

# Energy Choice Matters

February 10, 2010

## Calif. Draft: 4-Year Phase-In of New Direct Access; One-Time Waiver of Notice/Min. Stay

A proposed California PUC decision would set a four-year phase-in of expanded direct access limits, finding that a one-time waiver of the minimum stay and prior notification requirements should be provided for the initial open enrollment window (R. 07-05-025).

The draft decision would affirm the direct access load caps as filed by the utilities, with the amount of available direct access load shown below (in annual GWh):

	SCE	PG&E	SDG&E
Load Cap Pursuant to SB 695	11,710	9,520	3,562
Existing Base Line DA	7,764	5,574	3,100
New DA Load Allowance	3,946	3,946	462

The SCE baseline direct access has been adjusted to provide a set-aside of 137.5 annual GWh for the City of Cerritos' opt-in community aggregation within the 11,710 GWh cap. If Cerritos does not use all of its set aside, the unused load would not be available for other competitive suppliers.

The proposed decision would adopt the four-year phase-in schedule filed by several parties, including competitive suppliers, which would allow new direct access load up to a gradually increasing annual kilowatt-hour limit as follows:

- Year 1 (2010): 50% of the current room available under the DA cap.
- Year 2 (2011): An additional 20% of the current room available under the cap (or 70% of the available room under the DA cap).
- Year 3 (2012): An additional 20% of the current room available under the cap (or 90% of the available room under the DA cap).

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## Maine PUC Issues NOI on Creating Green Power Option under Standard Offer Service

The Maine PUC issued of Notice of Inquiry in Docket 2010-46 into the development of a renewable Standard Offer option available to residential and small commercial customers, as required by legislation (P.L. 2009, ch. 329).

The legislation requires the Commission to administer a competitive bid process to select a green power offer provider or providers in addition to existing Standard Offer service, and directs the Commission, to the maximum extent possible, to incorporate green power supply from community-based renewable energy projects. The Commission is not required to arrange for a renewable Standard Offer in the event that it receives no bids or determines the bids are inadequate or unacceptable.

The Commission said that its tentative proposal is to arrange for a green power Standard Offer through a competitive solicitation for a green power offer in conjunction with the existing RFPs to provide Standard Offer service to residential and small commercial customers.

The PUC is considering requiring all Standard Offer supply bidders to provide pricing for a green

*Continued P. 6*

## Nstar Files Large Customer Basic Service Rates

Nstar has filed updated basic service rates for the large commercial and industrial customer class. The variable monthly rates for the three-month period beginning April 1 are:

Rates	B3, B7, 62, 70 NEMA	G6, G8, 24, 84 SEMA
April	8.305	8.194
May	8.053	7.802
June	7.991	7.884

The three-month fixed rate option is 8.114¢/kWh at NEMA and 7.965¢/kWh at SEMA.

## Conn. AG, OCC Request Second Investigation of Turriss Associates

The Connecticut Office of Consumer Counsel and Attorney General Richard Blumenthal petitioned the Connecticut DPUC to commence a second investigation of aggregator Turriss Associates and its president Raymond Sanzone, "based upon complaints and information received by the Connecticut Association of Independent Schools ('CAIS') and Hess Corporation."

According to OCC and Blumenthal, "[t]hese entities have produced evidence that appears to show that Turriss may have wrongly defrauded the CAIS and Hess of approximately \$180,000 in aggregators' fees over three years."

The petitioners asked the DPUC to immediately suspend Turriss' aggregator license, and that the DPUC immediately order all electric suppliers doing business with Turriss to withhold and escrow all commission payments received from Turriss' customers as security for repayment of the allegedly fraudulent overcharges.

OCC and Blumenthal alleged that Turriss negotiated contracts on behalf of CAIS which, "appear to have agreed to an aggregators' fee of 1 mil per kWh."

However, OCC and Blumenthal alleged that, "on June 28, 2006, Sanzone transmitted by facsimile a document purporting to be the CAIS / Turriss commission agreement to Hess for the purpose of soliciting a bid for the schools electric supply."

OCC and Blumenthal further alleged that, "This document, containing Sanzone's FAX number registration and the time of transmission, differs from the CAIS / Turriss commission agreement in that:

"(1) the aggregators' fee is listed as '\$0.0025 per kWh [2.5 mils] to be paid by the supplier and included in the price presented to the group,' rather than the 1 mil fee agreed to by CAIS; and

"(2) the signature purporting to bind CAIS to the 2.5 mil aggregators fee appears to be different from the document actually executed by CAIS Director [Douglas] Lyons," OCC and Blumenthal alleged.

The attached contract and fax indicate that, "Turriss may have committed a forgery," OCC and Blumenthal alleged.

