Energy Choice Matters

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# Retail Suppliers Fault Maryland Gas LDCs' POR Filings as Lacking Cost Support

The Maryland natural gas LDCs have not justified proposed discount rates for their purchase of receivables programs and should be directed to file additional cost justification for the proposed discount rates, several retail suppliers told the Maryland PSC in comments on the LDCs' compliance filings to implement COMAR 20.59 (Only in Matters, 10/9/09).

Among other things, COMAR 20.59 requires LDCs to either purchase a supplier's receivables, or prorate partial payments between supply and delivery charges. As only reported by *Matters*, Baltimore Gas & Electric, Columbia Gas, and Chesapeake Utilities filed POR plans; Washington Gas Light filed a proration plan; and Elkton Gas filed for a waiver of the provision.

BGE's compliance filing drew most of the criticism, particularly for its inclusion of a 1.25% risk factor to be included in the otherwise undocumented POR discount rate. Aside from the fixed 1.25% risk factor to reflect the risk of the continuation of the supplier-customer relationship, BGE only stated that the discount rate would also include uncollectible expenses, credit and collection expenses, and operational costs of POR and other aspects of COMAR 20.59, but gave no costs or percentages related to these items (with such calculations to be filed by December 31).

However, the December 31 deadline, "is too late for interested parties to discern whether the costs included within the proposed discount factor are prudent and directly related to the implementation of COMAR 20.59," Pepco Energy Services said in asking the Commission to require

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# FERC Staff Supports Rebilling for NYSEG, National Grid Metering Errors

FERC should require the New York ISO to re-invoice Unaccounted for Energy (UFE) due to NYSEG and National Grid metering errors dating back to 1999, FERC Trial Staff said, because otherwise the amounts charged to NYSEG would violate the filed rate doctrine (EL09-26).

As first reported by *Matters* last year, the case concerns National Grid and NYSEG metering errors dating back to 1999 which resulted in an overstatement in NYSEG's subzone UFE and an understatement in National Grid's subzone UFE, resulting in loads in NYSEG's territory overpaying by about $20 million (Only in Matters, 12/31/08). A settlement among several parties would prescribe the methodology for any potential rebilling of the affected subzones, leaving to litigation the question of whether rebilling should occur (Matters, 10/7/09).

Retail suppliers, who oppose re-invoicing, would be responsible for 16% of the amounts owed (Only in Matters, 11/30/09).

"There is no dispute that the meter data used to calculate the invoices were incorrect and therefore the resulting invoices were erroneous. The NYISO tariff requires invoices to be based on actual usage but in this case they were not. Thus, the invoices violated the tariff (in other words, the filed rate)," FERC Staff summarized.

Although Staff does not believe the Commission needs to address equity arguments due to the clear nature of the filed rate and tariff provisions, Staff nevertheless said that even when equity is

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## Integrys Marketer Points to Lack of SIL Study in New Brunswick Generation Case

Supplemental information provided by New Brunswick Power Generation Corporation, "confirm what Integrys Energy Services has argued all along -- NBP Generation possesses market power in the relevant market," whether it is the Maritimes Balancing Authority Area or the New Brunswick Balancing Authority Area (BAA), Integrys Energy Services contended in a FERC filing (EL09-32).

As only reported in *Matters*, FERC directed New Brunswick Generation to supplement the market power study it had previously filed in compliance with a FERC order (Only in Matters, 10/19/09). The study was prompted by a complaint from Integrys Energy Services, which had noted that New Brunswick Generation's application for market-based rates did not contain a study of the Maritimes balancing authority area, even though New Brunswick Generation is engaged in market-based rate sales in that market (Matters, 6/11/09).

Among the data sought by FERC in its request for additional information was any information regarding the Simultaneous Transmission Import Limit (SIL) study used by New Brunswick Generation.

However, New Brunswick Generation did not conduct a Simultaneous Transmission Import Limit analysis, and said that, "consistent with Commission policy," it used values from regional reports. Integrys Energy Services seized on the admission, and argued that New Brunswick Generation did not provide a direct reference to any such regional study, and, in its original April 2008 market-based rate application, only cited an ISO New England regional study for New England.

"Reliance on the ISO-NE report is not appropriate in this case because the relevant destination market is the New Brunswick BAA - not New England," Integrys Energy Services said. Moreover, New Brunswick Generation's market power study relied on non-simultaneous import data, Integrys Energy Services added.

Integrys Energy Services also said that New Brunswick Generation's supplemental filing confirms Integrys Energy Services' earlier arguments that New Brunswick Generation controls the only transmission into Northern Maine available to competitors, and that under its tariff, it only makes transmission available if the transmission customer discloses competitive information to New Brunswick Generation.

