit and collections, procurement, delivery-related advertising and promotions and an allocated portion of commodity-related call center costs, along with associated A&G and rates base items. Commodity-related uncollectibles are recovered via the Gas Adjustment Clause (GAC).

Similar to the electric side, all retail access customers currently avoid the MFC supply charge. Retail access customers on dual billing also avoid the MFC administration rate, which is nonbypassable for customers on utility-consolidated billing.

Due to the design to the MFCs, all retail access customers avoid delivery-related advertising and promotion costs which are being collected through the MFC supply charge, Staff said. Staff recommended that such costs should be recovered through base delivery rates.

All retail access customers also avoid commodity-related credit and collections recovered in the MFC supply charge -- costs which Staff said should apply to customers on utility-consolidated billing.

Dual-billed customers avoid delivery-related credit and collections and delivery-related uncollectibles recovered in the MFC administration charge, Staff noted, which Staff said is inappropriate.

As it did for electricity, Staff said that all gas delivery-related expenses should be collected in base rates. The MFC administration and MFC supply charges should be designed to collect commodity-related expenses, consistent with other utilities' MFC rates, Staff testified.

Under Staff's proposal, the MFC administration charge would recover commodity-related credit and collections and an allocated portion of the commodity related call center function costs, along with associated A&G and rates base items. The MFC administration charge would be paid by customers on utility-consolidated billing, but would be avoidable for customers on dual billing.

The MFC supply charge would recover procurement, commodity-related advertising and promotions, and an allocated portion of the commodity-related call center function costs, along with associated A&G and rates base items. The MFC supply charge would be avoidable by all retail access customers regardless of billing.

Electric Mandatory Hourly Pricing

Staff recommended that bundled customers with maximum demands greater than 300 kW should be required to take service under Central Hudson's Hourly Pricing Provision. Central Hudson is currently in the process of lowering the current 1,000 kW mandatory hourly pricing cutoff to 500 kW, effective May 1, 2011 (Only in Matters, 9/23/09). Staff said that the expansion of mandatory hourly pricing to customers above 300 kW should occur in early 2012.

Central Hudson has 108 customers that have a demand level above 300 kW, but below 500 kW. Of these 108 customers, 66 receive their commodity from an ESCO, so 42 full service customers would be switched to the hourly pricing tariff under Staff's proposal. Approximately 100 of the 108 customers would require the installation of an interval meter to record each individual customer's hourly consumption.

ESCO customers would continue to receive service at the rates agreed to with their ESCO. "However, because individual customer hourly load data is available, the ESCO will be billed by the New York Independent System Operator for their customer's actual load instead of a class average load shape," Staff noted. "This will give ESCOs an incentive to develop time sensitive rates for their customers, although that decision would be up to the ESCOs and their customers," Staff said.

Capacity Release

In response to FERC Order 712, Staff recommended that Central Hudson change its procedures, and release capacity to marketers at its Weighted Average Cost of Capacity (WACOC). Releasing capacity at the WACOC would be administratively simpler than the current method of releasing capacity at the upstream interstate pipeline's maximum FERC approved rate, with surcharges or credits applied to firm transportation customers' bills for differences between the system WACOC and the cost of capacity associated with the released pipeline capacity through a Capacity Assignment Adjustment (CAA). Staff said that Central Hudson should meet with marketers prior to any changes to allow the marketers time for transitioning to WACOC releases. Staff recommended implementing capacity releases at the WACOC by November 1, 2010.

N.Y. RPS ... from 1

IPPNY suggested.

Although IPPNY does not elaborate on what party would procure such long-term contracts, IPPNY favors transitioning RPS into an LSE-based program, and presumably long-term contracts under this model would be procured by LSEs such as utilities, rather than any contracts being procured by a central state administrator.

IPPNY suggested that the PSC could establish a new tier to function as a "Low Emission Efficient Production Portfolio Standard." Under this tier, the RPS program's competitive bidding principles could be used with a selection criteria and payments, based upon a project's dollars per ton bid for a quantity of reductions in various emissions, or ability to firm intermittent power. "While this approach may not replace the necessity for long-term contracts, it can relieve the magnitude of the financial burden of the long-term contracts," IPPNY said.

IPPNY further argued that the PSC should transition from its current centralized RPS procurement approach to a decentralized approach, where LSEs are required to include a certain percentage of renewable energy resources, as measured through tradeable RECs, as part of their load requirements. Although PSC Staff said that an LSE-based compliance model would raise costs, IPPNY said that no evidence has been provided showing that an LSE model would be more costly than the central procurement model, pointing to the widespread use of the LSE model in other states. IPPNY said that the LSE model would provide developers with flexibility, and allow developers to better tailor the REC financial arrangements to their preferred construction and development schedule for their projects. AES also supported an LSE-based model.

However, Iberdrola Renewables, which had previously said that a transition to an LSE-based model was necessary, told the PSC that its concerns can now be met through modifications to the current central procurement model. Iberdrola Renewables no longer believes that shifting to an LSE-based model is feasible or desirable, and said that an improved central procurement model, "is the best opportunity to promote timely renewable energy development in New York." Iberdrola Renewables said that the central procurement model could provide the flexibility and liquidity required by developers if the central administrator procured products (RECs) rather than specific projects, to allow developers to use a secondary REC market as a backstop if their projects are delayed.

Utility-Owned Generation

Central Hudson Gas & Electric again advocated for the development of a utility-sited solar tier in the RPS, calling such utility-owned generation more cost effective than the current customer-sited tier. The utility-sited tier, opposed by Staff, would provide several qualitative benefits not captured in Staff's analysis, Central Hudson said, including, "[a] reduction in risk to ratepayers for capital and administrative costs, geographic equity, job stability and economic growth, and diversity of available clean resources within New York State."

A utility-owned solar installation with a nameplate rating of 1 MW would cost ratepayers an average of $148/MWh over 25 years, versus $245/MWh for customer-owned installations, Central Hudson said. Central Hudson called Staff's projected utility-owned solar cost of $8/watt overestimated, and pegged the cost at $5.91/watt, for a 1.26 MW installation.

Rochester Gas & Electric also said that incremental hydroelectric generation owned and operated by regulated utilities should be eligible for the RPS. Run-of-river hydroelectric generation currently qualifies as an RPS resource.

RG&E said that it is unrealistic to expect individual consumers or businesses to install, own, and operate incremental hydroelectric generation projects, and that the utility owner should be allowed to bid into the RPS main tier or customer-sited tier.

While several renewable and solar groups opposed utility-owned generation, the Solar Alliance said that the PSC should enable utilities to own and ratebase solar generation under certain conditions. In particular, the Solar Alliance said that as no RPS program offers customers the opportunity to offer solar systems in excess of 80 kW, a more robust role for the utility for these larger projects is appropriate.