Energy Choice Matters

May 10, 2010

National Fuel of Pa. POR Settlement Would Impose Marketing Standards on Suppliers

Parties have filed a unanimous settlement that would establish a Purchase of Receivables program at National Fuel Gas Distribution Company of Pennsylvania that includes recourse for amounts above the otherwise applicable default service charge, and which imposes interim marketing standards on competitive suppliers (P-2009-2099182).

The POR program would cover the following customers taking service under Distribution's Small Aggregation Transportation Customer (SATC) Rate Schedule: (1) all Residential customers, (2) Small Commercial and Public Authority customers with annual consumption less than 250 Mcf per year, (3) Small Commercial and Public Authority customers with annual consumption between 250 and 1,000 Mcf per year, and (4) Small Volume Industrial customers with annual consumption less than 1,000 Mcf per year (Only in Matters, 4/6/09).

Receivables would be purchased without recourse, except for unpaid charges that exceed the otherwise applicable utility supply charges. Distribution will be permitted to terminate service to a supplier's customers for failure to pay the lesser of: (1) the actual bill including the supplier charges, or (2) the otherwise applicable default service charges had the customer obtained supply from Distribution.

Purchased receivables will be discounted to account for (1) an account write-off factor, (2) POR development, implementation, and administration costs, and (3) a program risk factor. The specific

Continued P. 6

First Choice Power Adjusted Earnings Higher on Lower Bad Debt, Favorable Weather

First Choice Power reported higher ongoing earnings of $10.4 million for the first quarter of 2010, up from $6.8 million a year ago, on reduced bad debt expense and favorable weather, which offset attrition versus the year-ago period.

On a GAAP basis, First Choice Power reported a loss of $7.5 million, versus income of $7.0 million a year ago, due to mark-to-market, after-tax losses of $17.9 million on economic hedges during the 2010 quarter.

First Choice Power's bad debt expense fell to $5.8 million, or 5.1% of revenue, for the first quarter of 2010, versus $14.3 million, or 11.7% of revenue, in 2009. Aside from First Choice Power's ongoing efforts to improve the customer mix and credit quality of its retail book, bad debt levels improved due to slower in-quarter customer departures, as well as lower average final bills.

Despite the improvement, First Choice Power still expects that bad debt for the year will equal 7% of revenue as bad debt increases with higher summer usage and bills. "Traditionally bad debt tends to increase in the higher usage months as electric bills increase and customers switch in an effort to avoid paying their final bills," said PNM Resources CFO Chuck Eldred.

The improved bad debt levels, as well as higher volumes due to colder weather, helped offset the impact of lower per-unit margins, which were expected due to increased competitive activity. Still, the margin decrease through the first quarter was less than anticipated, though PNM Resources

Continued P. 7

Pepco Energy Services Net Income Higher

Pepco Energy Services reported higher net income of $13 million for the first quarter, up from $8 million a year ago, on higher capacity revenue and lower capacity charges associated with its generating facilities, as well as lower natural gas supply costs offset by lower retail electric customer loads due to the continuing expiration of existing contracts.

Gross Margin from Retail Energy Supply increased to $37 million from $30 million a year ago. Retail electric sales were 3,301 GWh, down from 4,794 GWh a year ago. Retail Energy Supply operating revenue for the quarter was $497 million, versus $630 million a year ago.

Conectiv Energy reported higher net income of $8 million, versus $4 million a year ago. Merchant Generation earnings increased $3 million primarily due to a $14 million increase from higher capacity prices, partially offset by hedging losses. Load Service earnings increased $3 million due to a $10 million increase from PJM default electricity supply contracts and associated hedges due to lower power cost, lower power price volatility and higher sales volumes, partially offset by a $7 million decrease due to New England default electricity supply contracts and associated hedges due to higher net cost and lower volume served. Energy Marketing earnings decreased $2 million primarily due to oil marketing activities.

Gross Margin from Merchant Generation improved $5 million to $47 million; gross margin from Load Service improved $5 million to $6 million; and gross margin from Energy Marketing decreased $4 million to $10 million. Total gross margin was $63 million versus $57 million a year ago.

Load Service volume for the first quarter was 1,974 GWh, versus 2,010 GWh a year ago. As previously reported, the Load Service business is being held for sale.

Conectiv Energy's operating revenue was $603 million, versus $575 million a year ago.

N.Y. Working Group Concludes ESCO Complaint Rate Not Feasible

An ESCO complaint rate metric is not currently feasible in New York, the complaint rate working group reported in one of the few reports to reach any substantive conclusions.

