

Energy Choice Matters

July 19, 2010

Year Two Calif. Direct Access Cap Hit, PUC Staff Reports on Year One Process

Pacific Gas & Electric confirmed that its Year Two direct access cap was hit Friday, the first day of the six-month advance notice period for Year Two, while suppliers and industry experts expect that the caps were hit at the other utilities as well.

Although it may take several days for the utilities to confirm the total load submitted on Friday (needing to verify the advance notices were submitted properly and to eliminate duplicates), Andrea Morrison, President of the Alliance for Retail Energy Markets, expects that the Year Two cap was hit Friday, and that it was hit as quickly as the Year One cap (i.e. the first minute of the window).

On Friday, Pacific Gas & Electric called Friday's submissions comparable to April's submissions. By Monday morning, PG&E had updated its website to state that it is not currently accepting additional six month notices, as the 2011 direct access load cap has been fully subscribed. Southern California Edison described the Year Two advance notices submitted on Friday as showing greater interest than versus the April open enrollment window. San Diego Gas & Electric did not return a call seeking comment.

If accepted by the utilities under the cap, the advance notices allow customers to take direct access service starting six months from the date of submission (i.e. January 16, 2011).

Based on the PUC's original March order (ignoring the impact of any 10% threshold triggered in Year One), the incremental load available for Year Two direct access was 1,381 annual GWh at PG&E and SCE, and 161.7 annual GWh at SDG&E.

Staff Report on Year One Open Enrollment Window

A PUC Staff report released Friday on the operation of the Year One Open Enrollment Window shows just how quickly the cap (and the wait list) was hit upon the start of the window in April:

| Utility | Cap Filled (seconds) | Wait List Filled (additional seconds) |
|---------|----------------------|---------------------------------------|
| PG&E | 30 | 8 |
| SCE | 44 | 39 |
| SDG&E | 8 | 1 |

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Pa. Tentative Order Requires Separation Between Agent, Customer During Verification

The Pennsylvania PUC published for comment the draft electric and gas marketing standards voted on last week, stating that the standards represent a consensus of working group participants with the exception of: (1) the requirement for a door-to-door sales agent to leave the premises during verification, (2) hours where door-to-door marketing is restricted, and (3) the requirement to inform distribution companies of active marketing which may generate customer calls to the distribution company (M-2010-2185981).

The proposed marketing standards hold that the transaction verification process shall occur after the "agent" has physically separated himself from the potential customer by exiting the customer's

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WGL Seeks Rehearing of POR Order to Ensure Collection of All Bad Debt Costs

Washington Gas Light has petitioned the Maryland PSC for rehearing of the Commission's order on WGL's Purchase of Receivables compliance filing, to ensure WGL can recover any under-collected bad debt from suppliers (Only in Matters, 7/1/10).

In the PSC's June 30 order, the Commission rejected WGL's proposed risk factor of 0.25%, which was intended to protect WGL against any under-recovery of bad debt. Although WGL's POR discount rate has a reconciliation component, WGL's compliance plan provides that bad debt shall be excluded from the amounts which can be reconciled when resetting POR rates, with the reconciliation component meant to collect (or credit) any undercollections (or overcollections) in other factors such as implementation costs.

WGL asked the PSC to approve a revised reconciliation factor similar to the reconciliation factor approved at BGE. Specifically, WGL asked that it be authorized to include in the reconciliation factor any difference between (i) the level of bad debt experience reflected in WGL's POR discount rates, and (ii) the level of bad debt experience incurred as a result of the purchase of receivables from competitive gas suppliers during each annual period.

WGL also submitted new discount rates reflecting the Commission's directive to use a separate rate for residential and non-residential customers. The discount rates are for informational purposes only, as WGL has asked to update the rates with data as of Nov. 30, 2010 prior to commencing POR on Feb. 1, 2011.

| | Residential | Non-Residential |
|------------------------|-------------|-----------------|
| Bad Debt | 1.51% | .49% |
| IT Implementation | .52% | .02% |
| Incremental Collection | .49% | .03% |
| Risk Factor | 0% | 0% |
| Reconciliation | -- | -- |
| Total: | 2.52% | .53% |

The IT costs listed above reflect a five-year amortization, which is WGL's preference. As directed by the PSC, WGL also included pro forma rates that would result from a three-year

or two-year amortization, with the shorter amortization periods resulting in higher discount rates.

The risk factor component, though set at zero by the PSC until further order, is included as a POR discount component in the tariff language. WGL's tariff language calls for an annual assessment to calculate the level of the risk factor.

Briefly:

Live Energy Seeks Pa. Broker License

Live Energy, Inc. applied for a Pennsylvania electric broker license to serve commercial customers over 25 kW and industrial customers in all service areas.

