Energy Choice Matters

June 9, 2010

Briefly:

Dominion Retail Offering Residential Service at JCP&L

Dominion Retail is offering residential customers at Jersey Central Power & Light an offer 10% off of JCP&L's price to compare through the May 2011 meter read. For rate RS customers, the price to compare including the sales and use tax is 12.3378¢/kWh (for the first 600 kWh) through the end of September 2010, and 12.6094¢/kWh (all kWh) from October 2010 through May 2011. Dominion Retail's offer does not include an early termination fee, and expires June 30. Currently Dominion Retail's New Jersey residential electric offering is limited to JCP&L, but Dominion Retail will evaluate other territories based on the campaign's results.

TriEagle Energy Seeks Pa. Electric License, Evaluating Other Markets

TriEagle Energy, L.P. has applied for a Pennsylvania electric supplier license to serve all customer classes, including residential customers, in all service areas. To date, TriEagle has only sold in ERCOT, focusing on the commercial and small industrial customer segment. In April, Black Forest Ventures made a minority investment in TriEagle Energy, which will help support TriEagle's plans to enter other retail markets.

North American Power and Gas Seeks Md. Electric License

North American Power and Gas LLC has applied for a Maryland electric supplier license. A copy of North American Power and Gas' application was not available yesterday. The Connecticut-based start-up is active in the Connecticut mass market and also has a pending Pennsylvania electric supply license (Only in Matters, 5/19/10).

EMEX, LLC Seeks Pa. Broker License

Texas-based online broker EMEX, LLC (Energy Market Exchange) applied for a Pennsylvania electric supply license as a broker/marketer serving commercial customers above 25 kW in all service areas. EMEX currently has eight full-time employees and more than 2,000 outside sales associates. EMEX also operates in ERCOT and New Jersey.

Tritium Energy Consulting Seeks Pa. Broker License

Tritium Energy Consulting, LLC applied for a Pennsylvania electric supply license as a broker/marketer serving commercial customers above 25 kW and industrial customers in all service areas. Tritium said that its target market will be commercial customers with annual usage greater than 5 MW.

Energy Plus Holdings LLC Joins RESA

Energy Plus Holdings LLC has joined the Retail Energy Supply Association, increasing RESA's membership to a record 14 suppliers.

BlueStar Energy Services Elected to NEM Executive Committee

BlueStar Energy Services has been elected to the executive committee of the National Energy Marketers Association.

"No" on Proposition 16 Leading with 93% of Precincts Reporting

California's Proposition 16 was still not called as of press time, though the "No" vote has held a slim, but growing, lead through the night as more precincts have reported. With 93.6% of precincts reporting, the No vote was leading with 52.8% of the vote, versus 47.2% for Yes. A Yes vote on Proposition 16, bankrolled by Pacific Gas & Electric, would require the approval of two-thirds of the voters within the proposed boundaries of a Community Choice Aggregation before the CCA pool could be created, or before public funds could be expended on CCA-related efforts. Currently, only approval of the local government is needed before developing a CCA implementation plan. Should Proposition 16 be

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United Illuminating Reports May Migration Data

United Illuminating submitted migration data for the month of May 2010 with the DPUC yesterday; however, the supplier-specific data does not appear to have been updated. In aggregate, UI reported 100,993 customers on competitive supply at the end of May, versus 92,944 as of April 30, 2010, but the supplier-specific data still shows a total migrated customer count of 92,944, with the supplier-specific numbers identical to the April data. The aggregate data is provided below; individual data will be provided as corrected.

