Energy Choice Matters

July 23, 2010

NOPEC, NOAC Sign Supplemental Settlement for FirstEnergy Ohio Electric Security Plan

The Northeast Ohio Public Energy Council (NOPEC) and Northwest Ohio Aggregation Coalition (NOAC) have signed on to a supplemental stipulation that would establish an electric security plan to procure default service supplies for Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison for the period June 1, 2011 through May 31, 2014 (10-388-EL-SSO, Matters, 3/24/10).

Among the changes in the revised electric security plan is a more restrictive criteria for when the generation reconciliation rider (Rider GCR) would transform from a bypassable charge to nonbypassable charge. The rider would reconcile default service supply costs and actual revenues from Standard Service Offer customers, as well as any shortfalls due to voluntary time-based rates.

Specifically, under the revised stipulation, Rider GCR would become nonbypassable if the allowed balance of Rider GCR reaches 5% of the generation expense in two consecutive quarters. Previously, Rider GCR would have become nonbypassable at any time the allowed balance of Rider GCR reaches the 5% threshold.

The supplemental stipulation includes a provision for government aggregation customers to receive from the FirstEnergy utilities (through their aggregation supplier) a credit equal to the amount of any phase-in credit ordered by PUCO to mitigate the new default service rates set in the procurement auctions, if PUCO elects to order such mitigation.

Under this credit, meant to ensure competitive neutrality with respect to government aggregation, the government aggregation's supplier will be granted the right to receive a receivable amount from the utility equal to the phase-in credit, plus carrying charges at the rate of 0.7066% per month, for every kilowatt-hour that a government aggregation supplier delivers to an aggregation customer.

Continued P. 6

Fifth PPL 2011 Procurement Results in Residential Rate of $77.25/MWh

PPL Electric Utilities announced that its most recent procurement for default service supplies for the period beginning January, 1, 2011 resulted in a residential price of $77.25/MWh.

The price includes full requirements supply, state taxes, and other charges.

For small and mid-sized businesses, the procurement resulted in a price of $76.39/MWh.

PPL also procured five-year contracts for two 25-MW blocks of around-the-clock electricity supply at an average price of $54.68/MWh to serve residential customers beginning in 2011. The price for the block products is for energy only, and excludes capacity and other charges.

Based on procurement results to date, PPL said that its generation service charges for 2011 may be 9-12% lower than the current rate, which is 10.133¢/kWh for residential customers and 10.125¢/kWh for small commercial and industrial customers. The 2011 rate will not be known until December after additional supply purchases are made later this year.

In the recent procurement, PPL awarded a mix of 17-month and 20-month full requirements contracts for about 11% of the electricity needed beginning Jan. 1, 2011. PPL has thus far secured

Continued P. 7

Briefly:

Paetec Energy Marketing Corp. Seeks Pennsylvania Supplier License as LSE

U.S. Energy Partners LLC, which would do business as Paetec Energy Marketing Corp., applied for a Pennsylvania electric generation supplier license to serve all sizes of commercial, industrial, and governmental customers in all service areas as a load serving entity. A separate Paetec subsidiary is currently licensed as a non-LSE broker in Pennsylvania.

Open Market Energy Seeks Md. Gas Broker License

Open Market Energy LLC applied for a Maryland natural gas broker/aggregator license to serve all customer classes at all LDCs.

RESA Warns Last Minute Change in Forward Reserve Market Credit Formula Will Raise Costs to LSEs

The Retail Energy Supply Association has protested ISO New England's filing of revised tariff sheets to change the Forward Reserve credit formula used to calculate payments in the Forward Reserve Market (FRM).

Under the Forward Reserve credit formula, the payment made to suppliers of Locational Forward Reserves subtracts from the Forward Reserve Clearing Price the Forward Capacity Clearing Price for the relevant capacity zone. However, generators, claiming an "oversight," said that the actual Forward Capacity Market (FCM) payment rate for all resources in the Connecticut Zone that were denied the ability to pro-rate (due to reliability concerns) despite a surplus in the FCM is lower than the Forward Capacity Clearing Price (ER10-1690). More specifically, Connecticut capacity resources will be paid $4.25/kW-month for capacity, versus the full clearing price of $4.50/kW-month.