Texzon Utilities Seeks Pa. Broker License

Texzon Utilities, Ltd. applied for a Pennsylvania electric broker license to serve all classes of customers in all service areas.

BidURenergy.com Seeks Ohio Broker License

BidURenergy.com applied for an Ohio electric broker/aggregator license to serve all customer classes in all service areas.

Community Power & Utility Receives Conn. Electric License

The Connecticut DPUC granted Community Power & Utility, LLC an electric supplier license to serve residential, commercial and industrial customers (Only in Matters, 3/24/10).

Energy Cooperative of America Seeks Expanded Pa. License

The Energy Cooperative of America, Inc. applied at the Pennsylvania PUC to amend its electric generation supplier license to include the service areas of Penn Power, Met-Ed, Penelec, PECO, and West Penn Power (Allegheny) in addition to PPL.

Commercial Utility Consultants Seeks to Serve Residential Pa. Customers

Commercial Utility Consultants applied at the Pennsylvania PUC to amend its electric broker license to include authorization to market to

residential customers.

Central Penn Electricity Consultants Receives Pa. Broker License

The Pennsylvania PUC granted Central Penn Electricity Consultants an electric broker license to serve all sizes of non-residential customers at PPL, PECO, West Penn Power, and Met-Ed (Only in Matters, 3/11/10).

Satori Energy Receives Pa. Broker License

The Pennsylvania PUC granted Satori Energy an electric broker license to serve commercial customers over 25 kW and industrial customers at PECO, West Penn Power, Met-Ed, and Penelec (Only in Matters, 4/6/10).

Integrity Energy Receives Pa. Broker License

The Pennsylvania PUC granted Integrity Communications of Ohio, LLC, d/b/a Integrity Energy, an electric broker license to serve all sizes of non-residential customers in all service areas.

North Shore Energy Consulting Receives Pa. Broker License

The Pennsylvania PUC granted North Shore Energy Consulting, LLC an electric broker license to serve all sizes of non-residential customers in all service areas (Only in Matters, 5/31/10).

Hospital Energy LLC Receives Pa. Broker License

The Pennsylvania PUC granted Hospital Energy LLC an electric broker license to serve commercial customers over 25 kW in all service areas.

Sunoco Power Marketing Receives Pa. Electric License

The Pennsylvania PUC granted Sunoco Power Marketing LLC an electric generation supplier license as a generator and supplier of electric power to serve all sizes of non-residential customers. Sunoco Power Marketing has said that it wishes to self-supply its load in the PECO service area (Only in Matters, 5/5/10).

Unified Energy Services Receives Expanded Pa. License

The Pennsylvania PUC granted Unified Energy Services LLC an amended electric broker license to include serving residential customers in all service areas in addition to non-residential customers.

Choice Energy Services Retail Receives Expanded Pa. License

The Pennsylvania PUC granted Choice Energy Services Retail an amended electric broker license to include serving residential customers in all service areas in addition to non-residential customers.

Genesis Energy International Receives Md. Broker License

The Maryland PSC granted Genesis Energy International, LLC an electric broker license to serve residential, commercial, and industrial customers at the four investor-owned utilities (Only in Matters, 6/22/10).

Seven Utility Management Consultants Receives Ohio Broker License

The Public Utilities Commission of Ohio granted Seven Utility Management Consultants, LLC (J. Andrew Associates Inc.) an electric broker license to serve commercial, mercantile, and industrial customers in all service areas (Only in Matters, 6/14/10).

N.Y. PSC Approves Corning Refund Allocation to Sales and Transportation Customers

The New York PSC approved Corning Natural Gas's tariff revision to allow a refund from Tennessee Gas Pipeline Company to be paid to all customers, including transportation customers, through the Delivery Rate Adjustment, instead of the normal refund procedure which uses the Gas Adjustment Clause to credit only sales service customers (10-G-0183). The refunds relate to service provided by Tennessee from 1992 through 2000, and thus most transportation customers, as bundled customers at that time, paid for the service and are entitled to a share of refunds, the PSC said. The total refund due to Corning is approximately \$426,000, including interest.

AEP Texas Still Anticipates Providing Settlement Quality AMS Data by August

The AEP Texas companies still anticipate that the first settlement quality usage data provided to ERCOT by AEP Texas for provisioned smart meters will be in August 2010. As of June 30, AEP Texas had installed 32,944 advanced meters, Oncor had installed 1,086,006 advanced meters, and CenterPoint had installed 455,824 advanced meters.