"Because competitors cannot compete with the NBP Generation integrated utility model and cannot easily access transmission to ISO-NE on a firm basis without following Tariff procedures that require petition to NBP Generation directly, further participation and development of wholesale and retail markets in Northern Maine will discontinue," Integrys Energy Services argued, in asking that FERC prohibit New Brunswick Generation from making market-based rate sales in the Northern Maine market.

## Luminant Submits PRR to Lower Probability Of Exceedance Applied to Wind Forecast

Luminant has submitted a Protocol Revision Request (PRR 841) which would reduce the probability of exceedance percentage applicable to the Total ERCOT Wind Power Forecast (TEWPF) from 80% to 50% to better reflect the total ERCOT Wind-powered Generation Resource (WGR) production that has been historically experienced. The change would result in more efficient procurement of Ancillary Services through the use of market solutions rather than "command and control" actions by ERCOT, Luminant argued.

Luminant said that the revisions are intended to better reflect the actual accuracy experienced by ERCOT's use of the AWS Truewind forecast of wind generation in the ERCOT TEWPF, based on historical information presented at the November 10, 2009 QSE Managers Working Group (QMWG) meeting.

The use of more accurate wind forecasts should reduce "command and control" actions taken by ERCOT through Out of Merit Capacity (OOMC) instructions and should reduce the use of Replacement Reserve Service (RPRS), Luminant added. "This change will allow for more market-based solutions (rather than command and control) to achieve the proper balance between system reliability and pricing signals for Loads and Resources," Luminant said.

Luminant expects that, overall, the PPR will result in a positive impact for both Loads and Resources. "Allowing market-driven forces to set prices and provide proper price signals should provide incentives to Load Resources and Generation Resources to add capacity needed for system expansion and reliability," Luminant said.

"Consumers should see total cost reduction because inefficient, non-market-based, command and control unit commitment costs Uplifted to the market will be reduced," Luminant added.

Specifically, PPR 841 would amend Protocol 4.4.15 (QSE Resource Plans) to read:

"ERCOT shall produce renewable production potential forecasts for Wind-powered Generation Resources (WGRs) to be used as the planned operating level in the Resource Plan during Replacement Reserve Service (RPRS) procurements. The WGR Production Potential (WGRPP) is an hourly fifty-percent (50%) probability of exceedance forecast of energy production for each WGR. ERCOT shall use a probabilistic Total ERCOT Wind Power Forecast (TEWPF) and select the forecast that the actual total ERCOT WGR production is expected to exceed fifty-percent (50%) of the time (i.e., a fifty-percent (50%) probability of exceedance forecast)."

# *Briefly:*

**WGES Supports Delay to Address Md. Electric POR Discount Rate**

Stating that it is more important that Maryland electric POR programs are correctly designed to increase supplier participation and offers available to consumers versus being implemented quickly, Washington Gas Energy Services supported the Retail Energy Supply Association's proposed process to convene technical sessions, with a set schedule and deadline, to address to utilities' proposed POR discount rates (Only in Matters, 11/24/09). "A poorly designed POR program runs the risk of making POR too expensive for retail suppliers, forcing them to eliminate utility consolidated billing as an affordable option and potentially forcing suppliers to dual bill customers - a prospect sure to keep suppliers from entering Maryland and sure to increase costs for those suppliers already active in the market," WGES said.

**Acclaim Energy Receives Md. Electric, Gas Licenses**

Acclaim Energy was granted a Maryland electric broker license to serve commercial and industrial customers at the four investor-owned utilities, Choptank Electric Cooperative, and the Southern Maryland Electric Cooperative (Only in Matters, 10/2/09). Acclaim Energy also received a Maryland natural gas broker license to serve commercial and industrial customers in all service areas.

**Avalon Energy Services Receives Md. Gas License**

Avalon Energy Services was granted a Maryland natural gas broker/aggregator license to serve non-residential customers in all service areas (Only in Matters, 10/26/09). As only reported in *Matters*, the start-up recently received a Maryland electric broker license (Only in Matters, 7/13/09).

