Energy Choice Matters
July 5, 2010

PUCT Staff Moves to Revoke dPi Energy REP Certificate

PUCT Staff have moved to revoke the REP certificate of dPi Energy, citing alleged violations of multiple Commission rules, and a lack of managerial resources and ability to operate as a REP. Furthermore, Staff alleged that dPi failed to demonstrate compliance with certain financial requirements of Subst. R. §25.107(f) by May 22, 2010 as required by Commission rules (38378).

As only reported in *Matters,* dPi was purchased by Amvensys Telecom Holding late last year. As noted by *Matters*, one of the owners of Amvensys Telecom Holding was Z. Ed Lateef, who became owner of 50% of dPi Energy under the transaction (Only in Matters, 12/11/09).

Staff noted that Lateef was an owner and director of Riverway Power at the time it experienced a mass transition of its customers to POLR in 2008 and when Riverway's REP certificate was revoked by the Commission. Staff argued that because Lateef was a principal of Riverway Power when it experienced a POLR transition, §25.107 precludes him from owning more than 10% of a REP and from controlling, directly or indirectly, a REP.

Staff further alleged that dPi's failure to disclose the revocation of Riverway's REP certificate in its amendment seeking a change in control of dPi represents a "material omission and misrepresentation" which provides evidence that dPi lacks the managerial resources and ability to operate as a REP. Staff alleged Riverway ceased operations owing more than $400,000 to the TDUs, and also caused $1.2 million to be uplifted to QSEs due to its exit.

Regarding the financial requirements of §25.107, Staff alleged dPi failed to timely demonstrate that it had established an escrow or segregated cash account for the purposes of maintaining customer deposits and advance payments.

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PECO POR Written Order Confirms Recovery of Uncollectibles in Base Rates

A final written order concerning PECO's electric Purchase of Receivables program confirms that PECO will include uncollectibles in base rates, and will only charge a temporary discount rate to recover implementation costs (P-2009-2143607).

The PUC had approved the revised program at a June meeting (Matters, 6/17/10), but did not immediately issue a written order detailing how two litigated issues were resolved: the setting of the discount rate, and the ability of PECO to terminate customers for receivables incurred prior to the start date of the revised POR program, which is January 1, 2011.

Over the objections of Staff, the PUC ruled that, as proposed by PECO, supplier uncollectibles under POR shall be included in base rates. The revised POR program also removes the current reversion to dual billing for competitive supply customers in arrears for more than 90 days.

Administrative costs will also be included in base rates, leaving only implementation costs to be recovered through a temporary discount of 0.2% applicable to all classes. Once such implementation costs are recovered, the discount rate shall be reset to 0%.

PECO will also be allowed to disconnect customers for non-payment of supplier receivables

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Briefly:

Linde Energy Services Seeks Authority to Serve Non-Affiliate Customers in Illinois

Linde Energy Services applied for an Illinois alternative retail electric supplier license to serve customers with demands of 1 MW or greater at Commonwealth Edison and the three Ameren utilities. Linde Energy Services is currently certified as an alternative retail electric supplier in Illinois to serve its affiliated load.

RESM Energy Seeks Maine Electric Supplier License

RESM Energy, LLC applied for a Maine competitive electric provider license to serve all customer classes in all service territories. RESM Energy intends to use the license to provide off-peak power for its electric thermal storage customers. RESM Energy is affiliated with Thermal Energy Storage of Maine.

Tara Energy Submits Notice to Use Customer Prepayment Device Or System

Tara Energy submitted to the PUCT, under confidential seal, a statement of intent to provide retail electric services using a customer prepayment device or system. As only noted in *Matters*, Tara is also seeking to add the trade name Smart Prepaid Electric to its REP certificate (Only in Matters, 7/1/10).

Md. PSC Fines Green Power Management Solutions, Grants Broker Licenses

The Maryland PSC fined Green Power Management Solutions, Inc. a total of $200 for brokering electric and gas service without a license, and granted Green Power Management Solutions broker licenses for each commodity to serve residential and commercial customers in all service areas. Green Power Management Solutions said that it had been hired as an independent contractor of Platinum Advertising in early 2009 and was unaware that Platinum Advertising, at that time, did not have a license. Green Power Management Solutions said that its unlicensed activity was limited to one and a half months in early 2009.