N.Y. PSC Approves ConEd Tariff Change to Revise Calculation of MSC

The New York PSC approved on a permanent basis Consolidated Edison's tariff filing to implement the Commission's previous directive that ConEd revise its Market Supply Charge (MSC) to reflect actual day-ahead market prices that were in effect during each customer's billing period (see Matters, 2/24/09). The revised MSC calculation had taken effect February 1, 2010 on a temporary basis. Included in the tariff changes is a modification requiring the Monthly Adjustment Clause (MAC) to be forecast on a monthly basis instead of a quarterly basis, to make it more consistent with the revised MSC mechanism (07-E-0523).

EFH Initiates Debt Exchange

Energy Future Holdings has initiated another debt exchange which would trim debt up to \$900 million if fully subscribed (excluding interest savings), by offering \$2.18 billion in new 10% senior secured notes due in 2020, and an aggregate of \$500 million in cash, in exchange for various notes which are due in 2017. Debt holders taking advantage of the exchange would receive between 67¢ and 78.5¢ on the dollar, depending on the type of debt they hold, plus a consent payment of 2.5¢ per dollar of principal. EFH has already entered into exchange agreements with certain institutional investors representing approximately 52% of the aggregate principal amount of the outstanding old notes. Energy Future Holdings, in an 8-K concerning the debt exchange, also issued preliminary consolidated earnings (with full results to be released August 3), which are of limited value since they are not broken down by operating segment. However, EFH did state that management continues to evaluate the

effect of declining wholesale power prices, due to lower natural gas prices, on the carrying value of goodwill related to the Texas Competitive Electric Holdings reporting unit. "This evaluation may ultimately result in the recording of a non-cash goodwill impairment charge," EFH said, with any such charge recorded no sooner than in the three month period ending September 30, 2010.

Reliant Energy Launches Energywise Website

Reliant Energy launched a new section of its website devoted to helping customers better understand and manage their energy use, known as Energywise. The site features information on energy efficiency, smart energy products, smart grid technology, and Reliant's Time of Use product.

Pa. PUC Gives Interim Approval to UGI Procurement Modifications

The Pennsylvania PUC granted UGI Utilities interim approval to amend its electric default service plan (P-2010-2184286) to provide the following with respect to UGI's competitive procurements:

(a) Increase the collateral threshold from \$1.5 million to \$10 million for counterparties at or above certain credit rating levels

(b) Permit UGI to establish a \$100,000 rounding amount for purposes of determining collateral requirements to reduce administrative burdens, and

(c) Waive the restriction that no default service supplier may supply more than one third of estimated default supply requirements for a given supply group.

Duke Energy Ohio Applies to Offer Residential Critical Peak Pricing Pilot

Duke Energy Ohio applied to offer residential electric customers a critical peak pricing (CPP) generation rate, essentially similar to current

Calif. Year One Open Enrollment Widow Statistics

| | Accepted Customers | Wait List Customers | Accepted Load (annual kWh) | Wait List Load (annual kWh) | Rejected Customers | Rejected Load (annual kWh) |
|-------|--------------------|---------------------|----------------------------|-----------------------------|--------------------------|----------------------------|
| PG&E | 77 | 32 | 1,007,714,480 | 344,309,274 | <i>More Study Needed</i> | |
| SCE | 130 | 100 | 1,489,262,397 | 292,227,259 | 1,110 | 5,313,088,174 |
| SDG&E | 27 | 4 | 174,000,000 | 41,000,000 | 1,423 | 1,937,000,000 |

Rate TD-AM, except for the inclusion of a critical peak rate that occurs during the summer only (10-979-EL-ATA).

The critical peak pricing pilot would be limited to 250 customers who elect the service on an opt-in basis. Duke did not describe what, if any, reconciliation would occur between its generation costs and revenue received from critical peak pricing customers, and how any reconciliation would be recovered.

Base generation charges under the critical peak pricing option (Rate TD-CPP) would be as follows:

| (\$/kWh) | Summer | Winter |
|---------------|------------|------------|
| Critical Peak | \$0.215249 | N/A |
| On Peak | \$0.108668 | \$0.068067 |
| Shoulder | \$0.075319 | \$0.010365 |
| Off Peak | \$0.008577 | \$0.000472 |

The summer period is defined as June 1 through September 30. The winter period is defined as October 1 through May 31.

Duke would call up to 10 critical peak events per calendar year at its discretion during the summer period. Customers will be notified of the critical peak a day in advance. Critical peaks would last from 12 p.m. to 8 p.m. on non-holiday weekdays.

Summer on-peak hours would be 12:00 p.m. to 7:00 p.m. on non-holiday weekdays. Summer shoulder hours would be 9:00 a.m. to 12:00 p.m. and 7:00 p.m. to 10:00 p.m. on non-holiday weekdays. Summer off-peak hours would be all hours not included above.