Customer Load - Suppliers and UI (MWh)

	Residential - SS		Business - SS		Business - LRS		Total UI Territory	
	MWh	% of Class	MWh	% of Class	MWh	% of Class	MWh	% of Total
Suppliers	46,796	30.6%	132,844	72.6%	112,530	92.9%	292,170	63.9%
UI	106,097	69.4%	50,173	27.4%	8,580	7.1%	164,850	36.1%
Total	152,893		183,017		121,110		457,020	

Customer Count - Suppliers and UI

	Residential - SS		Business - SS		Business - LRS		Total UI Territory	
	Customers	% of Class	Customers	% of Class	Customers	% of Class	Customers	% of Total
Suppliers	83,135	28.7%	17,612	46%	246	90.8%	100,993	30.8%
UI	206,655	71.3%	20,294	54%	25	9.2%	226,974	69.2%
Total	289,790		37,906		271		327,967	

LRS = Last Resort Service; SS = Standard Service ***Data as reported by UI***

Retail Suppliers Request that Utilities Use CEC Forecast for Direct Access Load

California's investor owned utilities should be required to adopt the disaggregated load forecast contained in the California Energy Commission's Integrated Energy Policy Report for the purpose of their long-term bundled procurement plans to ensure that the utilities correctly account for direct access load, the Alliance for Retail Energy Markets said in comments on a PUC scoping memo on the long-term procurement planning process (R.10-05-006).

Track II of the long-term procurement planning process (LTPP) will address the utilities' bundled procurement plans, and AReM noted that in R.06-02-013, the last LTPP for which utility plans were developed, the utility load forecasts were extremely controversial. "One of the specific issues in that proceeding had been that there was a wide disparity among the utilities as to how they accounted for (or ignored) direct access load over the planning period," AReM said.

AReM argued that a proper forecast of direct access load is needed to, "ensure that the utilities do not over-procure to meet inflated power needs and then seek stranded costs from direct access customers for their over-procurement."

AReM cautioned that such over-procurement is likely, "to the extent that the utilities choose to cling to anachronistic beliefs about the future of direct access," citing Pacific Gas & Electric's recently filed documents in Phase I of its General Rate Case, which forecast a decline in direct access load both in absolute terms and in percent-of-load served.

More specifically, as noted by the Direct Access Customer Coalition, PG&E's forecast shows direct access load decreasing by 448,124 MWh per year from 2009 through 2011, or a decrease from 6.68% of total load to 6.07% of total load. DACC noted, however, that if the total amount of new direct access load permitted under SB 695 is subscribed, instead of decreasing by 448,124 MWh from 2009 to 2011, "it is more reasonable to forecast that DA load will increase by an estimated 2,762,200 MWh (not adjusted for differences in load factor of direct access customers)." Thus, a forecast that reflects the direct access reopening would suggest that 9.76% of PG&E system-wide demand would be served by direct access in 2011 rather than the 6.07% suggested by PG&E, DACC said.

"[A] utility position that direct access will diminish over time requires careful scrutiny," AReM concluded.

Accordingly, AReM said that the utilities should be required to use the disaggregated (bundled and direct access) data contained in the California Energy Commission Integrated Energy Policy Report, to ensure a proper forecast of bundled and direct access load.

The Western Power Trading Forum raised another issue regarding the improper forecast of direct access load, aside from stranded costs. WPTF noted that if the administratively determined long-term procurement authorizations exceed the levels required to satisfy reliability obligations, the resultant over-supply undermines the prices for Resource Adequacy capacity which all LSEs must procure, and thus prevents bilateral Resource Adequacy markets from providing appropriate price signals for investment in both new and existing generation. "The absence of appropriate price signals for RA capacity leads to potentially inefficient trade-offs between new and existing capacity and, in a vicious cycle, places further reliance on the LTPP for the development of new resources," WPTF said.

Furthermore, AReM said that the PUC must study the characteristics of the load served by the utilities versus the characteristics of the load served by the electric service providers to determine the different rates at which they grow, in order to properly determine whether a resource need is a "system" need or a "bundled" need, which determines cost allocation.

AReM also asked that PUC include in Track III of the LTPP proceeding a review of adopting clear guidelines specifying when utility procurement is or is not subject to the Cost Allocation Mechanism (CAM) based on whether or not there is benefit to "all customers," and addressing other CAM-related issues, such as the opt-out. The California Large Energy Consumers Association agreed, noting that unless the Commission determines that the addition of any new generation will, by definition, benefit all customers, "there should be some test of who benefits."