CAIS and Hess subsequently entered into a three-year electric supply agreement. However, "unknown to the CAIS, Hess paid Sanzone 2.5 mils per kWh, and not the agreed upon 1 mil, for the entire three year span of the supply contracts," OCC and Blumenthal alleged. Based upon CAIS' load profile and consumption patterns, the petitioners estimated that Sanzone was paid more than \$300,000 in aggregators fees over the life of the contract, while a 1 mil charge would have only produced fees of \$120,000.

"[A]s the Department is well aware, this is not the first time Sanzone and Turriss may have misrepresented their agreed upon aggregators' fee," OCC and Blumenthal said, citing a still open investigation relating to a contract brokered for the Southington Water Department (Only in Matters, 6/4/09).

Aside from requesting that the DPUC order suppliers to escrow all fees due to Turriss pending the investigation, the petitioners asked that the DPUC direct all suppliers that have contracts with Turriss to assist the Department in its investigation.

## KeySpan LDCs File Revised GTOP Manuals

KeySpan New York and KeySpan Long Island have filed revised Gas Transportation Operating Procedure Manuals with the New York PSC which, among other things, add agreements

which must be executed to permit the LDCs to release capacity to an ESCO's asset manager, or aggregator as the agent is termed in the GTOPs.

The capacity release agreement is to be signed by the ESCO, aggregator, and LDC, and permits capacity to be released to the aggregator to serve the ESCO's obligations, consistent with FERC Order 712, which provides a waiver from the prohibition on tying and bidding requirements for capacity releases made as part of state-approved retail access programs.

The GTOP section on Balancing, Tolerances, Reconciliation/True Ups, Penalties, and Imbalance Trading has also been heavily expanded. Among other things, the changes price cash-outs for over-deliveries at the Gas Daily Transco Zone 6 NY Midpoint, rather than a percent of the LDC's Weighted Average Commodity Cost of Gas as previously provided.

The revised GTOP further provides that, when it becomes available, KEDLI shall offer customers an interim monthly balancing service in which KEDLI shall determine the customer's Daily Delivery Quantity (DDQ) and the customer shall be obligated to deliver this amount each day throughout the month to the KEDLI City Gate unless otherwise notified. Customers who elect to take this interim monthly balancing service option shall adhere to the swing, city gate balancing, cash out and operations and communications provisions described by tariff regulations.

The updated GTOP also states that the LDCs must approve imbalance trades, while previously such trades only required the consent of the "trading parties."

The GTOP also now specifies that under Capacity Release Option Tier 1, the LDCs will release interstate pipeline capacity in an amount determined by the marketer's estimated November DDQ, not to exceed the Tier 1 Maximum Capacity Release Volume for that marketer, and that such released capacity must be used for deliveries to the City Gate, 75% on Transcontinental Gas Pipeline and 25% on Texas Eastern. Previously, the GTOP only provided that the released capacity would be from one or more of the four pipelines named in the Pipeline and Receipt Point Section of the

GTOP. The LDCs still reserve the right to change the pipelines on which capacity is released to any of the pipelines listed in the GTOP as determined by the capacity and operational availability of the respective pipelines.

## ***Briefly:***

### **Penn Power Files Procurement Plan for Period Starting June 2011**

Penn Power said that it has filed a default service procurement plan for the two-year period beginning June 2011 with the Pennsylvania PUC. A copy of the filing was not available, and Penn Power did not provide specifics of the procurement plan, other than that it would include multiple solicitations with staggered delivery periods over the two-year term of the program.

### **DPUC Opens Docket to Investigate Direct Energy Marketing Practices**

The Connecticut DPUC opened Docket 10-02-10 to investigate Direct Energy Services' electric marketing practices in Connecticut, and compliance with the terms of its license, following an informal review of what the DPUC termed, "an increase in the number of complaints regarding either marketing issues or alleged slamming issues involving Direct" (Only in Matters, 12/28/09).

### **Acacia Energy Ownership to be Transferred Under Pending Sale**

Acacia Energy filed for a REP certificate amendment at the PUCT to reflect a pending change in ownership. Under the new ownership, David Dorwart would serve as director and CEO. It was not immediately clear if this is the same David Dorwart as the former CEO of dPi Energy.

### **Oncor Says DNP's to Resume Thursday**

Oncor said that it will not work Disconnect for Non-Pay orders until February 11 due to synch issues related to its recovery from a Sunday evening system outage. Oncor said that its transaction processing backlog was expected to be completed by 5:00 p.m. yesterday.

## RPL Enterprises Receives Texas Aggregator License

The PUCT granted RPL Enterprises an aggregator certificate.

## DPUC Schedules Electric Vehicle Meetings

The Connecticut DPUC scheduled technical meetings for February 11, March 19 and April 9 with the state's Electric Vehicles Infrastructure Council to discuss concerns regarding supporting infrastructure to facilitate the deployment of electric vehicles in Connecticut.

