Energy Choice Matters

March 25, 2010

Partial Settlement Filed in PECO Electric POR Case, Discount Rate Issue Reserved

Parties have filed a partial settlement concerning PECO's revised electric purchase of receivables program which would impose an all-in/all-out requirement on a supplier's residential customers, and which leaves to briefing the question of the discount rate (P-2009-2143607).

As only reported in *Matters*, PECO proposed to revise its POR program to eliminate the current reversion to dual billing after 90 days, impose a temporary discount of 0.2% for all classes to recover implementation costs, and recover uncollectibles and administrative costs through base rates (Only in Matters, 11/25/09).

The partial settlement was signed by PECO, Office of Trial Staff, Office of Consumer Advocate, Office of Small Business Advocate, Constellation NewEnergy, Retail Energy Supply Association, Direct Energy Services, and Dominion Retail. The Philadelphia Area Industrial Energy Users Group does not oppose the partial settlement.

The partial settlement provides that terms and conditions of PECO's revised POR program, as modified by the settlement, shall not be raised or revisited by any party until PECO's next default service proceeding for the period commencing June 1, 2013. Additionally, per the partial settlement, no party will affirmatively seek further unbundling of PECO's generation-related service costs (e.g., uncollectible accounts expense, call center charges, etc.) in PECO's next distribution rate case proceeding.

PECO's original revised POR proposal would not have imposed any all-in/all-out requirement on any class. The partial settlement would impose an all-in/all-out requirement on residential customers only. However, to the extent that an electric generation supplier (EGS) provides a residential

Continued P. 4

Mich. ALJ Recommends Implementation of Pooling at Consumers Energy

A Michigan ALJ has recommended that pooling be implemented at Consumers Energy, with exact procedures left to a future proceeding, in a proposal for decision in Consumers' rate case (U-15986, Only in Matters, 11/17/09).

As only reported by *Matters*, Constellation NewEnergy had proposed that the Commission:

(1) Require Consumers to accept pooled nominations from marketers;

(2) Modify Consumers' tariff to assess charges, including load balancing charges, authorized and unauthorized gas usage charges, and excess pipeline costs surcharges, based upon the net imbalance of a marketer's pool, and

(3) Implement pooling of transportation customer storage and require that pool monthly injection rights are established based upon the pool member's individual tariff rights.

"I find CNE's pooling proposal reasonable and likely to benefit Consumers' customers, as well as marketers like CNE," the ALJ found. While Consumers, and PSC Staff, contended that pooling would be burdensome for Consumers, and restrict a transportation customer's current ability to take supply from more than one marketer in the same month, the ALJ found Consumers' objections, "lacking in substance and unconvincing."

Continued P. 7

N.H. PUC Approves National Grid Default Service Rates

The New Hampshire PUC has approved new default service rates for Granite State Electric (National Grid) for the period beginning May 1. For the Small Customer group, the flat rate for the period May 1 through October 31, 2010 will be:

Base Default Service Rate	$0.06711/kWh
Default Service Adjustment Factor	$0.00123/kWh
Cost Reclassification Adjustment Factor	$0.00091/kWh
Renewable Portfolio Standard Adder	$0.00230/kWh
Total Default Service Rate	**$0.07155/kWh**

For the Large Customer group, monthly default service rates for the period May through July 2010 will be:

	May	**June**	**July**
Base Retail Rate	$0.06734/kWh	$0.06524/kWh	$0.06901/kWh
Default Service Adjustment Factor	$0.00123/kWh	$0 00123/kWh	$0.00123/kWh
Cost Reclassification Factor	$0.00037/kWh	$0.00037/kWh	$0.00037/kWh
Renewable Portfolio Standard Adder	$0.00226/kWh	$0.00226/kWh	$0.00226/kWh
Total Default Service Rate	**$0.07120/kWh**	**$0.06910/kWh**	**$0.07287/kWh**

Constellation Energy Commodities Group won 100% of load in both the Small Customer and Large Customer groups.

Consistent with a prior settlement, National Grid asked default service bidders to include a separate RPS compliance adder with their bids. Upon evaluating the adder, National Grid said that the adder from Constellation, for both classes, was in excess National Grid's expectation for market prices for RECs, and elected not to obtain RPS attributes through the default service solicitation. National Grid plans to issue an RFP in the future for the acquisition of RECs for default service.

dPi Reports Lateef Ownership Percentage

Z. Ed Lateef indirectly owns 37.5% of dPi Energy LLC after dPi was purchased by Amvensys Telecom Holding, LLC, dPi said in response to an RFI from PUCT Staff. dPi is seeking an amendment to its REP certificate recognizing the new ownership.

