

Energy Choice

Matters

December 9, 2009

PG&E Says Competitive Suppliers Should be Required to File Long-Term Procurement Plans

California competitive electric service providers should be required to submit a long-term procurement plan under the 2010 Long-Term Procurement Plan process, Pacific Gas & Electric said in comments regarding the limited re-opening of direct access (R.07-05-025).

As only reported by *Matters*, the PUC had asked for comments on what issues related to the expanded direct access load cap are required to be addressed in a subphase of the rulemaking to be decided by April 11, 2010, versus what issues can be deferred (Only in *Matters*, 11/19/09).

Citing SB 695's mandate that competitive suppliers be subject to the same RPS, resource adequacy and carbon emission regulations as the investor-owned utilities, PG&E argued that the mandate should be addressed in the instant subphase, rather than being deferred to a subsequent rulemaking. PG&E contended that, "the Legislature's clear desire for the utilities and direct access service providers to be treated equally," compels the PUC to require suppliers to develop long-term procurement plans.

Additionally, PG&E also said that suppliers must be subject to the same requirements as utilities with respect to combined heat and power resources in addition to renewable resources.

PG&E, Southern California Edison, San Diego Gas & Electric, and The Utility Reform Network all agreed that the PUC's subphase rulemaking should not address any potential changes to either the (1) six-month notification required of customers leaving bundled service or (2) the three-year

Continued P. 5

RESA Raises Concerns Regarding Duquesne Light Active Portfolio Management Proposal

Shifting the procurement of default service supplies for Duquesne Light residential customers from competitive affiliate Duquesne Power to the utility Duquesne Light, "is a distinction without a real difference," the Retail Energy Supply Association said in a motion to compel responses from Duquesne Light to several discovery requests.

As only reported by *Matters*, Duquesne Light, for its POLR V default service plan, has proposed to procure power for default service residential customers by utilizing bilateral contracts, not full-requirements contracts procured through competitive RFPs. Duquesne Light would offer residential customers a 29-month fixed priced product for the period January 1, 2011 through May 31, 2013 (Only in *Matters*, 10/14/09).

RESA argued that the process is essentially the same as the actively managed portfolio approach proposed under POLR IV, except that under POLR IV, Duquesne Power, not Duquesne Light, managed procurements. Under the POLR V proposal, "it is possible that the same people would be performing the same tasks as they do today," RESA speculated.

Shifting the procurement function in-house, "could actually serve to exacerbate the present controversy over cost allocation and cross subsidization," RESA added. "If and when the procurement function is moved to Duquesne Light, costs incurred by Duquesne Light could become even less transparent than they are today. Duquesne Light may be able to derive cost advantages

Continued P. 7

Ontario Proposes to Require Signature for all Enrollments in "Crack Down" on Marketing

Ontario is proposing new rules to "crack down" on the marketing and solicitation practices of electric and gas retail suppliers, the Ministry of Energy and Infrastructure said yesterday.

The province introduced new legislation (the Energy Consumer Protection Act of 2009) that would, if passed:

- Require a signature on all contracts;
- Limit termination fees and prohibit such fees in certain circumstances (such as in cases of relocation or when the customer "accidentally" signs a second contract);
- Eliminate negative option contract renewals;
- Institute three possible cancellation periods: a 10-day cooling off period; upon third party verification (within 10-60 days of signing the contract); and 30 days after receipt of the first bill;
- Require a "plain language" contract disclosure statement, including a direct comparison of the retailer's rate with the utility rate;
- Require all charges to be clearly shown;
- Require verbal disclosure by sales agents, who must wear ID badges if marketing door-to-door;
- Require reaffirmation calls to follow a standard format and be conducted by an independent third party approved by the Ontario Energy Board;
- For households, limit the party authorized to contract and enroll an account to the utility account holder or others specified by regulation;
- Require individual sales agent training and background checks;
- Develop an "assurance fund" to assist in covering potential losses for consumers;
- Improve officer and director accountability at retailers

A sample disclosure statement drafted for discussion, showing the required utility rate comparison, is available on the [Ministry of Energy and Infrastructure's website](#).