## Lesser Appointed to PUCO

Ohio Governor Ted Strickland appointed Public Utilities Commission of Ohio Chief of Staff Steven Lesser as a Commissioner of PUCO for a five-year term beginning April 11, 2010 and expiring April 10, 2015.

## *Calif. ... from 1*

- Year 4 (2013): An additional 10% of the current room available under the cap (or 100% of the available room under the DA cap). If any annual allocation of direct access allotments under the cap is not fully subscribed in any one year, the unused portion would be rolled over to the subsequent years. Each individual year's direct access limit shall stand alone, and would not be dependent on the amount of actual migration in prior years of the phase-in.

An Open Enrollment Window would be established, during which all direct access-eligible customers would be allowed to submit a notice of intent (NOI) to transfer to direct access service. The Open Enrollment Window would begin on the effective date of a PUC decision and end 90 calendar days thereafter or on June 30, 2010, whichever comes first. The Open Enrollment Window would only apply in the initial year of the phase-in period.

Under the proposed decision, all customers, regardless of their current eligibility to take direct access, would be subject to the same provisions, with no set asides for currently direct access-eligible load.

Under the Open Enrollment Window, all customers would receive a one-time and temporary waiver of the six-month advance

notice requirement for leaving bundled service. Additionally, all customers would receive a one-time and temporary waiver of the three-year minimum stay on bundled service.

The utilities would begin accepting NOIs up to the Year 1 limit as of 9:00 a.m. PST on the fifth business day after the start of the phase-in period as determined by the PUC. The utility would be required to time and date stamp the receipt of NOIs to determine precedence.

A utility would accept NOIs in daily (12:00 a.m. to 11:59 p.m.) batches. Each daily batch of NOIs would, within 20 days of its receipt, be accepted unless and until the Year 1 limit is reached. A daily batch that causes the Year 1 limit to be exceeded would nevertheless be accepted provided that such daily batch does not exceed the Year 1 limit by more than 10%. Should a daily batch cause the Year 1 limit to be exceeded by more than 10%, NOIs in that particular daily batch would be accepted on a first-come, first-served basis (based on the date/time stamp of the NOI) up to the Year 1 limit plus a threshold of no more than 10%. All other NOIs in that particular daily batch would be rejected.

Utilities would inform customers of the acceptance of their NOI within 20 days, and a switch request to a competitive supplier would be required to be submitted within 60 calendar days from notification, or the customer's NOI would be voided.

If the Year 1 limit is reached during the Open Enrollment Window, the utility will stop accepting NOIs, and customers will be notified that they can begin submitting 6-month advanced NOIs as early as July 1, 2010 to switch to direct access in 2011. There would not be an open enrollment window in subsequent years, and customers would be subject to whatever notice/minimum stay requirements are in place (which are to be examined in a future proceeding). Utilities would still evaluate NOIs using a daily batch process in subsequent years, however.

Under the proposed decision, no customer taking direct access service while room was available under the cap would be removed from direct access service as a result of growth in direct access load.

Each utility would be required to indicate on

its website whether notices of intent to switch to direct access service are being accepted, and to update this information regularly. Each utility would also be required to notify all direct access-eligible customers of their opportunity to obtain generation service from another provider via bill inserts and onserts.

All LSEs (those that currently serve load and those that do not) would be required to file forecasts of new customers that they expect to gain via the Open Enrollment Window and other periods for Resource Adequacy compliance years 2010 and 2011 according to the rules set forth by Energy Division for the Resource Adequacy process. All LSEs that intend to serve load during 2011 would refile load forecasts for the 2011 Resource Adequacy compliance year on July 15, 2011. This revised forecast would account both for customer migration up to that date, but also to forecast expected customer migration during the second phase of direct access that commences in January of 2011. The updated load forecasts due on July 15, 2011 would be used by the Energy Division to develop Local Resource Adequacy obligations, inclusive of adjustments, as accurately as possible within the constraints of the 2011 Resource Adequacy filing cycle.

The draft would defer to subsequent proceedings most issues raised regarding the parity of RPS, resource adequacy, and carbon obligations placed on utility and electric service providers. However, the draft would adopt a proposal developed by several parties to address changes in Local Resource Adequacy obligations due to migration, for the 2010 compliance year only.

For each service territory, a "Local to Peak Ratio" (LPR) would be calculated by taking the total Local Resource Adequacy obligation in the service area in MW, and dividing that number by the total forecasted 2010 coincident peak load in MW of that same service territory. The LPR may be further adjusted by a factor to account for differences between the load shape and class of migrating customers, and the general load class local Resource Adequacy obligation derived for the service territory as a whole.

