

Energy Choice

Matters

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Briefly:

Stream Energy Seeks Michigan Gas License

Stream Energy has applied for a Michigan alternative gas supplier license.

Border Energy Seeks Ohio Electric License

Border Energy applied for an Ohio electric supplier license to serve all customer classes, including residential customers, in all service areas. Border currently has over 24,000 natural gas customers at Northern Indiana Public Service Company, Columbia Gas of Ohio, and Consumers Energy (Michigan). Border Energy reported an average annual customer volume of more than 5.5 billion cubic feet. Although at one point in its application Border states that it initially plans to enter the market as a broker and use its industry contacts to build its book of business, it apparently intends to transition to a load serving entity after this initial phase. Border is seeking a license as a Retail Generation Provider, Power Broker, and Aggregator under the process for a certificate to provide competitive retail electric service, typically used for load serving entities (as opposed to the separate process for certification as a governmental aggregator/power broker).

Volunteer Energy Services Seeks Authority to Market at National Fuel Gas Distribution in Pa.

Volunteer Energy Services has applied to amend its Pennsylvania natural gas supply license to include authority to market at National Fuel Gas Distribution. In Pennsylvania, Volunteer is currently licensed to serve customers at Columbia Gas and Peoples Natural Gas.

Md. PSC Denies Pepco Utilities' Interim SOS Cash Working Capital Requests

The Maryland PSC on Friday issued letter orders denying the requests of Pepco and Delmarva Power & Light to include higher cash working

capital costs in the SOS rates effective June 1, 2010, subject to refund, finding the requests to be premature. As only reported in *Matters*, at the Commission's May 26 meeting, the PSC had suspended the tariffs including the higher cash working capital costs and took them under advisement, declining to immediately grant the requested relief but not, at that time, denying the request (Only in *Matters*, 5/27/10). In the letter orders, the PSC said that since the matter of cash working capital costs recovered through SOS rates had been previously set for hearing (Cases 9226, 9232), the Commission will not prejudge the issue by granting interim relief. The Pepco utilities also failed to support their request to establish a regulatory asset associated with cash working capital expenses, the PSC said.

Energy, Inc. Renames Itself Gas Natural Inc.

Energy, Inc., whose operations include the marketing of approximately 2.4 billion cubic feet of natural gas to commercial and industrial customers in Montana and Wyoming on an unregulated basis as Energy West Resources, has completed its reincorporation from Montana to Ohio and changed its name to Gas Natural Inc. Gas Natural Inc. also includes various utility, production and gathering, and pipeline operations.

Mass. DPU Grants Partial Intervention to Retail Supply Interests in Grid-Cape Wind PPA Review

A Massachusetts hearing officer granted partial intervention to Direct Energy Services, Constellation NewEnergy, and the Retail Energy Supply Association in the Massachusetts DPU's review of National Grid's request for authorization for a long-term contract with Cape Wind (10-54). The retail supply parties may participate as an intervenor only regarding the sole issue of the proposed ratemaking treatment of the PPA, including how the costs of the

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OCA Releases Pennsylvania Electric Migration Statistics

The Pennsylvania Office of Consumer Advocate has posted updated electric migration statistics as of July 1, 2010. For all utilities except PPL, the statistics are as of July 1, 2010, and are compared with statistics as of April 1, 2010. For PPL, whose statistics also include pending enrollments, the statistics are as of July 3, 2010, and are compared to statistics as of April 3, 2010.

PPL residential migration is over 386,000 customers, or nearly 32%.