The legislation would also establish rules for suite metering (submetering), and deposits and disconnections

Many of the provisions resulting from the

proposed legislation, should it pass, would involve consultation and be set at a later date by regulation.

In the past three years, energy retailers have cracked the top 10 list of consumer complaints received by the Ontario Ministry of Consumer Services. Currently, the Ontario Energy Board logs between 100 and 150 consumer complaints a week about the practices of energy retailers.

Md. PSC Suspends BGE, Allegheny Electric POR Plans

The Maryland PSC suspended the electric purchase of receivables compliance filings of Baltimore Gas & Electric and Allegheny Power, and ordered that the utilities' respective POR programs shall not commence until further order of the Commission.

The Commission found that additional information requested by Staff is needed to adjudicate the compliance filings, and directed each company to answer Staff's requests for information (Only in Matters, 12/3/09).

Allegheny's POR program was proposed to begin on December 15, 2009. It will be addressed at the Commission's January 13, 2010 administrative meeting.

BGE's POR program is proposed to begin on April 1, 2010. The program will be addressed at the Commission's February 17, 2010 administrative meeting. Per the Commission's letter order, BGE shall file a proposed POR discount rate by January 15, 2010.

Pa. Working Group Files Report on EDI Transactions Required for Smart Meters

Pennsylvania's existing 814 Enrollment Request transaction is capable of supporting the enrollment of customers with an electric supplier who are participating in a real-time pricing or time-of-use program, a preliminary report from the state's Electronic Data Exchange Working Group found. The working group had been directed by the PUC to report on various EDI processes required to support advanced metering and related products.

The working group said that enrollment of

customers by suppliers onto a real-time-price or time-of-use program can be performed, from a technical standpoint, under all billing options currently offered in Pennsylvania: rate ready utility consolidated, bill ready utility consolidated, and dual billing.

However, the working noted that a rate ready collaborative had previously recommended that rate ready utility consolidated billing, for policy reasons, should be kept simple, and that the PUC should not require utilities to offer complex structures like real-time pricing and time-of-use programs for suppliers under rate ready billing.

Still, if a utility chose to offer complex billing options through rate ready billing, the working group noted that the current 814 Enrollment transaction can support enrollment of a customer onto a real-time price or time-of-use program, by use of a specified rate code developed by the supplier.

No change is required to the current 814 Enrollment transaction for the supplier to enroll the customer onto time-based rates under either bill ready utility consolidated billing or dual billing, since the supplier performs its own billing calculations in each case. An EDI transaction is not needed to place the customer on a utility-offered optional time-based rate, the working group added.

The PUC had ordered that an EDI transaction be developed and implemented for the exchange of monthly, billing quality interval usage data recorded at the meter level, versus the current practice of providing usage data at the account level.

The existing 867 Interval Usage transaction is already designed to meet this need, the working group noted, though some utilities use the transaction to provide interval usage data at the account level, with meter-level data optional. The working group said that it will act to make meter-level detail a requirement for the 867 Interval Usage transaction.

The PUC also directed the working group to address third-party exchange of historical interval usage data recorded at the meter level for the previous 12 months. Such historical usage may currently be provided under the existing 867 Historical Interval Usage (HIU) transaction, but the working group noted that the

867 HIU transaction is optional and used only by PPL. Furthermore, PPL's use of this transaction is intentionally limited to account level data, rather than meter-level data.

"PPL's experience with the 867 HIU transaction has revealed that the volume of data involved can be problematic. PPL acknowledged that other states have attempted to use the 867 HIU transaction to provide meter level data and failed. In an attempt to place an order of magnitude on the potential volume, the Sub-Team calculated that for a single meter providing 15-minute interval reads, 34,560 reads would be included in a 12-month 867 HIU transaction as compared to 12 reads for a non-AMI, manually read register meter over the same period," the working group said.

Therefore, the working group concluded that rather than establishing the 867 HIU transaction as the required historical usage standard for advanced metering, the group should explore other methods for providing historical interval usage data at the meter level, including but not limited to web-based delivery or other internet delivery approaches.

The working group was tasked with developing EDI standards for new business processes. Though undefined by the Commission, the working group views such processes as related to in-home device support, provision of billing-quality data to customers or designated third-parties within 48 hours of meter reading, and other processes that will result from implementation of smart meter technology.

