Energy Choice Matters

WEDNESDAY, March 31, 2010

BGE Requests to Recover Additional Residential SOS Working Capital Costs As Well

Baltimore Gas and Electric has revised its request to increase its recovery of its SOS-related cash working capital (CWC) requirement to include the residential customer class. BGE's amended application also intimates, although it is not explicit, that it is not seeking to recover additional residential and non-residential working capital requirements through the nonbypassable Administrative Cost Adjustment (Rider 10), as originally requested (Only in Matters, 12/31/09).

As only reported in *Matters*, BGE had originally sought to increase its cash working capital recovery for its provision of Type I, Type II and Hourly SOS. BGE did not initially seek a change in the amount of cash working capital recovered from residential customers, because the SOS settlement agreements in Case 8908 which capped the recovery of cash working capital costs had not yet expired for the residential class (but had expired for the non-residential classes). The residential SOS agreement under Case 8908 will expire May 31, 2010.

The increased working capital costs result directly from the move to weekly settlements in PJM. "Prior to the June 1, 2009 change at PJM from monthly to weekly settlement, BGE incurred a CWC revenue requirement of $0.04/MWh to provide Residential SOS service. As a result of the change to weekly settlement, BGE's Residential SOS-related CWC revenue requirement has increased to $0.12/MWh, over 250 percent higher than the costs previously incurred to provide Residential SOS service," BGE said. The increase would translate into $11.6 million in higher costs to residential SOS customers.

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Supplier Conduct, Competition from Non-Energy Companies Dominate KEMA Forum

Two themes were evident as the prominent issues facing competitive retail suppliers at KEMA's executive forum yesterday: (1) the need for suppliers to proactively eliminate bad actors and actions or risk draconian measures and (2) the risk that suppliers not innovating with smart or distributed products will face from non-energy companies entering the energy management space.

Chris Weston, Direct Energy CEO, pointed to reactions against perceived supplier abuses in Connecticut and Ontario as showing the risks suppliers face from one or two bad actors. New York Public Service Commissioner Maureen Harris recounted the 2008 changes to the Uniform Business Practices to tighten regulation of ESCO sales, but also noted that not only did some bad actors result in tighter marketing rules, the bad actors also damaged the perception of retail access among legislators, consumer advocates, and those in the governor's office. Since that time, the PSC has been doing all it can to preserve just the status quo when it comes to retail access, and hasn't been able to pursue enhancements to eliminate the remaining barriers to retail choice (see related story).

If retailers do not solve the problems of bad actors themselves, legislators will deal with the problems using restrictive and severe measures, Weston summarized. In others words, retailers need to get their house in order, Weston said.

Speaking more broadly, but along the same lines, Retail Energy Supply Association President

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Weston Says Direct Willing to Take on Billing Responsibility

Direct Energy is willing to assume the billing responsibility for all customer charges, replacing the distribution utility as the collection agent for wires charges, if the utility unbundles and competes on a level playing field, Direct Energy CEO Chris Weston said during KEMA's Executive Forum yesterday, prompting a surprising amount of focus on extricating the utility from the default service role in Pennsylvania.

Asked specifically by *Matters* what conditions would be necessary for Direct to desire to assume such billing responsibility (such as socialized bad debt or other uncollectibles recovery, disconnection authority, etc.), Weston did not elaborate.

However, Weston stressed that the retail supplier must become more than just a line on the customer's bill, and Direct is keen to deepen its relationship with the customer, and the bill is an important mechanism for building that relationship.

Taking on billing responsibility from the utility can run a gamut of levels. At the most basic level, and currently available in some markets (particularly in Illinois where it is widely used), is supplier consolidated billing. BlueStar Energy Services has built its business model around such billing, and, as only noted in *Matters*, has been frustrated by the lack of standards to allow for supplier consolidated billing in Pennsylvania at this time (Only in Matters, 3/22/10).

More broadly, however, Weston's comments pointed to the removal of the utility owning any customer relationship, either as the default service provider, or the wires company. Obviously, such is the case in Texas, and is undoubtedly, regardless of sensible price to beat rules, the main reason mass market migration has been so much more widely accepted in Texas, since customers were no longer owned by a wires company providing SOS.

During a panel on the Pennsylvania market, industry participants honed in on the default service question. Pennsylvania is notable in that it has an existing regulation allowing a competitive supplier to petition the PUC for default service provider status, and also has experienced other options for allocating non-migrating customers.

