Energy Choice Matters

June 14, 2010

Energy Plus, Gateway Confirm Entry into Md. Residential Market

Energy Plus Holdings, LLC and Gateway Energy Services Corp. confirmed Friday that they will enter the Maryland residential competitive electric market as soon as their EDI testing and other logistical processes are completed, answering the call from Maryland PSC Chairman Douglas Nazarian for more suppliers to show up as Purchase of Receivables is implemented.

As only noted in *Matters* Friday, electric POR tariffs are effective on July 15 at Baltimore Gas & Electric, Allegheny Power, and Delmarva Power & Light. Pepco is to file its revised POR compliance plan by July 1.

Over the past year, Nazarian has essentially given suppliers an ultimatum to enter the residential market given the current headroom, and has expressed frustration at the lack of concrete commitments from suppliers to enter the market even once POR is introduced.

At least three suppliers have responded to Nazarian's most recent challenge, as Energy Plus Holdings, LLC and Gateway Energy Services are set to join Direct Energy (which announced its plans early last week) in serving residential load once POR begins. They will join current suppliers Washington Gas Energy Services, Dominion Retail, and BGE Home, and perhaps one or two additional current suppliers serving a small amount of residential load but without large scale marketing offers (e.g. Horizon Power & Light).

"Energy Plus is very pleased that the Commission has approved the utilities' electric POR programs and believes this is the cornerstone to our ability to develop a truly competitive marketplace in Maryland," said Joanna Hamrick, General Counsel for Energy Plus Holdings which is a member of the Maryland Energy Marketers Coalition.

Energy Plus Holdings said that it expects to start serving residential and small commercial load this fall, contingent on the EDI testing schedule. Energy Plus Holdings will initially offer a variable

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PUCT Directs Staff to Report on Pass-Through of Nodal Charges Under Fixed Price Contracts

The PUCT directed Staff to investigate and report back on the issue of whether it would be permissible for REPs to pass through certain new nodal charges to customers on fixed price contracts once the nodal market goes live.

The nodal market may result in several costs not expected by REPs under the zonal system, most notably Reliability Unit Commitment (RUC) costs but also less tangible costs, such as the basis risk between trading hubs and load zones. The question is, since such costs would not have been incurred but for the implementation of a nodal design, do they fall under one of the exemptions allowing for a change in the rate of a fixed price contract for those customers under 50 kW for whom the PUCT has set a strict definition for a fixed price product.

Staff recently held a REP workshop concerning the nodal market where the issue of pass-throughs was among the most discussed topics (Only in Matters, 6/1/10).

Commissioner Kenneth Anderson raised the issue at Friday's open meeting, questioning whether

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Briefly:

First Choice Power to Open Store in Lewisville

First Choice Power is opening a retail store to sell power in Lewisville, Texas (outside Dallas), with the official opening on June 30. First Choice Power said it is opening the store in response to customer feedback, particularly the desire for face-to-face interaction. Lewsiville was chosen due to its proximity to First Choice Power's headquarters in Irving, and First Choice's current community involvement in the area. The store will be staffed with four energy advisors, and initially be open Monday through Friday, 8 a.m. to 5 p.m. Initially, the store will only offer First Choice Power electric service and not other ancillaries, such as energy efficient products. Storefront electric sales have been tried before in the ERCOT market, most notably by Cirro Energy, which had several stores inside contract post office locations, as well as some stand-alone stores. Cirro, which no longer offers the stores, previously said that their closing was mostly due to the contractor losing some of the post office locations, rather than the underlying customer response to the electricity stores.

Integrity Energy Seeks Md. Broker License

Integrity Energy, LTD applied for a Maryland electric broker license to serve all customer classes, including residential customers, at the four investor-owned utilities. As only reported in *Matters*, Integrity Energy is also seeking electric broker licenses in Connecticut and Pennsylvania.

Seven Utility Management Consultants Seeks Ohio Broker License

Seven Utility Management Consultants, LLC (J. Andrew Associates Inc.) applied for an Ohio electric broker license to serve commercial, mercantile and industrial customers in all service areas.

