Energy Choice Matters

June 10, 2010

Mass. Electric Distribution Companies Submit Model T&Cs for Purchase of Receivables

The Massachusetts electric distribution companies have filed with the DPU proposed model terms and conditions to govern Purchase of Receivables, though several contested issues remain open (Docket 10-53, Matters, 5/17/10).

Left "open" by the model terms and conditions is the ability of suppliers to use utility consolidated (complete) billing with POR for some customers, and dual (passthrough) billing for other customers in the same customer class. As only reported in *Matters*, National Grid is the only utility to explicitly propose an all-in/all-out requirement for POR (Only in Matters, 10/16/08).

The model terms and conditions do provide, however, the all utility consolidated bills would be subject to POR.

The model terms and conditions would exclude from the purchased receivables, "demand response and renewable energy products that are not 'Generation Service' as that phrase is defined in the Standard Terms and Conditions." In the standard terms and conditions, Generation Service, "shall mean the sale of electricity, including ancillary services such as the provision of reserves, to a Customer by a Competitive Supplier."

Furthermore, the model POR terms and conditions would not require distribution companies to offer both rate-ready and bill-ready options for utility consolidated billing, as requested by the Retail Energy Supply Association. Additionally, the model terms and conditions reject RESA's suggestion that late fee revenue received by the distribution companies should be used to offset a portion of the uncollectible discount rate applied to purchased receivables.

The model terms and conditions would set the POR discount rate as the sum of an uncollectibles

Continued P. 5

WGES Says Pepco D.C. Dynamic Pricing Proposal Endangers Retail Market

Pepco's dynamic pricing proposal "will put [retail] suppliers in the position of competing against below market rates and has the potential to cause significant harm to the competitive retail market in the District of Columbia," Washington Gas Energy Services said in comments to the District of Columbia PSC (FC 1056, Only in Matters, 4/15/10).

As only reported by *Matters*, the Pepco proposal would transition all SOS customers to a Critical Peak Rebate product by 2014 (with rates the same as SOS other than the rebate), with customers also given the option of Critical Peak Pricing or standard SOS rates without a peak time rebate.

"[R]egulated utilities should not have the authority to offer any sales product other than a default SOS because of the strong likelihood that such authority will undercut and adversely affect [the competitive retail] market to the detriment of consumers," WGES said.

WGES stressed that Pepco's proposed critical peak and off-peak pricing is not market-based, and is based on several assumptions. The pro forma critical peak rate is $1.50/kWh, and reflects the averaging of historic peak rates and the adjustment of several components.

The mismatch between the true real-time price and the administratively determined Pepco peak

Continued P. 6

United Illuminating Reports Revised Migration Data

United Illuminating has submitted corrected supplier-specific migration data for May 2010, shown below. Aggregate data may be found in yesterday's issue.

Supplier Accounts as of 5/31/10	May '10 Residential	May '10 Business	May '10 Total	% of Migrated Customers	Change vs. April '10 Total
Clearview Electric	2,447	31	2,478	2.5%	(121)
ConEdison Solutions	4,186	1,096	5,282	5.2%	(99)
Constellation NewEnergy	436	2,964	3,400	3.4%	0
Direct Energy Business	11	809	820	0.8%	17
Direct Energy Services	14,186	2,539	16,725	16.6%	(1,485)
Discount Power	1,933	502	2,435	2.4%	388
Dominion Retail	13,674	1,275	14,949	14.8%	(322)
Energy Plus Holdings LLC	5,425	667	6,092	6.0%	663
Gexa Energy	313	319	632	0.6%	45
Glacial Energy	34	270	304	0.3%	(43)
Hess Corporation	49	520	569	0.6%	1
Integrys Energy Services	8	1,553	1,561	1.5%	0
Liberty Power Delaware		66	66	0.1%	8
MXenergy	10,995	560	11,555	11.4%	1,876
North American Power	3,055	367	3,422	3.4%	1,755
Public Power & Utility, Inc.	12,134	1,344	13,478	13.3%	3,163
ResCom Energy	5,085	588	5,673	5.6%	604
Sempra Energy Solutions	30	705	735	0.7%	2
South Jersey Energy Co.		1	1	0.0%	1
Starion Energy	870	305	1,175	1.2%	352
Suez Energy Resources NA	3	275	278	0.3%	28
TransCanada	8	469	477	0.5%	(1)
Verde Energy	4,400	121	4,521	4.5%	670
Viridian Energy	3,853	512	4,365	4.3%	547
Total All Suppliers	**83,135**	**17,858**	**100,993**	100.0%	8,049

Brenner, Goldsmith Say Change in Customer Classes Served Requires PSC Approval

Maryland PSC Commissioner Lawrence Brenner suggested that suppliers seeking to modify their licenses (such as to add a customer class or new territory) should be required to receive Commission approval (either at an administrative meeting or through delegated Staff authority) before the modification can take effect.

