Energy Choice Matters
May 28, 2010

# FirstEnergy Solutions Commits to Maryland Residential Market as Part of Allegheny Merger

FirstEnergy said that it will commit to marketing competitive retail electric supply to Maryland residential customers as part of its merger with Allegheny Energy, per its merger application filed with the Maryland PSC.

Specifically, FirstEnergy Solutions, currently licensed to serve non-residential loads in Maryland, "will bring additional competition into Maryland's retail electric supply market by becoming a certified retail electric supplier for residential load."

FirstEnergy Solutions, "will be active in retail marketing efforts in the State, working to provide customers, including residential customers, with additional options for generation supply to promote competition within the service territories of the FirstEnergy and Allegheny operating utilities, including Potomac Edison, and the service territories of other utilities within the State."

Additionally, FirstEnergy committed to providing all residential distribution customers a credit equal to one-quarter of the SOS return component for a period of two years after consummation of the merger, equal to about $2.5 million. The current $1.50/MWh return component would remain in SOS prices, and the credit, through the Administrative Charge and Credit, would be applied as a separately stated line item on all residential customer bills regardless of whether the customer takes utility supply or competitive supply.

The credit will be a fixed amount per month to remove the effect of changes in customer consumption (thereby removing any potential conflict associated with EmPower Maryland goals) and to equalize the credit to all residential customers. The credit would remain in effect until 25% of each year's return is refunded to residential customers.

"The residential price-to-compare will not change; therefore, I do not expect that this credit will impact retail competition," said Raymond Valdes, General Manager of Retail Pricing Services for

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# Md. Staff Files Recommendation for Annualized Price to Compare

Maryland PSC Assistant Staff Counsel Annette Garofalo filed on May 27 a Staff recommendation for the electric price to compare which is ostensibly inconsistent with the position taken in a May 25 Staff response filed by Assistant Staff Counsel Lloyd Spivak (Case 9228).

As only reported in *Matters*, Spivak said that Staff favors a requirement that, "utilities be required to display on their bills and website all known SOS rates and their effective periods."

However, Garofalo's memo states that, "Staff recommends a price to compare ('PTC') calculation using an average of the summer and non-summer standard offer service ('SOS') rates, weighted by the respective summer and non-summer kWh sales."

Staff did not address the reason for its subsequent recommendation, though it appears Staff is concerned with providing an annual price comparison to be used to evaluate fixed retail supply offers. The inherent problem with this, however, is that a customer's usage for the next 12 months is not known, making any weighting of the two different SOS prices nothing more than a guess.

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## DPUC Denies Community Energy Bond Waiver Request, Orders Compliance

The Connecticut DPUC denied the request of Community Energy for a waiver of the bonding requirement applicable to competitive electric suppliers, and the Department ordered Community Energy to provide acceptable security by June 16, 2010 or face possible license revocation, denial of a renewed license, and/or civil penalties (10-03-10). Community Energy is, and is seeking re-certification as, a REC-only supplier.

Community Energy attempted to use Conn. Gen. Stat. §16-230 in order to show proof of solvency and the financial ability to pay any damages resulting from negligent work in lieu of the bonding requirements, and it further said that it carries a $20 million umbrella insurance policy as additional protection. However, the DPUC noted that §16-230 is not applicable as the bond requirement imposed by §16-230 is for purposes of excavation of a highway by a public service company pursuant to Conn. Gen. Stat. §16-229. "As an electric supplier, Community is required to maintain security under Conn. Gen. Stat. §16-245(c) and Regulations of Connecticut State Agencies §16-245-4. Under these latter sections, each electric supplier is required to maintain security, in a form approved by the Department, in the amount of $250,000 or five percent of its gross receipts to ensure its financial responsibility and supply of electricity to end use customers in accordance with contracts, agreements or arrangements," the DPUC affirmed.

"The Department has not waived, and will not waive this security requirement for any electric supplier," the DPUC stated.

For its original electric supplier license Community Energy maintained an irrevocable Standby Letter of Credit for the amount of $15,000. By letter dated November 16, 2009, the DPUC ordered Community Energy to either demonstrate its gross receipts for the preceding year and estimated gross receipts for the coming year, or provide an updated security for an amount of $250,000. To date Community Energy has not complied with the Department's order, the DPUC said.

The DPUC ordered Community Energy to submit an acceptable security to the Department no later than June 16, 2010.

"Community has failed to provide adequate security since November 2009, and therefore, its failure to submit an acceptable security by this June 16, 2010 deadline will result in the Department taking steps to suspend the Company's services to customers, deny the Company's current application for an electric supplier license, revoke the Company's license under Docket No. 05-03-02, and/or impose a civil penalty pursuant to Conn. Gen. Stat. §16-41," the DPUC said.