ISO-NE and generators are seeking to change the Forward Reserve credit formula for such Reserve Zone situations so that the lower actual capacity payment is deducted from the FRM price (i.e. $4.25/kW-month) rather than the capacity clearing price (i.e. $4.50/kW-month), thereby raising revenue received by generators, and costs paid by load serving entities.

However, "Market Participants have been aware of the pro-ration mechanism for more than two years, but waited to the last possible moment to make this filing," RESA noted.

Despite knowing of the issue since 2008, the filing parties, "are requesting an expedited comment period so that they can slip in this proposed Tariff change so that it will be effective for the August 18, 2010 FRM auction," RESA told FERC.

"This failure to bring this matter to the Commission sooner will have an unjust and unreasonable impact on Load Serving Entities ('LSEs') who have already entered into bi-lateral contracts in reliance on the Tariff in place today," RESA protested.

The filing will cause "significant harm" to LSEs that have relied on the results of the auction and on the Auction Results Filing in order to price contracts and make their service offerings available to customers, RESA said.

"In this filing, the Filing Parties want to change the rules at the last minute to essentially collect additional monies from LSEs who have no opportunity to recover additional costs to the extent they entered into fixed price contracts with their customers," RESA added.

Because of the shortage of reserves in Connecticut, RESA does not expect the tariff change to alter the trend of the FRM clearing price hitting the cap of $14.00/kW-month, and said that the $0.25/kW-month reduction in the amount deducted from the FRM price paid to generators will not flow to LSEs.

While the change will have no effect on the FRM clearing price, the proposed tariff change will force LSEs to, "absorb the increased FRM costs that would be remitted to generators for reserves," RESA explained, as now a deduction of only $4.25/kW-month would be applied to the FRM price paid, rather than a deduction of $4.50/kW-month.

RESA further argued that the proposed tariff change is unnecessary as in a competitive market a generator will account for the $0.25/kW-month difference in its offer, noting that ISO-NE conceded this point during the stakeholder process.

Pa. Auditor General Faults PUC Education Efforts

A report from the Pennsylvania Department of the Auditor General has faulted the Pennsylvania PUC's efforts to educate customers concerning the expiration of rate caps and electric customer choice as inadequate, even while conceding that state funding for the PUC's efforts has been inadequate.

The report's negative critique is in sharp contrast to the reception from the supplier community to the PUC's education efforts, which has been nothing but effusive praise. Commissioners and PUC Staff have made themselves readily available to appear at seminars, town halls, and other educational sessions arranged by suppliers, and have even appeared in commercials with distribution company executives informing customers of their choice.

"Adequate consumer education may increase the percent of Pennsylvania consumers who switch to a lower cost electric supplier. This, in turn, is important to keep competitive suppliers in Pennsylvania and to keep electric costs lower for consumers," the audit states.

"We have concluded that the PUC has provided the consumer education that it could with the resource that it had available; however, without an adequate statewide campaign, PUC's efforts were not enough to adequately provide electric rate cap expiration and mitigation education to consumers," the Auditor General said.

Although much of the Auditor General's report relates to the PUC's inaction on customer education prior to 2007, the audit also faults the Commission's ongoing efforts, particularly the lack of any performance evaluations of such efforts.

The PUC responded to the audit by noting that education efforts for residential customers stressing choice would be wasted, even counter-productive, in cases where customers have no choices available, as customers would become frustrated with the lack of offers. Indeed, prior to the move to market-based rates at PPL Electric, residential electric offers have been limited at the utilities whose rate caps expired prior to 2007, with one or two firms undertaking limited campaigns in certain service areas.