The current practice of the PSC is ambiguous, though Brenner and Commissioner Therese Goldsmith believe that suppliers are required to seek approval of any such modifications, rather than simply notifying the Commission.

However, the Commission's boilerplate language used in granting an electric/gas supplier or broker license informs the applicant that the applicant, "is under a continuing obligation to notify the Commission within 30 days of any substantial changes to the information upon which the Commission relied in granting this license." The use of the term "notify" has led some license modifications to be treated without the need for Commission approval.

Goldsmith argued that as the Commission's language regarding notification relates to the license actually granted (and not the supplier's original application), the notification process cannot be used to change the granted license authority. In other words, Goldsmith believes that a broker licensed to serve commercial customers would be required to simply notify the Commission of any changes to that commercial license (such as new contact information), but would be required to submit a new application and receive approval for anything not already covered by the current license (i.e. expanding to residential marketing).

The issue arose as AmericaApproved.com, LLC sought to update its electric broker license to serve residential customers. Though AmericaApproved.com's filing was not available publicly, Brenner characterized it as simply a notification of an intent to broker residential customers, rather than an application for such authority. AmericaApproved.com has not commenced marketing to residential customers, however, awaiting Commission action on its filing.

Staff stressed that the requirements for brokers serving residential customers are not any different from those serving non-residential customers, so there would not be any additional criteria a broker would have to meet in seeking approval for a new customer class. Brenner, however, suggested that requiring a new application could give the Commission an opportunity to review a broker's compliance and complaint history, if any.

The Commission ultimately "approved" AmericaApproved.com's amended broker license to include residential customers, rather than just "noting" the update as the Commission has done on other occasions for similar requests.

Brenner Suggests Md. Supplier Application Not Capturing Relevant Complaint Info

Maryland PSC Commissioner Lawrence Brenner has asked whether the current Maryland electric and gas supply applications appropriately solicit information regarding an applicant's past complaint and compliance history, since the application currently only asks an applicant to report formal action taken against the applicant, such as suspensions, fines, reprimands, or "other similar actions."

The question, therefore, does not require the disclosure of customer complaints which are informally resolved or settled without the formal order or action from a regulatory body, even though the aggregate number of complaints may be of interest as the Commission weighs the applicant's fitness. Additionally, the question as currently phrased excludes pending complaints which could subsequently result in formal suspension or other reprimand, Brenner noted.

The Commission did not take any formal action yesterday regarding Brenner's observations, or indicate that it would modify the application.

The issue arose as the Commission deferred action on the electric and gas license applications of IDT Energy to further investigate the status of complaints cited by the Office of People's recorded by IDT in New York, though the complaints cited by OPC were from more than two years ago. IDT has reported to Staff that all the complaints have been resolved and that no formal action was taken against it. OPC was not opposing the applications but wanted to draw the complaints to the Commission's attention.

Md. OPC Says Pepco, Delmarva Earning Significant Returns on SOS When Ignoring Uncollectibles

When ignoring uncollectibles in the net return calculation, Pepco and Delmarva Power & Light are earning "significant positive" returns on the provision of Maryland SOS, the Maryland Office of People's Counsel said (Cases 9226, 9232).

Pepco had submitted data showing that, for residential SOS, its return for the year 2009 was negative $4.0 million, while the combined return from all SOS classes was negative $1.9 million. At Delmarva, the residential return for the year 2009 was negative $328,000, though on a combined basis, the return was positive $251,000 for all classes. The utilities cited the negative returns as supporting an increase in the allowed cash working capital costs recovered in SOS rates.