## *Briefly:*

**Trip Doggett Named ERCOT CEO, Cleary Named COO**

The ERCOT Board of Directors named Chief Operating Officer H.B. "Trip" Doggett president and chief executive officer Thursday. Doggett had been serving as interim CEO since November 2009. Doggett joined ERCOT as senior vice president and chief operating officer in June 2008. He has more than 30 years experience in the electric power industry, including seven years as an independent consultant in the ERCOT market, providing consulting and project management services. Before joining ERCOT, Doggett spent 22 years with Duke Energy where he led projects in the area of transmission substation engineering and was part of the team that launched the California Independent System Operator. The ERCOT Board also named Mike Cleary as Chief Operating Officer. Cleary had been serving as Senior Vice President and Chief Technology Officer with responsibility for overseeing the nodal project to completion. His primary focus will continue to be implementation of the nodal project. Cleary has more than 28 years of industry experience in global electricity and traded-commodity markets, electricity deregulation, and exchanges.

**ERCOT Offering Retail-Focused Nodal Seminar**

ERCOT is offering a Nodal Outreach Retail Panel in Dallas, Texas, on June 17, 2010, hosted at Stream Energy's offices. It will also be offered as a WebEx presentation. Intended for REPs, aggregators/brokers, nodal transition project managers, market trial contacts, and other affected parties, the seminar, specifically designed for retail market participants, will review the upcoming nodal transition, and include a general discussion on risks and impacts from the nodal market to a retail market participant, including use of congestion revenue rights, credit implications, and settlement timeline modifications.

**PUCT to Examine Cell Phones as Potential Devices for Low-Income Usage Monitors Under AMS Deployment Plans**

Noting that several REPs are using cell phones to transmit usage and price data under prepaid plans using advanced meters, the PUCT will examine whether a cell-phone based solution is more cost effective to achieve the goals of providing low-income customers with in-home devices free of charge as part of the advanced metering deployment plans. PUCT Chairman Barry Smitherman noted that the communication of information from smart meters via a mobile/wireless device may "leapfrog" what is offered via the static in-home display devices.

**ICC Posts Estimates of Alternative Compliance Payments**

The Illinois Commerce Commission has announced the estimated alternative compliance payments (ACP) for alternative retail electric suppliers for the June 2010 through May 2011 compliance period, based on the recently approved spring REC procurement for utilities, with the ACP estimated at $0.256/MWh at Commonwealth Edison and $0.211/MWh at Ameren. The maximum possible ACP is $1.598/MWh at ComEd and $1.476/MWh at Ameren. Actual ACPs for the June 2010 through May 2011 compliance period will be established by July 1, 2011. The ICC announced that it has added a new web page providing information on the Renewable Portfolio Standards for alternative retail electric suppliers to aid in compliance. The page includes alternative compliance payment information, a list of Illinois Power Agency renewable resources, and links to applicable RPS rules (whose permanent adoption is pending in Docket 10-0109 as only noted by *Matters*, 5/11/10). The ICC said that a sample RPS compliance spreadsheet will be posted on the website when a final rule is approved at the completion of Docket 10-0109.

**Consumers Energy "Defers" Clean Coal Plant**

Consumers Energy announced yesterday that it is "deferring -- not cancelling" the development of the 830-MW clean coal power plant that it planned to have in operation in 2017, citing reduced demand, lower gas prices, "and projected surplus generating capacity in the Midwest market."

**CAPP Launches Recharge Texas for Electric Market Changes**

The Cities Aggregation Power Project has launched Recharge Texas, which is a, "non-profit, non-partisan consumer advocacy initiative" designed to push for several initiatives CAPP has sought in the past. CAPP, along with the South Texas Aggregation Project and the Steering Committee of Cities Served by Oncor, delivered to the Sunset Commission this week more than 100 city resolutions in support of electric market reform. Among CAPP's desired changes is a standardized retail contract which would have uniform terms, though pricing could vary. CAPP also pushed for greater accountability at ERCOT, and protection from anti-competitive practices (particularly through restitution).

**Standard Solar Expands to Energy Audits**

Standard Solar, Inc. has broadened its energy-related offerings to include energy auditing and performance retrofitting, under a new Standard Energy Solutions division, encroaching on an area contested by some retail suppliers. Standard Energy Solutions will offer comprehensive building testing, monitoring, and modeling services for both residential and commercial energy improvement projects.

## *FirstEnergy ... from 1*

Allegheny Energy Service Corporation, in pre-filed testimony.

FirstEnergy further said that the combination of its and Allegheny's competitive retail suppliers will not result in market power or harm retail competition.

Allegheny Energy Supply Company, LLC, "is a very small participant in the competitive retail electricity market," noted William Hieronymus, Vice President of Charles River Associates Incorporated.

Hieronymus described FirstEnergy Solutions as, "a larger and growing market participant but still far from dominant."

"While FES is an increasingly active competitor in retail electricity, it should be noted that the substantial majority of its competitively won retail supply customers are distribution service customers in the service areas of its affiliated operating companies. Approximately 75 percent of its industrial customers, more than 90 percent of its commercial customers and nearly all of its residential customers are located within its affiliated operating companies' service areas. I note these facts because it is only in these areas where it is a predominant supplier and AE Supply serves no customers in any of them," Hieronymus testified.

