

Energy Choice Matters

June 25, 2010

Md. PSC Revamps Price to Compare, Mandates SOS Pricing on "All" Bills

The Maryland PSC has directed the investor-owned utilities to replace the current Price to Compare mechanism appearing on bills with: (1) the current and known future SOS prices, properly labeled and with effective dates; (2) the date beyond which SOS prices are unknown; and (3) a weighted average of known SOS prices, with the date through which that average is effective (Case 9228, Only in Matters, 4/14/10). Furthermore, the new SOS pricing information is to appear on "all" bills regardless of the customer's supplier.

Currently, Baltimore Gas & Electric and the Pepco utilities calculate the Price to Compare to be a weighted average of summer and non-summer supply rates for a 12-month period, based on average customer usage. In contrast, Allegheny Energy provides a Price to Compare based on the customer's actual bypassable supply charges in the prior month, rather than for an annual period.

While the PSC agreed with suppliers and the Office of People's Counsel that the current blending approach at BGE and Pepco can produce "stale" pricing information, it did not abandon the use of blending altogether, finding that providing a reference for future prices is helpful to customers.

"We find that customers will be in the best position to evaluate supplier offers if they have both the raw price figures and the weighted average at the ready," the Commission said.

Accordingly, the PSC directed all investor-owned utilities to follow a single standard for providing SOS pricing information, which will no longer be called the Price to Compare. "We also agree with OPC that the term 'Price to Compare' could itself contribute to customer confusion by suggesting that the customer need look only at that one number. Accordingly, we direct the IOUs to replace the 'Price to Compare' (and the 'Price to Compare' terminology) with a listing of current and known SOS

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Ontario Energy Board to Set Date for Mandatory Time of Use Supply Rates

The Ontario Energy Board believes that it is appropriate to mandate Time of Use (TOU) generation pricing for Regulated Price Plan (RPP) consumers with eligible TOU meters at this time, though in a proposed order the Board did not set a specific date for the implementation of mandatory TOU pricing (EB-2010-0218).

Instead, the date of mandatory TOU pricing would be determined by (1) the effective date of a final Board decision (following a set number of months thereafter), and (2) a distribution utility's status in testing its TOU meters.

The Board noted that the provincial government has set an expectation for 3.6 million Regulated Price Plan customers to be served on TOU rates by June 2011. However, as of March 2010, only 601,000 consumers were on TOU pricing, while 3.7 million smart meters had been installed. Mandatory TOU pricing is also appropriate, the Board said, to ensure that smart meters funded at ratepayer expense are being used for their intended purpose.

The Board's proposal would establish distributor-specific mandatory TOU dates (rather than a common date across the province) to recognize the different status of meter testing at the utilities.

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Briefly:

Duke Energy Retail Sales Seeks Ohio Gas License

Duke Energy Retail Sales has applied for an Ohio competitive natural gas supplier license to serve all customer classes, including residential customers, at all four LDCs. Duke Energy Retail Sales sought a license as both a marketer and aggregator. Duke Energy Retail Sales said that it currently serves over 13,000 electric customers in Ohio, mostly at affiliate Duke Energy Ohio but with customers at Dayton Power and Light, the FirstEnergy utilities, and the American Electric Power utilities as well. In an average month, Duke Energy Retail Sales supplies approximately 635,000 MWh to its electric customers.

Gateway Energy Services Seeks to Expand Pa. Gas License

Gateway Energy Services Corporation submitted an amendment to its Pennsylvania natural gas supplier license in order to serve residential and all sizes of commercial customers at PECO and National Fuel Gas Distribution. Currently, Gateway is licensed to market at UGI Utilities and UGI Penn Natural Gas.

Glacial Natural Gas Receives Michigan Gas License

The Michigan PSC granted Glacial Natural Gas a license as an alternative gas supplier. Glacial's Michigan gas market entry was first reported by *Matters* (Only in Matters, 1/22/10).

Polaris Energy LLC Seeks Conn. Aggregation License

Start-up Polaris Energy LLC applied for a Connecticut electric aggregator certificate to serve all customer classes.

Keytex Energy Brokers Street Lighting Load at West Penn Power

Keytex Energy said that it brokered the street lighting loads of 50 municipalities in West Penn Power's service area, entering into a 12-month contract with Allegheny Energy Supply that provides a savings of 30% versus the unmetered street lighting tariff, beginning this past May.

SWEPSCO to Continue Turk Plant Construction with Arkansas Portion Now Dedicated to Merchant Sales

AEP's Southwestern Electric Power Company has elected to continue with construction of the Turk plant with power originally intended to serve Arkansas native load now slated for merchant sales, including sales to out-of-state retail markets. The decision affects 88 MW of capacity which was to be dedicated to Arkansas jurisdictional retail customers, and comes after the Arkansas Supreme Court confirmed its earlier ruling that overturned the Arkansas PSC's approval of the plant. SWEPSCO said that it would not re-apply for a Certificate of Environmental Compatibility and Public Need at the PSC due to the delay and cost that would result. SWEPSCO's decision regarding the merchant sale of the 88 MW does not affect the capacity previously dedicated to native load retail customers in Texas and Louisiana.

