Energy Choice Matters

May 19, 2010

ConEd Gas JP Would Require Load Following Service for All Firm Customers

Consolidated Edison would implement its proposal to eliminate Daily Delivery Service and Daily Cashout Service for firm transportation customers; would provide Load Following Service to both firm sales and firm transportation customers; would unitize the Load Following Charge to a cents per therm charge applicable to all usage for all firm full service and transportation customers; and would assess the Load Following Charge to all firm customers through the Monthly Rate Adjustment (MRA), under a joint proposal in its current gas rate case (09-G-0795).

Every firm sales and transportation customer would pay the same rate per therm for Load Following Service. The unitized Load Following Chare may be adjusted in any month based on a change in ConEd's projected annualized cost to provide the service and/or a change in the projected annual volumes for delivery to firm full service and firm transportation customers.

Currently, for firm sales service customers, the costs associated with balancing are included in the Gas Cost Factor. Under the joint proposal, such balancing costs would no longer be included in the Gas Cost Factor, and would instead be billed through the MRA. As noted, ESCO customers would pay the same MRA, and ConEd will no longer bill firm transportation customers separately for balancing service since the charges will be included in the MRA.

Under the joint proposal, the elimination of Daily Delivery Service and implementation of Load Following Service for all firm customers would commence October 1, 2010.

Continued P. 5

T.W. Phillips Asks to Consolidate POR Application, Rate Case; Revises Discount Rates

T.W. Phillips Gas and Oil Co. petitioned the Pennsylvania PUC to consolidate its pending application to institute a Purchase of Receivables program (P-2009-2099192) with its current base rate case (R-2010-2167797), because the cases raise common issues of fact and law. T.W. Phillips' motion is not opposed by any parties in the POR proceeding.

In its base rate case, T.W. Phillips has proposed to unbundle from base rates uncollectible accounts expense associated with Purchased Gas Costs for residential and small commercial customers. The supply-related component of bad debt would be removed from base rates and recovered via a Merchant Function Charge.

In the base rate case, T.W. Phillips also proposed to update its discount rate for purchasing supplier receivables to reflect the uncollectible accounts expense used for the Merchant Function Charge, and to propose separate POR rates for the residential class, and the general service small customer class.

Specifically, under the revised calculations in its rate case, T.W. Phillips would set the residential POR discount at 2.71% (1.90% bad debt and an unchanged 0.81% administrative factor), and set the general service small customer discount rate at 1.24% (0.43% bad debt and 0.81% administrative). The Merchant Function Charge for each customer class would equal the bad debt factors in the POR discount rates.

Continued P. 6

Pocket Power Files New REP Certificate Application

Monongahela Communications, LLC, d/b/a Pocket Power, filed a new application for a Texas REP certificate. Monongahela Communications has signed a purchase and sale agreement to acquire Endless Power, LLC from ePsolutions, and intends to merge Endless Power, which Pocket Power said has completed its test flight, into the newly certified entity. Endless Power does not have a REP certificate, after being rejected for a deficient filing in June 2009 when controlled by ePsolutions. Last month, Pocket Power sought a certificate for Endless Power, but the application was dismissed without prejudice as deficient (Only in Matters, 4/6/10).

San Antonio Contracts, Inc., which is 100% owned by Pocket Wireless founder Paul Posner, owns 51% of Monongahela Communications. As previously reported, Pocket Wireless has over 300,000 wireless subscribers in South Texas that purchase prepaid nationwide wireless service. Pocket Power said that it will leverage the Pocket Wireless dealer relationships to offer competitive prepaid electricity products at the 55 Pocket Wireless retail locations in Corpus Christi, Laredo, Brownsville, and other South Texas cities. Pocket Power will utilize similar branding and messaging as used by Pocket Wireless, "to present a unique value proposition to both existing prepaid and postpaid electricity customers." Pocket Power said that it will offer service beyond South Texas within a few months of its initial launch.

Frank Wanderski, who formerly held director-level positions with First Choice Power, Commerce Energy, and Sempra Energy, and most recently was a consultant for Texas Power, will serve as Director of Marketing for Pocket Power. Dale Saladino, CEO of QSE Services, will serve as Manager of Wholesale Operations, and Pocket Power will rely on QSE services for risk management services.

ePsolutions will provide various backoffice services including billing.

Connell Curtis Group, LLC, owns the remaining 49% of Monongahela Communications.