Lateef's acquired interest in dPi was first reported by *Matters*, but the exact stake was not previously public (Matters, 12/11/09, 1/26/10). Other indirect owners of dPi Energy are Lubna Lateef (37.5%) and Misba Lateef (25%).

Lateef was the owner of 15% of the Membership units in Riverway Power Partners, LLC, the entity which owned 100% of Sure Electric, LLC, from April, 2007 to Aug. 7, 2009, during which time Sure Electric experienced an involuntary mass transition of customers to POLR (in June 2008).

Lateef also previously had a 40% ownership interest in National Power Company, Inc., although the interest was sold to Adley Wahab on January 30, 2007. Lateef did not hold any interest in National Power when it experienced an involuntary mass transition in 2008.

dPi Energy also reported its customer count as 36,840 as of February 28, 2010. The total includes 36,432 prepay residential customers, 125 postpay residential customers, and 283 postpay commercial customers.

National Grid Suggests N.Y. PSC Consider Long-Term Renewable Contracts

The New York PSC, "may want to consider whether long-term contracts for the sale of renewable energy ... are needed to promote the further development of renewable generation," National Grid said in comments reiterating its earlier position (03-E-0188).

National Grid suggested that long-term contracts could be 10-15 years in length, and could augment the central RPS procurement.

"In the current financial environment, such long-term contracts are viewed by some as important to enable renewable energy development, which investors consider a riskier undertaking than traditional generation," National Grid said.

National Grid suggested that the PSC consider the terms under which utilities would be willing to take on the risk of such long-term contracts. "In recognition of the broad public policy benefits of increased renewable generation, the Commission should give utilities the option to recover the costs of such contracts from all delivery customers, not just those customers for whom the utility is the commodity supplier," National Grid said. "Recovering the cost of long-term contracts for renewables from all customers would also protect customers who may not have the ability or willingness to purchase commodity from competitive suppliers," National Grid added.

If the Commission elects to pursue the use of financial hedges rather than long-term contracts, National Grid said that such hedging costs should be applied to all delivery customers, for the same reasons.

NRG Energy, a frequent proponent of long-term contracts, said that, "providing a mechanism to encourage loads to contract for the energy output associated with an RPS project would provide further support for such [needed] financing."

"The State should consider implementing a rate making mechanism, for entities subject to its jurisdiction, to encourage execution of such energy contracts, possibly by setting some minimum procurement goal at a level that would be consistent with the quantity of renewable resources attracted by the RPS program at any given point in time," NRG added.

National Grid also supported a utility-sited tier, specifically for small, utility-owned solar photovoltaic facilities sized at 500 kW or larger. National Grid suggested a Commission mandated carve-out for utility-owned projects such as 50 MW to 75 MW per utility. "The Commission should signal that it is open to proposals by utilities to include in rate base the costs of distributed renewable generation and projects that promote emerging technologies such as solar PV," National Grid said. The City of New York also supported a utility-sited tier, mainly for photovoltaics.

However, Multiple Intervenors cited PSC Staff's previous findings with respect to the costs of a utility-sited tier. Staff's report, "estimates that the already-uneconomic cost of a solar PV installation would increase dramatically if implemented under a hypothetical Utility-Sited Tier," Multiple Intervenors noted. Staff estimates that a Customer-Sited Tier solar PV installation costs approximately $2,268 per MWh. A 9.44 MW solar PV installation installed under a hypothetical Utility-Sited Tier is estimated to cost approximately $193.8 million (i.e., $20.5 million per MW), or approximately $13,162 to $18,009 per MWh, Multiple Intervenors said.

Generators File Complaint Against ISO-NE Concerning Forward Capacity Market

The New England Power Generators Association filed a formal complaint at FERC against ISO New England claiming that the Forward Capacity Market is producing unjust and unreasonable results due to excess out-of-market capacity supplies (EL10-50). The complaint reiterates generators' prior protests in several other proceedings, but was filed because opposing parties have questioned whether the generators' requested relief could be granted in those other proceedings.

NEPGA reiterated its arguments that buyer-side market power is distorting capacity prices. "For purposes of setting the competitive clearing price for a Forward Capacity Auction ('FCA'), the particular vehicle used to subsidize the new resource - and the real or alleged motive for the subsidy - is irrelevant (be it utility ownership, long-term contracts, or subsidies through state programs)," NEPGA said.