**FERC Grants Sequent Capacity Release Waivers as Part of Purchase of Integrys Energy Services Portfolio**

FERC granted Sequent Energy Management's request for a temporary waiver of capacity release and other Commission regulations arising from Sequent's acquisition of a book of gas transportation and storage agreements from Integrys Energy Services (RP10-84). As noted by FERC, Sequent and Integrys Energy Services have described the transaction as part of Sequent's larger acquisition of Integrys Energy Services' wholesale natural gas trading portfolio in the United States. As the transfer of pipeline capacity is part of a larger corporate restructuring and sale, FERC granted waivers of the shipper-must-have-title policy, the prohibitions on buy-sell arrangements and tying arrangements, and the restrictions on capacity releases below or above the maximum rate, consistent with prior Commission practice. Under the transaction, Integrys Energy Services will assign and/or release to Sequent approximately 1.5 Bcf of firm storage capacity and 317,971 dth/d of firm transportation capacity on the following pipelines: Vector Pipeline, L.P., Northern Border Pipeline Company, ANR Pipeline Company, Columbia Gulf Transmission Company, Panhandle Eastern Pipe Line Company, LP and Trunkline Gas Company, LLC

**NRDC, ACE NY Launch Green Power Shopping Website**

The Natural Resources Defense Council and the Alliance for Clean Energy New York have partnered to develop a website to promote renewable electric products for New York City electric customers. The two advocacy groups say that Green Power NYC (www.greenpowernyc.com) simplifies shopping for a green power plan. The site includes offers for residents and small commercial customers, and currently includes two providers, ConEdison Solutions (with renewable content provided by Community Energy) and Sterling Planet. Both are offering a 100% wind product and a product blending wind and small hydro resources; however, Sterling Planet's products are only blocks of RECs and do not involve a change in the customer's retail commodity supplier.

**Conn. LDCs Ask for Hearing on Direct Energy Termination Request**

Southern Connecticut Gas and Connecticut Natural Gas opposed Direct Energy's petition for a ruling from the Connecticut DPUC confirming that Direct may terminate agreements with commercial gas customers in arrears, as the LDCs claimed that their tariffs require that a transportation customer must be served by the third party supplier for a full 12-month minimum term unless replaced by another third party supplier (09-11-15, Only in Matters, 11/26/09). The LDCs requested a hearing on the matter in a brief letter to the DPUC. The LDCs did not take the opportunity to counter Direct's arguments regarding tariff provisions in their letter. The LDCs did say, however, that granting Direct Energy's request would have, "significant adverse financial impacts on the Companies and their other customers as it shifts financial risk onto the Companies and ultimately to the Companies' customers." The LDC also claimed that, "Direct Energy is requesting that the Department allow it to be treated differently than other marketers."

**CenterPoint Energy Completes Changes to Use Monthly Meter Read for Standard Switches**

CenterPoint Energy said in a market notice that it has completed necessary system changes that will enable the use of monthly cycle reads to complete Standard Switches in the ERCOT market. As previously reported, CenterPoint had not been using monthly cycle reads to complete Standard Switches if the monthly cycle read fell within the seven-day window for completing Standard Switches. Instead, CenterPoint Energy had been using actual field reads obtained separately from monthly cycle reads (Only in Matters, 11/9/09). With the system changes effective December 1, CenterPoint will begin using the monthly cycle read to complete the Standard Switch if a monthly cycle read falls between three business days before or after the First Available Switch Date or on the First Available Switch Date.

**Constellation Acquires Md. Project from Clipper Windpower**

Constellation Energy has signed an agreement with Clipper Windpower, Inc. to acquire the Criterion wind project in Garrett County, Md. The $140 million, 70-megawatt wind energy project would be developed, constructed, owned and operated by Constellation Energy. Under terms of the agreement, Constellation Energy will purchase from Clipper Windpower the Criterion project and 28 of Clipper's 2.5-megawatt Liberty wind turbines. Commercial operation of the wind energy facility is anticipated in the fall of 2010. The Criterion project has entered into a 20-year power purchase agreement with the Old Dominion Electric Cooperative for energy and renewable energy credits produced by the wind facility.

## *Md. POR ...* *from 1*

BGE to submit actual cost data.

Additionally, the National Energy Marketers Association called BGE's 1.25% risk factor "excessive," arguing that the level has not been adequately supported.

Pepco Energy Services further noted that the 1.25% risk factor would be fixed under BGE's proposal, yet no justification is provided as to why the risk factor should not be analyzed and adjusted annually as the discount rates for uncollectibles and operational costs will be.

BGE would establish only two discount rates under its compliance plan -- a residential rate and non-residential rate. Pepco Energy Services argued that small commercial customers have higher uncollectibles than larger non-residential customers, and said that BGE gave no rationale for not developing class-specific discount rates.

Pepco Energy Services further noted that BGE's proposed gas supplier tariff requires a supplier to elect either utility consolidated (unified) billing or dual billing for all of its customers in a single rate schedule. Pepco Energy Services argued that customers should have the right to elect their billing option, though this right is only expressly granted to electric customers with no corresponding Commission order granting gas customers the right to choose their billing option.

"If customers are unable to choose their billing option and suppliers are required to elect unified or dual billing for all customers within a single rate schedule, the diverse products and pricing structures that competitive retail suppliers presently offer to meet its [sic] customers' needs will have to be curtailed because BGE's system was built to charge one fixed price for a volume of usage in the month," Pepco Energy Services noted.

