

Energy Choice Matters

June 28, 2010

Md. PSC Approves Gas POR Elements at Baltimore Gas & Electric, Effective July 15

The Maryland PSC has approved the elements of Baltimore Gas & Electric's natural gas Purchase of Receivables program, to be effective July 15, but the exact discount rates are unknown at this time as BGE must refile discount rates to remove a rate of return on development costs and to use a two-year amortization for such costs.

The Commission's decision dispels any uncertainty regarding the start of electric POR on July 15. BGE had asked that the start dates for both its electric and gas POR programs be coincident, but prior to Friday the gas POR compliance plan was still pending.

The discount rate shall contain uncollectibles, development costs, and, after the first year, a reconciliation component.

The Commission rejected a risk factor as a component of the discount rate as unsupported at this time. The PSC also struck from the tariff an operational cost component (which BGE had set at zero) since it was not clear how such costs differed from development costs.

The Commission accepted BGE's proposed uncollectible factors as follows: 2.13% residential, 0.71% non-residential.

As Staff did not request an adjustment to the uncollectible rates to reflect revenues from late fees, the Commission did not order any such adjustment for the initial POR year. However, for future years, in connection with BGE's annual recalculation and reconciliation of the POR discount rates, BGE shall calculate the uncollectible expense component based upon its actual POR uncollectibles experience, providing to the Commission documentation and worksheets sufficient to support its calculations, including any late fees that are assessed and collected on consolidated bills.

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BGE Proposes Allowing SOS Admin. Charges to Vary with Costs Above a Price Floor

Apart from its request to increase cash working capital cost recovery, Baltimore Gas & Electric is seeking modify the other components of the SOS Administrative Charge from the current fixed rates to a simple pass-through of actual costs (Case 9221).

For residential SOS, BGE is seeking to recover cash working capital as a stand alone component, rather than as part of the return component. However, in supplemental testimony filed Friday, BGE is also seeking to modify the remaining cost components in the residential SOS Administrative Charge (incremental costs and uncollectibles), requesting that these actual costs be passed through to customers similar to how these costs are treated for commercial and industrial (C&I) customers.

Additionally, BGE is seeking to modify the current \$4.00/MWh Administrative Charge for residential customers make the \$4.00/MWh level a price floor, with the Administrative Charge permitted to rise above that level as required to recover actual costs.

Based on current costs, BGE said that the residential Administrative Charge needs to be set at \$4.50/MWh in order to fully recover SOS-related costs. Any revenues collected in excess of the cost of providing SOS service would still be returned to customers through nonbypassable Rider 10 as is

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Mass. DPU Opens Investigation of Margins from Interruptible Transportation

The Massachusetts DPU has opened an investigation into the ratemaking treatment of margins generated from interruptible transportation, capacity release, off-system sales, interruptible sales, portfolio management and optimization agreements, and related transactions (Docket 10-62).

The purpose of the investigation is to review whether the existing margin-sharing policy established in DPU 93-141-A is still relevant in light of developments in the natural gas markets and the innovative strategies being used by various LDCs, or whether the Department should consider alternative margin-sharing arrangements, which may be in the public interest. Specifically, the Department will investigate whether an alternative margin-sharing mechanism can be established that would provide (1) maximum benefits to firm gas customers; and (2) appropriate financial incentives to LDCs to implement effective strategies through in-house expertise or third-party arrangements or a combination of both.

The Department sought written comments on alternative margin-sharing proposals that include a discussion of the following:

a. Current and potential strategies to optimize the value of the gas supply portfolio consistent with the goal of supplying gas to LDCs' firm customers safely, reliably, and at minimum cost;

b. Proposals to share the margins between firm customers and the LDCs based on implementing individual strategies, and including a discussion of whether margin-sharing should be uniform across the companies regardless of the type of strategy, or whether it should be strategy-specific; and

c. Role of current market realities and of the continuously evolving natural gas market in determining the margin-sharing mechanism applied with regard to ratepayer-supported assets.