OPC noted that the utilities' net return calculations included uncollectibles. However, OPC said that, per Section 12(c) of the SOS Settlement Agreement, the amount of uncollectible cost is established periodically by the Commission pursuant to base rate proceedings.

"Once established, that portion of the SOS Administrative Charge revenue designated to cover the uncollectibles costs is likewise adjusted. The Companies do not seek a modification of the recovery mechanism for this cost. In fact, the level of uncollectibles recovery has been adjusted for each of the Companies in previous rate cases and is currently under review for Pepco in Case No. 9217. As such, the uncollectibles costs, and corresponding uncollectibles revenue, should be removed from each Company's calculation of net return for residential SOS. Upon removal of these amounts from the calculation, each Company nets a significant positive return, as evidenced by the fact that the 'Utility Return' and 'Incremental Cost' revenues exceed the 'Cash Working Capital' and 'Incremental Cost' expenses, respectively," OPC said.

Revised Calif. Draft Would Reject PG&E Petition to Remove Tiered Generation Rates

A revised agenda (draft) decision by the California PUC would deny, on procedural grounds, Pacific Gas & Electric's petition to eliminate tiered residential generation rates (which increase with usage), as PG&E had proposed moving the conservation incentive entirely to distribution rates (A.10-03-014).

As only reported in *Matters*, the petition was opposed by community choice aggregators who said that the proposal is anti-competitive since it would lower generation rates for bundled service customers but simply raise distribution rates, paid by all customers, to recover the otherwise lost revenue (Only in Matters, 6/7/10).

The agenda decision makes no policy recommendation regarding PG&E's petition, but finds that the issue is better addressed in the utility's Test Year 2011 General Rate Case Phase 2 filing, rather than the vehicle PG&E used, which was a petition to modify the 2007 rate case decision.

Since PG&E's proposal was made through a petition for modification of a previous decision, there has been no formal evidentiary process (testimony, hearings and briefs) for evaluating the parties' positions.

"Because of the nature of the request and opposition, we feel such a process is necessary to fairly consider issues and potential problems," the agenda decision states.

"It would therefore be appropriate to address all issues related to the Petition request in PG&E's Test Year 2011 GRC Phase 2 proceeding. This proceeding is specifically set up to address rate design issues," the agenda decision adds.

Briefly:

Palmco Receives Md. Gas, Electric Licenses

The Maryland PSC granted Palmco Energy a natural gas supply license to serve all customer classes in all service areas, and granted affiliate Palmco Power an electric supply license to serve residential and commercial customers at the four investor-owned utilities (Only in Matters, 1/13/10).

North American Power and Gas Seeks Electric License for BGE, Pepco, Delmarva

In its previously reported application for a Maryland electric license, North American Power and Gas LLC is seeking to serve all customer classes at Baltimore Gas & Electric, Pepco, and Delmarva Power & Light.

Open Market Energy Seeks Md. Broker License, Has Brokered Without License

Open Market Energy LLC, which has been brokering electricity and gas in Maryland since April 2009, submitted an electric broker application to the Maryland PSC. Open Market Energy said that it was unaware that a broker license was required until being informed by Washington Gas Energy Services. Aside from WGES, Open Market Energy said that it also has broker agreements with Pepco Energy Services and Hess. Through June 7, 2010, Open Market Energy reported $84,509 in revenues from Maryland electric brokering and $36,566 from Maryland gas brokering, resulting from brokering 15 customers with 195 electric accounts and 95 gas accounts. Open Market Energy said that it also brokering electricity in Delaware and the District of Columbia. Open

Market Energy is seeking a Maryland license to broker residential and non-residential customers at all of the investor-owned utilities.

EnviroGen Marketing to Expand to Granite State Electric GreenUp Program

REC supplier EnviroGen Marketing LLC is expanding into Granite State Electric's (National Grid) new GreenUp program. Granite State Electric's GreenUp program was approved last month and is similar to National Grid's program for REC brokers in New York and Massachusetts (Only in Matters, 5/12/10). EnviroGen, led by Robert Kreppel, currently markets RECs in National Grid's New York program. EnviroGen said that it expects to begin serving customers by the fall upon approval of its license.

PUCT Opens ERCOT Rulemaking

The PUCT has opened Project 38338 for a rulemaking relating to the accountability and performance of ERCOT. As previously reported, Commissioners wish to determine the extent of the Commission's current authority over ERCOT under PURA in light of the Sunset Staff's recommendations for expanded authority.