In particular, 52 Pa. Code § 54.183 provides that an electric generation supplier may petition the Pennsylvania PUC to be assigned the default service role for a particular service territory. The PUC may also propose through its own motion that a distribution utility be relieved of the default service obligation, or the utility may ask to be relieved of the role.

Additionally, though no longer active, PECO had previously offered what were essentially retail load auctions (the Market Share Threshold), though the load auctions did not replace default service. Furthermore, at Pike County Light & Power, an opt-out aggregation was introduced as the "default" option for customers (though Pike County still offered a separate default service rate customer could elect). The question of whether customers should still be defaulted to the aggregation (currently supplied by Direct Energy) at the end of its current term is currently pending before the PUC; an ALJ has recommended defaulting customers to Pike County default service (see exclusive story in Matters, 10/22/09).

During the panel discussion, Tony Banks, Vice President at FirstEnergy Solutions, noted that FirstEnergy Solutions is advocating for municipal opt-out aggregation legislation in Pennsylvania, citing the fact that 70% of customers at PPL have not switched despite double-digit savings even for residential customers as showing the need for an alternative form of default service. FirstEnergy Solutions' load acquisition strategy in its affiliate territories of Ohio has relied (with great success) on winning governmental aggregation loads.

Despite Pennsylvania's comparatively vast experience (versus other states) with alternative forms of supplying non-migrating customers, Commissioner Robert Powelson and PECO Energy COO Craig Adams doubted the utility would be supplanted as a default service provider because of the need to serve low-income customers, who are typically unattractive to competitive suppliers.

Still, Powelson encouraged Direct to present the Commission with whatever options it may have in mind, as no supplier has ever petitioned to assume a default service provider role in Pennsylvania to date.

Harris Calls N.Y. PSC Delays in Removing Barriers to Choice "Embarrassing"

The nearly four years that the New York PSC has been sitting on utility compliance plans to allow customers to remotely access their account information is "deplorable" and "embarrassing," New York Public Service Commissioner Maureen Harris said in grading New York as a C+/B- when it comes to the retail market, due to its inertia on removing several additional barriers to retail access.

In response to a petition filed by Accent Energy in 2005, the New York PSC in November 2006 directed utilities to file proposals to provide customers the ability to access their account number (necessary for switching) remotely, so they could shop and enroll with a supplier at malls or sporting events where they would not be carrying their utility bills. Compliance plans were duly filed, and have been sitting at the Commission ever since.

Harris conceded that the forced cuts in PSC Staff directed by the state government, coupled with massive policy goals foisted upon the Commission in terms of energy efficiency and renewables, has challenged the Commission to address retail access issues.

Harris also reported that the Commission will act in the near future on the reports from the Uniform Business Practices working groups, who had been charged with tackling issues excised from the UBP II rulemaking (such as utility drop processes, sales tax treatment, expanded referral programs, customers lists, complaint statistics, etc.). These issues will eventually be noticed in the state register for a comment period (Matters, 3/5/09).

Additionally, the Commission will also seek comment on the single retailer model (supplier consolidated billing) and EDI modifications, Harris said. EDI standards development may eventually be transferred to a purely stakeholder enterprise, due to resource limitations at the PSC, Harris said.

Finally, Harris cited rate ready billing, and allowing innovative products under rate ready billing, as another area the Commission will explore. As only reported in *Matters*, ConEd's recent rate order requires the establishment of a rate ready working group (Only in Matters, 3/26/10).

Harris also said that she was "intrigued" by prepaid energy options. Based on prior research, *Matters* believes that prepay products may not currently be permitted in New York (or severely restricted), but could not find any cite in HEFPA or similar regulations prior to deadline.

Nelson to Seek Stakeholder Input on Adequacy of TCRF Certainty Provisions for REPs

PUCT Commissioner Donna Nelson has requested that the Commission ask stakeholders whether proposed limits and parameters for the filing of Transmission Cost Recover Factor (TCRF) updates contained in a draft proposal for publication adequately provide needed certainty for REPs (Only in Matters, 3/26/10). The PUCT is to address the proposal at its April 1 meeting (37909).

As only reported by *Matters*, the Staff proposal would maintain the twice annual TCRF updates, but require TCRF changes to be filed 45 days in advance to provide REPs with certainty. Additionally, if the PUCT approves a TCRF different from the TCRF sought by the distribution service provider (DSP), the DSP would charge the TCRF it originally proposed, with any difference from the authorized charge later trued-up, to again provide REPs with certainty.

Nelson noted that the Commission's recently amended Substantive Rules require REPs to notify customers on fixed rate products that their rate may change if transmission and distribution utility rates change. "As we consider any revisions to the way TDUs may recover costs through rate updates, I want to be sure we keep in mind how and when these changes are passed through to customers," Nelson said.