UGI Central Penn Gas Says Staff, OCA, OSBA Agree to WACOG Storage Proposal

UGI Central Penn Gas reported that the Pennsylvania PUC Office of Trial Staff, Office of Consumer Advocate, and Office of Small Business Advocate are not opposed to its petition to revise its accounting methodology for gas in storage inventory from a modified last-in/first-out (LIFO) methodology to the weighted average cost of gas (WACOG) methodology (P-2010-2171611). UGI Central Penn Gas said that the change should reduce purchase gas cost (PGC) rate volatility for its sale service customers (Only in Matters, 4/23/10).

PUCT Strikes Consideration of Lost Revenue Adjustment Mechanism from CenterPoint EECRF Proceeding

The PUCT ruled that the issue of whether CenterPoint Energy can implement a lost revenue adjustment mechanism shall not be addressed in CenterPoint's petition for approval of an Energy Efficiency Cost Recovery Factor (38213), as Commissioner Donna Nelson said that, from a purely legal standpoint, PURA does not grant the Commission the authority to implement such a mechanism (Only in Matters, 5/24/10).

Smitherman Expresses Concern on Costs for Expanded Energy Efficiency

PUCT Chairman Barry Smitherman, in briefly discussing the proposed energy efficiency rule (37623), said that he has concerns about the costs for higher efficiency targets, especially the expenditure of $500 million to reach the 50% target for growth in demand (Only in Matters, 6/4/10). The Commission reserved substantive discussion for its June 30 hearing on the rulemaking.

PUCT Publishes DCRF Rule for Comment

The PUCT published for comment without modification (aside from Staff clarifications to the original proposal) Staff's Distribution Cost Recovery Factor proposal for publication (38298, see Matters, 6/7/10).

Hannaford Energy Receives Maine Electric License

The Maine PUC granted Hannaford Energy, LLC a license to operate as a competitive electricity provider serving its affiliates, including Hannaford Bros. grocery stores (Only in Matters, 6/8/10).

NEM Notes Exclusion of Phone Numbers from Customer Lists is Inconsistent with Md. Order

The exclusion of customer telephone numbers by Baltimore Gas & Electric in its latest customer list proposal represents a more restrictive course than suggested by the Maryland PSC's direction as set forth in its September 2009 order regarding BGE's prior customer list petition, the National Energy Marketers Association said in comments to the PSC.

In 2009, BGE sought to make available to suppliers, at no charge, customer lists containing: 1) customer name; 2) billing address; 3) service address; 4) account number; 5) rate class; 6) historical usage for the prior 12 months; 7) Standard Offer Service type; and 8) fuel type (Only in Matters, 5/4/09). The Commission called the 2009 application an "end run" around the RM 17 rulemaking process, in which expanded customer lists were not adopted (Matters, 9/21/09). However, in its order, the PSC held that "Wholesale [sic] suppliers can, pursuant to existing Commission Order, continue to obtain customer lists of names, addresses and telephone numbers from BGE at a cost to conduct any marketing efforts that they may wish to undertake."

As only reported in *Matters*, BGE's new proposal would make residential customers lists available containing only the following information, for a fee of $715:

a) Account Name;
b) Billing Address;
c) Service Address, and
d) Fuel Type (Gas, Electric, Combined)

BGE expressly said that it has elected not to include phone numbers under its revised proposal, in consideration of customer privacy concerns (Matters, 5/25/10).

However, NEM noted that the Commission has already confirmed, last September, that BGE may make phone numbers available as part of customer lists. "We would therefore suggest that phone numbers also be included in the BGE customer lists," NEM said.

NEM further asked that, at a minimum, the Commission consider requiring the addition of rate class data to BGE's lists, because marketers will have great difficulty estimating a customer's load profile and formulating an offer for customers without knowing the rate class. NEM also said that the inclusion of additional data elements such as account number, historical billing data, historical consumption data, meter type, meter read date, and load profile reference category would increase the usefulness of the customer lists to marketers, stating that such information could be shared consistent with consumer privacy protection.

