Energy Choice Matters

January 5, 2010

N.H. PUC Mitigates Default Service Rates by Moving Costs to Nonbypassable Charges

The New Hampshire PUC allowed Public Service of New Hampshire to move costs previously contained in the default service energy rate into various nonbypassable charges, in an effort to mitigate what would have been an increase in default service rates due to customer migration and PSNH's long portfolio position (DE 09-180).

Specifically, PSNH ceased recovering the following costs through the default service rate, effective January 1, 2010:

1) Reliability costs such as VAR support (uplift costs) that relate to overall system reliability;

2) The above market-costs associated with the replacement agreement for the Bio-Energy IPP purchased power agreement; and

3) Company use energy costs not related to the generation segment of PSNH.

PSNH serves its default service load on what is essentially a managed portfolio combining its retained generation and unit entitlements, independent power producer generation from contracts and rate orders, contracted blocks of fixed purchased power sources, and anticipated market power purchases, mostly through the daily ISO New England interchange process. Over the past few years PSNH has planned and/or procured a large portion of its load obligation ahead of time using its own generation, purchased power, and IPP supplies to minimize future market exposure risk from unsecured load obligations, and to minimize over- and under-collections, which can lead to moderate-to-wide fluctuations in default service prices.

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Narragansett Electric Completes Transition of Last Resort Service Customers to SOS

Consistent with a prior Rhode Island PUC order, Narragansett Electric (National Grid) transitioned its remaining Last Resort Service customers to Standard Offer Service effective January 1, 2010, and has split Standard Offer Service into two groupings, one for medium and large commercial customers, and one for residential, small commercial, and lighting customers.

Last Resort Service had been designed for customers who returned to bundled service after a period on competitive supply. However, few customers were taking the service, and contracts to serve those customers expired at the end of 2009. Additionally, Last Resort Service pricing for residential customers was identical to SOS pricing. Only non-residential pricing was different between the two rates.

The prices for the new Large SOS Customer Group will be set every three months and will vary by month. The PUC opted for a fixed price for large customers, rather than hourly pricing, to ease the transition to more market reflective rates for any large customers remaining on National Grid supply service. The PUC said that accepting monthly fixed rates does not foreclose the possibility of moving to spot pricing for large customers after March 31, 2011.

Large customer SOS prices shall be posted by National Grid approximately 30 days prior to the start of each three-month period. For the first quarter of 2010, the large customer rates are:

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ConEdison Solutions Raises PPL Residential Rate, Citing Market Conditions

Responding to "current wholesale energy costs" ConEdison Solutions has raised its fixed rate offered to new residential and small business customers at PPL Electric through December 2010 to 9.95¢ per kilowatt-hour, effective January 1.

ConEdison Solutions had entered the PPL mass market offering a fixed rate of 9.38¢ per kilowatt-hour, the lowest non-introductory term rate in the market. In December, ConEdison Solutions had said that it would re-evaluate pricing as early as February (Only in Matters, 12/16/09).

The new rate is 5% lower than the PPL Price to Compare for residential customers, versus a 13% discount under the pervious rate.

ConEdison Solutions is one of the first suppliers to adjust its rates upward in the newly competitive market. Liberty Power adjusts its term rates on a daily basis, and one of Dominion Retail's products has fluctuated, but the changes were due to reconciliations in PPL's Price to Compare as the Dominion Retail product was a 10% discount off the Price to Compare, and previous quotes were only estimates based on the estimated Price to Compare. As of January 4, 2009, Direct Energy has not changed its rates as announced in November, and revisions to MXenergy's rate have been downward.

ConEdison Solutions CEO Jorge Lopez said that the retailer has signed "thousands" of customers since entering the PPL mass market.

Dominion to Proceed with Sale of Peoples LDC to SteelRiver

Dominion has decided to continue with the sale of LDC Dominion Peoples to SteelRiver Infrastructure Fund North America, despite the West Virginia PSC's rejection of the sale of sister utility Dominion Hope to SteelRiver in what was originally a package deal.

The sale price of Dominion Peoples, which serves about 359,000 customers in Western Pennsylvania, is $780 million, adjusted for changes in working capital and levels of capital expenditures. Closing is expected in the first quarter of 2010.

As only reported in *Matters*, Dominion Peoples had asked the Pennsylvania PUC for an extension of a requirement to decide whether to pursue a POR program, or instead file an updated cost of service study, due to the uncertainty regarding the sale of Dominion Hope (Only in Matters, 12/23/09).