Nelson appreciates the inclusion of the 45-day advanced filing requirement and limit of two TCRF updates per year, but would like to ask stakeholders to comment on the provisions, "to ensure we have gone far enough to address the issues raised by REPs in other rules and contested cases," regarding certainty and the ability to pass-through such revised TDU costs.

DPUC Takes Notice of Freedom Choice Energy Complaints

The Connecticut DPUC has taken administrative notice, in the docket containing Freedom Choice Energy LLC's aggregator license application, of 12 DPUC Consumer Assistance Intake Forms related to Freedom Choice Energy, LLC from February 23, 2010 through March 5, 2010 (Only in Matters, 3/2/10).

The DPUC did not comment on the specific relevance of the forms, which relate to customer allegations that a Freedom Choice Energy LLC representative stated that they were part of Connecticut Light & Power, a representative retaining a copy of the customer's utility bill, the inability of customers to reach Freedom Choice Energy at the phone number it provided to customers, and what customer generally termed were aggressive sales tactics.

It's not clear the extent to which Freedom Choice Energy's current activities are that of an agent of a single supplier, or that of a broker soliciting with no marketing agent relationship to a supplier, neither of which require a license. The answer, however, will likely have implications for Freedom Choice Energy's aggregation certificate application, given the bright line that the DPUC has established (in the Levco Tech case) in differentiating agents and aggregators -- aggregators must represent the customer, and may not act as an agent or marketer of any supplier.

Presumably in that vein, the DPUC issued an interrogatory to Freedom Choice Energy asking if it has established any business relationships or partnerships with any licensed suppliers or aggregators currently operating in Connecticut, and, if so, to list such relationships.

The DPUC also directed Freedom Choice Energy to answer whether it has contacted Connecticut Light and Power, United Illuminating, a licensed electric supplier, or a licensed electric aggregator in an attempt to switch a Connecticut customer's electric generation supplier of choice, and to explain if it has done so.

The Department also issued an interrogatory to Positive Energy (an aggregator) inquiring whether it has any business relationship with Freedom Choice Energy LLC.

The DPUC noted that Freedom Choice Energy indicated in its application that it will begin an electric "aggregation" program once the application is approved. The Department asked whether Freedom Choice Energy through its officers, employees, or any related subcontractors, has solicited any customers at this time.

Already Small Interest in Detroit Edison Green Tariff Reduced Further

What little appetite there was among Michigan customers for a utility-offered green tariff waned further in 2009 as enrollment at Detroit Edison's voluntary renewable GreenCurrents program slowed to 2,826 new enrollments in 2009, Detroit Edison said in a report to the Michigan PSC.

That's a sharp decline from the 8,591 new enrollments seen in 2008 (see Matters, 4/3/09).

At year-end 2009, Detroit Edison had 18,239 enrolled participants in GreenCurrents, of which 17,930 were billed in 2009. After three years of the green option, enrollment remains at less than 1% of Detroit Edison's 2.1 million customers.

Of those GreenCurrents customers billed in 2009, 17,812 were residential, 97 were commercial, and 21 were industrial. The amount of renewable energy required by the GreenCurrents customers was 47,295 MWh for 2009. Detroit Edison purchased 62,704.8 RECs from Michigan sources for the GreenCurrents program in 2009, and said it will apply excess RECs to its 2010 GreenCurrents needs.

In 2009, the revenues recorded by Detroit Edison for the GreenCurrents program were $1,054,323. This was offset by the RECs cost of goods sold of $753,323 and program expenses of $547,526, resulting in a net loss of $246,526. There were no excess revenues for the GreenCurrents program in 2009. "Because there was no excess revenue, the GreenCurrents program is unable to develop additional renewable generation projects under the program or lower the rate for participants at this time," Detroit Edison reported.

As of February 28, 2010 Detroit Edison said that enrollment in the GreenCurrents program had reached over 18,000 customers.

In 2009, public events accounted for approximately 81% of enrollments, with Detroit Edison spending $213,000 on such events during the year (not including travel). Direct mail accounted for 13% of enrollments (with such expenditures totaling $78,000), while web-based options accounted for 5% of enrollments

Briefly:

PUCO Releases Dominion East Ohio SCO/SSO Winners

The Public Utilities Commission of Ohio released the identities of winning bidders in Dominion East Ohio's recent Standard Choice Offer and Standard Service Offer auctions. Winning Standard Choice Offer bidders were Interstate Gas Supply, Hess Corporation, Lakeshore Energy Services, DTE Energy Trading, and Commerce Energy (Just Energy). Winning Standard Service Offer bidders were Hess Corporation, Delta Energy, and DTE Energy Trading.