Energy Services Management of Pennsylvania Seeks Pa. Broker License

Energy Services Management of Pennsylvania, which will do business as the Pennsylvania Energy Consortium, applied for a Pennsylvania electric broker/marketer license to serve all sizes of non-residential customers in all service areas. Energy Services Management of Pennsylvania is led by Steve Rosenstein, who runs similarly named brokers in Maryland and the District of Columbia.

Total Energy Resources Seeks Pa. Gas License

Total Energy Resources, LLC applied for a Pennsylvania natural gas license as a broker/marketer and aggregator to serve all sizes of commercial and industrial customers at Columbia Gas and National Fuel Gas Distribution. President Daniel Steffy was previously Vice President of Business Development and Operations at Norse Energy Corp. Total Energy Resources said that it intends to purchase gas from local producers to sell to commercial and industrial customers.

Empowered Consulting Seeks Pa. Broker License

Empowered Consulting, Inc. applied for a Pennsylvania electric broker/marketer license to serve commercial customers over 25 kW, industrial customers, and governmental customers in all service areas. Active in Texas since the ERCOT market opened to retail competition, Empowered Consulting currently manages over 4,000 meters.

Energy Edge Consulting Seeks Pa. Broker License

Energy Edge Consulting, LLC applied for a Pennsylvania electric broker/marketer license to serve commercial customers over 25 kW, industrial customers, and governmental customers in all service areas.

Global Energy Solutions Corp. Seeks Pa. Broker License

Global Energy Solutions Corp. applied for a Pennsylvania electric broker/marketer license to serve all customer classes in all service areas. Aside from procurement services, Global Energy

Solutions Corp. focuses on energy efficiency program management and power quality management.

Taylor Consulting and Contracting Receives Md. Gas Broker License

The Maryland PSC granted Taylor Consulting and Contracting, LLC a natural gas broker license to serve commercial and industrial customers. Taylor Consulting and Contracting also holds a Maryland electric broker license.

Eisenbach Consulting Receives Maryland Broker Licenses

The Maryland PSC granted Eisenbach Consulting, LLC both electric and natural gas broker licenses to serve residential, commercial, and industrial customers.

Nania Energy Receives Maryland Broker License

The Maryland PSC granted Nania Energy an electric broker license to serve commercial and industrial customers.

Condominium Consulting & Management Services Receives Texas Aggregation License

The PUCT granted CCMS, Inc., d/b/a Condominium Consulting & Management Services, an electric aggregator certificate (Only in Matters, 6/8/10).

Infinite Energy Requests Ga. PSC Issue RFP for Regulated Provider

Infinite Energy informed the Georgia PSC that it would like the opportunity to submit a bid to serve as the Regulated Provider at Atlanta Gas Light for the upcoming two-year term, and requested that the PSC not exercise its option to add a third year to the current two-year term being served by Scana Energy Marketing in lieu of issuing an RFP. As only reported in *Matters*, Scana Energy Marketing said it is willing to continue as the Regulated Provider for an additional year under the current terms (Only in Matters, 6/16/10).

ICC Issues Second Notice Order on Electric Supplier Certification

The Illinois Commerce Commission approved a second notice order (10-0108) concerning regulations governing the certification of alternative retail electric suppliers that preserves the ability of suppliers to meet certain financial requirements through use of an unconditional guarantee, payment bond, or letter of credit, after industrial customers acquiesced to language designating the payee of such guarantees as the People of the State of Illinois (see Matters, 6/14/10). The final order also affirms a draft finding that suppliers shall be required to report to the ICC any purchase or transfer of customer accounts from another supplier 30 days after the execution of such transaction, rather than 30 days prior to execution as originally proposed (see Matters, 5/18/10).

Just Energy Plan to Transition to Corporation Approved

Just Energy Income Fund announced that it has obtained a final order from the Court of Queen's Bench of Alberta approving its plan of arrangement under the Canada Business Corporations Act pursuant to which Just Energy's trust structure will be converted to a publicly traded corporation named Just Energy Group Inc. The conversion is expected to become effective on or about January 1, 2011.

ICC Dockets Just Energy Audit Proceeding

The Illinois Commerce Commission docketed the required audit of Just Energy's sales program as Docket 10-0398. The ICC reported that the Commission did not approve any of the auditors and audit proposals submitted by Just Energy, and ordered that an auditor shall be selected through the state procurement process, whereby Staff shall issue a Request for Proposal to solicit bids from independent firms to perform the audit and select a firm to conduct the audit. The audit is required under the ICC's order in the Citizens' Utility Board complaint proceeding (Only in Matters, 4/15/10). Separately, Just Energy has submitted a complaint summary report to ICC Staff. The summary report is not required by the ICC's complaint order, but is a voluntary submission meant to facilitate communication, Just Energy said.