"The Sub-Team has concluded that these new business processes are not yet fully defined. It is not possible for this Sub-Team to develop data exchange standards for undefined business processes," the working group said.

The working group asked for an extension to develop EDI standards for such new processes, and recommended an expanded collaborative including electric suppliers, curtailment service providers, and other interested third parties, in addition to the electric distribution companies.

Md. Awards 20-Year PPAs to Over 100 MW of Renewable Generation

The State of Maryland, through the University System of Maryland and Department of General Services, has awarded long-term contracts to several renewable energy projects which will provide about 23% of the annual electric requirements for state agencies and institutions..

It was not clear how the wholesale power would reach end users through a retail supplier or load serving entity, though Washington Gas Energy Services currently manages a portfolio of wholesale requirements for the Department of General Services. The state said that it will also offer access to the renewable energy contracts to county, university and municipal partners.

Contracts were awarded to Bluewater Wind (NRG) for up to 55 MW of wind energy as an extension to its proposed Delaware off-shore wind project; WindForce for a 55 MW on-shore wind energy project; and Constellation Energy for a 13 MW solar project in Central Maryland. A separate award under a small business provision will be made to Synergics for 10 MW as part of its Roth Rock development in Western Maryland.

The contracts, which will be for 20 years, still must be executed, and prices were not disclosed. All projects are scheduled to be online by 2014.

Constellation said that the long-term contract will support a \$60 million, 14.5 MW (AC) solar facility that will be constructed, owned, and operated by Constellation on land leased from Mount St. Mary's University in Emmitsburg, Md., to be completed by December 2012. Mount St. Mary's University will purchase the balance of the system's capacity.

Pa. PUC Reports on Supplier Complaints, Inquiries

The Pennsylvania PUC recorded eight slamming complaints against competitive electric and gas providers in 2008, the Commission said in an [annual report](#).

In 2008, the PUC's Bureau of Consumer Services (BCS) investigated seven allegations of slamming by electric suppliers, with one of

these from a residential customer. Only one complaint of slamming by a gas supplier was recorded, with the complaint filed by a residential customer. The PUC also reported one complaint from a residential customer regarding slamming by a gas LDC.

The PUC only recorded 18 residential customer complaints against electric suppliers, comprised of nine complaints against Commerce Energy, and nine complaints against Peoples Plus (Dominion Retail).

Only 30 residential gas complaints were recorded, with CNG Retail Services Corp. (Dominion Retail) accounting for 22 complaints. Other suppliers accounted for the other eight complaints (with no supplier accounting for more than five), but the PUC did not provide a breakdown of the suppliers.

Billing disputes produced the largest volume of competition-related consumer complaints.

About 4% of customer inquiries to the Bureau of Consumer Services were related to competition issues and requests for information (about 2,600 contacts). About 64% of that amount related to electric competition, with 36% related to gas competition.

Most competition-related inquiries were related to general information (56%), followed by requests for information on changing a supplier (13%).

Tres Amigas Seeks FERC Disclaimer of Jurisdiction over ERCOT Connections to Project

Tres Amigas LLC petitioned FERC to disclaim jurisdiction over transmission facilities interconnecting the ERCOT grid to the proposed Tres Amigas Superstation, and transmission services over the alternating current lines from ERCOT to Tres Amigas (and synchronized with the ERCOT grid). Tres Amigas further requested that FERC declare that establishing a new alternating current to direct current interconnection between Tres Amigas and ERCOT will not change the jurisdictional status of any other ERCOT utilities or ERCOT transactions.

Tres Amigas has proposed establishing an AC/DC transmission interconnection in New

Mexico to connect ERCOT, the Eastern Interconnect, and Western Interconnect.

"The relief requested in this Petition is essential for the Tres Amigas project to move forward. The ERCOT parties with whom the Petitioner has discussed interconnecting with Tres Amigas have made clear that they will not likely obtain approvals in Texas to construct transmission lines to Tres Amigas without this jurisdictional disclaimer, and without an ERCOT interconnection the unique benefits of Tres Amigas will be lost," Tres Amigas said.