Pipkin Kills Md. Choice Education Bill

Maryland Senator E.J. Pipkin has utilized a parliamentary maneuver to block the Maryland customer choice education bill (HB 1372) from advancing during this session in the Senate, where supporters say that the bill had the votes to pass if it had reached the floor. The bill had passed the House last week.

DTE Energy Supply Seeks Ohio Electric License

DTE Energy Supply, Inc. applied for an Ohio electric supplier license to serve commercial, mercantile and industrial customers in all service areas. DTE Energy Supply would rely on parent DTE Energy Trading for various administrative functions. In its application, DTE Energy Supply disclosed that DTE Energy Trading is slated to serve approximately 120,000 customers in the Dominion East Ohio and Vectren Energy Delivery Standard Choice Offer programs. Additionally, DTE Energy Trading serves via full requirements default service supply contracts approximately 3,470 MW of load. DTE Energy Marketing Inc. previously held an Ohio electric license, but it expired in 2002.

R.I. PUC Rejects National Grid-Deepwater Contract due to Above-Market Costs

In an unanimous decision, the Rhode Island PUC rejected the proposed long-term contract between National Grid and Deepwater Wind, finding that the initial 24.4¢/kWh price, escalating to 48.6¢ over 20 years, was not "commercially reasonable" as required by statute. Commissioner Paul Roberti said that approval of the contract, would have only, "demonstrat[ed] ... the political will of Rhode Island to pay substantially above-market rates for energy," referencing the fact that the 8-turbine project lacked scale and was essentially a pilot project to prove viability. Above market costs were projected at $500 million over 20 years.

Allied Power Services Seeks Md. Broker License

Ellicott City Investments LLC, d/b/a Allied Power Services, applied for a Maryland electric broker license to serve all customer classes in all service areas. Ellicott City Investments is currently a property manager, and co-owners Craig Kam and Charles Moore III also have a background as mortgage bankers/brokers with Allied Home Mortgage Capital Corporation. Jules Leboyer will serve as executive director of Allied Power Services. Leboyer previously established telecomm and public utility consultant/bill auditor CorCom Partners, where he is currently a partner.

KEMA Notes

Ambit Energy said that it will launch a prepaid product utilizing advanced meter data in two weeks. Ambit CEO **Jere Thompson** said that rates would be 20-30% lower, and in some cases up to 40% lower, than current non-AMS prepaid rates due to the reduction of bad debt risk associated with the use of 15 minute interval data. Thompson also reported that Ambit is nearing 300,000 customers.

Reliant Energy President **Jason Few** said that Reliant is working on an AMS prepaid product, partially supported by its recently finalized Department of Energy grant funds.

Pennsylvania Public Utility Commissioner Robert Powelson reported that PPL residential migration is at about 325,000 customers (27%). Powelson also said that if politicians don't see residential options, "then we have a problem." This could prove challenging at PECO, which is projected to have little headroom, and West Penn Power, where there will be no POR to mitigate mass market bad debt risk.

Gas South CEO **Kevin Greiner** said that while its co-marketing/affinity programs with electric membership corporations have worked well, affinity programs with schools have not produced the desired results. Greiner said that affinity programs are most successful in acquiring customers when they relate to or are similar to the underlying gas service (e.g. the EMC bills which must be opened by electric customers, or programs with apartment owners relating to service initiation), while the school programs had a tenuous connection to gas service, and did not prompt customers to think about gas service.

PUCT Chairman Barry Smitherman reiterated his belief that smart meter deployment is necessary, though cautioning that it will not be easy. Smitherman also reiterated his support for a switch hold for customers on deferred payment plans. Furthermore, Smitherman said that he has been disappointed in the pace of the deployment of in-home usage monitoring devices by REPs, and also said that he would like to see more fixed rate products longer than 24 months.

MP2 Energy CEO **Brandon Schwertne**r said that a self- supply/retailing model likely makes economic sense for customers with loads above 75 MW.

Mass. DPU Sets Further Investigation for Nstar Green Reconciliation

The Massachusetts DPU has determined that additional investigation of the proposed reconciliation of Nstar's green option is warranted, and suspended the effective date of Nstar's revised green tariffs. As only reported by *Matters*, the Retail Energy Supply Association had objected to the reconciliation for not incorporating a current forecast of market prices in setting the updated green rates, thereby creating an artificially low renewable rate (Only in Matters, 3/11/10).