When a customer seeks to migrate between LSEs after the date of direct access reopening, a Customer Local Resource Adequacy

Obligation (CLO) would be established for that customer, based on the customer's actual recorded 2009 Coincident Peak Demand (CPD) at the time of the California ISO 2009 coincident system peak, multiplied by the LPR for the service territory in which the customer is located. The resulting figure would be the Local RA obligation of that customer in MW, or the CLO. The CLO would follow the customer to their new supplier, while their former supplier would be relieved of the obligation.

In order to simplify the compliance process, the LSE gaining the additional load would have the option to obtain an allocation of Local Resource Adequacy "credits" from the LSE losing the load, without the need for any actual commercial sale of physical capacity to occur between the two LSEs. Rather, the LSE gaining the load would make a payment to the LSE losing the load, equal to the customer's CLO times an administratively determined price in dollars per kilowatt-year or kilowatt-month. This payment would be deemed to satisfy the acquiring LSE's Local Resource Adequacy obligation for the remainder of the 2010 compliance year.

The default transfer payment would provide an administrative price for the transfer of Local Resource Adequacy credits of \$24 per kW-year. Rather than a flat \$2.00 per kW-month, the monthly prices would be "shaped" to reflect the fact that Resource Adequacy capacity is most valuable during the peak summer months. This shaping would spread the \$24 over the months of the year based on the same factors that were used to allocate capacity payments under the CAISO's former Reliability Capacity Services Tariff program across the 12 months of the year.

Consistent with proposals in the current Resource Adequacy proceeding (R.09-10-032), local true-ups would be completed twice during 2010: once for August and September, and a second time for October-December

The proposed decision would also find that residential customers who are currently on bundled service, but eligible for direct access because they were taking competitive supply upon its suspension in September 2001, would lose this right to direct access. The draft agrees with TURN that SB 695 supercedes the existing direct access eligibility provisions, since it states

that, "Except as expressly authorized by this section, and subject to the limitations in subdivisions (b) and (c), the right of retail end-use customers pursuant to this chapter to acquire service from other providers is suspended until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions." The bill further provides that the only exceptions to the suspension are the new non-residential direct access limits.

Residential customers currently on direct access, or who have given their six-month notice to return to direct access, would be allowed to remain on direct access. Otherwise direct access-eligible residential customers currently taking bundled service would no longer be able to switch to direct access absent further legislative action.

The proposed decision would waive the rule that direct access customers between 50-199 kW are required to install an interval meter, due to the ongoing installation of advanced meters. Such customers would be settled on load profiles trued up by actual meter reads, as is done for customers with loads less than 50 kW.

## **Maine ... from 1**

power option through the purchase of NEPOOL GIS certificates in addition to Standard Offer pricing terms, and allowing other entities to submit bids to "green-up" the Standard Offer supply through the purchase of GIS certificates. Because northern Maine does not have a REC trading system, the Commission is considering allowing proposals in northern Maine that either serve load from green generation resources or that provide a green supply through the purchase of GIS certificates. It is the Commission's tentative position that resources or renewable energy credits that constitute the green Standard Offer may not also be used to satisfy the aggregate eligible resource portfolio requirements or new renewable resource portfolio standards applicable to retail electricity suppliers contained in Chapter 311 of the Commission Rules.

"The Commission believes that arranging for a green power offer in conjunction with the standard offer and allowing utility customers to easily select the green option is likely to best

serve the objective of ensuring that green power is available to all residential and small commercial electricity customers at the lowest possible cost. In addition ... green power service would be structured to allow customers to elect a green option effortlessly," the Commission said.

Furthermore, the Commission said that it anticipates that Standard Offer customers will be permitted to select the green power offer through a check-the-box option on utility bills or through a bill insert that would be returned with the bill. The PUC asked whether the green power Standard Offer should be offered on a per kWh basis or on some other basis, such as in 100 kWh blocks.

The Commission also asked for comments on whether it should require that the green power Standard Offer bid should be to serve load as opposed to a purchase of RECs. Additionally, the PUC sought comment on how to incorporate the statutory preference for green power supply from community-based renewable projects.

The Commission tentatively proposed establishing an optional green supply certification procedure for competitive green power supply products and renewable energy credit products to provide retail customers with the greatest possible range of choices of green power supply providers.

For purposes of obtaining the optional green supply certification, the Commission anticipates requiring a competitive electricity provider to submit the following additional information:

- Resource or source of electricity that constitutes the green power or information about renewable energy credits that represent the green attributes of the electricity supplied
- Proposed tracking methodology to allow for verification that electricity supplied constitutes green power supply

The Commission asked whether such a renewable product certification process, and inclusion of such status on its supplier list, would affect the number of suppliers offering a green power product. The PUC sought comment on what other measures would increase the number of suppliers offering a green product, or would facilitate customers' ability to select a green product.