Briefly:

North American Power and Gas Seeks Pa. Electric License

North American Power and Gas, LLC applied for a Pennsylvania electric generation supplier license as a load-serving broker/marketer serving all customer classes in all service areas. North American Power said that it would mainly focus on residential customers, offering a monthly variable product. North American Power, a recent start-up, currently serves load in Connecticut and is led by President Kerry Breitbart, former CEO of commodities broker/trader United Companies, and Chairman Carey Turnbull, founding partner of Amerex. North American Power's intent to enter Pennsylvania was first reported by *Matters*, and the supplier is also evaluating entering the Ohio, Massachusetts, Rhode Island, and Maine markets during 2010 (Only in Matters, 12/10/09).

REPower to Cease Operations

REPower, LLC filed a notice of cessation of operations with the PUCT, effective July 6, 2010.

Novec Energy Solutions Receives Ohio Gas License

The Public Utilities Commission of Ohio granted Novec Energy Solutions, Inc. a license as a retail natural gas aggregator/broker serving residential and small commercial customers at Columbia Gas (Only in Matters, 4/13/10).

Unified Energy Services Receives Maine Broker License

The Maine PUC granted Unified Energy Services an electric aggregator/broker license to serve all customer classes in all service areas.

Early Bird Power Seeks Pa. Broker License

Early Bird Power LLC applied for a Pennsylvania electric generation supplier license as an aggregator and broker/marketer, seeking to serve all sizes of non-residential customers in all service areas.

Prier Energy to Add Trade Name Bubba Power

Prier Energy applied for a REP certificate amendment at the PUCT to add the trade name

Bubba Power to its certificate.

Michael Sullivan Promoted to Champion Energy COO

Champion Energy Services has promoted Michael Sullivan to Chief Operating Officer, from his current position of senior vice president for operations. Sullivan will manage all aspects of the company's day-to-day operations and continue to oversee wholesale supply, risk management and customer care. CEO Scott Fordham said that Sullivan's leadership will be a valuable asset as Champion expands into additional markets this year, including California and New Jersey.

CAISO Approves Plan to Apply Some Conventional Performance Standards to Renewable Resources

The California ISO board has approved a proposal to apply to renewable resources some of the same performance standards conventional generators must meet. The CAISO board also modified the current grid planning process that only allows approval of transmission projects based upon reliability or economic benefits. The revised grid planning process will enable the ISO to approve transmission projects that support state policies (such as RPS), and allows qualified independent transmission developers to build and own some projects. Both policies require FERC approval.

REPs Seek Certain Dates for Non-TCRF Distribution Rate Changes

The PUCT should explore limiting Distribution Service Provider rate schedule changes to a semi-annual basis, preferably on the same dates for the proposed twice-annual Transmission Cost Recover Factor updates, the REP Coalition said in supporting the proposed amendments to the TCRF rule (37909).

As only reported in *Matters*, the proposed TCRF rule would allow Distribution Service Providers to recover increased transmission costs (mostly due to Competitive Renewable Energy Zone construction) in a more timely fashion by allowing an interim update twice annually, rather than only once annually (Only in Matters, 3/26/10). To provide certainty to REPs, these updates would occur on March 1 and September 1, with 45 days notice. Furthermore, if the Commission has not authorized the proposed rate adjustment by those dates, the revised rate would still take effect, with any difference between the rate ultimately approved by the Commission later trued-up.

While supportive of the rate certainty in the proposed rule, the REP Coalition noted that there are numerous other rate schedules that may be changed by Distribution Service Providers, often outside of a formal rate case, such as the Energy Efficiency Cost Recovery Factor, various Securitization Charges, rate case expenses, and several other charges. The REPs noted that the five major investor-owned Distribution Service Providers in ERCOT made more than 50 changes to the residential distribution rate schedules during the 2009 calendar year. REPs noted that these changes most negatively impact customers on fixed prices who have expectations of rate certainty.

Furthermore, the majority of distribution rate changes occurred with less than 15 days between the effective date of the new rate and the date upon which the revised compliance tariff was either approved by the Commission or issued by the Distribution Service Providers in compliance with a Commission order, the REPs reported. In some cases, the effective date of the rate revision occurred prior to the submission of the Commission Staff's recommendation, the issuance of the Notice of Approval, or the submission of a compliance filing. At Oncor, various rate changes went into effect on eight different dates throughout the year, REPs added.