Mich. PSC Approves GCR for SEMCO Battle Creek Unit

The Michigan PSC approved a settlement agreement authorizing a base gas cost recovery (GCR) factor of \$6.3713 per dekatherm at SEMCO Energy Gas Company's Battle Creek Division for the 12-month period of April 2010 through March 2011. Separately, the PSC also approved a settlement agreement reconciling SEMCO Energy Gas Company's GCR revenues and expenses for the 12-month period ended March 31, 2009. The settlement found a net total over-recovery of \$847,524, including interest. That amount will be rolled into the beginning balance for SEMCO's 2009-2010 GCR reconciliation.

NEM Urges Md. PSC Not to Delay BGE Electric POR

The outstanding issue of natural gas Purchase of Receivables at Baltimore Gas & Electric should in no way delay the implementation of electric Purchase of Receivables, the National Energy Marketers Association said in a letter to the PSC.

As only reported in *Matters*, BGE has asked the Commission to make its electric and gas

POR programs effective on the same date, because BGE cannot currently purchase receivables from one commodity while not purchasing receivables from the other commodity (Only in Matters, 6/17/10). The Commission has ordered BGE's electric POR tariff to take effect July 15, 2010, but BGE's gas POR compliance filing is still pending. While asking for concurrent effective dates, BGE did not express its preference for either a delayed electric POR date, or accelerated approval of its gas POR program.

NEM informed the PSC that electric suppliers have, "hedged electricity supplies, invested in marketing campaigns, and hired in-state marketing assistance all in reliance on the July 15, 2010, date on which [electric] POR was to be available in BGE." Accordingly, due to such expense and preparation, NEM urged the PSC to insist that BGE implement its electric POR program on the date originally ordered. NEM also favors quick resolution of the gas POR compliance filing, but reiterated that the review of the gas program should not delay the start of the electric POR program.

OSBA, Dominion Retail Oppose Retainage Levels at Peoples Natural Gas

The Pennsylvania Office of Small Business Advocate and Dominion Retail have opposed a non-unanimous stipulation in Peoples Natural Gas Company's 1307(f) proceeding, arguing that the level of Lost and Unaccounted for Gas (LUFG) should be capped as Peoples has not justified its increased LUFG factors and associated retainage factors (R-2010-2155608).

The non-unanimous settlement agreement would raise the transportation retainage rate for small customers (Rate GS-T) from 7.3% to 7.8%, and would raise the transportation retainage rate for large customers (Rate T) from 5.2% to 5.6%.

Driving these increases is a 20% increase in Peoples' lost gas and company use over just the last year, and a 40% increase over the last three years, Dominion Retail said.

The Office of Small Business Advocate calculated Peoples' overall system LUFG factor

as 7.5%, with the Office of Trial Staff calculating the factor even higher at 8.27%.

Although Peoples cited the unique nature of its system which includes gathering, transmission, and storage assets as resulting in higher losses compared with other LDCs, Dominion Retail noted that the losses are high even when compared to Peoples' prior-year losses which also included the same gathering, transmission, and storage assets.

"PNG has no right to force its customers to simply absorb the costs resulting from an inability to get control over the situation," Dominion Retail said, which argued that Peoples has failed to prove that the higher retainage factors are just and reasonable.

Dominion Retail lamented that even after three years of settlements promising to correct the increasing losses on Peoples' system, "we appear to still be in the 'studying phase,' not the 'doing something phase,'" as Peoples argued that any adjustment to its proposed retainage levels should be held until 2011, at which time it will complete a study of losses required under the order approving its acquisition by a subsidiary of SteelRiver Infrastructure Partners. Peoples said that as it is currently studying and undertaking various measures to correct losses, any disallowance in its proposed retainage factors would be premature at this time.

However, Dominion Retail contended that, "[u]ntil Peoples takes ownership of the problem and is held accountable, this game of 'kick the can' seems to be capable of endlessly repeating," as higher losses and associated retainage factors are continually flowed through to customers.

Dominion Retail requested that the retainage factors remain at the current levels of 7.3% and 5.2% for Rate GS-T and Rate T customers, respectively.

OSBA likewise argued that capping Peoples' allowable LUFG level in this proceeding, "would provide an incentive for Peoples to implement a LUFG mitigation plan that produces measurable results for ratepayers, as quickly as possible." OSBA recommended that Peoples' LUFG rate for the projected period of February 1, 2010, through September 30, 2011 should be capped at the level of Peoples' 2006-2008 average LUFG rate.