"The FCM's current Alternative Price Rule ('APR') is almost entirely toothless against any persistent attempt of price distortion through buyer market power," NEPGA added.

NEPGA further claimed that the FCM fails to meet the Commission requirement that it be locational. "Prices have not separated, even though ISO-NE has rejected de-list bids in constrained regions for reliability reasons in two of the first three FCAs. This alone is compelling evidence that there are problems with the current rules," NEPGA said.

"Prices will only separate if there are true zonal constraints - precisely the conditions when they should separate," NEPGA added.

NEPGA further argued that, "the Cost of New Entry ('CONE') value used in FCM is far below any reasonable estimate of the actual cost of new entry and that this is causing tariff provisions that rely upon CONE to be ineffectual. We thus request that CONE be updated to reasonable levels, either at the original FCM value of $7.50/kW-month or by a new estimate of the costs to construct a new peaking unit."

Briefly:

Conn. Committee Reports Out HB 5505, 5507
The Connecticut General Assembly's Energy and Technology Committee has reported out joint favorable substitutes for HB 5505 (addressing a state power authority, termination fee cap, switching restriction, and windfall profits tax as originally drafted) and HB 5507 (broker licensing, removal of choice education) [see Matters, 3/16/10].

PUCO Approves NJR Energy Services as Duke PIPP Supplier
The Public Utilities Commission of Ohio approved the selection via RFP of NJR Energy Services as Duke Energy Ohio's supplier for Percentage of Income Payment Plan (PIPP) natural gas customers. NJR Energy Services had offered a bid credit of -$0.025/Dkt.

Suppliers Back Penn State Electricity Economics Initiative
Several Pennsylvania generators, retailers and distribution companies have joined with Penn State to form the Penn State Electricity Economics Initiative, a cooperative project to investigate possibilities and challenges surrounding electricity restructuring in the commonwealth, Penn State said yesterday. Constellation Energy, Direct Energy, Exelon, FirstEnergy, PPL and RRI Energy have signed agreements with Penn State to support the initiative for two years. The Pennsylvania PUC and PJM will also be involved with the project. The initiative will be run through the College of Earth and Mineral Sciences Energy Institute. The institute's advisory board will review proposals for research on electric marketing and economics. The initiative hopes to explore market questions such as "How effective is retailing, and who is choosing to switch suppliers?"

PECO ... *from 1*

customer with a service or product that does not meet the definition of "basic electricity supply" as defined below, or if the supplier provides a service or product to residential customers that PECO's utility consolidated billing system cannot accommodate, the supplier shall be permitted to issue a separate bill for that service or product if the supplier provides written certification to PECO that the service or product cannot be billed under utility consolidated billing.

Only receivables associated with basic electricity supply will be eligible for purchase by PECO. Basic electricity supply shall be defined as follows: energy (including renewable energy) and renewable energy credits or alternative energy credits (RECs/AECs) procured by a retail supplier, provided that the RECs/AECs are bundled with the associated delivered energy. Basic electricity supply does not include a non-generation product (e.g., service contract for appliances, or payment for energy reductions such as demand response products), or renewable or alternative energy credits that are not associated with delivered energy. For residential customers, basic electricity supply shall not include early contract cancellation fees, late fees, or security deposits assessed by a supplier.

Per the partial settlement, retail suppliers may not deny service to residential customers whose accounts are included in PECO's POR program for credit-related reasons, and may not ask residential customers for deposits separate from any deposit required by PECO pursuant to Commission regulations and Act 201.

The partial settlement provides that PECO and RESA will develop the specifications and cost to implement an EDI transaction to notify retail suppliers of an impending customer termination for nonpayment prior to such termination, in coordination with the Commission's Electronic Data Exchange Working Group. PECO and RESA agree that the design of the EDI transaction will provide that the proposed transaction would be sent on the same day as PECO sends its written notice of termination to a customer and include the projected customer service termination date. Upon finalization of a transaction design, and cost projection, if RESA agrees that the EDI transaction should be implemented, PECO will work in good faith with suppliers to establish a supplier testing and implementation schedule. PECO may provide the EDI notification only for shopping commercial and industrial customers in the event that implementation of the notification for all customers is materially more expensive in light of the total implementation costs of the revised electric POR program.