Even at PPL, the first marketed residential offer did not appear until October 2009, less than three months before rate caps expired, and the majority of marketing by suppliers did not begin until December 2009. Similarly, while the PUC is educating customers at the remaining utilities about the impending expiration of rate caps, no new supplier has yet publicized a new residential offer at PECO or any of the other territories (PECO does have two suppliers marketing "legacy" residential offers that have been available for some time).

The PUC explained that care has been taken not to promise choices and competitive offers until the Commission knows that they will exist. Informing customers about choices that may or may not materialize years in advance could have created false public expectations, the Commission said.

The Commission noted that, other than the issuance of the audit, there has been little public or public official outcry that more education is needed. The Commission further noted that if customers were charged to support a statewide education campaign on top of increased generation (and in some areas distribution) rates, there could have been a public outcry against charging customers for the cost of suppliers' "advertising."

In 2007, the PUC sought approval to impose $5 million in assessments on electric companies to fund a statewide electric education campaign. However, these assessments needed to be approved as part of the 2008-09 state budget, and they were not. The Auditor General concedes that, as a result, the PUC did not have the resources to conduct a sufficient statewide education campaign.

Still, from July 2008 through October 2009, PUC management either hosted or attended 263 events in 29 of Pennsylvania's 67 counties to promote electric education efforts.

However, these efforts, and the education programs which the Commission ordered the utilities to conduct, have not been effective, the audit said. For instance, a self-evaluation performed by PPL for the quarter ended September 30, 2009 showed that 57 percent of its consumers were unaware of when rate caps would expire and significant rate increases would ensue. Again, it is important to note that, at that time, there were no residential electric offers being made by competitive suppliers in PPL.

The audit faults the PUC for not evaluating the performance of its own education plans or those of the distribution companies.

The audit also draws an interesting conclusion regarding the electric distribution companies' professed "indifference" to a customer's choice of generation supplier. "Unfortunately, the media has quoted PPL representatives as stating that it is indifferent as to whether a consumer stays with PPL or switches to an alternate supplier offering lower rates. This indifference and perspective are not in the best interest of the consumer and they indicate that the electric companies derive no substantial benefit from educating consumers," the audit states.

The audit does not discuss this conclusion further. However, most suppliers welcome such statements which are meant to assure customers that their outage restoration time and other distribution services won't be impacted by switching to a competitive supplier, nor will choosing an alternative supplier "hurt" PPL.

The Auditor General recommends, for consumers whose rate caps will expire on December 31, 2010, that the PUC seek approval for the funding of a regional education campaign. This regional consumer education campaign should include performing outreach at public venues such as senior centers, bingo halls, churches, legislator-sponsored events, and PCN-moderated programs (PCN is a state public affairs cable network), with the Commission performing ongoing evaluations of the campaign's effectiveness.

Subsequent to the completion of electric deregulation, the audit recommends that the PUC assess/monitor the financial impact of electric deregulation on Pennsylvania consumers to determine what additional assistance/education can be provided in order to minimize consumers' future electricity costs.

The Auditor General also found that the PUC should improve its monitoring of the utilities' market-based rate pre-payment programs, which have been offered as a form of competitively neutral rate mitigation.

Exelon's Rowe Touts Higher PJM Capacity Prices, Says Market is "Working"

Exelon's Generation unit reported lower net income for the second quarter of $382 million, versus $512 million a year ago, on lower energy gross margins, largely due to unfavorable market and portfolio conditions, lower pricing from PECO under the power purchase agreement, and higher nuclear fuel costs, as well as higher operating and maintenance expense, primarily reflecting the effect of inflation.

Generation's average realized margin on Mid-Atlantic sales was lower at $40.83/MWh versus $45.76/MWh a year ago. Generation's average realized margin on Midwest sales was lower at $40.78/MWh versus $41.73/MWh a year ago.

Aside from the factors cited above, Generation's Mid-Atlantic results were hurt from decreased production from owned generation and increased sales to PECO, resulting in less energy available for market and retail sales.

Aggregate market and retail sales for the quarter were 2.7% lower at 30,265 GWh versus 29,480 GWh a year ago.