BlueStar Cites Staff ComEd Testimony as Supporting Ameren Rescission Complaint

BlueStar Energy Services has renewed its motion for judgment regarding its complaint against the Ameren Illinois utilities concerning the rescission period included in the Ameren POR tariffs, citing recent Illinois Commerce Commission Staff testimony filed in the Commonwealth Edison POR proceeding as supporting BlueStar's complaint (09-0460).

As only reported by *Matters*, BlueStar filed a complaint against a 10-day rescission period contained in the Ameren POR tariffs as it is applied to retail suppliers not taking service under the utility consolidated billing with POR option. Furthermore, BlueStar argued that the tariff's rescission period is inconsistent with the three-day rescission period found in the current administrative rules, which have precedence over tariffs (Only in Matters, 10/21/09).

ICC Staff and Ameren contended that no conflict between the administrative rule and tariff exists since the administrative rule governs retail suppliers, but the tariff governs the relationship between the utility and customers, and nothing prevents the utility from offering customers an extended rescission period. Staff and Ameren also found BlueStar's complaint untimely, arguing that the issue should have been raised in the Ameren POR proceeding.

However, BlueStar, in a supplemental motion for judgment, noted that, in the ComEd POR proceeding, Staff has argued that the question of the rescission period should be left to an ongoing rulemaking, rather than being addressed in ComEd's tariffs. "In the ComEd docket Staff opposed ComEd's attempt to alter rescission periods via its proposed tariff, making arguments similar to those made by BlueStar in this docket," BlueStar said.

"Staff's position [in the ComEd proceeding] that rescission periods are an issue best addressed in formal rulemaking is contrary to Staff's position here that the Commission appropriately addressed the rescission periods in the [Ameren] tariff proceedings," BlueStar argued.

"Staff's testimony in the ComEd matter

specifically references language Staff proposed in the on-going rulemaking that would require any conflict between rescission periods found in JCAR-approved Rules and those found in tariffs be resolved in favor of the Rules," BlueStar noted.

ConEdison Solutions Says TC Ravenswood's Requested Relief Would Harm Retail Market

Granting TC Ravenswood's request to be compensated for unreimbursed variable costs related to following the Minimum Oil Burn Rule would harm competitive retail suppliers and the competitive retail market, ConEdison Solutions said in comments to FERC (EL10-70).

As only reported in *Matters*, TC Ravenswood is seeking \$2.4 million from the New York ISO for barge delivery costs, off-site storage costs, and on-site equipment operating and maintenance costs related to several months in 2009 (Only in *Matters*, 5/31/10).

ConEdison Solutions (CES) noted that any order for reimbursement would re-open the NYISO billing and settlement process, bypassing the final bill process and causing the NYISO to charge load serving entities retroactively for 2009 costs. The charges would be in the form of an uplift charge to load serving entities that, for competitive providers, will not be recoverable from their retail customers.

"Many of the companies that would be charged for [these] fuel costs such as retail Load Serving Entities ('LSEs') such as CES have no contractual mechanism to collect such costs from current or past customers. Such FERC action would have a deleterious affect on the competitive retail electricity market by throwing in an element of major uncertainty and arbitrariness that does not exist today," ConEdison Solutions noted.

"Retail LSEs are a necessary participant in the competitive markets that the Commission has been working to implement. Retail LSEs, however, cannot compete and remain financially viable if they have to absorb the costs of retroactive re-billings such as [those] before the Commission in this case. Retail LSEs cannot pass these additional costs to customers, like many utilities can because these sales contracts

do not allow for retail re-billings after the fact. Retail LSEs have a right to rely on market mechanisms, which timely settle transactions," ConEdison Solutions added.

Aside from the negative impact on the retail market, ConEdison Solutions said that FERC has previously rejected compensation for the costs TC Ravenswood is seeking to recover, calling the NYISO's denial of such costs consistent with the tariff.

Final Calif. PUC Order Defers Decision on Local RA True-Up Method

A final California PUC decision on setting the 2011 local resource adequacy (RA) procurement obligations confirmed a draft finding and deferred setting a method to true-up a load serving entity's local requirements at this time, opting instead to review the results from the 2010 true-up approach before setting a methodology for 2011 (R.09-10-032).