Illinois Industrials Drop Opposition to Staff Supplier Bond Language

The Illinois Industrial Energy Consumers (IIEC) have acquiesced to the Illinois Commerce Commission Staff's language regarding the continued ability of alternative retail electric suppliers to effectively post an unconditional guarantee, payment bond, or letter of credit to meet the licensing requirements of Sections 451.110(a)(4), 451.220(a)(4), and 451.320(a)(4) of the Illinois Administrative Code, though IIEC said that it still has concerns about the language which modifies to whom such funds are to be paid in case of default (10-0108).

A proposed second notice order concerning amendments to the electric supplier licensing rules would have required guarantees and similar financial instruments used under Sections 451.110(a)(4), 451.220(a)(4), and 451.320(a)(4) to be payable to the, "applicant's retail customers in Illinois," for reimbursement of any costs imposed upon them by the supplier's default (Matters, 5/18/10). The financial requirement in these rules is specific to the types of customers the supplier is seeking to serve, and is separate from the bond required under Section 451.50.

The Illinois Competitive Energy Association objected to the proposed language regarding the payee, as it would impose, "logistical difficulties that are impractical and insurmountable." An instrument payable to an unidentifiable group such as the applicant's customers is simply not possible, ICEA said, as a guarantee, bond, or letter of credit must be made in the name of a single, identifiable identity. "Given that limitation, the proposed language would appear to force ARES into effecting instruments in the name of each of the ARES' existing customers, which creates logistical problems on a number of levels. For instance, the list of a particular ARES' customers necessarily changes on a month by month basis based on contract expirations or other terminations, and thus would be extremely burdensome as it would require constant updating," ICEA noted.

Given the logistical costs of such an exercise, ICEA said that the proposed language would effectively prevent suppliers from using an unconditional guarantee, payment bond, or letter of credit to meet Sections 451.110(a)(4), 451.220(a)(4), and 451.320(a)(4), forcing suppliers to use one of the other alternatives for meeting the requirements contained in the rules, perhaps at a greater cost.

Staff agreed, noting that, "the unconditional guarantee, payment bond, or letter of credit option is a popular option for demonstrating financial qualifications and thus should be maintained as it has a positive effect on the competitive market." Approximately 10% of suppliers meet their financial requirements using the unconditional guarantee or similar instrument. "Therefore, if the Commission were to eliminate that option, those ARESs would have to use a different, perhaps more costly option. Moreover, this could have a detrimental effect on competition," Staff said.

While the idea of having the bond payable to the distribution companies was proposed in lieu of designating the applicant's customers as the payees, Commonwealth Edison objected to becoming involved in the process. Therefore, Staff proposed that the unconditional bond should be payable to the People of the State of Illinois.

However, IIEC originally objected to this language, believing that it would provide no assurance that the bond's proceeds would be used to mitigate the impacts of any supplier default on the supplier's customers.

Staff, however, said that there was no other alternative payee, and that the only other option would be to eliminate the ability for suppliers to use an unconditional guarantee -- a position Staff opposed. Staff stressed that while the current rule's language does provide for the reimbursement of customers using the proceeds from security posted under Sections 451.110(a)(4), 451.220(a)(4), and 451.320(a)(4), such reimbursement is not the primary intent of the rule. Rather, the primary purpose of the unconditional guarantee, payment bond, or letter of credit under subpart (a)(4), "is to demonstrate the applicant's financial viability through a qualified third party's willingness to provide credit or support by virtue of its own credit assessment," Staff said.

Noting that Staff, ICEA, and ComEd have all agreed to Staff's proposed language for such bonds to be paid to the People of the State of Illinois, IIEC in comments filed Friday said that it will "accept" Staff's language for these sections of the rule, though it did not necessarily agree with Staff's reasoning. With IIEC's objection removed, a final order will likely adopt Staff's suggestion which would maintain the viability of unconditional guarantees as a form of security for Sections 451.110(a)(4), 451.220(a)(4), and 451.320(a)(4).