Direct Energy Offering Initial Guaranteed Discount on Alberta Fixed Electric Products

Direct Energy has launched a "Stability Plus" electric product in Alberta that offers a guaranteed discount off the Lowest Regulated Rate Option charged by several distributors for the first six months of the plan, and a fixed price thereafter.

Effective July 1 as scheduled, Alberta completed the transition to a monthly default service rate for small volume customers. Since 2006, the Regulated Rate Option has reflected an increasing amount of spot energy blended with long-term supply. Starting July 1, the Regulated Rate Option reflects 100% short-term pricing.

The Regulated Rate Providers still serve 70% of residential customers.

Under Direct's Stability Plus product, the discount will apply off of the lowest Regulated Rate Option charged to regulated customers by Direct Energy Regulated Services, Enmax, Epcor, and the City of Lethbridge in each month. For purposes of setting the discounted rate, other distribution providers' Regulated Rate Option are not included.

The Stability Plus 12-month electric plan offers a six-month discount of 10% versus the lowest default rate, and a rate of 7.49¢/kWh (for online enrollments) thereafter. The Stability Plus 36-month electric plan offers a six-month discount of 20% versus the lowest default rate, and a rate of 7.77¢/kWh thereafter. The Stability Plus 60-month electric plan offers a six-month discount of 25% versus the lowest default rate, and a rate of 7.99¢/kWh thereafter (all figures Canadian).

The Stability Plus electric plans carry a $9 per meter administration fee. For customers electing Direct's Stability Plus dual fuel (electric and gas) plan, the administration fee per meter is reduced to $4.50.

Currently, only four suppliers are contesting the Alberta residential market: Direct, Just Energy, EasyMax (Enmax), and Spot Energy.

Calif. ALJ Orders Utilities to File Convergence Bidding Plans

A California PUC ALJ has directed any of the investor-owned utilities which anticipate participating in the California ISO convergence bidding market to submit proposals detailing the parameters of such participation by July 14 (R. 10-05-006)

The directive came in the 2010 Long-Term Procurement Planning docket, and precedes a scoping memo, due to time constraints noted by the ALJ. Convergence bidding is expected to be implemented by the CAISO by February 2011.

Other stakeholders may also file proposals concerning the utilities' participation in convergence bidding by July 14, including any constraints or limitations that should be placed on such participation, and how such participation should be considered in the risk management strategies of the utilities in their bundled procurement plans.

The ALJ noted that, if the PUC does allow the utilities to benefit from ratepayer pass-through of convergence bidding losses at any level, "there are numerous questions to be answered regarding this new market's effect on the IOUs' overall procurement risk management and the proper allocation of risks and rewards between ratepayers and shareholders."

Among the questions the ALJ directed parties to answer is what steps should the Commission take to ensure that a utility's participation in the virtual bidding market does not benefit the utility's affiliates in energy or other CAISO products.

A workshop on utility convergence bidding is scheduled for July 16.

FERC Rejects IPPNY Protest on Champlain Hudson Power Express Line

Rejecting a protest from the Independent Power Producers of New York, FERC granted Champlain Hudson Power Express' request for negotiated rate authority, and authorization to reserve 75% of capacity for anchor shippers, for a proposed 2,000 MW merchant transmission line linking Montreal, Quebec to the New York

City and New England area markets (ER10-1175, Only in Matters, 5/25/10).

IPPNY had argued that the project did not fulfill the Commission's open access requirements because only Canadian generators will realistically be able to obtain interconnection and transmission service from the injection point in Canada. As the injection point is outside of FERC jurisdiction, IPPNY contended that open access to the project is not guaranteed. Since generation over the line can only be wheeled from the injection point near Montreal, New York generators will be effectively precluded from accessing the project, IPPNY said.

FERC called IPPNY's allegations "vague" and said that IPPNY failed to establish that the proposal is inconsistent with FERC policies. "The line will originate in Canada, on a transmission system operated under a reciprocity tariff. Champlain has committed to turn over control of the Project to NYISO and ISO-NE, thus mitigating the opportunity to control or manipulate access to transmission service. Under Champlain's proposal, it will not be affiliated with any generation-owning transmission customer, and the Project will link the New York and New England markets to an established source of hydroelectric power, with a merchant developer bearing all financial risk," the Commission said.