"If SB 695 means that the Commission will authorize the utilities to buy or build power for everyone, and charge them all the same net capacity costs, on a nonbypassable basis, two potential problems are created," CLECA said. "The first is that the diversity of the generation capacity portfolios provided by various LSEs will be significantly reduced, and with it the level of retail competition. The second is that this allocation will not take into account any other generation capacity that other LSEs have procured for their customers and could result in the customers of these other LSEs paying for more capacity than they need," CLECA added.

PG&E said that all LSEs should be allocated costs from the study to establish the system load forecast, since all LSEs will ultimately benefit from the results. PG&E said that such costs should be allocated based on each LSE's share of retail electric sales.

Firming Renewable Integration

NRG Energy argued that the load forecast must take into account the need for firming capacity to meet the state's 33% RPS goals, and must recognize the economic issues facing gas-fired generators.

"For example, the ISO/RTO Council's 2009 State of the Markets Report found that many gas-fired units are not currently recovering their fixed costs via the current market. NRG's own experience does not contradict this finding - its generating facilities - those facilities located within critical load pockets - are not seeing revenues that justify the continued operation of these plants," NRG said.

"Unless the CPUC takes steps to ensure that existing facilities are being provided a reasonable opportunity to secure the revenues needed to cover their costs, it is not reasonable to assume that these facilities will continue operating over the next seven years, particularly given current environmental pressures," NRG argued.

Thus, the LTPP proceeding should recognize these challenges and, "require that California take immediate steps to retain existing gas-fired resources. NRG submits that the existing market construct and state policy do not provide these resources with adequate compensation, and that many resources - including NRG's resources located in load pockets throughout Southern California - are not likely to remain active in such a market."

However, the Division of Ratepayer Advocates, while recognizing the need for some amount of firming capacity, stressed that "much" of the RPS goal will be attained with non-intermittent, "baseload" generation, such as geothermal, biomass, small hydro, and solar thermal with storage capabilities. Additionally, "much" of the RPS goal will be met with resources located outside of the California ISO, and DRA said that CAISO has stated that these out-of-state renewables will not require additional fossil fuel generation to maintain grid reliability.

Accordingly, "DRA opposes any renewable integration analysis that would saddle ratepayers with renewable integration costs based on the entire 33% California RPS obligation when the state would only need to integrate a smaller percentage of this goal to meet the objective -- mainly in-state solar and wind resources without storage."

FERC Rejects MISO Compliance Filing Which Omitted Locational Aspect from Module E

FERC rejected a compliance filing from the Midwest ISO in which MISO had reported that locational restrictions are not needed under its Module E Resource Adequacy Requirements structure (Only in Matters, 8/19/09). FERC held that the compliance filing did not, as instructed, identify a permanent approach to address congestion that limits aggregate deliverability in the resource adequacy markets (ER08-394).

The Commission said that MISO was required to evaluate the programs of other RTOs/ISOs, such as ISO New England and the California ISO, that utilize market mechanisms such as locational pricing and locational market rules that provide incentives for market participants to obtain sufficient local resources to ensure reliability. The Commission's directive was that the Midwest ISO and its stakeholders, based on this evaluation, were to develop a plan that details the steps that will be taken to incorporate these market mechanisms into the Resource Adequacy Plan. "We reiterate that requirement, and for this reason we require that the Midwest ISO submit its plan and a discussion of stakeholder perspectives in a filing to be submitted within six months of the date of this order," FERC ordered.

FERC said that contrary to MISO's arguments, the Loss Of Load Expectation study for planning reserve margins, the Midwest ISO Transmission Expansion Plan, and use of System Supply Resources are not sufficient to address the impact of congestion on aggregate deliverability. FERC also found that the fact that a locational requirement would complicate the trading of Planning Resource Credits is an insufficient reason not to develop requirements for locational resource adequacy and reliability, which "are fundamental to an effective resource adequacy program."