Number of Customers Served By Alternative Suppliers

	Residential		Commercial		Industrial		Total	
	July '10	Change vs. April '10	July '10	Change vs. April '10	July '10	Change vs. April '10	July '10	Change vs. April '10
Allegheny Power	0	0	345	344	0	0	345	344
Duquesne Light	105,073	(1,672)	12,697	655	627	0	118,397	(1,017)
MetEd/Penelec	0	0	104	103	37	33	141	136
PECO	2,388	(92)	18,461	(392)	11	0	20,860	(484)
Penn Power	21,897	418	3,137	200	173	23	25,207	641
PPL	386,473	55,571	69,312	6,221	993	36	456,778	61,828
UGI	0	0	275	131	49	22	324	153
Total	515,831	54,225	104,331	7,262	1,890	114	622,052	61,601

Percentage of Customers Served By Alternative Suppliers

	Residential		Commercial		Industrial		Total	
	July '10	April '10	July '10	April '10	July '10	April '10	July '10	April '10
Allegheny Power	0%	0%	0.4%	0%	0%	0%	0.4%	0%
Duquesne Light	20%	20.3%	21%	19.9%	53.3%	53.4%	20.2%	20.3%
MetEd/Penelec	0%	0%	0.1%	0%	0.9%	0.1%	0%	0%
PECO	0.2%	0.2%	11.8%	12%	0.4%	0.4%	1.3%	1.4%
Penn Power	14.8%	14.5%	15%	14%	68.4%	66.7%	14.9%	14.5%
PPL	31.5%	27.1%	39.5%	36.7%	78.7%	78.4%	32.5%	28.3%
UGI	0%	0%	3.4%	1.7%	16%	14.4%	0.5%	0.3%

Customer Load (MW) Served By Alternative Suppliers

	Residential		Commercial		Industrial		Total	
	July '10	Change vs. April '10	July '10	Change vs. April '10	July '10	Change vs. April '10	July '10	Change vs. April '10
Allegheny Power	0	0.0	78.1	41.1	0	0.0	78.1	41.1
Duquesne Light	226.6	(3.6)	1,253.50	33.6	665.1	(4.9)	2,145.20	25.1
MetEd/Penelec	0	0.0	23	22.9	75.8	10.0	98.8	32.9
PECO	4.9	(0.3)	128.9	(1.9)	3.9	(0.3)	137.7	(2.5)
Penn Power	29.1	13.9	180.2	109.7	189	48.9	398.3	172.5
PPL	1,290	466.0	1,811	794.0	1,725	458.0	4,826	1,718.0
UGI	0	0.0	11.7	1.7	9.3	0.9	21	2.6
Total	1,550.60	476.0	3,486.40	1,001.1	2,668.10	512.6	7,705.10	1,989.7

Percentage of Customer Load Served By Alternative Suppliers

	Residential		Commercial		Industrial		Total	
	July '10	April '10	July '10	April '10	July '10	April '10	July '10	April '10
Allegheny Power	0%	0%	6.6%	3.8%	0%	0%	6.6%	3.8%
Duquesne Light	18.6%	18.8%	58.6%	57.3%	89%	89.6%	52.2%	51.7%
MetEd/Penelec	0%	0%	1.3%	0%	10.3%	7%	2.2%	2.3%
PECO	0.2%	0.2%	5.4%	5.4%	0.2%	0.2%	1.7%	1.7%
Penn Power	14.8%	12.4%	59.2%	61.3%	94.5%	91.9%	56.8%	57.9%
PPL	35.9%	27.8%	81.1%	50.6%	93%	66.9%	62.8%	47.5%
UGI	0%	0%	19.8%	16.9%	45.3%	40.9%	10.9%	9.6%

West Penn Power Seeks Extension of REC Block Product

West Penn Power (Allegheny) has petitioned the Pennsylvania PUC for authority to continue offering its Wind Energy Service Rider, a REC block program, for an additional three years through December 31, 2013 (P-00072349).

Currently, the rider is set to expire December 31, 2010. The Wind Energy Service Rider allows Allegheny to sell to customers blocks of 100 kWh of wind RECs at a price of \$2.50 per block. Allegheny is not seeking a change in price as part of its petition.

Allegheny reported that approximately 2,050 customers participate in the Wind Energy Service Rider. Participation levels per customer range from 100 kWh to 1,500 kWh per month. The most common participation level is two 100 kWh blocks, or 200 kWh. To date, the total participation level has been approximately 4,178 MWh. The PUC has set a maximum participation level of 23 GWh.