The working group reported that Barry Bedrosian, Chief of Consumer Assistance for the PSC's Office of Consumer Services, informed the working group that given the fluid nature of ESCO customer counts, compiling a complaint ratio would be an administrative nightmare to produce in a timely manner.

Moreover, the PSC currently provides upon request the total number of an ESCO's complaints to the media, and to other state commissions. If such data were reported publicly, an ESCO's complaint ratio could be used to calculate its customer count, which is considered proprietary information by the PSC.

Bedrosian informed the working group that Staff did not wish to cease providing the total number of complaints, and also said that access to such data internally at the PSC could not be redesigned to protect the number of complaints from being available to a significant number of people. Bedrosian concluded that he could not support assigning resources to developing a complaint rate given the lack of evidence showing how it would benefit customers.

"Because a complaint rate could not be considered at this time, this report reflects less than an agreement by the Working Group than a determination by OCS staff about what can and cannot be done based on reasons described in this report," the working group states.

The working group then considered an alternate proposal that, while not creating a complaint ratio, would at least categorize ESCOs in the current complaint reports by their size. PSC Staff identified that today's average of retail access electric customers is approximately 26,500, with 55% of ESCOs having less than 10,000 customers. Therefore the recommendation is to break out three groups of ESCOs by customer count as follows:

a) <5001

b) 5002 - 25,000
c) >25,001

The complaint data would then be adjusted so that when an ESCO's total complaints are reported, the letter corresponding to its size would also appear.

The Utility Initiated Drops, Tax Data, and Customer List working groups reached no policy consensus, and their reports repeat arguments from the working group process (and UBP rulemaking before that) which present nothing novel. As only reported by *Matters*, the issue of utility-initiated drops is now subject to a separate petition by ESCOs (Only in Matters, 1/28/10).

The ESCO Referral at Customer Initiation working group reached consensus to base point of service initiation referral programs upon the features developed for general referral programs, as seen in the subsequently approved Consolidated Edison pilot program.

Md. OPC Agrees Price to Compare Not Based on Actual SOS Charges is Misleading

The Maryland Office of People's Counsel agrees that the current averaged and annualized electric Price to Compare (PTC) provided by distribution utilities is "misleading" to customers under the current SOS procurement methodology, and recommended only providing customers with actual SOS rates for the periods for which they are available, rather than projecting rates for future periods or blending historic rates to create an annual Price to Compare (Case 9228).

"Customers should have an understanding of the level of certainty there is for future SOS prices and not be given a false sense that SOS prices for some future period are accurately reflected in a number described and a PTC and that the SOS rates will not change during the future period," OPC said.

"Only the SOS rates for the periods where that rate is actually known should be published and those rates should be accompanied by a clear explanation of the numbers," OPC suggested. OPC recommended providing pricing information to customers by providing the following statements in the publication of the SOS rates following the annual April procurement (year 2010 used as an example):

- The SOS price for June 2010 to September 2010 is X cents/kWh
- The SOS price for October 2010 to May 2011 is Y cents/kWh
- The SOS price after May 2011 is not known at this time
- Depending on the point in your billing cycle you request to switch to a retail supplier, it will take 2 to 6 weeks for the new service to begin

However, even OPC's comparison may run into difficulty based on the timing of retail transmission rate changes or other SOS reconciliations that occur between April 2010 and May 2011.

Suppliers agreed that the Price to Compare should not annualize charges, but rather should reflect the total bypassable charges for a customer at a certain point in time. The Retail Energy Supply Association recommended that the Price to Compare be presented on a customer's bill as all of that customer's bypassable charges on a per kWh basis, which presumably would all be included in the SOS price. There should also be a narrative explaining that the SOS price is subject to change on October 1 and June 1 of each year, which would alter the Price to Compare, RESA said.

Allegheny Power actually takes an approach similar to this, based on its explanation in comments to the Maryland PSC. However, the Allegheny Power Price to Compare listed on each customer bill is customer-specific based on that customer's usage. For customers without demand-based charges, this Price to Compare should be the same for customers in the same class regardless of usage. The Allegheny Power Price to Compare is thus updated with every bill if any underlying bypassable charge changes.

Washington Gas Energy Services said that the Price to Compare, "should simply be the average seasonal SOS rates for the relevant customer rate schedule that are approved and known." For example, WGES said that starting on June 1 of each year, all customer bills should include the following PTCs: the average summer rate (generation and transmission) for the customer's rate schedule (June 1 - September 30); the average winter rate (generation and transmission) for the customer's rate schedule (October 1 - May 31); and a notation to the customer indicating when the average rate for the customer's rate schedule for the following summer season will become available.