Some flexible products currently offered to commercial customers may vary within or across billing periods, but such products would not be possible if a supplier desired to use utility consolidated billing for some customers in a rate class, Pepco Energy Services said. Pepco Energy Services reported that it offers customers products that are tied to a monthly index price that the utility would be unable to invoice under its present billing system.

Furthermore, Pepco Energy Services noted that it bills customers on varying volume options -- either nominated volume, actual usage at the burner tip, or contracted volume. BGE's billing system cannot accommodate these different customer volume alternatives, meaning to offer these options, the supplier would have to dual bill all customers in that rate class, even if some customers are not on a unique volume arrangement.

Gateway Energy Services opposed BGE's proposal to withhold all customer payments from a supplier in cases of a customer dispute, not only the amounts in dispute. Gateway said that it is unclear why amounts not in dispute should be withheld, since customers will still be consuming gas while the dispute is pending, and such gas must be paid for by the supplier.

NEM noted that while operational costs are to be included in the POR discount rate, BGE will be recovering implementation costs in its Gas Choice and Reliability Charge (GCRC). NEM said that BGE should be required to provide a breakdown of these costs to ensure that the discount rate is not recovering costs already recovered through the Gas Choice and Reliability Charge.

**Columbia Gas**

NEM and Gateway Energy Services both objected to Columbia's proposed provision that would allow it to cease its POR program and implement prorated payments, or change its POR discount factor, upon 60 days notice.

"It would be virtually impossible for a supplier to offer a long term product to a customer without certainty as to how the billing and collections will be handled in the future," Gateway said.

Likewise, NEM said that the uncertainty and risk created by Columbia's ability to change its billing and collections methodology on such short notice, "could so devalue the competitive opportunities in the service territory as to discourage supplier entry."

Gateway, NEM and Pepco Energy Services all protested Columbia's cursory description of its discount rate calculation, which lacked specific values and rates.

As previously reported, Columbia said that it cannot separate commodity-related uncollectibles by rate class and thus will not offer a separate discount by rate class. Pepco Energy Services questioned Columbia's inability to perform this calculation, and its inability to develop a reasonably proxy.

**Chesapeake Utilities**

Although NEM called Chesapeake's proposed 1% POR discount rate reasonable, NEM took issue with a proposed billing charge of $8 per customer per month for utility consolidated billing. NEM called the proposed fee "exorbitant." Pepco Energy Services said that such a charge would likely have a, "chilling effect on competition."

Pepco Energy Services argued that the Maryland PSC should delay implementation of POR until at least 90 days after approving new, revised compliance plans from the LDCs, which Pepco Energy Services said should be required to reflect additional cost data and justification. Unlike with electric POR, a delay to accommodate further cost reporting and stakeholder review should not appreciably delay POR, as the earliest implementation date for an LDC is scheduled to be April 1, 2010 at BGE, with Chesapeake's implementation date only provided as sometime in the second quarter of 2010. Columbia's POR program is not scheduled to begin until January 2011.

## *NYISO Rebilling ...* *from 1*

considered, re-billing should occur. "NYSEG paid money for nothing and so was financially harmed. In fact, it was National Grid, its customers, and other NYISO LSEs who benefitted from the invoices," Staff said.

"[R]equiring one customer to pay for another customer's service is inequitable and violates fundamental principles of ratemaking," Staff added.

Staff dismissed any concerns about re-billing causing uncertainty and disrupting the finality of settlements. Among other things, Staff noted that locational based marginal prices would not be affected, as only UFE costs would be re-allocated to LSEs who should have been charged them originally.

"[C]ustomers should expect to be billed based on their actual usage [and] correcting the errors at issue merely confirms that expectation," Staff said, contending that, "re-invoicing will not undermine expectations because the incorrect billing concerned UFE, not energy market prices."

Moreover, enforcing the filed rate, "will give the NYTOs (transmission owners) the incentive to report metering errors, even when they are not in their favor, and to timely replace meters that may be producing billing errors," Staff said.

"Enforcing the filed rate will also give the NYTOs the incentive to negotiate to create for the NYISO a real invoice 'finality' provision," Staff said, noting that the current tariff expressly provides that the NYISO may modify previously final settlements upon FERC or court order.

Staff conceded that such language permitting adjustments upon a Commission or court order, "may be too broad and may create the potential for needless litigation under other circumstances and on a going forward basis."

Thus, Staff, "believes it would be wise, for reasons of efficient market administration, to have a [finality] provision similar to PJM's, to limit future billing disputes concerning metering data," with Staff suggesting that FERC direct a stakeholder proceeding to address such a provision.