Smaller Market Participants Endangered by FERC RTO Central Counterparty Proposal

Mandating that RTOs act a counterparty to all market transactions would, "fundamentally change the nature of the [market] participants' business," the Southwest Power Pool told FERC, as Dominion Resources Services warned that FERC's proposal for requiring the RTO to be the central counterparty, "will expose all ISO/RTOs to significant business risks with substantial costs for little or no countervailing benefits."

Though supported by PJM, requiring the RTO to act as a clearing house has drawn sharp opposition from most of the other RTOs (RM10-13). Such strong RTO opposition to the central counterparty model "cannot be overlooked" by FERC, Dominion Resources stressed.

SPP noted that FERC's proposed mandate represents, "a significant departure from the current practices of the ISOs/RTOs [which] ... could result in substantial new financial burdens on market participants and create additional overhead costs in order to effectively manage the market."

Rather than enabling market participants to extend credit collectively and proratably to each other, FERC's favored clearing house approach would concentrate all credit risk to the clearing house -- with the result that many current, smaller market participants would not be able to meet the stringent credit requirements of a clearing house structure, SPP noted.

"Much of the open access to markets inherent in the ISOs/RTOs primary functions would be lost due to these new funding barriers," SPP reported.

Moreover, opponents found FERC's proposal imprudent since it simply will not mitigate the risk for which it is intended to address. Specifically, the central counterparty model is intended to ensure that RTOs meet the mutuality requirement imposed by the Bankruptcy Code to exercise setoff rights.

While proponents of the central counterparty model argued that an RTO's tariff could be viewed as insufficient by a hostile court in establishing mutuality, Dominion Resources noted that the central counterparty proposal does not definitively resolve the mutuality question surrounding the ISO/RTO's netting and settlement practices. "A court looking to be restrictive could pierce the central counterparty model and reject it as a ruse designed merely to circumvent the mutuality requirement," Dominion Resources said.

This risk of a court dismissing the argument that the central counterparty model created mutuality is increased if an RTO retains the ability to short-pay (as proposed in PJM), as the ability to short-pay would show that the RTO was not truly taking on the debt obligation for market purchases but rather acting as an agent for many different buyers, the New York ISO noted.

Despite not providing any advantage in establishing mutuality, the central counterparty model exposes RTOs and market participants to significant costs such as GAAP requirements for the ISO/RTO, loss of the ISO/RTO's legal status, indemnification, and most significantly, a potential tax liability in every state in which the ISO/RTO does business, Dominion Resources noted.

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defeated, it represents a sharp rebuke by the voters of PG&E, which spent nearly $50 million on the initiative, versus less than $1 million for opponents.

Amerex Brokers Receives Maine License

The Maine PUC granted Amerex Brokers LLC an electric broker/aggregator license to serve medium and large non-residential customers in all service areas.

TXU Wins Fort Bend ISD Load Brokered by Choice Energy Services Retail

TXU Energy has won a 12-month, 180,000 megawatt-hour contract with the Fort Bend, Texas, Independent School District, which was brokered by Choice Energy Services Retail. The contract includes an option for an additional 12 months of service. Choice Energy Services Retail will also evaluate retrofit lighting and the use of renewable energy sources, which is part of the broker's expansion from solely power procurement to include other energy management services. Houston-based Choice Energy Services Retail said that it will soon open an office in Dallas, and opened an office in New York earlier this year.

PUCT Schedules Hearing on Renewable, Efficiency Rulemakings

The PUCT's scheduled June 30 open meeting/hearing on Project 37623, the energy efficiency rulemaking, has been expanded to include Project 35792, the rulemaking regarding a potential non-wind RPS goal, as well (Matters, 4/19/10). Commissioners had expressed a desire to discuss both rulemakings together due the interrelated nature of several provisions (e.g. treatment of distributed generation).