Allegheny's expenditures for the program have been "minimal," it reported to the PUC. Allegheny made a one-time expenditure of approximately \$20,000 in setting up the program in 2008, and since then the program has incurred minimal expense.

Allegheny further requested to modify the contents of the REC blocks such that 30% of RECs are sourced from wind projects located in Pennsylvania, with the remaining RECs sourced from wind projects in PJM. Currently, the blocks include 20% Pennsylvania wind RECs, 20% wind RECs from other PJM regions, and 60% wind RECs from areas within the Midwest ISO.

Conn. Draft Would Approve Settlement to Allow Drop of Delinquent FT Customers

A draft Connecticut DPUC decision would approve a settlement allowing natural gas marketers to drop delinquent customers from their supply pools during the initial 12-month firm transportation (FT) term without the potential for financial repercussions from the LDCs, such as failure to deliver penalties (06-04-04RE01).

The settlement, only reported in *Matters*

(4/26/10), results from Direct Energy's complaint which was prompted by Connecticut Natural Gas and Southern Connecticut Gas interpreting the 12-month minimum stay on Firm Transportation service as preventing a marketer from ceasing supply to a customer in default (Only in Matters, 11/26/09).

The settlement recommended for approval by the draft would allow a marketer to drop a delinquent customer from its supply pool during the initial 12-month FT term upon declaring the customer in "default," with the customer returning to the LDC's supply service.

This process would be initiated by a marketer's submittal of a customer drop and default notification form to the LDC. Next, the LDC would send the defaulting customer a "Payment Default Notice" informing them: (a) of their payment default with the marketer; (b) that they have been defaulted to Billing Option 3, whereby the LDC bills for both marketer supply and LDC distribution service; and (c) that they will be billed for a security deposit equal to the three highest months' usage for both delivery and supply. If the security deposit is not paid within the LDC's specified timeframe, the customer would be subject to disconnection.

The defaulting customer would also be informed of their options to retain uninterrupted gas service. These options include: (1) paying the outstanding balance owed to current marketer and the termination action would be rescinded; (2) electing another marketer; or (3) electing to purchase gas from the LDC. If no election is made, the customer would default to the LDC's supply service under the guidelines stated above in the Payment Default Notice.

In draft findings, the Department said that it is satisfied that the proposed process for a marketer to drop a defaulting customer is fair to both the marketer and the defaulting customer, while providing adequate protection for the LDCs and their ratepayers. Further, the Department does not believe that the settlement agreement would increase the gaming potential by marketers or customers.

The ability to drop a customer prior to end of the 12-month initial FT term would only be available for non-payment. The draft decision would also accept, with clarifications, tariff language to implement the settlement.

RESA Forms California Monitoring Group

The Retail Energy Supply Association has formed a California monitoring group to expand its regulatory monitoring activities to the California PUC, state legislature, California ISO, and other energy-related state agencies.

The California monitoring group will be chaired by Tim LoCascio, Regulatory Affairs Manager for Liberty Power. At Liberty, LoCascio has overseen a variety of functions, including regulatory monitoring and advocacy, market research, compliance, and external communications. LoCascio has also spoken as an authority on retail choice at industry events, including the Maryland PSC's 2009 supplier meeting, and in various trade publications and general circulation newspapers.

Sue Mara, Principal of RTO Advisors, LLC, will serve as the California monitoring group's consultant.

"The tremendous response to the California direct access enrollment process, in which the Year One competitive electric load cap was reached nearly instantaneously after the enrollment window opened, speaks for itself - customer demand for retail services is very high in California," said LoCascio.

"We enter the California market as an Association to ensure that the benefits of choice and competition - both in terms of downward pressure on price and value-added products and services such as demand response, renewable energy and energy efficiency - become a reality for Californians of all customer classes and sizes, not just for a select few," added Jay Kooper, President of RESA.