In the case, the PUC had been presented with two options, including the "True-Up Approach" which is based on transferring specific shares of local requirements on individual customers using that customer's local-to-peak ratio and coincident peak demand (Only in *Matters*, 5/27/10). The alternative proposal, the "Reallocation Method," is based on reallocating the local RA obligation to LSEs using an LSE's updated August coincident peak load forecast.

The final order concluded that there are several outstanding concerns with the True-Up Approach including the use of a transfer price, the unbundling of the local attribute, the forecast method being employed, the 5 MW threshold of load migration in each utility territory, the aggregation of areas by service territory, and the treatment of San Diego Gas & Electric.

The PUC found that further review is needed for the Reallocation Method as well, since it does not provide the LSEs with the exact local RA capacity true-up obligation until after the California Energy Commission and Energy Division recalculate reallocations. Further, the Reallocation Method also only gives LSEs 30 days to procure any additional local RA capacity

Calif. RA Penalties	Small Procurement Deficiency	System Procurement Deficiency	Local Procurement Deficiency
Replaced within five business days of date of notification	\$1,500 first incident in calendar year; \$3,000 for each incident thereafter in a calendar year	\$3.33/kW-month	\$3.33/kW-month
Replaced after five business days from the date of notification or not replaced	LSE pays the applicable System or Local RA penalty for the deficiency	\$6.66/kW-month	\$3.33/kW-month

that is needed.

The final order on 2011 local resource adequacy also declined to modify the existing LSE-based replacement obligation at this time.

The final decision adopted a new penalty structure as indicated in the table above.

FERC Accepts MISO Firm Redirect Compliance Filing

FERC accepted a compliance filing and denied rehearing regarding its acceptance of the Midwest ISO's proposal to implement higher-of pricing for short-term changes in Receipt and Delivery Points on a firm basis (ER09-1543, Matters, 10/12/09).

Among other things, DTE Energy Trading had sought rehearing of the application of the higher-of pricing to weekly or monthly redirects, as DTE Energy Trading noted that the vast majority (96%) of the problem redirects, which allowed transmission customers to avoid paying transmission charges associated with their initial reservations, were daily redirects.

FERC, however, "was not persuaded by the argument that because the percentage of the weekly and monthly redirect is small we should limit the remedy to daily redirects only and ignore the inefficient use of the transmission system that nevertheless results from weekly and monthly redirects."

"Moreover, if we limit the remedy to daily redirects only, it is possible that the weekly and monthly redirects would only increase. As Midwest ISO explains, when it tried to correct its Tariff on the zero-rate transmission paths,

transmission customers began redirecting over lower-rate transmission paths," FERC noted.

FERC further rejected protests from DTE Energy Trading, NRG Energy, Cargill Power Markets, and Allete (the Affected Entities) regarding the MISO's compliance filing to implement higher-of pricing. The Affected Entities had sought a transitional measure to mitigate the impact of the pricing change, and sought an effective date of January 1, 2010 rather than August 12, 2009. FERC found the protests as requests for rehearing that were outside the scope of the compliance filing. "In any event, we see no reason to perpetuate any inefficiencies of the transmission system with a transition period as requested by the Affected Entities," FERC said.

Briefly:

Allegheny Energy Supply Co. Seeks Ohio Electric License

Allegheny Energy Supply Company, LLC applied for an Ohio electric supplier license to serve commercial, mercantile, and industrial customers in all service areas. Including recent history from 2007 through June 14, 2010, Allegheny Energy Supply Company's retail customer load under contract from 2007 through 2013 is as follows:

	# of Customers	Total Load (kWhs)
West Penn Power	87	1,470,642,000
Penelec	17	169,039,000
Potomac Edison	6	539,609,000
Duquesne Light	1	13,633,000

Devonshire Energy Receives Texas REP Certificate

The PUCT granted Devonshire Energy, LLC (a unit of Fidelity Investments) an Option 2 REP certificate (Only in Matters, 5/20/10).