PECO will manage bill disputes related to purchased supplier receivables in the same manner as bill disputes related to default service, except that PECO will be permitted to suspend payment of the portion of a supplier receivable that is the subject of a formal or informal dispute proceeding before the PUC or an allegation made to PECO by a customer: (i) that the customer was placed on competitive supply without customer permission; or (ii) that the customer's supply rate is incorrect. A customer allegation that a bill does not reflect the correct amount of energy delivered to the customer, or a customer's claim of an inability to pay, shall not constitute a dispute for purposes of PECO's obligation to pay the supplier its undisputed charges if such allegation or claim is not the subject of a formal or informal complaint before the Commission.

Reserved Items

The partial stipulation leaves two items to litigation: (1) whether PECO should be required to unbundle its generation-related uncollectible accounts expense from its distribution rates for collection from default service customers and whether PECO should also purchase supplier receivables at a discount corresponding to PECO's uncollectible expense, implementation costs, and administrative costs; and (2) whether PECO can terminate electric service to customers after January 1, 2011, based upon costs for competitive supply incurred by such customers prior to January 1, 2011.

As noted above, PECO has applied to include all uncollectibles, from competitive supply customers and default service customers, in base rates. All parties except the Office of Trial Staff agree with, or do not oppose, PECO's proposed method of recovering uncollectibles. Staff opposes PECO's proposal, claiming that it would subsidize retail suppliers at the expense of distribution customers. Staff has insisted that the PUC may only approve the revised POR plan if it unbundles uncollectibles from base rates, and includes an uncollectibles factor in the discount rate.

Specifically, Staff proposed the following discount rates:

	Implementation	Uncollectibles	**Total**
Residential	0.2%	2.07%	**2.27%**
Small C&I	0.2%	0.14%	**0.34%**
Large C&I	0.2%	0.46%	**0.55%**

Staff's proposed uncollectible discounts are from PECO's 1997 rate case, which suppliers have noted is out of date. "It is obvious that conditions are likely to have changed in the succeeding 13 years, yet [Staff witness] Ms. Sears does not address, nor even acknowledge the passage of time and its effect on the discount percentage she proposes," Dominion Retail said. RESA further noted that the 1997 data shows small commercial customers as having lower uncollectible amounts than large commercial customers, which RESA said is no longer the case. Larger commercial customers have significantly lower uncollectibles than smaller customers, RESA noted, citing PPL's and Duquesne Light's discount rates.

"The Company and the signatories to the proposed Joint Petition for Partial Settlement have not presented substantial evidence to support the inclusion of non-jurisdictional generation rates in the charges to be borne by distribution customers," Staff said.

"[A] properly designed POR includes a Discount Rate that reflects the assignment of costs in an equitable manner. This will be accomplished by unbundling jurisdictional and non-jurisdictional charges and applying expenses in the appropriate manner," Staff added.

"Without a properly determined discount rate, the EGS can avoid expenses and risks which will allow for a greater profit margin," Staff contended.

However, Staff does not clearly explain how including all uncollectibles (default service and competitive) in base rates will allow suppliers to increase their profit margin. Staff's proposal would unbundle supply-related uncollectibles and apply an uncollectibles factor to the price to compare. Staff concedes that this percentage used in the price to compare should be the uncollectibles factor used in its proposed POR discount rate, and that there would not be a unique supplier-related uncollectible factor used in POR. Thus, under Staff's proposal, competitive customers under POR and default service customers pay the exact same uncollectibles, just as they would do under base rates.

"In surrebuttal testimony, the OTS' witness conceded that the uncollectible rate should be the same 'for both shopping and non-shopping customers.' Thus, under either PECO's proposal (i.e., uncollectible accounts expense recovered in distribution rates that apply to all customers) or the approach recommended by OTS (i.e., uncollectible accounts expense included in EGSs charges for shopping customers and in a separate surcharge applied only to default service customers), all customers will be paying the same level of uncollectible expense on a per-kWh basis," PECO noted. It's unclear where Staff believes any "subsidization" will occur.

Indeed, Dominion Retail said that Staff's witness, "never explains how her disjointed thoughts form the basis of her proposal."

"Accordingly, OTS fails to present a coherent rationale for rejecting what PECO has proposed; which is not a new methodology, but rather a continuation of what it does today," Dominion Retail said. Dominion Retail argued that PECO's default service settlement, which required PECO to file a revised POR plan, requires PECO to continue the present treatment of supplier uncollectibles, which is to include them in base rates.