PSNH to Seek Approval of 20-Year Biomass PPA

Public Service of New Hampshire has reached a 20-year agreement with Laidlaw Berlin BioPower LLC to purchase the energy, capacity, and RECs from a proposed wood-fired, 70-MW biomass generation facility planned for New Hampshire's North Country. PSNH expects that the amount of RECs purchased annually from Laidlaw will fulfill much of PSNH's Class I REC requirements through 2015 and a majority of the company's requirements over the next decade. The PPA is subject to PUC approval.

Clean Currents Formally Announces PPL Expansion

Clean Currents formally announced yesterday that it is offering residential service at PPL Electric Utilities, which was first reported in *Matters* last month (Only in Matters, 5/25/10). Clean Currents, a broker, said it serves over 6,000 residential and 500 commercial customers in Maryland and Washington D.C.

Mass. POR ... *from 1*

component, an administrative cost component, and a past period reconciliation component. A distinct POR discount rate would be developed for several designated customer classes; however, the distribution utility would have discretion in how to precisely designate such classes in terms of combining customer groups and/or rate classes.

The uncollectibles component would be the uncollectible expense for a designated customer class based on data for the most recent 12-month period for which data is available prior to the annual discount rate filing (or other appropriate period), divided by the total amounts billed by the utility to that designated customer class for the same period.

The administrative cost component would be the total forecasted administrative costs to be recovered for the subsequent year divided by the total amounts billed for generation service by the utility for the most recent 12-month period for which data is available prior to the annual filing. Administrative costs would include the three-year amortization of costs incurred to develop and implement changes to billing, information, and accounting systems to accommodate the billing procedures necessary for the POR program and related consolidated billing procedures, as well as ongoing costs of the program.

The past period reconciliation component would be the sum of the (1) difference between the actual and billed uncollectible component, and (2) the difference between the actual administrative costs incurred and the administrative costs billed to customers under the administrative cost discount. Interest calculated on the average monthly balance using the customer deposit rate, as outlined in 220 CMR 26.09, would also be included in the reconciliation component. The rate of interest, effective February 1 each year, would be the equivalent of the rate paid on two-year, United States Treasury notes for the preceding 12 months ending December 31.

The POR discount rate would be updated annually and remain in effect for 12 months, absent a modification by the DPU.

D.C. ... from 1

and off-peak rates, "will result in spreading the true cost of providing service to all customers -- even those who have not chosen to participate in the program," WGES said. Complicating matters is that for critical peak customers, Pepco has proposed reducing SOS rates for non-peak times by 2-3¢/kWh, and Pepco will true-up any under- or over-recovery associated with dynamic pricing.

"[T]he structure will put suppliers in the position of competing against below market rates with the ultimate result of causing great harm to the competitive market in the District," WGES said.

WGES noted that competitive suppliers currently offer a variety of dynamic pricing options to commercial customers, and there is no reason not to expect the same products to be offered to residential customers once the data from advanced meters make such products possible.

WGES further said that providing suppliers with access to historical usage data for all customers will enable suppliers to create baseline usage profiles that will allow for the development of competitively priced products aimed at achieving demand reduction. "Pepco is using this data to develop its baseline usage profile for its dynamic pricing proposal. Competitive suppliers should be put on a level playing field and allowed access to the same data," WGES said. WGES noted that in other jurisdictions, such as at PPL Electric, such information is provided as part of customer lists which are available to all licensed suppliers.

The Office of People's Counsel generally supported Pepco's proposal, but asked that consumers who participate under the Critical Peak Rebate or Critical Peak Pricing rates be provided with bill protection for the first two years, such that customers would pay no more than what they would have paid had they been on the SOS rate. Given that the Critical Peak Rebate plan charges the same rates as SOS, it's unclear why bill protection is needed with the rebate product.

OPC also opposed Pepco's proposed requirement that would require customers on either of the dynamic pricing plans to remain on that option for 12 months, preventing a return to the standard SOS rate.

Finally, OPC criticized Pepco's lack of discussion regarding the provision of smart thermostats or in-home devices as part of dynamic pricing, suggesting Pepco should play a role in the provision of such value-added devices.