In response to the PUC's December 2008 SEARCH order to either file a voluntary POR plan or an updated cost of service study to permit unbundling, Peoples opted at that time not to pursue a POR program, due to its uncertain corporate ownership under the then-pending sale. However, in its 2009 1307(f) proceeding, Peoples entered into a settlement providing that it would re-evaluate its decision on offering POR, and file its intent within 30 days of a final PUC order on its sale (which was issued November 19).

But since corporate ownership of the LDC had remained uncertain pending the outcome of the West Virginia case, Peoples asked that the deadline for filing its intent regarding POR be extended until 30 days after the closing of the stock transfer under the sale, or, should closing not be completed within 60 days, that Peoples provide a further status report to the Pennsylvania Commission in 60 days time.

Under the 1307(f) settlement, if Peoples elected to offer a voluntary POR program, it was originally to file the plan within 90 days of an order in the acquisition proceeding. If Peoples does not elect to institute a POR program, the updated cost of service study will be filed at the earlier of its next base rate case, or the annual purchased gas cost 1307(f) proceeding scheduled to be filed on or about April 1, 2011.

WPTF Says Nonbypassable Charge Only Permissible When Generation Results from RFO

Proposals from Pacific Gas & Electric and Southern California Edison to each build up to 3 MW of fuel cell generation at various California state universities should not be eligible for nonbypassable cost allocation based on

California PUC precedent, the Western Power Trading Forum said in an opening post-hearing brief (A. 09-02-013 et. al.).

PG&E originally cited D.04-12-048 as supporting its request for recovery of costs through a nonbypassable surcharge, but WPTF cited the language of that decision as only allowing a nonbypassable charge for, "utility-owned generation acquired as a result of the procurement process." WPTF noted that there was no competitive RFO for the fuel cell generation which resulted in utility ownership (Only in Matters, 3/31/09).

PG&E next cites D.06-06-035, but WPTF argued that D.06-06-035 merely reinforces the findings of D.04-12-048.

During the hearing, PG&E also cited D.08-09-012 as justifying the imposition of a nonbypassable charge. However, WPTF countered that D.08-09-012 expressly permits nonbypassable charges for, "any utility-owned generation acquired as a result of the procurement process."

SCE cites Public Utilities Code Section 380(g) as the authority allowing a nonbypassable charge on direct access and community aggregation customers for any above market costs of its fuel cell installations. "This appears to be an example of the utilities' frequent policy of 'when in doubt, cite 380(g) as an authority for increasing costs to direct access customers,'" WPTF claimed.

WPTF contended that Public Utilities Code Section 380(g) authorizes the recovery of, "costs of meeting resource adequacy requirements, including, but not limited to, the costs associated with system reliability and local area reliability, that are determined to be reasonable by the commission."

"There is one slight problem with SCE's citation of Section 380(g). Namely, the terms 'resource adequacy,' 'system reliability' or 'local area reliability' appear nowhere in the utility's Application, testimony, supplemental testimony or rebuttal testimony. This was confirmed in cross-examination of SCE witness Nelson," WPTF said.

In its opening brief, SCE said that WPTF's arguments are misdirected, because the fuel cell installations are not "new generation" covered by D.04-12-048 et. al.

"SCE is not installing fuel cells as a 'new generation' project to serve forecast customer load in 2010 and beyond. Rather, as stated previously, SCE is pursuing the Fuel Cell Program as a demonstration project in order to promote the benefits of fuel cell technology to the public. Although the energy produced by the fuel cells will be consumed by bundled service customers and paid for by those customers at prevailing market price, it is overly simplistic to characterize SCE's Fuel Cell Program as a 'new generation' project when SCE is not proposing the project with the objective of serving load. The serving of load just happens to be an ancillary benefit of the Fuel Cell Program, not the primary purpose of the program," SCE said.

"Based on this key difference, the proposed fuel cells are not 'new generation' as defined in D.04-12-048, and no group of customers should be exempt from the recovery of costs associated with SCE's Fuel Cell Program because all customers will benefit," SCE argued. PG&E's initial brief did not substantively rebut arguments regarding nonbypassable charges, and merely cited its earlier testimony justifying the charges.

More broadly, WPTF called the utility-owned fuel cell generation inconsistent with the state's competitive markets first policy, since no RFO was used to source the generation, and utilities have not, in WPTF's eyes, shown extraordinary circumstances which allow the waiver of a competitive RFO. However, both SCE and PG&E pointed to exceptions for emerging technologies that are unlikely to develop without utility support, noting that fuel cell capacity in California is approximately 12 MW from only 20 projects. The initial briefs mainly reflected previously reported arguments on these issues.

