Energy Choice Matters

July 30, 2010

Revised Pa. PUC Draft Would Retain Quarterly Gas Cost Changes, Voluntary POR Programs

The Pennsylvania PUC voted to issue an advance notice of final rulemaking regarding the structure of the retail gas supply market, to allow stakeholders provide additional comment on several modifications, as Staff has recommended significant changes to the proposed rules which were originally drafted in March 2009 (L-2008-2069114 et. al.).

The PUC did not publish the written advance notice of final rulemaking yesterday. However, Vice Chairman Tyrone Christy described major changes to the proposed regulations compared to the March 2009 draft (Matters, 3/27/09).

Among other revisions, adjustments to the Price to Compare would occur quarterly, rather than monthly as originally proposed.

All of an LDC's natural gas procurement charges would be included in the Gas Procurement Charge (GPC). An LDC would have to file a tariff supplement to identify natural gas procurement costs included in base rates, and to remove such costs from base rates and recover such costs under the purchase gas cost provisions of 66 Pa. C.S. §1307. The revised draft also includes for the first time a detailed definition of gas procurement costs.

A Merchant Function Charge (MFC) would also be added to the Price to Compare (PTC), with the MFC including uncollectibles.

The updated draft eliminates the Gas Procurement Reduction Rate (GPRR). The Gas Procurement Reduction Rate was originally devised as a mechanism to credit shopping customers for the costs of gas procurement included in base rates; but with the unbundling changes now proposed, it is not required to achieve the desired competitive neutrality. The originally proposed

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SouthStar Energy Services Sees Churn in Georgia, Ohio

AGL Resources reported lower earnings before interest and taxes (EBIT) from its stake in SouthStar Energy Services for the quarter ending June 30, 2010, with second-quarter EBIT of $1 million, compared with $5 million in the second quarter of 2009.

SouthStar's EBIT was down $3 million due to decreased average customer usage largely due to warmer weather. Another $3 million decline was caused by customer churn and the migration of customers to lower-margin products, continuing a trend seen in recent quarters. These negative impacts were partially offset by a $1 million increase in operating margins in Ohio.

SouthStar's average customer count in Georgia for the second quarter of 2010 was down at 503,000, versus 507,000 as of March 31, 2010 and 510,000 a year ago. For the six months ended June 30, 2010, SouthStar's Georgia customer base declined 2%, an improvement versus the 4% decline experienced in the first half of 2009.

SouthStar's Georgia market share was flat at 33%, which still leads the market.

SouthStar's Georgia sales were affected by continued pressure on margins as reported in prior

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PUCO Denies OCC Request for Comparison of Competitive, Default Rates on Bills

The Public Utilities Commission of Ohio denied the Ohio Consumers' Counsel request that bills for competitive gas supply list the applicable default service rate for that customer (09-326-GA-ORD).

OCC's request was part of a rulemaking regarding a five-year review of Chapter 4901:1-13 of the Ohio Administrative Code, which governs natural gas utility billing, metering, and related service quality issues. Utility consolidated billing for competitive supply is not addressed under this rule, and is instead governed by 4901:1-29-1.

Nevertheless, OCC had proposed that, for choice customer monthly bills, a chart should be provided that shows the supplier charges for natural gas commodity service for the previous twelve months compared with an assessment of what charges would have been with the utility (Only in Matters, 6/10/09).

In denying OCC's request, PUCO found that other sources of information are available regarding competitive and default rates (such as the Commission's apples-to-apples charts), and noted that OCC's request may require costs to implement.

PUCO also rejected OCC's request that default service bills include a notice informing customers of the availability of OCC's "Comparing Your Energy Choices" website. PUCO found that the current notice directing customers to the Commission's apples-to-apples comparisons is sufficient.

Nelson: PUCT Cannot Waive Securitization Charges for Unexecuted Critical Care DNPs

PUCT Commissioner Donna Nelson recommended allowing TDUs to continue charging securitization charges for critical care customers which the TDU refuses to disconnect for non-payment despite a request from the customer's REP, in a memo to commissioners ahead of today's open meeting (36131).

As only noted in *Matters*, the most recent Staff proposal for adoption regarding deferred payment plans and disconnections would prohibit the TDU from imposing any delivery charges, including securitization charges, on REPs for critical care accounts for which the REPs have submitted a disconnect for non-pay, but the TDU has refused to execute (Only in Matters, 6/26/10).

Nelson said that her understanding is that the securitization orders do not give the Commission the flexibility to require TDUs to stop billing these charges. Therefore, these charges should continue even when the TDU refuses a disconnection, Nelson said.