In order to better achieve certainty and predictability in retail electric pricing, Distribution Service Providers should be required to 1) provide sufficient notice to REPs regarding all rate changes prior to the effective date of any such change, and 2) limit the number of instances each year at which those rate changes can take effect, the REP Coalition recommended.

As noted, the REPs recommended scheduling all rate changes to coincide with the March 1 and September 1 adjustments to the

TCRF, and further said that REPs should be provided with a minimum of 45 days notice for all rate changes.

The REP Coalition also suggested that, since the new TCRF rule would eliminate the risk associated with the under- and over-collection of transmission service charges, a downward revision in the Distribution Service Providers' return on equity, which includes a premium for such risk, is appropriate in future rate cases. The REP Coalition included the Alliance for Retail Markets, Direct Energy (and affiliates), Texas Energy Association for Marketers, Reliant Energy, and TXU Energy.

The City of Houston, as well as other cities with original jurisdiction, opposed the proposed rule. Houston particularly faulted the true-up mechanism for Distribution Service Providers, since the twice annual TCRF updates are "already generous."

"Houston is also concerned that any 'credits' resulting from an over-recovery of costs will not be passed through to the ratepayers by the retail electric providers (REPs). Currently, REPs are not required to pass through the associated TCRF charges or credits. Without such a requirement, Houston anticipates that any increased TCRF charges will be passed through to consumers but does not anticipate that any such credits would be passed through by the REPs," Houston said.

Several other cities of original jurisdiction further said that the proposed rule would not provide certainty, as the potential true-ups create six-months of uncertainty regarding true transmission costs.

The cities of original jurisdiction also argued that the proposed rule is contrary to PURA as it requires the implementation of a proposed rate prior to Commission approval if the Commission has not approved the rate prior to the semi-annual dates for TCRF updates. In doing so, the Commission is not meeting its obligation to ensure that "each" rate, even a temporary rate, is just and reasonable, as required by PURA, the cities said.

Ohio Environmental Council Asks PUCO to Deny Solar Force Majeure Declarations for Suppliers

The Ohio Environmental Council has asked the Public Utilities Commission of Ohio to deny the requested solar RPS force majeure determination sought by several competitive electric suppliers, arguing that the suppliers have not justified the force majeure declaration since the suppliers, in their RPS reports, did not enumerate what steps they undertook to attempt to comply with the solar standards.

The Ohio Environmental Council conceded that much of the compliance reports have been granted confidential treatment, but said that suppliers could generally provide details on their attempts to comply with the solar standards without revealing confidential data.

PUCO has already declared a force majeure with respect to 2009 solar RPS compliance for competitive suppliers in response to a petition from the Retail Energy Supply Association, citing the lack of available solar RECs due to the small amount of solar capacity in Ohio (Only in Matters, 4/29/10).

The Ohio Environmental Council filed similar comments with respect to Constellation NewEnergy, Direct Energy Services, FirstEnergy Solutions, and Integrys Energy Services, and may later file similar comments with respect to other suppliers as it has intervened in several more compliance dockets.

The Ohio Environmental Council also said that DPL Energy Resources must provide additional information in its compliance report, but, since DPL Energy Resources is seeking a force majeure declaration in a separate docket, did not make any substantive comment regarding the force majeure request.

Fuel Adjusted ISO-NE Prices Rise in 2009

Load-weighted average real-time prices in ISO New England, when normalized to 2000 fuel-price levels, increased in 2009, from about \$38/MWh to \$41/MWh. On a nominal basis, the average real-time price dropped from \$81/MWh to \$42/MWh.

The Internal Market Monitor's 2009 annual report found that market prices were consistent with prices expected when resource owners offer at their short-run variable costs. However, the internal monitor did note that in the CT local reserve zone, a supplier was pivotal 7.6% of the time, using the Residual Supply Index. The NEMA/Boston local reserve zone was slightly more concentrated, with a pivotal supplier during 16.8% of hours. "The RSI analysis suggests that suppliers in the local reserve zones may have the ability to exercise market power. This reinforces the importance of offer-mitigation measures for import-constrained areas to prevent suppliers with market power from using it to raise prices," the internal monitor said.

Total congestion, as measured by the value of the Congestion Revenue Balancing Fund, decreased $96 million (almost 80%), from $121 million in 2008 to $25 million in 2009.