Briefly:

Consumers Energy Reports Preliminary 2010 Choice Cap

Consumers Energy reported to the Michigan PSC that its preliminary weather normalized and adjusted sales for 2009 were 35,729,533 MWh, which will be used to set an initial 10% electric choice cap of 3,572,953 MWh. Consumers exceeded its choice cap in the summer of 2009 and currently has 3,765,129 MWh of competitive load on its system. Under Michigan's choice cap rules, no customers will be forced off of retail access due to the preliminary cap being lower than current choice sales. The preliminary cap is based on actual sales for January through November 2009 with a forecast of December sales. An updated choice cap for 2010, based on actual sales for all months of 2009, will be filed by February 1.

Broker Paetec Energy Expanding Nationally

Paetec Energy (organized as Technology Resource Solutions Inc.) applied for a Maine electric broker/aggregator license serving medium and large non-residential customers. Paetec is currently licensed in Rhode Island and also operates in New York where no license is required. Paetec said that it is in the process of seeking licenses in Massachusetts, Pennsylvania, New Jersey, Maryland, Ohio, New Hampshire, Illinois and the District of Columbia, and is planning to expand to "nearly all" restructured energy markets in the U.S. in 2010.

BidURenergy.com Seeks Illinois License

BidURenergy.com applied for an Illinois electric agent, broker and consultant license. As only reported in *Matters*, BidURenergy.com, which currently offers online brokering in New York, is also seeking a Pennsylvania electric broker license (Only in Matters, 12/29/09).

Report: More than 176,000 Customers Shopping at PPL

Some 147,000 residential customers at PPL Electric have migrated to a competitive supplier, the *Allentown Morning Call* reported today, with total migration standing at 176,000 accounts (13%). Last week, the *Philadelphia Inquirer* and *Reading Eagle* reported migration was about 150,000 total customers. PPL did not return an email last week or phone call Monday to confirm the data. In late December, PPL reported migration of 117,000 customers, of which 97,000 were residential (Only in Matters, 12/23/09). Virtually all of the migration occurred in the fourth quarter of 2009, as there were zero residential shoppers and only 43 non-residential shoppers at PPL as of September 30.

Energy Services Providers Rebrands as New York Gas & Electric After Acquisition

Energy Services Providers, Inc. is rebranding as New York Gas & Electric after being acquired by U.S. Gas & Electric, Inc. in August of 2009 (see exclusive story in Matters, 8/4/09). U.S. Gas & Electric is currently serving 70,000 customers throughout Indiana, Michigan, New Jersey, New York, and Ohio, which is more than double its customer base of 30,000 as of March 1, 2009. As only reported in *Matters*, the retailer has confirmed its entry into Maryland and Pennsylvania in 2010 (Only in Matters, 12/1/09). As previously reported, U.S. Gas & Electric recently added electricity to its New York marketing in addition to natural gas.

Northgate Technologies Seeks Conn. Aggregation License

Northgate Technologies, Inc. applied for a Connecticut electric aggregator certificate to serve commercial and industrial customers. Northgate said that it will market directly to its 400 computer and technology service customers, and has entered into an "agent agreement" with Glacial Energy, and is in discussions with Hess. Northgate said that it plans on providing energy audits for customers as well.

Manuel Flores Named ICC Chair

Illinois Gov. Pat Quinn appointed Manuel Flores, a Chicago alderman, as Chairman of the Illinois Commerce Commission in a move hailed by the Citizens' Utility Board. Upon Senate confirmation, Flores would replace Chairman Charles Box, whose term expired in January 2009 but continues to serve pending a replacement. Flores has been involved in various green energy initiatives as an alderman, and was praised by CUB as a consumer advocate.

Piedmont Completes Sale of Additional Stake in SouthStar to AGL

Piedmont Natural Gas said that it has completed the sale of one-half of its 30 percent ownership interest in SouthStar Energy Services to AGL Resources effective January 1, 2010 (Only in Matters, 7/31/09). Under the terms of the agreement, announced at the end of July 2009, Piedmont sold one-half of its ownership interest to AGL Resources for $57.5 million and retains a 15 percent ownership and earnings interest in SouthStar, which is no longer subject to any purchase option in favor of AGL Resources. AGL Resources now own 85% of SouthStar.