Other Settlement Provisions

The settlement holds that most issues raised by Dominion Retail with respect to cash in/cash out procedures shall be addressed in the PUC's generic rulemaking (L-2009-2069117); however, Peoples has committed to the following:

1. Peoples will increase the imbalance trading to 4 days;
2. Peoples will provide estimates to each NP-1 supplier about anticipated cash out pricing and the supplier's imbalance level for each given month prior to the imbalance trading period;
3. Peoples will post imbalance levels to its bulletin board if requested by the NP-1 supplier/customer;
4. Peoples will accept suggestions from other suppliers on managing imbalances and consider implementing other administrative changes that may be helpful; and
5. Peoples will modify its current transportation balancing provisions of its tariffs for P-1 and NP-1 customers to provide for a maximum 20% multiplier.

Issues raised by Dominion Retail surrounding the Price to Compare are deferred to the rulemaking under L-2008-2069114.

NEM Urges Caution Regarding Potential Carve-Out for In-State Capacity in New Jersey

The New Jersey BPU should be cautious not to duplicate current processes for resource adequacy, especially in light of current uncertainty regarding demand and the financial markets that make today's projections highly speculative, Craig Goodman, President of the National Energy Marketers Association, said in response to the New Jersey's BPU's investigation of issues relating to in-state capacity and Basic Generation Service procurement (Docket EO09110920).

The BPU convened a technical conference regarding in-state capacity yesterday, as an outgrowth of the Board's BGS decision last December. In the December order, the Board opted not to institute a separate procurement for in-state capacity backed by long-term contracts as part of the BGS auction as suggested by LS Power, but said that it would study issues related

to in-state capacity.

"[The] current economic trends and the uncertainty in the financial markets as well as the yet only partially tapped markets for demand response, along with projections made a year ago and the reality of the markets a year from now, could make any projections of capacity needs made today highly speculative at best," Goodman said.

Citing ongoing processes focusing on resource adequacy and reliability at PJM, FERC, and NERC, Goodman urged the BPU to be cautious, and not duplicate processes that already exist, such as the Reliability Pricing Model.

NEM said that the ongoing efforts of these entities on a regional basis to ensure the adequacy and reliability of capacity resources have proven to be effective, and it could be problematic if sub-regional planning bodies duplicate these resource plans. "That was the point of regional level planning in the first place," said Goodman.

NEM urged the Board to permit competitive market forces, rather than regulatory intervention, to identify and meet the need for new capacity resources. "[A]fter twenty-five years of success with increasingly market-based energy policies, regulators, legislators and consumers throughout the nation have learned that cost plus regulations that rely on vertically integrated energy monopolies to provide otherwise competitively available energy supplies, services, and technologies increase both the costs and risks associated with such investments," NEM said.

"Given the regulatory lag inherent with the oversight of utility generation building, it is possible that any such utility investments could be technologically obsolete before being placed into service and with a hefty resulting price tag for consumers," NEM noted.

"As importantly, until the full scope of the new Demand Response resources are fully understood and captured, it could be a great disservice to investors in new generation plants to underestimate this growing resource base," added Goodman.

Calif. PUC Adopts Smart Grid Order Deferring Demarcation Point, Data Access Decision

The California PUC adopted as final a decision on the requirements for utilities' smart grid deployment plans that, as first reported in *Matters*, defers adjudication of issues related to data access and a demarcation point for utility investment (R.08-12-009, Only in Matters, 5/24/10).

The PUC said that, "[i]t is clear that issues concerning access to information and privacy protections contain subtleties and complexities that prevent their resolution without further deliberation and comments." The Commission said that it maintains a policy objective of providing retail and wholesale price information to consumers by the "end of 2010," a policy objective of providing access to usage data through an agreement with a third party by the "end of 2010," and a policy objective of providing access to usage information on a near real-time basis for customers with an Advanced Metering Infrastructure (AMI) meter by the "end of 2011."

"The Commission will not order utilities to provide an authorized third party with access to the customer's electricity usage information that is collected by the utility without adopting rules that are consistent with Energy Information and Security Act of 2007 standards, the general public interest, and state privacy rules," the decision states.

Furthermore, the Commission, "declines to adopt a demarcation point [for utility investment] at this time."

"The Commission does not have a sufficient record to make a decision on this topic at this time ... Nevertheless, the Commission is fully supportive of a competitive and innovative market for customer-owned technology and devices. Should a utility request ratepayer funds for a device or technology that it anticipates owning and operating and that is placed inside a customer's home or establishment, we will expect the utility to fully explain and justify why such an investment is needed, and explain why such devices or technologies have failed to be adopted widely. The Commission has generally supported the contention that costs should be borne by those who will benefit from the product

rather than by the ratepayers, and we will expect the utility to justify why the Commission should veer from this preference," the Commission said.