In the Midwest, Generation's sales were only down by $1 million at $1.016 billion, as higher nuclear generation allowed for greater volumes of market and retail sales. Midwest spot prices were higher than expected, which enabled Exelon to benefit from sales of its open position. These gains partially offset the negative impact from decreased realized margins for the volumes previously sold under the 2006 Commonwealth Edison auction contracts. Exelon continues to see upside opportunity in Midwest power prices.

During the quarter, however, Exelon sold more forward power in the Mid-Atlantic than Midwest to capture the higher increase in around-the-clock energy prices compared to the Midwest through various wholesale and retail channels.

During an earnings call, Exelon CEO John Rowe touted the expectation for higher capacity prices in PJM, as well as energy market benefits from the expected future retirements of PJM coal plants which cannot cost-effectively comply with new environmental regulations.

Rowe noted that the next PJM capacity auction in May 2011 covers the period from mid-2014 through mid-2015, which is when coal ash, transport regulation, and hazardous air pollutant compliance will be required. "This will have significant consequences to clearing prices, and the upside to Exelon is unmistakable," Rowe said.

Every $50/MW-day change in capacity prices translates into almost $350 million of additional capacity revenue for Exelon in 2014 and subsequent years, Rowe said.

As for the most recent PJM capacity auction, Rowe touted the $100/MW-day increase in capacity prices in eastern PJM where about half of Exelon's capacity is located. The higher clearing prices across PJM translate to about $400 million in incremental annual revenue to Exelon as compared to the auctions from the prior year. Rowe projected future Reliability Pricing Model auctions will result in further price increases across Exelon's footprint. "In other words, an even better price than 2010," Rowe cheered.

The PJM capacity auction results announced in May showed that the competitive markets are "working," Rowe said.

As for the energy market, Rowe cited reports forecasting 14,000 MW of coal retirements in PJM in the near future. Rowe noted that the PJM market monitor concluded that over 11,000 MW of coal-fired generation already does not recover their avoidable costs even before the new environmental regulations take effect.

Rowe said that a $5/MWh increase in energy prices would equal $700 million to $800 million of incremental annual revenue to Exelon on an open basis. Exelon expects that at least some of that upside will be realized in the next two to four years, as operating costs increase for coal-fired generation. Rowe also pointed to improving spot market implied heat rates at NiHub, a trend Rowe expects to continue.

Blumenthal, OCC Renew Call for Suspension of Turris Associates License

Connecticut Attorney General Richard Blumenthal and the Office of the Consumer Counsel have renewed their motion for the Connecticut DPUC to immediately suspend the electric aggregator certificate of Raymond Sanzone, President and Managing Partner of Turris Associates LLC (10-02-08).

In February, the AG and OCC moved for the license to be suspended based on their allegations that Turris "defrauded" the Connecticut Association of Independent Schools (CAIS) by allegedly agreeing with CAIS for a brokerage fee of 1 mil/kWh, but allegedly including a higher fee of 2.5 mils/kWh in CAIS' contract with the selected supplier, Hess Corporation (Only in Matters, 2/1/10). The AG and OCC further alleged that, "the signature purporting to bind CAIS to the 2.5 mil aggregators fee appears to be different from the signature on the document actually executed by CAIS Director [Douglas] Lyons."

The AG and OCC reported that Hess has voluntarily repaid all of the CAIS member schools for the allegedly overcharged commissions. Hess repaid the member schools a total of $348,726.09 in allegedly overcharged commissions as well as $28,818.11 in accrued interest.

The AG and OCC renewed their motion because they, "believe that Sanzone continues to solicit and engage new customers," and cited a previous case in which similar allegations were made against Turris.

"The Petitioners therefore again urge the Department to immediately issue an order to show cause why Sanzone's license as an electric supplier should not be terminated. The Department should thereafter promptly commence an investigation into all of Sanzone's and Turris' electricity supply contracts in the State of Connecticut to determine how many other customers may have been similarly defrauded," the AG and OCC said.