The internal monitor reiterated concerns raised previously about the calculation of static and permanent delist bids, since the current rules do not distinguish between the going-forward costs of resources wanting to exit the energy market and those resources wanting to remain in the energy market. The internal monitor recommended revising the definition of net risk-adjusted going-forward costs and opportunity costs as applied to static and permanent delist bids with particular attention to the difference between the going-forward costs of resources that exit the energy market and those that remain in the energy market. The resolution of this issue may increase the ability of delist bids to affect zonal pricing and creation, the internal monitor said.

The internal monitor further noted that the floor price and the large amount of out-of-market capacity will prevent the Forward Capacity Auction from determining a competitive price for capacity. Unless these issues are addressed, capacity prices will be either too high because of the floor price or too low because of out-of-market capacity, the internal monitor said.

ConEd ... ***from 1***

The joint proposal would continue separate Merchant Function Charges for SC 1, SC 2 Heating, SC 2 Non-Heating, SC 3, and SC 13 customers, with different credit and collection components established for the residential and non-residential classes. Separate Uncollectible Accounts Expense factors would be calculated for each of the three Gas Cost Factor groupings, and would reflect the overall uncollectible rate of 0.79%, with uncollectible rates of 1.06% for residential customers and 0.56% for non-residential customers.

Under the joint proposal, ConEd would continue to include in the Merchant Function Charges applicable to SC 1, SC 2 Heating and Non-Heating, SC 3, and SC 13 customers, and in the MRA applicable to all firm customers including firm transportation customers served under SC 9, charges to recover the working capital costs associated with gas in storage. Gas storage working capital costs will continue to be split between sales-related and reliability/balancing-related costs. Sales-related costs will continue to be recovered only through the Merchant Function Charge, and reliability/balancing-related costs will continue to be recovered only through the MRA.

The joint proposal would set the billing and payment processing charge at $1.04 for single service gas customers taking sales service from ConEd and for retail access customers receiving dual bills from ConEd and their ESCO. Dual fuel customers would pay no more than $0.52 for the gas billing and payment processing charge.

The monthly Gas Cost Factor for each year in the three-year rate plan would reflect a target Factor of Adjustment Ratio for lost and unaccounted for gas equal to 1.0133. The target Factor of Adjustment Ratio of 1.0133 would be used to determine the amount of gas to be retained by ConEd from SC 9 transportation quantities as an allowance for losses.

The annual Gas Cost Factor reconciliation would reflect actual gas lost and unaccounted for, calculated as follows:

a. If the actual Line Loss Factor is greater than 1.815%, ConEd will absorb the cost of losses in excess of 1.815% of gas sendout; and

b. If the actual Line Loss Factor is less than 0.815%, ConEd will retain the benefit of losses less than 0.815% of gas sendout.

For the joint proposal, the Line Loss Factor is 1.315%.

Under the joint proposal, ConEd would begin providing natural gas customer load profile data directly to the customer, or customer's representative. Currently, load profile data is only available to ESCOs, and includes 12 months of projected weather normalized delivery quantities derived from the customer's actual or estimated historical gas consumption.

ConEd is working to develop an automated access facility for such data to be implemented by the end of Rate Year One (the 12 months ending September 30, 2011). Prior to this automated process, ConEd would provide load profile data to non-ESCOs through a manual process.

Under the interim manual process, ConEd would provide a point of contact for customers and their agents requesting load profile data for customers taking service from an ESCO. ConEd would provide the load profile data for up to 50 accounts (either 50 separate accounts or 50 accounts in aggregate for one or more customers) within five business days after the request for such data. For any requests covering more than 50 accounts, ConEd would have an additional five days to provide the data for each increment of 50 accounts requested.

The joint proposal would also establish a collaborative to discuss the current SC 1 rate structure as it relates to cooking-only customers, reviewing whether such rates should be adjusted, and reviewing meter reading, billing, and ESCOs' marketing to these customers.

The gas joint proposal was signed by ConEd, PSC Staff, the Small Customer Marketer Coalition, Consumer Power Associates, and several other parties.

T.W. Phillips ... *from 1*

In its original POR proposal, T.W. Phillips would have applied a uniform discount rate of 2.81% to all customer classes (Only in Matters, 4/6/09).

T.W. Phillips also requested that upon final approval of the POR plan, if the plan is unmodified from its proposal, that it be given three months from the date of a final order to implement the program.