Winter on-peak hours would be 7:00 a.m. to 1:00 p.m. and 5:00 p.m. to 10:00 p.m. on non-holiday weekdays. Winter shoulder hours would be 6:00 a.m. to 7:00 a.m. and 1:00 p.m. to 5:00 p.m. on non-holiday weekdays. Winter off-peak hours would be all other hours.

California ... from 1

Staff confirmed that the utilities rejected Notices of Intent (NOIs) submitted prior to 9:00 a.m.

Staff further reported on the number of NOIs accepted, and the number of customers and load associated with these NOIs, provided in the table at the top of this page.

The load data is in annual kWh. SDG&E had provided its raw data in annual GWh, thus the data reflects rounding when translating to the kWh figure shown above. SDG&E's rejected NOIs include duplicates of 959 customers and 345 annual GWh of load.

PG&E's accepted load includes load accepted under the 10% soft cap. PG&E's April 2010 Baseline Direct Access Load was lower than the Existing Baseline Direct Access Load reported in Appendix A of Decision 10-03-022. Consequently PG&E increased the 2010 Annual Limit to fully subscribe the 2010 Load Cap.

Staff said that the data regarding PG&E's rejected customers requires more analysis.

Across all three utilities, between 40% and 55% of the accepted NOIs were associated with customers or third parties rather than electric service providers.

PG&E reported that it "received thousands of NOI submissions, the majority of which were duplicate submissions (one customer submitted a NOI one thousand times)."

Pa. ... from 1

residence. The use of the term "agent" applies to any person who is conducting marketing or sales activities, or both, on behalf of a licensed supplier or suppliers. The term "agent" includes an employee, a representative, an independent contractor, or a vendor. For natural gas suppliers, the term "agent" also includes a "marketing services consultant" or "nontraditional

marketer" as those terms are defined at 52 Pa. Code § 62.101.

The transaction verification process shall also conclude by reminding the customer of the three-business day right of rescission.

Under the draft, suppliers shall limit door-to-door marketing to the hours between 9:00 am and 7:00 pm, unless a local ordinance calls for a stricter restriction.

Suppliers engaging in any marketing or sales activities, which the supplier anticipates may generate phone calls and inquiries to the Commission, shall notify the PUC's consumer services Staff no later than the morning on which the activity begins. Suppliers "should" provide similar notice to the distribution utilities.

In responding to customer inquiries about price and service, the local distribution company may provide factual information about its own price and terms but shall refer the customer to the supplier for questions about the supplier's prices and terms.

On the customer enrollment documentation, the draft would require that there shall be a notation or other means that indicates the enrollment was the result of a door-to-door sale with a unique sales agent identifier.

Furthermore, an appropriate, representative sample of all sales or marketing calls, both telephonic and door-to-door, shall be monitored by the supplier's sales managers or by the vendor's managers using appropriate methods to ensure accuracy, completeness, courtesy, and compliance with applicable rules.

The draft standards require suppliers to ensure that any product or service offerings contain information, verbally or written, "in plain language that is designed to be understood by the customer."

Suppliers shall respect any individual's request to be exempted from further door-to-door marketing or sales contacts, and should annotate any existing marketing or sales databases to reflect this request.

Door-to-door agents would have to present a photo identification issued by the supplier for whom they are seeking to enroll customers, which shall accurately identify the supplier, including its legitimate trade name and logo. Agents' uniforms could not resemble those used by distribution companies, and a supplier shall

not use bills, marketing materials, or consumer education materials of another supplier, distribution company, or government agency in any way that infers a relationship that does not exist.

An agent shall identify the supplier that he or she represents as an independent energy supplier, and shall identify himself or herself as a representative of that specific supplier immediately upon first contact with the potential customer. The agent shall also make clear that he or she is not working for, and is in fact independent of, the local distribution company or another supplier. This requirement may be fulfilled either (a) by an oral statement by the agent, or (b) by written material left by the agent

According to the Office of Attorney General, a supplier that is licensed by the PUC and engages in telemarketing does not need to register as a telemarketer pursuant to 73 P.S. § 2243 (a), but must follow all other provisions of the Telemarketer Registration Act (See 73 P.S. §§ 2241-2249). However, an agent, representative, independent contractor or vendor shall follow all provisions of the Telemarketer Registration Act, including being registered as a telemarketer.

The draft provides that a customer's consent to the release of customer information by the distribution company to the supplier to enable competitive solicitations does not constitute an express intent to receive telephone solicitation calls.

Suppliers would be required to train agents to ensure knowledge of several provisions, including knowledge and awareness of applicable Pennsylvania laws and regulations governing marketing, consumer protection, and door-to-door sales.