The AG and OCC also renewed their request that the DPUC issue an order to Hess, Constellation NewEnergy, and every other licensed electricity supplier in the state to withhold and escrow all outstanding commission payments received by Sanzone's and Turris' clients as security for any potential repayment arising from the DPUC's investigation.

Md. PSC Opens Review of On-Bill Credit for Non-Utility Curtailments

The Maryland PSC has initiated Case 9236 to obtain information about federal end-user customers' participation in demand response (DR) programs offered by curtailment service providers (CSPs) registered with PJM, especially in accordance with 42 U.S.C. § 8256(c) and 10 U.S.C. § 2919(c).

The Commission noted that Baltimore Gas and Electric facilitates federal end-users' participation in demand response programs by offering an optional billing service whereby end-user customers may elect to receive demand response compensation from third-party curtailment service providers in the form of BGE bill credits (Rider 24, Option 3). A fee of $70.00 applies for each billing transaction to cover the costs of program administration.

The Commission directed all electric utilities, including municipal electric utilities and electric cooperatives, to provide written comments discussing federal end-users' participation in demand response programs within their respective service areas. Each utility's comments must provide information about estimated load associated with federal end-users, the extent to which federal end-users already participate in demand response programs, and estimated or known load reductions associated with federal end-users' current or potential participation in demand response programs.

BGE was instructed to address its experience with its billing option noted above, including the number and type of end-user customers who purchase it, difficulties or challenges BGE has experienced in providing it, and information about BGE's interaction and exchange of information with curtailment service providers in connection with providing the service.

All other utilities must address whether the utility plans to offer a similar billing service and the feasibility of offering such a service, including available information about technical barriers and implementation timelines.

The Commission said that it recognizes that policy considerations may exist with regard to electric utilities offering a billing service similar to BGE's service. "Among these could be concerns related to electric utilities acting as CSPs in competition with the third-party CSPs for which they bill. Utilities are invited to address these and other potential policy issues, including balancing such considerations against policies favoring DR, in their comments," the PSC directed.

FirstEnergy ... from 1

Such credits will be deferred and recovered on a nonbypassable basis, subject to R.C. §4928.20(I) and R.C. §4298.144.

Uncollectible receivables arising from government aggregation suppliers participating in the phase-in would be included in the nonbypassable mitigation cost recovery rider.

The revised stipulation updates the Master Standard Service Offer Supply Agreement to account for Duke Energy Ohio's pending move to PJM and the potential effect that the move will have on the Cinergy pricing point. Specifically, the Mark-to-Market credit exposure methodology will be modified so as to allow for another liquid pricing point located within PJM's footprint to be used for Mark-to-Market credit exposure calculation purposes.

The Master SSO Agreement will also now include the option for suppliers to pledge First Mortgage Bonds to cover margin calls in excess of $400 million consistent with the provisions included in the SSO supplier agreement used under the current electric security plan. The First Mortgage Bond collateral alternative will be in addition to the option to use cash or letters of credit for margin calls.

The SSO supply agreement has also been clarified such that the Mark-to-Market exposure amount will be limited to a rolling forward 24-month period starting from the effective date of the agreement.

Under the revised stipulation, the FirstEnergy companies would develop four RFPs to purchase RECs through 10-year contracts.

The FirstEnergy companies agree not to seek recovery through Ohio retail rates of PJM "legacy" regional transmission expansion planning (RTEP) costs approved prior to the companies' expected integration into PJM (June 1, 2011) for the longer of: (1) the five year period from June 1, 2011 through May 31, 2016, or (2) when a total of $360 million of legacy RTEP costs has been paid for by the companies and has not been recovered through Ohio retail rates.

PPL ... from 1

approximately 80% of its power supply from a total of 16 companies for the first five months of 2011.

PPL has also secured alternative energy credits required for the procured energy-only blocks of supply in the following amounts:

- 1,880 Tier 1 solar energy credits at a cost of $298.00 per credit.
- 84,613 Tier 1 non-solar energy credits at a cost of $3.70 per credit.
- 129,645 Tier 2 alternative energy credits at a cost of $0.12 per credit.