MXenergy agreed that the Price to Compare should be current, or forward looking, and should not blend summer and winter rates. MXenergy further suggested a quarterly update to the Price to Compare.

The National Energy Marketers Association took to the opportunity to press the Maryland PSC for greater unbundling of supplier-related costs, as well as for more market-reflective pricing.

Baltimore Gas & Electric reported that it has recently modified its calculation of the Price to Compare based on discussions with Staff. Effective June 2010, BGE's Price to Compare for each residential electric service class (Schedules R, ES, RL-1 and RL-2), as well as for BGE's Type I commercial electric service classes (Schedules G, GS and SL) will be calculated based upon three basic steps. First, BGE takes the prior year's seasonal, weather-normalized sales for each service class divided by the prior-year's average number of customers in each service class. Second, the product of this calculation is applied to the rates resulting from the SOS procurements for the upcoming SOS service year to arrive at a total revenue figure for the commodity-only component of the Price to Compare. This calculation is also performed against the SOS Administrative Charge rates, Applicable Tax rates, and the most recently approved Retail Transmission rates. Finally, the Price to Compare is calculated by dividing the total revenues resulting from the sum of all four components noted above (Commodity-only Charge, SOS Administrative Charge, Applicable Taxes, and Retail Transmission) by the total of the prior year's weather-normalized sales per customer. Prior to June 2010, BGE calculated the Price to Compare annually using the 2005 billing determinants rather than the prior year's seasonal, weather-normalized sales.

BGE also said that it will post a revised Price to Compare twice annually, to become effective in June and October, after each Residential and Type I SOS procurement, though the Price to Compare will remain an annualized figure.

The Pepco utilities were the only distribution companies to offer any comment on Price to Compare policy, aside from logistical concerns regarding available space on the bill and billing system limitations. Specifically, while the Pepco utilities said that they could calculate a seasonal Price to Compare, "such a figure is not likely to be comparable to the annual offers marketed by most retail suppliers. Therefore, such a number could cause significant confusion and misunderstanding."

Briefly:

ConocoPhillips Seeks Ohio Gas License

ConocoPhillips Company applied for an Ohio natural gas supplier license to serve small and large non-residential customers at Duke Energy Ohio and Vectren Energy Delivery of Ohio.

ConEdision Solutions Net Income Flat

ConEdision Solutions reported a net loss of $37 million for the first quarter of 2010, flat versus the year-ago quarter, due to the impact of $49 million in after-tax mark-to-market losses. The year-ago after-tax mark-to-market losses were only $41 million, indicating improved performance when disregarding the mark-to-market impacts. Operating revenues at ConEdision Solutions were $347 million, up from $227 million a year ago. Electric retail revenues increased 17% to about $337 million, due to higher sales volume ($78 million), offset by lower per unit prices ($29 million). Gross margins increased "significantly" due primarily to the sale of higher margin contracts, lower costs, and higher volumes.

Marin Energy Authority Commences CCA Service

The Marin Energy Authority became California's first community choice aggregator to serve customers Friday, supplying 6,000 homes and businesses in Phase I of its implementation plan. About 20% of customers opted-out, but an undetermined number of those opt-outs were invalidated since they were solicited by PG&E.

In other CCA-related developments, a California superior court judge last week dismissed a suit from various CCAs and public power agencies who were attempting to strike Proposition 16 from the ballot. The judge ruled that that text of Proposition 16 was not misleading, and also found the suit to be late filed.

National Grid to Purchase Half of Cape Wind's Output

National Grid has agreed to purchase for its Massachusetts customers 50% of the 420-MW Cape Wind project's output including electricity, RECs, and other potential market attributes for an initial rate of 20.7¢/kWh beginning in 2013. The contract is subject to Massachusetts DPU approval, and Grid said it would file the contract with the DPU today. It was not immediately clear if Grid is seeking cost recovery through a nonbypassable surcharge. The price under the PPA, which assumes existing federal tax incentives, would increase 3.5% per year during the 15-year term of the contract. The Alliance to Protect Nantucket Sound said that the PPA represents a premium for ratepayers of $442 million over the course of the 15-year agreement.

Just Energy Closes Hudson Energy Acquisition

Just Energy has closed the previously announced acquisition of Hudson Energy Services for U.S. $304.2 million, subject to customary working capital and certain other adjustments (Only in Matters, 4/20/10).