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prices and a weighted average of known SOS prices, including effective dates (the 'SOS Pricing Information')."

Such SOS Pricing Information shall be labeled on bills as follows:

"Supply" Price Comparison Information: The current price for Standard Offer Service electricity is x.x cents/kWh, effective through [date]. Standard Offer Service electricity will cost x.x cents/kWh beginning on [date] through [date]. The price of Standard Offer Service electricity after [date] has not yet been set. The weighted average price of Standard Offer Service electricity will be x.x cents through [date].

The word "supply" used in the PSC's pro forma example above, "should track the term the IOU uses on the bill to describe the customer's electricity supply charges so that the customer knows which price would be replaced," the Commission said.

The weighted average shall be calculated in the manner that BGE and the Pepco companies calculate their current Prices to Compare; however, the investor-owned utilities shall update it (and the SOS price figures), "as soon as possible after every SOS procurement auction so that the numbers reflect all known SOS rates."

The new supply pricing information shall be included on customer bills by August 1, 2010, the PSC ordered.

The Commission's order further provides that, "[t]his information should be provided on *all* customers' bills, no matter who supplies the customer's electricity supply" [emphasis by PSC]. In other words, the PSC is mandating an on-bill pricing comparison for competitive supply customers which lists an SOS rate potentially not containing all bypassable charges (discussed further below).

It is not clear, in the case of dual billing, whether the SOS pricing information need only appear on the distribution company's bill, or if

the supplier would be required to list it as well on their supply bill. Language in the ordering paragraph, however, is only directed to the investor-owned utilities, despite the more generalized use of "all bills" earlier in the order.

While in the instance noted above the PSC states that the supply pricing information should appear on "all" bills, in the ordering paragraph, the PSC states that the revised supply pricing information is required to, "replace [the] current 'Price to Compare' message" on bills, suggesting that the supply pricing information is inapplicable to customer classes for which a Price to Compare is not currently calculated (Type II and hourly customers).

Additionally, the Commission's order does not address SOS pricing changes that result from rate changes other than the energy rate as determined in the wholesale auctions, such as the bypassable transmission rate, and bypassable reconciliation rate. While such charges may be included in the SOS supply price referenced by the PSC, the PSC's order only references updating the supply price comparison, "after every SOS procurement auction." Bypassable transmission and reconciliation rates are updated independent of the SOS procurement auctions. Although transmission rates are typically fixed for a year, the reconciliation charges can vary by month.

Nor does the Commission explicitly consider when an SOS rate is "set," though it is implied the rate is set once the base generation rate from the full requirements procurement is known, regardless of the status of other bypassable charges that constitute the SOS rate. However, SOS rates for future periods may arguably not be considered "set" if the reconciliation rate has not been established for that period yet. For example, the BGE Residential (R) Generation Market-Priced Service rate for October 1, 2010 through May 31, 2011, as determined by the SOS procurements, is known as 9.503¢/kWh, with another 0.580¢/kWh charge for transmission also known at this time. However, BGE has only determined bypassable Rider 8 (Energy Cost Adjustment) charges through September 2010, so while the Commission likely considers the residential rate to be known at this time, and would include it on the supply information to be listed on bills, this information

would still provide an incomplete picture and not reflect the customer's actual SOS charges for the period beginning October 1, 2010, unless by happenstance the Energy Cost Adjustment happens to be zero for that period. While at times the Energy Cost Adjustment may be de minimis, it can be as high as 5 mills, which is arguably large enough to affect a customer's decision regarding supply.

The PSC said that the investor-owned utilities should provide all of the supply pricing information appearing on bills on their websites as well, but said that the websites' supply pricing information should not be limited to the information included on bills. More detailed supply pricing information is appropriate for the utilities' websites, though the Commission declined to prescribe the required information at this time. Instead, the Commission directed the utilities to submit additional filings proposing what supply information should appear on their websites.

Additionally, as part of their filings detailing the online pricing information, the Commission directed the investor-owned utilities to report on cost, programming and other implications that would arise if the PSC required them to include 12 months of customer usage information, with actual kilowatt-hour figures (and not only graphs), on each customer's bill.

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For a distributor that had commenced meter data management and meter data repository (MDM/R) enrollment testing on or before the date on which the Board's final TOU determination comes into effect, the Board is proposing that the mandatory TOU date be the first day of the first billing period that commences 10 months from date on which Board's final determination comes into effect.

For distribution utilities that have not commenced MDM/R enrollment testing but whose meter enrollment date has already passed per their original smart metering plans, the mandatory TOU date would also be the first day of the first billing period that commences 10 months from date on which Board's final determination comes into effect.

For distribution utilities that have not

commenced MDM/R enrollment testing and whose meter enrollment date has not yet passed, the mandatory TOU date would be the first day of the first billing period that commences nine months from the date identified by the distributor in its baseline plan for commencing meter enrollment.