PUCT Staff Files Unmodified Nodal Guardrail Proposal

PUCT Staff have filed a recommended proposal for adoption regarding market guardrails to be implemented upon the start of the nodal market that is identical to the rule amendments contained in the proposal for publication (35392). The proposal for adoption would permit ERCOT through the stakeholder process to impose lower system-wide offer caps than those currently imposed by Subst. R. §25.505 during the first 45 days of the nodal market, and would also permit ERCOT to define all transmission network congestion constraints as non-competitive constraints during the first 45 days of the nodal market (Matters, 3/26/10). Per the proposal, any ERCOT protocols adopted as market safeguards could not set the offer cap so low that a resource would be required to offer service to the market below its marginal cost, unless the protocols provide a mechanism allowing the resource to recover such costs.

PowerOptions Extends Gas Contract with Hess

PowerOptions has awarded Hess Energy Marketing a four-year, \$400 million natural gas supply agreement to serve the aggregation of Massachusetts non-profits. The contract allows PowerOptions members to blend-and-extend current contracts with Hess to take advantage of lower gas prices despite having signed longer-term contracts at higher prices. The new contract extends PowerOptions' existing contract with Hess to October 2015 and includes the previous flexible pricing options as well as a new "swing" option, which allows members to receive a discount for limiting their usage to committed amounts.

Consumers Energy Seeking Approval for 240 MW in Renewable PPAs

Consumers Energy has reached 20-year power purchase agreements with independent developers for more than 240 MW of new

Michigan-based renewable energy capacity. The new renewable energy projects, which are subject to PSC approval, are as follows:

- John Deere Wind Energy will develop its 90-MW Michigan Wind 2 farm in Sanilac County.
- John Deere Wind Energy will develop its 60-MW Harvest II Windfarm project in Huron County.
- John Deere Wind Energy and Great Lakes Wind, LLC, will develop their 81-MW Blissfield Wind Energy project in Lenawee County.
- Waste Management Renewable Energy will develop an additional 13-MW landfill gas electric generation facility at its Pine Tree Acres landfill in Lenox Township, Macomb County.

BGE POR ... from 1

To recover POR development costs, BGE had proposed setting a discount rate component based on a three-year amortization. The PSC ordered that such costs shall instead be amortized over two years.

While BGE had filed to apply its most recently authorized rate of return from Case No. 9036 to the unamortized balance, the Commission concluded that BGE is not entitled to receive a rate of return on the unamortized balance, striking such return costs from the discount rate.

BGE had said that it was willing to recover development costs through base rates, if acceptable to the Commission. However, the Commission denied this request, stating that it, "has been very clear that it will not place the burden of costs associated with competitive electric or gas supply on all ratepayers, and that such costs shall be borne by the suppliers and the customers selecting competitive gas or electric supply."

The Commission approved a reconciliation component in the discount rate, but found that interest to be paid on both over- and under-collections shall be paid using the interest rate for BGE customer deposits, rather than BGE's authorized rate of return. The PSC rejected recording the reconciliation balance as a regulatory cost or liability. Instead, the true-up

of these costs will be done on an annual basis.

The Commission, absent further support, also denied BGE's proposal to adjust the reconciliation rate for taxes when there is an under-collection of POR costs.

BGE was ordered to remove the all-in/all-out language regarding the billing option from its tariff for Daily Requirement Service, since the Commission confirmed that the customer retains the right to elect utility consolidated billing or dual billing.

BGE SOS ... from 1

done currently, with the Administrative Charge subject to a true-up.

As previously reported, for C&I SOS service, BGE is seeking to recover actual cash working capital costs, rather than the current limitation of the lower of 50% of the cash working capital revenue requirement or \$0.15/MWh.

Additionally, similar to its residential proposal, BGE is now proposing that the current \$5.50/MWh Administrative Charge for Type I SOS and the current \$6.00/MWh Administrative Charge for Type II SOS should be permitted to float to allow for the recovery of actual SOS costs, with the current levels acting as a floor for the Administrative Charges. Excess revenues would still be returned to customers under nonbypassable Rider 10.

BGE said that a change in the Type I and Type II Administrative Charges is not needed at this time, as BGE anticipates that the revenue from the Administrative Charges will be sufficient to cover BGE's costs (incremental, cash working capital, and uncollectibles) of providing Type I and Type II SOS.

BGE is further requesting that the \$0.75/MWh Administrative Charge cap for the Hourly Priced Service be removed. BGE said that the hourly service Administrative Charge is currently deficient by \$0.03/MWh.