Infinite Energy Selects Global Credit Services for Software Solution

Global Credit Services, LLC said that it has been selected by Infinite Energy to provide customized decision-making software which will allow Infinite to automate credit decisions and monitor the financial health of its customers.

Mirant Adjusted Net Income Lower on Weaker Prices

Mirant posted lower adjusted net income of $61 million versus $115 million a year ago due to lower hedged power prices. When including the impact of unrealized hedging gains, Mirant's GAAP earnings were $407 million versus $380 million a year ago. The decline in adjusted earnings reflects lower realized gross margins, particularly in the Northeast, higher depreciation and amortization costs and higher net interest expense. Realized gross margin was lower at $321 million versus $353 million a year ago. Energy gross margin was down by $1 million at $110 million, while contracted & capacity gross margin was $8 million higher at $142 million. The biggest driver for the gross margin decline was a decrease in gross margin from the realized value of hedges, which fell $39 million to $69 million as the hedged prices Mirant contracted for were lower than the hedged prices from a year ago.

WGL Details Md. Hedging Request

Facing a softened gas market expected to linger through the remaining storage injection season, Washington Gas Light sought authorization from the Maryland PSC to use financial instruments to effectively lock in a price or provide a cap on the price of storage gas, while still allowing WGL to purchase lower cost gas if the price declines (Case 9224). WGL was responding to the PSC's directive to provide greater detail and justification for its proposed hedging. Washington Gas Light's overall annual goal is to hedge approximately 50% of the flowing winter gas in a normal winter. For the 2010 winter baseload volumes, WGL intends to adopt a hedging strategy similar to that utilized last winter when both fixed-price purchases and options were used. The baseload hedging is proposed to cover 2.625 million Dth.

GE Global Energy Services to Cease Brokering Activity

GE Global Energy Services has decided to discontinue its brokering services, as well as any associated aggregation and energy management services.

Edison Mission Marketing & Trading Earnings Higher

Edison Mission Marketing & Trading reported higher adjusted operating earnings of $47 million for the first quarter, versus $10 million a year ago, due to increased revenue in congestion and basis trading, parent Edison International reported. Operating income at Midwest Generation was lower at $87 million, versus $114 million a year ago, on lower average realized energy prices, partially offset by lower emission costs and higher capacity prices. The Homer City facilities reported operating income of $37 million, a $1 million increase, due to an increase in capacity revenues and higher generation, partially offset by a 12% decline in average realized energy prices.

Md. PSC Opens Rulemaking on Net Metering

The Maryland PSC established Rulemaking 41 and a working group to address legislative changes to the requirements for net metering, including the change from a kilowatt-hour to dollar-based credit, and provisions for the aggregation of net metered accounts.

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values for each of the components are provided below:

Components of POR Discount

	Residential	Non-Residential
Write-off	2.2301%	0.2285%
Develop/Admin	0.0629%	0.0629%
Risk Factor	0.4156%	0.1852%
Total	**2.7086%**	**0.4766%**

Distribution will unbundle its supply-related uncollectible costs from base rates and recover them through Merchant Function Charges. The Merchant Function Charge for residential customers will be 2.2301% of residential gas cost rates and the Merchant Function Charge for non-residential customers will be 0.2285% of non-residential gas cost rates (reflecting the POR discount factors for uncollectibles). The Merchant Function Charge percentages will be applied to the Natural Gas Supply and Gas Adjustment Charge PGC rates, as revised on an ongoing basis to reflect changes in gas costs. The respective Merchant Function Charge, recalculated whenever there is a change in gas costs, will be added to the price to compare, while the Merchant Function Charge percentages will be subject to change only in a base rate proceeding.

Under the settlement, Distribution retains the right to withdraw the voluntary POR program upon 60 days notice if it is required to implement any further unbundling of its rates.

Suppliers must include all their POR-eligible accounts in the POR program in order to participate. Suppliers may continue to dual bill customers, but could not include any accounts in POR if the supplier dual bills a customer eligible for POR.

Suppliers marketing to customers under the POR program must follow a set of interim marketing standards similar to those adopted by the New York PSC in 2008. In the event that the Pennsylvania PUC adopts generic marketing standards, the Commission's rules would control. Unlike Distribution's original petition, the settlement does not prohibit door-to-door marketing.

Among other things, the interim marketing standards require that for door-to-door sales and other sales outside of the supplier's place of business, agents shall provide a photo identification prominently indicating their name and the supplier's name prior to introducing an offer. Agents shall clearly identify that they are marketing on behalf of a competitive supplier as well.