Nelson endorsed Staff's recommendation on the pricing that REPs would be required to offer customers subject to a switch hold whose fixed price contracts expire during the switch hold. In such cases, under the Staff proposal, the REP may serve these customers under the lowest priced month-to-month product currently offered by the REP to new applicants, or at the price charged under the existing term contract that is expiring (on a month-to-month basis), or, if the REP does not offer month-to-month products to new applicants, the price equivalent to the lowest price of the shortest term fixed product currently offered by the REP to new applicants.

Nelson said that the REP should not be required to offer the lower of: (1) the lowest priced month-to-month product currently offered by the REP to new applicants, or (2) the price charged under the existing term contract that is expiring, as suggested by consumer advocates.

The goal, Nelson said, should be to ensure that customers subject to a switch hold receive a reasonable price, but not a better price than that offered to other customers.

"If we add the language, 'whichever is lower,' as suggested by the consumers, we may be requiring REPs to offer customers on a switch-hold a product that is priced lower than any other product they have available in the market and is better than products offered to customers with a good payment history who have never requested a deferred payment arrangement. For instance, today a customer in the DFW area may sign a two year contract with a REP at a price of 9.8 cents per kwh. If natural gas prices increase over the next two years and the lowest rate in the market in the summer of 2012 is 13 cents, if we include the 'whichever is lower' language in the rule, the customer on the switch-hold would continue to enjoy a rate of 9.8 cents, even though that rate is not available in the market to other customers who are not on a switch-hold," Nelson noted.

Nelson also argued that the eligibility for deferred payment plans as proposed by Staff strikes an appropriate balance, and opposed the consumer groups' recommendation to add customers eligible for Lifeline telephone service to the list of those eligible for deferred payment plans outside of certain situations where all customer are eligible (e.g. weather emergencies, disasters, etc.).

Nelson further agreed with Staff that REPs should not be required to send an additional disconnect notice to customers on a deferred payment plan if their bill contains a notice that disconnection will occur if payment is not made.

"[W]e are talking about customers for whom REPs have already extended credit and extended time to pay. Additional notice will result in additional exposure or risk to the REP providing service," Nelson noted.

Consumer groups have also requested that the notice informing customers of a switch hold inform customers that they will, "be giving up your right to buy electricity from other companies, even if a company offers you lower rates." Nelson raised concern that this language may induce customers to switch REPs rather than entering into a deferred payment plan with a switch hold, defeating the purpose of the rule to reduce bad debt in the market.

Conn. Draft Would Reject Modifications to Project 150 Contracts

A draft Connecticut DPUC decision would deny the requests of Watertown Renewable Power, LLC and Clearview Power, LLC, to modify their Standard Electricity Purchase Agreements with Connecticut Light and Power, awarded through the Project 150 procurement process, because granting the relief would expose ratepayers to greater costs and risks, and would harm the competitive bidding process (03-07-17RE05).

Watertown Renewable Power, LLC and Clearview Power, LLC had sought various amendments to their Electricity Purchase Agreements (EPA) to, among other things, add a monthly pass-though fuel payment, add a variable cost and operation and maintenance (O&M) cost pass-through, and extend the length of the contracts. The developers cited the global financial crisis as prompting the request.

In its draft order, the Department would find that the requested changes -- fuel pass-through clauses, transferral of risks from the projects to ratepayers, substantial lengthening of the contract term, changes to Forward Capacity Market obligations, and extension of in-service dates -- represent material and substantial changes to the approved contracts. "The Department considers the EPA a binding contract between the EDCs and approved projects and denies Watertown and Clearview approval to make these substantive changes," the draft states.

"Both of the EPA modifications propose fuel pass-throughs that allow higher costs and shift risks from the project owners to ratepayers," the draft adds.

Furthermore, the DPUC would conclude that approval of the modified contracts would harm other participants in the Project 150 procurement process. "The Project 150 procurement is the result of a careful and deliberative process of developing a standardized contract, and developing a fair and reasonable procurement process for soliciting and selecting competitive bids. As a part of that process, a number of renewable projects were not selected. To approve modification of the Watertown and Clearview EPAs would be highly unfair to competing but unsuccessful bidders," the draft states.

"This would have the result of undermining the integrity of the procurement process. This perception of unfairness to all bidders would have a harmful effect on the Project 150 procurement process and any other future procurement for which the Department seeks competitive bids," the draft finds.

The draft notes that projects rejected in the original procurement may have been less expensive for ratepayers compared to a modified contract from either Watertown or Clearview.

The draft would also decline to conduct another Project 150 procurement at this time.

Calif. PUC Approves 254 MW of New Capacity for PG&E Via DWR Novation After Oakley Rejection

Consistent with an earlier draft (Only in Matters, 5/27/10), the California PUC approved Pacific Gas & Electric's procurement agreements with Marsh Landing, Contra Costa 6 & 7, and Midway Sunset, totaling 719 MW of new capacity (A. 09-09-021).