Two Gexa Complainants Withdraw, Will Refile Claims

Two of the three complainants against Gexa Energy in the variable rate complaint case before the PUCT withdrew their complaint without prejudice, although they intend to pursue the same claims in the future (37569). The two complainants' counsel, who is also the third complainant and was representing all three customers, said that due to the protracted nature of the case, and other full-time responsibilities, he informed his clients that he believes he can no longer adequately represent their interests due to these other responsibilities. The two complainants said that they have obtained new counsel, but that they would be represented by said new counsel in a different proceeding. The withdrawal of two of the complainants does not alter any of the allegations made by the complainants; however, it does significantly narrow the time frame involved, as the remaining complainant did not become a Gexa customer until May 2008. As has only been reported in *Matters*, the complainants have alleged that the variable rate contract offered by Gexa committed Gexa to change its retail price contemporaneous to wholesale market price changes (see Matters, 3/4/10).

PJM Subsidiary Offering Solar REC Auctions

PJM EnviroTrade, a new subsidiary of PJM Interconnection, announced that it will launch a new auction to trade solar renewable energy certificates this summer. PJM EnviroTrade's Sage auction will initially provide service to the solar renewable energy certificate markets of New Jersey, Pennsylvania, Ohio, Delaware, Maryland and the District of Columbia, with its first service offering being a monthly auction for solar RECs.

BGE ... *from 1*

BGE specifically requested that the Commission modify the, "Residential, Type I, Type II, and Hourly SOS cost recovery mechanisms to provide for a pass-through of the Company's SOS-related CWC revenue requirement associated with the service provided to SOS customers." Currently, the recovery of working capital costs is achieved through the "administrative charge" embedded in SOS rates, and is bypassable. Although BGE is not explicit, its amended petition appears to request that this bypassable administrative charge be increased.

BGE's original petition sought to use nonbypassable Rider 10 (Administrative Cost Adjustment) to collect the higher working capital costs, as was only reported by *Matters*. However, BGE's associated calculations within its original petition only showed SOS customers paying the higher working capital costs, leading to confusion among market participants and PSC Staff. BGE later informed suppliers via conference call that it was not seeking to make the working capital costs nonbypassable, but aside from the instant amended filing, BGE had not memorialized any such commitment.

KEMA ... *from 1*

Jay Kooper said that retailers, "must be an agent of change," in combating legislative and administrative forces against retail choice.

"You can no longer afford to sit on the sidelines and leave the advocacy fight to others. And the same goes for customers as well - if you value choice and all you have benefited from choice - you too must be proactive. All of the pro-competition state utility commissioners, legislators and other policymakers cannot effectively fight this battle unless you the industry and you the consumers, with an even more direct stake in this policy debate, are fighting on the front lines for competition and for choice," Kooper said.

Innovation

Market participants warned of the risk of retail suppliers being usurped by other entities -- non-commodity energy service companies, telecomm providers, or information providers like Google -- in provisioning customers with products taking advantage of advanced meters, the smart grid, and hourly (or more frequent) customer usage.

Jason Few, President of Reliant Energy, warned that retail suppliers cannot sit idly by, as companies from other industries more adept at gaining and leveraging customer insight could swoop in and win customers' energy management dollars --citing Google, Cisco and AT&T as potential competitors. New York Public Service Commissioner Maureen Harris agreed with that assessment, stating during an earlier panel that telecomm providers and Google will take advantage of the opportunities provided by the management of customer data if retail suppliers do not.

In terms of the kinds of innovation which will be adopted, John Berger, former CEO of Standard Renewable Energy, said that his experience is that passive, or automated, products will find acceptance in the market, while products requiring customer interaction will fail. Berger said that from marketing monitoring devices which required active customer involvement, the typical customer loses interest in monitoring their usage data after three weeks.

Panelists noted that distributed solar installations are one of the hottest products, facilitated by declining costs, scale, simplified contracts for end users, and a transfer and diffusion of installation knowledge downstream. Retail suppliers with solar installation plays include Integrys Energy Services, Constellation NewEnergy, Green Mountain Energy, TXU Energy, and Washington Gas Energy Services (in a non-exhaustive list, with some suppliers relying on broker/agent relations to provide solar service to customers). The field is also the dominion of non-commodity energy service companies vying for customers' energy management dollars, and it's continuing to attract interest from all sectors. As noted in *Matters*, NJR Home Services (not NJR's commodity supplier) recently launched a residential solar leasing program (Matters, 3/18/10).