As PECO notes, Staff's proposal essentially will "achieve the same result" as PECO's proposal, which Staff admitted on surrebuttal. However, while the results will be the same, PECO noted that Staff's proposal is much more administratively complex. The Staff proposal will require separate tracking, on an ongoing basis, of POR-related implementation costs, administrative costs and uncollectible expense. It will also require that PECO develop and obtain Commission approval for a new surcharge to recover default service-related uncollectible expense from default service customers and make annual filings with the Commission under the associated adjustment clause. PECO's proposal, on the other hand, requires the separate tracking of POR-related implementation costs only, which will then be recovered directly through a temporary discount on purchased receivables, making the program simpler and easier to administer.

Though not exactly clear, Staff essentially argues that, with uncollectibles in base rates, suppliers will be able to charge customers a retail price which includes an embedded cost for their collection risk, but since suppliers no longer face a collection risk, this cost is now pure margin. Staff does not offer any justification for this view, especially in light of the fact that default service rates will not include uncollectible costs, and thus any supplier embedding non-existent uncollectibles risk into their rates will, all other costs assumed equal, have a higher rate than default service. RESA makes note of this fact, explaining that as suppliers will face reduced risk under PECO's proposed program, they will remove uncollectible risks from their rates, erasing any concerns about extracting margins from customers.

Staff spends much of its brief asserting that because the Commission found that uncollectibles should be unbundled at PPL, with an associated POR uncollectibles discount component, the Commission should employ the same methodology at PECO. While suppliers have noted that the PPL methodology resulted from a negotiated settlement, Staff dismissed such arguments by stating, "[t]he fact that resolution of pertinent issues in the PPL proceeding was achieved through a settlement does not mitigate its applicability in this proceeding."

"There is simply no evidentiary support to recommend different standards in two different service territories," Staff stressed, which is an interesting statement considering the significantly different POR programs in place at PPL and Duquesne Light, which obviously reflect unique settlements in each territory.

Staff continues that, should PECO's proposal be approved, "[t]he illogical conclusion is that the same providers would be subject to different criteria based on the service territory where their receivables are purchased."

Staff was harshest in criticizing suppliers' concerns that implementing Staff's partial unbundling proposal would discourage entry by retail suppliers.

"Any concerns that an EGS may not offer service in a particular territory if they are required to absorb the appropriate generation related costs associated with a POR through a discounted rate are unsupported by credible record evidence ... To threaten not to provide service if it cannot avoid costs without recourse is clearly inflammatory and suggests the level of desperation by this Intervener [RESA]," Staff said.

"Furthermore, one need look no further than PPL's results to determine if a POR with properly apportioned costs in its discount rate has had a negative impact on customers shopping," Staff added.

Regarding the second reserved issue, PECO is seeking the ability to terminate customers starting January 1, 2011 for receivables purchased prior to January 1, 2011. However, OCA and OSBA argue that any such terminations would be contrary to the PECO restructuring settlement which does not allow for the termination of customers for competitive charges during the transition period.

PECO said that, in order to segregate receivables incurred prior to January 1, 2011 from those incurred after that date, it would need to spend $500,000 in system changes.

OSBA argued that, since PECO is already recovering unpaid supplier charges in base rates during the transition period, allowing termination for such charges incurred prior to January 1, 2011, would result in double recovery.

Consumers ... from 1

"There seems no doubt that, under pooling, Consumers will be required to make administrative changes to the way it conducts business. However, none of these adjustments seem significant. Additionally, it appears pooling will not threaten or complicate the management of Consumers' natural gas system," the ALJ concluded.

"Therefore, I recommend the adoption of appropriate tariff language to permit pooling and suggest that the details of a pooling program and the precise tariff language necessary for its implementation be resolved in further proceedings and that Consumers be given 60 days to file a detailed proposal, including specific tariff language, to permit pooling," the ALJ recommended.

The ALJ's proposed decision rejected arguments from the Association of Businesses Advocating Tariff Equity, who had contended that transportation customers were being assigned an inequitable allocation of costs. ABATE had faulted Consumers' use of the "peak and average" allocation method in its cost of service study, rather than a peak day demand allocation method, as over-allocating costs to transportation customers. Additionally, ABATE noted that Consumers allocates storage costs to transportation customers as if they were sales customers (when transportation customers do not have the same access to storage), which ABATE said over-allocates costs to transportation customers. The ALJ rejected both arguments.