Consumers Energy Not Opposed to Energy Michigan Interim Surcharge Request

Consumers Energy said that it does not oppose Energy Michigan's request to revise the interim electric surcharge, to be imposed by Consumers as part of the self-implementation of a rate increase, applicable to the residential retail open access schedule (Rate ROA-R).

As only reported in *Matters*, Energy Michigan had opposed setting the surcharge for

schedule ROA-R customers at the same level as for full service residential customers, since full service customers' cost of service is higher given that it includes generation in addition to distribution (Only in Matters, 7/7/10). Consumers said that it proposed setting the interim surcharge at the same level for both residential schedules since the PSC, in Consumers' previous self-implementation surcharge, set the ROA-R surcharge at the same level as the surcharge for the full service residential rate.

"Nevertheless, the Company notes that it has no customers taking service on ROA-R, that it has never had any customers taking service on ROA-R, and that it does not anticipate that any customers will be taking service on ROA-R in the near future. Therefore, Consumers Energy has no objection to the Commission granting the relief sought by Energy Michigan," Consumers said.

Consumers included revised tariff sheets which would impose, under the equal percentage method, an interim surcharge of \$0.005905/kWh on Rate RS customers, a surcharge of \$0.005372/kWh on Rate RT customers, and a surcharge of \$0.002368/kWh on Rate ROA-R customers (U-16191). Consumers also proposed an alternative cost allocation method for the interim surcharge which similarly includes a higher surcharge for full service customers versus retail access customers.

RESA Urges Lowering CIEP Cutoff to 500 kW by June 1, 2011

New Jersey should establish a "glide-path" for incremental reductions in the Basic Generation Service hourly pricing cutoff, RESA said in comments to the New Jersey BPU, suggesting that regulators take an initial step of lowering the threshold for mandatory hourly pricing to 500 kW effective June 1, 2011 (EO10050338).

The current cutoff for mandatory hourly pricing, which is applicable to the CIEP Class, is 1,000 kW.

RESA said that the current fixed pricing applicable to commercial customers under 1,000 kW serves as a barrier to expanded

customer choice, fails to promote demand-side strategies, and "subjects these customers to artificial above-market prices for their electric supply precisely during a time of severe economic recession because the price is based on past years' higher price auction results."

Under RESA's proposed glide-path, after setting the CIEP threshold at 500 kW, the BPU would annually consider further lowering the cutoff.

RESA also called for continuation of the current 5 mill/kWh Retail Margin applicable to BGS pricing for customers above 750 kW, and suggested extending the Retail Margin to all customers. RESA said that the margin is required as New Jersey has not undertaken a full unbundling of distribution rates to remove any generation-related administrative or operating costs. Without such unbundling, competitive supply customers pay twice for such costs (once in distribution rates even though they do not purchase generation from the utility, and a second time to their competitive provider), RESA said.

Such costs which remain bundled include generation-related working capital costs, insurance costs, billing and collection costs, and various other administrative costs. RESA noted that unbundling would be a complicated process, and thus concluded that the Retail Margin, "appropriately act[s] as a proxy for reflecting these costs in BGS rates."

Since the anti-competitive effects of such bundling are present at all customer sizes, RESA said that the Retail Margin should be applicable to all BGS customers.

RESA also said that the Retail Margin acts as a proxy for other costs of providing retail supply not included in the default service rates, such as marketing, advertising, and acquisition costs.

While RESA does not propose a change in the current level of the Retail Margin, RESA argued that should the BPU pursue a change, it must do so after a full analysis of the various costs intended to be recovered by or reflected in the Retail Margin. The Retail Margin could actually be under-collecting such costs, RESA said, since it has not been adjusted since 2003.

NARUC Deplores FERC Staff Unilateral Filing of Incomplete Draft Resolution in Public Record

The National Association of Regulatory Utility Commissioners has demanded that FERC strike from the record in a complaint regarding California's jurisdiction to establish rates for mandatory feed-in tariffs (EL10-64) a draft NARUC resolution supporting state jurisdiction over such matters, after FERC Staff unilaterally lodged in the docket an incomplete and out-of-context version of the draft, attributing the filing as NARUC "comments" in the proceeding.