Most of FirstEnergy Solutions' sales are in areas where Allegheny Energy Supply has no competitive customers. In those areas where both Allegheny Energy Supply and FirstEnergy Solutions are active, "there are many alternative suppliers," Hieronymus said.

Allegheny Energy Supply is licensed as a retail supplier in Maryland, Pennsylvania, Delaware, and Ohio, but only has customers in Pennsylvania (at Duquesne Light, West Penn Power and Penelec) and Maryland (at affiliate Potomac Edison only), focusing on commercial and industrial accounts. "AE Supply's market share is extremely small," said Hieronymus.

FirstEnergy Solutions serves over 1 million customers in Ohio, Pennsylvania, Michigan, Illinois, New Jersey and Maryland. It is also licensed in the District of Columbia, but makes no sales there. Hieronymus testified that FirstEnergy Solutions, "serves only commercial and industrial customers," in states other than Ohio. However, a residential offer from FirstEnergy Solutions is available to Penn Power customers via FirstEnergy Solutions' own website, as well as PA Power Switch.

In the four service areas where both FirstEnergy Solutions and Allegheny Energy Supply serve load, Hieronymus reported that there are 43 other suppliers licensed to serve commercial and industrial customers at Potomac Edison, 21 at West Penn Power, 26 at Penelec, and 31 at Duquesne Light.

## *Price to Compare ... from 1*

Under Staff's proposal as summarized by Garofalo, "each electric company offering SOS would recalculate the PTC using this method twice per year, after the April and October SOS bids are finalized."

"While there may be more complicated calculations that change monthly, this approach is simple and much easier to understand," Garofalo added.

While Garofalo provided a sample calculation (see next page), it isn't clear whether the recommended Price to Compare is based on an average of aggregate customer usage (and thus would be the same for each customer), or would be individualized based on each customer's usage.

It's unclear how Garofalo's Price to Compare would precisely work, because it's not clear how a Price to Compare could be derived using both current prices and current usage. Consider the Price to Compare calculation for the month of June 2010 as proposed, which is to provide a comparison for 12 months into the future. While the summer 2010 rate and non-summer 2010-2011 rates are known, actual usage for these time periods is obviously unknown. Would estimated usage be used (such as that procured in the wholesale RFPs), or would the year-ago usage be used? Does "weighting" the Price to Compare in this manner provide a meaningful comparison to a fixed retail rate if weather, and thus consumption, departs sharply from the usage included in the calculation? In either case, as the months pass, would usage be updated with experienced data, thereby changing the Price to Compare mid-stream?

The only thing that does seem clear is that, unless the customer's usage follows exactly the usage as used in the Price to Compare, the Price to Compare will be guaranteed to differ from the customer's actual Price to Compare (annual revenue divided by annual usage) for the next 12 months. It is unclear what value such an inaccurate rate would provide to customers. (It should be noted that while Staff's chart erroneously describes the PTC as annual kWh divided by annual revenue [G/H], the actual PTC listed is the result of revenue divided by kWh [H/G]).

Garofalo further said that Staff also recommends that the actual summer and non-summer rates be provided shortly after SOS bidding is completed in the fall and spring; however, these rates would not be the Price to Compare. "The PTC should be characterized as a price used to compare SOS rates with an annual retail contract with a single rate," Garofalo said.

It is on this last point where the position in the two different Staff memos cannot be reconciled. While Spivak never explicitly said that the actual SOS rates recommended to be listed on bills would be known as the Price to Compare, Spivak was explicit in rejecting an averaging or blending of rates to develop a Price to Compare that represents a rate that customers never actually pay.

Specifically, Spivak wrote, "many of the commenting parties would prefer a PTC that shows actual summer and non-summer rates, as opposed to the current weighted annual average. OPC articulates this position most clearly, *and Staff agrees with the points outlined in OPC's Comments*" [emphasis supplied].

The OPC recommendation expressly did not include an average annualized Price to Compare, though OPC said that, "[i]f it can be demonstrated that summer/winter usage weighting can be provided to customers on an accurate basis, then the weighting information could also be published along with the SOS prices," though OPC never said this publication should be considered the Price to Compare.

While, as noted by *Matters*, Spivak said that Staff favored "further discussion" to develop clear and standardized information regarding the comparison of SOS rates and suppliers' offers, Staff on May 25 did not recommend that the product from such efforts be considered to Price to Compare, and Spivak said such comparisons would be for use on utility website and other educational media, not the utility bill.

### Staff Sample PTC Calculation

| | | | |
|---|---|---|---|
| Summer kWh | A | | 4500 |
| Summer Rate | B | | $0.12000 |
| Total Summer Revenue | C | A x B | $540.00 |
| | | | |
| Non-Summer kWh | D | | 7500 |
| Non-Summer Rate | E | | $0.10000 |
| Total Non-Summer Revenue | F | D x E | $750.00 |
| | | | |
| Total Annual kWh | G | A + D | 12000 |
| Total Annual Revenue | H | C + F | $1,290.00 |
| PTC | I | G / H* | 0.1075 |

**As listed in Staff's memo. The listed PTC of $0.1075 actually reflects the result of H/G*