Tres Amigas also filed a separate application for authorization to sell transmission services at negotiated rates.

Briefly:

Select Energy Partners Seeks Pa. Broker License

Select Energy Partners LLC applied for a Pennsylvania electric broker/marketer license to broker all sizes of commercial and industrial customers in all service areas.

DPUC Notes Increase in Direct Energy Business Complaints

The Connecticut DPUC said that its Consumer Services Unit, "has noticed an increase in the number of complaints regarding either marketing issues or alleged slamming issues involving Direct Energy Business." The Department instructed Direct to answer a series of questions about the individual complaints, as well as its marketing practices, including any steps taken to reduce complaints since an August 17 technical conference on supplier marketing issues.

ConEdison Solutions Expands Commodity, Energy Services Staffs in Texas

ConEdison Solutions said yesterday that it has expanded its ERCOT commodity supply staff, led by John Werner out of Houston, and has also expanded its energy efficiency/service offerings in Texas. In connection with its expanded energy services/contracting offerings, ConEdison Solutions named Theresa Sifuentes as Business Development Manager for Texas. Sifuentes was previously with the Texas State Energy Office in Austin. "By expanding our

commodity team and adding energy-efficiency services to our regional portfolio our business is now a full-spectrum energy resource for the Texas marketplace," said Robert Anderson, vice president of ConEdison Solutions.

Greg White Appointed to Michigan PSC

Michigan Governor Jennifer Granholm appointed Greg White to the Michigan Public Service Commission. White most recently served as the PSC's legislative liaison and has been with the agency for the past 22 years. White, an independent, was appointed to the Commission for a term expiring July 2, 2015. He replaces Steven Transeth whose term has expired.

PUCT Approves Added Trade Names for Frontier Utilities

The PUCT approved an amendment to the REP certificate of Frontier Utilities to reflect the new trade names of Sol Energy and Rodeo Energy (Only in Matters, 11/10/09).

Vincent-Collawn to Replace Retiring Sterba as CEO of PNM Resources

PNM Resources Chairman and CEO Jeff Sterba announced yesterday that he will retire as CEO effective March 1, 2010, but will continue to serve as chairman. Current PNM Resources President and Chief Operating Officer Pat Vincent-Collawn will replace Sterba as CEO. Prior to joining PNM Resources, Vincent-Collawn served as CEO of Public Service Co. of Colorado. PNM Resources is the parent of First Choice Power.

Calif. ... from 1

minimum stay applicable to customers who return to bundled service. Such issues will be too controversial to resolve prior to April 2010, the utilities and TURN said.

However, the California Alliance for Choice in Energy Solutions (CACES) and the Alliance for Retail Energy Markets (AReM) said that the Commission must provide an early ruling on the six-month notice requirement and the minimum stay.

CACES and AReM stressed that the six-month rule does not apply to customers leaving

the utility for the first time, and only applies to customers who are leaving the utility after having returned to the utility subsequent to a prior stint on direct access (DA). The switching exemption in D.03-05-034 makes it clear that the six-month notice applies to, "such customers that seek to switch back to DA," with the phrase "such customers" referring to customers that had been on direct access, AReM and CACES said. That applicability is reinforced in the utilities' rules, AReM and CACES noted, citing Southern California Edison Rule 22.1: "The following Rule implements the Switching Exemption Decision (D.) 03-05-034, which adopted guidelines regarding the rights and obligations of DA Customers who return to Bundled Service and subsequently switch back to DA service."

CACES and AReM further argued, for customers who were once on direct access but returned to the utility, that the six-month notice requirement should be waived because the direct access cap, "provides the utilities sufficient certainty as to their procurement obligations without layering on an additional six-month notice provision."

"Moreover, unless the six-month notice requirement is waived, it will not be possible to comply with the statutory requirement that the reopened direct access market must commence within six months of the passage of the bill, which is on or before April 11, 2010," AReM and CACES added.

The California Large Energy Consumers Association agreed that the initial subphase of the rulemaking must address switching rules, noting that current direct access customers, whether due to the six-month notice requirement or three-year minimum stay, "could potentially become 'stranded' on bundled service if the phase-in schedule were to permit a 'gold rush' of new, non-DA-eligible customers to move to DA service in the first year or two of the process," which could leave little room for currently direct access-eligible customers to shop once their notice or minimum stay period expires.