NARUC circulated the draft, which does not represent NARUC policy until voted upon by members, on its email listserv, which apparently includes several FERC Staffers. Apparently, FERC Staff, in what NARUC called an unusual step, considered the draft policy document *ex parte* communications, and made it part of the record in EL10-64.

However, the manner in which the draft was lodged at FERC severely mischaracterized the nature and author of the document, and why it was filed.

FERC Staff filed the draft NARUC resolution as a NARUC "comment on a filing" and listed NARUC as the filing party. However, it was FERC Staff's unilateral decision to make the document part of the record. NARUC stressed that it is not currently an interested party to the proceeding, and is currently neutral with regard to the complaint -- a position which is not reflected in the attribution of the draft resolution as a NARUC comment.

Furthermore, FERC Staff did not file NARUC's complete 35-page document as circulated on the listserv, but only a single page of it.

"It is wholly inappropriate to take one page out of context and post it separately as a 'comment' 'authored' and 'filed' by NARUC," NARUC said. Additional pages omitted from the lodged documents indicated that the resolution was a draft and could be substantially modified.

"Counsel is unaware of any United States agency or court precedent that allows an agency receiving what *they deem to be* an advocacy document to *edit it* before placing it in the record," NARUC added.

"What is currently in the record is not what NARUC circulated. It is taken out of context and makes the record entry even more misleading," NARUC General Counsel James Bradford Ramsay wrote to FERC in an email accompanying NARUC's request for the document to be stricken from the record.

"The current FERC entry lists NARUC as the 'author.' That is simply inaccurate. NARUC did not authorize nor did NARUC's counsel draft the proposed resolution. Moreover, neither NARUC nor its counsel formally submitted the draft as an adopted NARUC position for the record of this proceeding. Unfortunately, the obvious implication from any examination of the FERC staff's record entry is that NARUC did authorize the drafting of the resolution and, in particular, the particular policy stance suggested. NARUC did not. The entry also specifies that NARUC submitted the document as a 'comment' on the proceeding. NARUC did not."

FERC Staff's filing, "clearly indicates NARUC has weighed in favoring one party in the proceeding [when] NARUC has not done so," NARUC added.

While NARUC questioned whether FERC Staff even needed to make a draft resolution part of the record under ex parte rules, NARUC called FERC Staff's actions to make the document part of the record inconsistent with FERC's policy for the filing of such ex parte communications. Specifically, any ex parte materials are to be filed showing the FERC Secretary as the person entering the document, and are to include an explanation of how the document was received.

"The Association is very anxious to assure proposals for NARUC policy do not ever find their way into the records of contested proceedings again," and offered take FERC Staff off of its listserv.

As of July 11, the NARUC draft submitted by FERC Staff does not appear under EL10-64, though it is unclear if it has been officially stricken.

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contracts will be recovered from basic service and distribution service customers. National Grid has proposed recovering the PPA's above-market costs from all distribution customers (Matters, 5/11/10). The hearing officer found that the retail supply parties did not allege or demonstrate that they are substantially and specifically affected by issues other than the ratemaking treatment of the PPA.

FERC Grants PSEG Power Connecticut Capacity Ratings Complaint

FERC granted a complaint from PSEG Power Connecticut LLC which disputed ISO New England's Capacity Network Resource Capability ratings for Bridgeport Harbor Unit No. 3 (BH-3), and Bridgeport Harbor Unit No. 4 (BH-4) for the August 2010 Forward Capacity Auction (EL10-58). FERC agreed with PSEG that ISO-NE had no basis to reduce the Capacity Network Resource Capability ratings for the PSEG units by relying on the lower limits contained in an interconnection agreement, as opposed to the documented historical capability of the units. ISO-NE had argued that, based on tariff language, the values in an interconnection agreement controlled over other values, but FERC disagreed and said, in the circumstances of PSEG's complaint, other methods of setting the values, such as historical capability, are to be granted coequal status.