San Rafael Affirms Participation in Marin Energy CCA

The City Council of San Rafael, California, affirmed its membership in Marin Clean Energy, the Marin Energy Authority's prospective community choice aggregation in the Pacific Gas & Electric territory, at a Monday meeting. San Rafael's participation ensures that the Authority has the critical mass to move forward with the aggregation. The Marin Energy Authority has approved a five-year draft contract with Shell Energy North America, but the Authority retains the right to elect one of two other bidders (Constellation Energy and Macquarie Cook Power) before finalizing supply.

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However, PSNH's load obligation has declined significantly over the past 18 months, due in part to the migration of customers - mostly large customers - to third party suppliers, leaving smaller customers (predominantly residential and small commercial customers) supporting the higher default service rate.

In the instant case, PSNH said that its prudent and reasonable cost of providing default energy service (ES) for the year 2010, prior to any mitigation, was expected to be 9.21 cents per kWh. The 2009 rate was 9.03 cents per kWh.

PSNH said that higher than expected migration levels have increased the forecast 2010 default service rate by approximately 5% versus what it would have been absent migration.

To mitigate the increase, PSNH suggested two alternatives. Under Method 1, a nonbypassable charge would be instituted to recover the above-market costs of surplus energy supplies in the portfolio that may have to be sold at currently lower market prices. Under Method 2, rather than charging above-market supply costs on a nonbypassable basis, PSNH would instead shift some costs out of default service into nonbypassable charges, to offset the higher above-market supply costs embedded in default service.

PSNH said that Method 2 removes from default service certain costs that should be applicable to all customers. First, reliability costs such as VAR support costs would be moved to the nonbypassable transmission cost adjustment mechanism, which is adjusted annually on July 1. Second, above market costs associated with the replacement agreement for the Bio-Energy IPP purchased power agreement would be shifted to the nonbypassable stranded cost recovery charge (SCRC). Finally, company use energy costs not related to the generation segment of PSNH would be shifted to distribution rates.

When shifting costs in the manner proposed in Method 2, PSNH's 2010 default service rate would be lowered to 8.96 cents per kWh, instead of 9.21 cents per kWh.

The PUC ultimately approved PSNH's Method 2 cost shifting, dismissing arguments from TransCanada Power Marketing, Freedom Logistics and Halifax-American Energy Company that PSNH should not be permitted to recover above-market costs from competitive supply customers. The PUC found that the above-market biomass costs meet the definition of stranded costs in RSA 374-F:2, IV, and that the other costs are not generation related, and may be collected from all customers.

However, the PUC noted that the approved cost shifting does not fully address the effects of the migration of large customers to competitive suppliers on PSNH's small commercial and residential customers, "who have less of an opportunity to choose an electric supplier."

"We are not persuaded that PSNH has yet taken measures sufficient to address potential migration and, therefore, we will require the Company to develop a meaningful range of forecasts of customer migration as it prepares to recommend a mid-year adjustment to its ES rate effective July 1, 2010."

The PUC further ordered PSNH to conduct a study of the costs of continuing the ownership and operation of its Newington Station (dual oil/gas-fired), which has become increasingly uneconomic. Staff noted that the Newington Station's capacity factor has steadily declined from 55.9% in 2003 to 3.3% in 2008. PSNH must incorporate the study's results in its Least Cost Integrated Resource Plan to be filed no later than September 30, 2010.

The PUC declined to adopt TransCanada's recommendation that PSNH be required to use RFPs for power purchases, as is done at the other New Hampshire utilities. "Nonetheless, we intend to explore the interplay of customer choice and migration issues with power procurement options for PSNH, including current practices, competitive procurement through RFPs, purchasing through the spot market, or other market based options. We also intend to pursue the issues identified in Docket No. DE 06-061, in Order No. 24,819 (January 22, 2008) regarding time-of-use rates and advanced metering infrastructure (smart metering) and their possible impact on load and procurement options. We will develop these issues and a process to consider them in greater detail in a subsequent order in a separate docket," the PUC said.

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Large Customer SOS Price

Rate Classes B-32, B-62, E-40, G-02, G-32, G-62

January 2010	7.891¢/kWh
February 2010	8.138¢/kWh
March 2010	8.098¢/kWh

In comparison, the non-residential Last Resort Service rate was 7.765¢/kWh for December 2009, and was in the 6.0¢ to 6.7¢ range from May through November 2009. Prior to May 2009, the rate was typically above 10¢ during the past two years.

SOS rates for the Small Customer Group (Classes A-16, A-60, C-06, S-10, S-14) will be set every six months and will be fixed for the six-month pricing period, after a transition period to the new pricing schedule. The SOS rate for the Small Customer Group will be 9.2¢ per kWh for the months of January and February 2010, with subsequent rates to be posted by Grid at a later date.