Md. POR ... from 1

product to customers at BGE and Pepco, utilizing direct marketing in its efforts.

Gateway Energy Services also plans to begin marketing by the end of the summer, contingent on EDI testing.

"Gateway Energy is thrilled that the Maryland Public Service Commission has seen fit to approve a POR program with such a favorable discount rate. It allows Gateway to be a full-service supplier for our customers in the BG&E service area by offering them both natural gas and electricity," said Steve Maslak, CEO of Gateway Energy Services.

Initially, Gateway will focus on residential and small commercial customers at BGE, where it currently serves mass market gas customers, while evaluating other service areas for future marketing. Similar to its product suite in other territories, Gateway will offer customers at BGE a range of products including fixed-rate plans, a variable-rate plan and indexed plans.

Mass marketer Viridian Energy, which did not reply to a request for comment, has also disclosed publicly that it will "soon" offer

Maryland service. As previously reported in *Matters*, Viridian has already started seeking sales agents for its Maryland marketing efforts.

As only reported by *Matters*, a number of other suppliers have sought and received Maryland electric licenses since the final RM 17 rules were approved and the POR compliance plans were awaiting action, including MXenergy, Oasis Power and Palmco Power. Mass marketers IDT Energy, Public Power & Utility, and North American Power and Gas have pending license applications. Currently licensed Maryland suppliers active in at least one POR-based mass market (either gas or electric) but not currently active in the Maryland mass market include ConEdison Solutions, Liberty Power, Just Energy, Spark Energy, Integrys Energy Services, and BlueStar Energy Services.

MXenergy has previously stated publicly that it would enter the Maryland market upon the introduction of POR. An MXenergy press contact said that they would get back to us on any Maryland plans, but had not done so as of Sunday evening.

ConEdison Solutions would not release any definitive Maryland residential plans, but said that it likes what it is seeing and is watching market developments with interest.

Liberty Power, which has previously marketed to Maryland residential customers, would not discuss any specific plans other than to state its current Maryland efforts are focused on non-residential customers of all sizes (including Type I). Liberty did not explicitly state in response to our request for comment that it would not pursue Maryland residential accounts. Liberty is among several Maryland-licensed suppliers that have offered residential service in the PPL market which features POR.

Oasis Power did not wish to discuss any competitive strategy at this time. Neither did Just Energy, which holds the Maryland licenses of Commerce Energy and Hudson Energy Services. Champion Energy Services, which has not applied for a Maryland license but is expanding into several Northeast states and is serving residential customers at the similar PPL market, also declined to discuss any potential plans.

BlueStar Energy Services, which prefers supplier-consolidated billing to POR, said that the introduction of POR does not alter its Maryland plans, though it supports the introduction of POR. BlueStar said that it is working with Maryland Staff and stakeholders to develop supplier consolidated billing.

Integrys Energy Services (whose current mass market offerings are limited to gas) said that it is focused on its current markets and does not plan to enter the Maryland electric mass market at this time.

Matters could not reach a media representative for Spark Energy.

Matters also asked BGE Home, Dominion Retail, and Direct if they plan to expand their current marketing (limited to BGE) in response to the POR orders, but did not receive a response from any of the firms. As noted above, none of the new suppliers have disclosed any immediate plans to serve residential customers at Allegheny (where the discount rate is only 1.1306% versus 1.37% at PPL) or Delmarva (where the discount rate is a more challenging 2.1879%), which may frustrate the Commission. Washington Gas Energy Services is already marketing to residential customers at all four investor-owned utilities in Maryland.

With several legal and policy questions answered by the electric POR orders, several suppliers hoped that the Commission would act quickly on the pending gas POR compliance filings from several LDCs.

Nodal ... from 1

any of the nodal charges being discussed can fall under the limited exceptions for changes in fixed price contracts (a change in TDSP fee, ERCOT admin. fee or a change in laws resulting in new costs beyond a REP's control), or whether they are truly energy charges under the new nodal system.

The Commission directed Staff to review the issue and report back at the July 1 open meeting.