The customer load eligible for direct access but currently serving a minimum stay on bundled service was exclusively reported in *Matters* yesterday (Only in *Matters*, 12/8/09).

However, SDG&E said that it does not agree with the concept of creating preferences or set-

asides for eligible direct access load which may currently be on a minimum stay. "Creating such preferences will require implementing additional rules that will unnecessarily create preferred classes of DA load adding potential complexity, contention and delay to the transition process," SDG&E said.

SCE, PG&E and TURN all argued that the initial subphase should address supplier bonding requirements to cover the risk of the involuntary return of load to the utility (such as a mass transition due to a default), especially as new suppliers may likely seek licenses with the expansion in direct access-eligible load. "Given the experience of other states such as Texas with defaults by certain ESPs, the establishment of an appropriate bond amount is an important consumer protection measure that must not be delayed any longer," TURN said. The PUC has been required to set a bonding level related to involuntary returns to bundled service since 2002 under AB 117, but has deferred consideration on the amount.

CACES and AReM said that the subphase should address the current requirement that all direct access customers with peak loads above 50 kW are required to install an interval meter, because ongoing advanced meter rollouts will make such meters unnecessary in the near future. As all customers in excess of 200 kW already have interval meters, the requirement essentially only impacts customers from 51 kW to 200 kW. CACES and AReM said that these customers should be allowed to choose whether they want an interval meter installed as part of their switch to direct access, and that an interval meter should not be required. In cases where the customer opts not to install an interval meter, load profiles should be used for settlement purposes, trued up by actual meter reads, until an advanced meter is installed, as is done for customers less than 50 kW.

CACES, AReM, the utilities and TURN agreed that the issue of nonbypassable charges should not be addressed in the initial subphase, as the charges have already been set, with modifications likely prompting protracted litigation.

PG&E also suggested reviewing the current pricing and methodology for the transitional bundled commodity cost tariff during the

subphase, which is the product customers returning to the utility from direct access receive if they return prior to the expiration of their six-month notice period.

Regarding the length of a direct access phase-in, SDG&E said that it is amenable to a schedule that phases-in the total direct access load cap over a period of three years.

Duquesne ... from 1

by relying on the assets and resources which are funded by distribution rates. This would place Duquesne Light's default service at a competitive advantage compared to [retail suppliers], which would not have similar cost advantages," RESA said.

Duquesne Light has stated that it will not utilize an independent evaluator/consultant to oversee the negotiation of bilateral contracts to serve residential customers, RESA noted.

RESA said that it is aware of at least two regulatory proceedings where Duquesne Light's affiliate relationships have come into question, and is seeking additional information on those proceedings through discovery.

RESA is also seeking financial results for Duquesne Light and affiliates related to the provision of provider of last resort service under the POLR IV plan, and future projections of financial results related to Duquesne Light's provision of default service for the proposed POLR V period.

"If Duquesne projects a financial benefit under its fixed price plan for residential customers and its proposal to manage the default service procurement function in house, then the requested information is relevant and informative on the issue of whether Duquesne Light will properly fulfill its obligations to facilitate access to the competitive retail market. Put simply, if Duquesne Light's proposal results in Duquesne Light making a lot of money on the provision of default service, then Duquesne Light necessarily has a significant financial interest in keeping customers on default service. That is antithetical to the Commonwealth's goal of promoting direct access to a competitive retail market," RESA said.

RESA also said that profit information is required as profit-seeking behavior may impact

how costs are passed through to customers, or whether certain costs are included in the procured wholesale products. RESA noted that during POLR IV, capacity prices exceeded Duquesne Light's forecasts, and Duquesne Light reserved the right to seek recovery of the shortfall from ratepayers. RESA favors full-requirements RFPs in which the wholesale bidders assume the risk of capacity prices. It is unclear under POLR V whether Duquesne Light will require the default service wholesale supplier for residential default service load (which would not be selected based on full requirements RFPs) to assume various risks, including capacity prices, RESA said.