Under the PUC's order the Mirant Marsh Landing PPA will be subject to a Net Capacity Cost Charge authorized under SB 695. The Net Capacity Cost Charge methodology determines the capacity value for a project by netting the project costs with imputed energy and ancillary services revenues based upon the California ISO's day-ahead market. This net capacity cost is then allocated to benefiting customers (e.g., bundled utility, Community Choice Aggregation, and direct access customers) based upon their pro-rata share of the coincident peak load. These customers are also allocated a pro-rata share of the resource adequacy value for the resource.

The order in PG&E's 2008 Long-Term Request for Offers proceeding also rejected the proposed Oakley Project procurement.

As a result of the Oakley rejection, PG&E had 231-281 MW of unfilled new capacity authorization, which the PUC held could be filled by the novation of Department of Water Resources contracts with GWF Energy (the Tracy Transaction) and Calpine (the Los Esteros Critical Energy Facility Transaction, LECEF).

An earlier draft (see Matters, 4/21/10) would have denied these novations for including new capacity as part of the novations, but since PG&E now has excess authorization to procure new capacity due to the Oakley rejection, the PUC approved the Tracy and Los Esteros novations, which cover 588 MW, including 254 MW of new capacity.

The PUC also approved the novation of and replacement PPA between PG&E and Calpine for the Peakers Transaction (A. 09-10-022 et. al.)

Briefly:

Aero Energy Seeks Pa. Gas Supplier License

Aero Energy (a trade name for Mid-Atlantic Cooperative Solutions, Inc.) applied for a Pennsylvania natural gas supplier license to serve all customer classes, including residential customers, at Columbia Gas, PECO, Philadelphia Gas Works, and all three UGI distribution companies. Aero Energy is a heating oil and fuel supplier serving approximately 30,000 customers in Cumberland, York, and Adams Counties in Pennsylvania, as well areas throughout Maryland and Delaware. Aero Energy also offers HVAC services. Richard Gechter, Jr., former President of Cypress Natural Gas, will serve as Director of Natural Gas for Aero Energy. Gechter has also had stints in senior positions in business development and supply with several retail suppliers including BlueStar Energy Services, Hess, and Compass Energy Services. Adams Electric Cooperative owns a 46% indirect interest in Aero Energy. Adams Electric Cooperative serves 27,000 homes, farms and businesses in Adams, Cumberland, Franklin, and York counties in Pennsylvania. The remaining interest in Aero is owned by Choptank Electric Cooperative and Aero employees through a stock ownership plan.

SCANA Energy Seasonal Loss Widens, Receives Extended Regulated Provider Term

SCANA Energy reported a seasonal loss of $6 million for the second quarter of 2010, compared to a loss of $3 million in the year-ago quarter. The decline was primarily attributed to lower margins driven by warmer weather compared to last year. As of June 30, 2010, SCANA Energy was serving approximately 450,000 customers, down from 465,000 as of March 31, 2010, but up versus 447,000 as of June 30, 2009. SCANA Energy remains the second largest gas marketer in Georgia. SCANA Energy also reported that the Georgia PSC last week extended its term as the regulated provider at Atlanta Gas Light for an additional year, through

August 31, 2012, under the current terms and conditions. Parent SCANA Corp. has not yet filed a 10-Q.

Global Energy Solutions Corp. Receives Pa. Broker License

The Pennsylvania PUC granted Global Energy Solutions Corp. an electric broker license to serve all customer classes in all service areas (Only in Matters, 6/7/10).

U.S. Sun Energy Receives Pa. Broker License

The Pennsylvania PUC granted U.S. Sun Energy, Inc. an electric broker license to serve commercial customers in excess of 25 kW in all service areas (Only in Matters, 2/19/10).

Worley & Obetz Receives Expanded Pa. Electric License

The Pennsylvania PUC granted heating oil supplier Worley & Obetz, Inc. an amended electric aggregator and broker/marketer license to include the ability to serve commercial, industrial, and governmental customers in addition to its current authority to serve residential customers (Only in Matters, 7/9/10).

Keytex Energy Solutions Receives Expanded Pa. Broker License

The Pennsylvania PUC granted Keytex Energy Solutions LLC an amended electric broker license to include the authority to market to residential customers in all service areas in addition to its prior authority to serve all sizes of non-residential customers in all service areas (Only in Matters, 6/23/10).

America Approved.com LLC Receives Expanded Pa. Broker License

The Pennsylvania PUC granted America Approved.com LLC an amended electric broker license to include authority to market to all sizes of non-residential customers in all service areas (Only in Matters, 6/22/10). Originally, America Approved.com was licensed to broker at PPL and Duquesne Light.

The Group Purchasing Organization Receives Conn. Aggregation License

The Connecticut DPUC granted The Group Purchasing Organization, Ltd. an electric aggregator certificate to serve residential, commercial, industrial, municipal, and governmental customers (Only in Matters, 4/26/10).