Supplier agents shall not conduct any door-to-door sales presentations before 9:00 a.m. or after 8:00 p.m., unless arranged by appointment with prior customer consent.

Except where otherwise required by law and consistent with 18 Pa. C.S. § 9125, any marketing representative employed by or under contract with a supplier shall be unqualified to conduct marketing activities through in-person contact with customers if such marketing representative has been convicted of a crime classified as a felony or a misdemeanor in Pennsylvania that has not been expunged or has received a similar conviction in another jurisdiction.

For telephonic solicitations, the agent must provide their first name and, on request, identification number, and shall state the name of the supplier on whose behalf the call is being made. Agents must also state the purpose of the telephone call. Marketing representatives shall not conduct any telephonic customer contacts before 9:00 a.m. or after 8:00 p.m.

The interim standards require suppliers to ensure that any product or service offerings contain information written in, "plain language that is designed to be understood by the customer." Agents shall have knowledge of the supplier's rates, payment options, and the customers' right to cancel, including the applicability of an early termination fee, and shall also have knowledge of the applicable provisions of 52 Pa. Code §§ 56.1-56.24 and 56.140-56.181 that pertain to residential customers.

Distribution offers rate ready consolidated billing, under which suppliers may provide Ccf unit rates, a stated percentage off the current utility natural gas supply rate, or a stated percentage off Distribution's total bill. Distribution's program will accommodate budget billing plans for both the utility delivery charges and competitive supply charges.

Suppliers will be permitted to include carbon-neutral products in their purchased receivables. The carbon-neutral products may include carbon offset credits sourced from carbon-neutral projects including landfill gas or forestry projects. The carbon offset credits must be verified by an independent third party.

Charges for carbon-neutral products must be included in the Ccf charge provided by the suppliers to Distribution and cannot be a separate charge. Distribution will not be required to list a charge for a carbon-neutral product as a separate charge on the customer's bill.

Suppliers cannot include charges for termination fees or other non-regulated offerings in supply charges to customers under the POR program. Suppliers will be required to accept customer applicants without credit checks.

The settlement was signed by Distribution, the Office of Trial Staff, Office of Consumer Advocate, Office of Small Business Advocate, Retail Energy Supply Association, Interstate Gas Supply, Gateway Energy Services, Agway Energy Services, and Vectren Retail.

First Choice ... from 1

CEO Pat Vincent-Collawn said that competitors are being more aggressive on pricing, which will continue to put pressure on margins.

First Choice Power also had lower customer acquisition expenses and support service costs in the first quarter of 2010 compared to 2009.

Gross margin decreased to $9.4 million for the quarter, from $41.8 million a year ago, mostly on $28 million in unrealized hedging losses. Lower retail margins decreased gross margin by $6.7 million, while customer attrition decreased gross margin by $1.3 million. Favorable weather had a $3.8 million positive impact on gross margin.

First Choice Power's customer count as of March 31, 2010 was 221,400, versus 225,000 as of December 31, 2009 and 246,700 a year ago.

PNM Resources' share of Optim Energy's net ongoing losses was $3.9 million, compared with 2009 losses of $2.0 million, on weaker power prices as well reduced demand for emission allowances. PNM Resources' share of net GAAP losses was $2.6 million, compared with 2009 earnings of $800,000.

PNM Resources reported that, later this quarter and pending board approval, it anticipates filing an advanced meter deployment plan for Texas-New Mexico Power with the PUCT. The AMS surcharge could begin as soon as November, PNM Resources said, projecting the capital investment of the deployment at $70 million.

First Choice Operating Revenues

Three Months Ended March 31,

	2010	2009	Change
	(In millions, except customers)		
Residential	$ 74.7	$ 76.0	$ (1.3)
Mass-market	4.2	8.3	(4.1)
Mid-market	30.9	32.1	(1.2)
Trading gains (losses)	-	(0.1)	0.1
Other	4.6	5.9	(1.3)
Total	$ 114.4	$ 122.2	$ (7.8)
Actual customers (thousands)	221.4	246.7	(25.3)

First Choice Sales

Three Months Ended March 31,

	2010	2009	Change
	(Gigawatt hours)		
Residential	550.1	501.8	48.3
Mass-market	26.6	42.0	(15.4)
Mid-market	251.2	248.7	2.5
Other	2.0	2.3	(0.3)
Total	829.9	794.8	35.1