MISO Seeks to Eliminate Conflict Between Module B, Module E

The Midwest ISO has submitted revisions to Module B of its OATT to address conflicting provisions in Section 30.8 of Module B and the must offer provisions of the Module E resource adequacy program.

When a Market Participant converts to Planning Resource Credits the Unforced Capacity from an External Resource that is a Network Resource and qualifies as Capacity Resource, a conflict between the current tariff provisions in section 30.8 of Module B and section 69.5 of Module E is possible. Section 30.8 of Module B of the tariff restricts a Network Customer's use of the Interface capacity to the lesser of a Network Customer's actual Network Load or the available Interface capacity. However, Section 69.5 of the tariff requires a Market Participant to offer into the Day-Ahead Market a quantity of Energy equal to the Installed Capacity that was converted into Planning Resource Credits.

"Thus, the quantity of Energy originating from an External Resource that is a Capacity Resource, that is (i) required to be offered into the Day-Ahead Energy Market to meet the must offer requirement and which (ii) clears in the Day-Ahead Market may be in excess of a Network Customer relying on that Capacity’s Network Load and, thus, in violation of the restriction in section 30.8," MISO said.

To resolve this issue, the Midwest ISO proposed a limited exception to Module B's restriction on the use of Interface capacity. Specifically, the Midwest ISO proposed adding language to Section 30.8 providing that the usage restriction related to Load shall not limit an entity's ability to use Interface capacity to schedule a quantity of Energy in excess of Load to the extent such Energy is scheduled to meet the Network Customer's must offer requirements set forth in Module E of the tariff.

MISO said that the modification will assure that Market Participants can both meet their must offer requirements for their Capacity Resources, and assure that adequate Energy is offered into the Day-Ahead Energy Market and made available for the Midwest ISO's Reliability Assessment Commitment.

MISO Files to Reduce Day-Ahead Clearing Window to Four Hours

The Midwest ISO has filed tariff revisions with FERC to post the results of the day-ahead market at 1500 hours EST rather than 1600 hours EST, which will effectively reduce the day-ahead clearing window to four hours.

The revisions maintain the current market close of 1100 EST. However, MISO is proposing modifications to move the Reliability Assessment Commitment (RAC) rebid period from the current 1600 to 1700 EST window to a new window of 1500 to 1600 EST, with the RAC studies beginning at 1600 EST.

MISO said that the changes would better

align the Midwest ISO markets with those of other regional markets, allow Market Participants to gain access to market information earlier than previously allowed, and improve reliability by providing better access to units with longer lead time requirements in the RAC and the day-ahead markets.

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Additionally, Staff alleged that dPi has failed to meet the requirement that it have at least one principal or employee with five years of experience in energy commodity risk management of a substantial energy portfolio.

Staff alleged that dPi failed to timely file an application to amend its certificate to reflect the new ownership. Such notice is required within 10 working days. Staff said that the transaction resulting in the change in dPi's ownership occurred on November 17, 2009, but said that an amendment application was not filed until January 25, 2010. Staff alleged that, "the pending Change of Ownership Application was filed only after repeated requests from Commission Staff to dPi Energy to file an amendment application to report a change of ownership."

Finally, Staff cited dPi's alleged violations of various consumer protection rules detailed in a Notice of Violation issued last week as evidence of the lack of managerial fitness (Only in Matters, 6/29/10).

In a May 2010 filing, dPi Energy said that it had approximately 35,000 customers, the vast majority of which are prepaid.

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incurred prior to January 1, 2011, once the revised program starts. The Office of Consumer Advocate had objected to such authority, arguing that PECO's Restructuring Settlement prohibits the disconnection of customers for non-payment of competitive supply charges during its term. Although the Restructuring Settlement expires December 31, 2010, OCA argued that receivables incurred while it was in effect are still governed by its protections, and thus PECO may only terminate customers for any receivables incurred on or after January 1, 2011.

The PUC disagreed, finding that the language of the Restructuring Settlement is clear in stating that, "this settlement shall expire on December 31, 2010."

"The expiration of the Restructuring Settlement also causes the consumer protection at issue here to expire," the Commission found, stressing that adequate consumer protection exists in PECO's POR program since PECO will follow the disconnection regulations in the Chapter 14 and Chapter 56 requirements, which include a service termination moratorium period of December 1 through March 31.