Pa. PUC Approves Duquesne Light Customer List Order

The Pennsylvania PUC adopted an order to update provisions governing customer lists at Duquesne Light; however, a written order with exact parameters was not published yesterday (P-2009-2135500). In May, the PUC tentatively found that the Duquesne Light customer list provisions should be conformed to the precedent set at PPL (see Matters, 5/21/10).

Progressive Energy Group to Relinquish Illinois Gas License

Progressive Energy Group, LLC sought to relinquish its Illinois alternative gas supplier license, stating that it has never served or marketed to customers since receiving the license in 2008, due to a change in business plans.

Calif. PUC Affirms Electric Vehicle Charging Stations Are Not Public Utilities

The California PUC issued a final order yesterday affirming a draft finding that the ownership or operation of a facility that sells electricity at retail to the public for use only as a motor vehicle fuel, and the selling of electricity at retail from that facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of Pub. Util. Code § 216 solely because of that sale, ownership or operation (R. 09-08-009). The draft was first reported in *Matters* (Only in Matters, 5/24/10).

Pa. Gas ... from 1

net gas procurement adjustment, another part of this mechanism to include procurement costs in the Price to Compare without full unbundling, would also be eliminated.

The revised draft maintains that POR programs would be voluntary for LDCs, though it does find that the Commission has the authority to order LDCs to implement POR. The revised draft would require that suppliers use

LDC consolidated billing to participate in POR, with two exceptions which were not identified by Christy.

Additionally, Christy said that the revised draft includes changes in how the POR discount factor is to be determined, but did not elaborate on what these revisions were.

The revised draft would also make capacity releases to suppliers mandatory.

LDC surcharges to recover the costs of implementing and promoting competition would be eliminated under the revised proposal, as would the LDC surcharge to collect regulatory assessments.

Christy reiterated his concern that the proposal could result in increased costs to non-shopping customers, as well as cost shifts among shopping customers and non-shopping customers.

Christy said that identifying gas procurement costs outside of a base rate case would be difficult and inappropriate. Christy also called some of the procurement costs unavoidable regardless of migration levels, and thus argued it is inappropriate to allow customers to bypass such charges.

"Inclusion of such unavoidable costs in [the] PTC will inflate the PTC and could result in more customers leaving the NGDC, placing the unrecoverable gas procurement-related costs on an even smaller customer base," resulting in stranded costs, Christy said.

Christy added that use of a Merchant Function Charge to recover uncollectibles may violate a statutory prohibition against the creation of an automatic surcharge mechanism for uncollectible expenses.

The revised proposal does not adopt Christy's recommendation that the PUC develop a monthly projection of natural gas prices for the ensuing twelve months based upon the best available market information, in order to allow customers to compare LDC pricing with competitive offers, especially offers requiring a long-term commitment.

SouthStar ... *from 1*

quarters, largely from increased customer shopping and increased preference for lower-margin fixed products. During an earnings call, AGL Resources executives said that they are not anticipating any major change in margin trends in the Georgia market, and are managing the business expecting the lower margins to continue. Still, SouthStar has seen some moderation in the migration of customers to fixed price contracts compared with the year-ago period.

In Ohio and Florida, SouthStar's average customer count fell to 71,000 from 106,000 as of March 31, 2010 and 110,000 a year ago. These totals include customer equivalents.

The decline was mainly attributed to Ohio, where SouthStar saw the expiration of some of its agreements to supply non-shopping customers awarded through auctions. SouthStar expanded into the Ohio market in 2006, principally through bidding on supply agreements for slices of default service, but it has continued its expansion in Ohio through attracting customers to select SouthStar as their choice supplier.

"As the Ohio deregulated market has continued to evolve, we have experienced increased competition with respect to being awarded new supply agreements and being able to attract new retail choice customers," AGL Resources said in a 10-Q.

"We still believe that Ohio is a growth market for us, but due to the increased competition we will continue to monitor and evaluate other states where natural gas choice programs may offer potential future markets and sources for growth," AGL Resources added.

Total average SouthStar customer count was 574,000 for the second quarter, down from 613,000 as of March 31, 2010 and 620,000 a year ago.

SouthStar's Georgia firm volume for the quarter was 4 Bcf, versus 5 Bcf a year ago. Ohio and Florida volume was 1 Bcf, versus 2 Bcf a year ago.

SouthStar operating revenues from external parties was $117 million for the quarter, versus $125 million a year ago. Operating expenses excluding cost of gas and interest expense were

$17 million compared with $18 million during the 2009 quarter, resulting from lower depreciation and other expenses.

SouthStar's operating margin for the second quarter was $18 million, versus $23 million a year ago.