

# Energy Choice

# Matters

August 20, 2010

## N.Y. PSC Approves Timing Change to Allow More Accurate GAC Statements at National Grid LDCs

The New York PSC approved the requested waiver of Niagara Mohawk, KeySpan New York, and KeySpan Long Island to allow the LDCs to file monthly gas adjustments under the Gas Cost Adjustment Clause not less than two business days prior to the date on which they take effect, rather than the current requirement for GAC statements to be filed on not less than three day's notice to the Commission (10-G-0159 et. al).

As only reported in *Matters*, the LDCs had said that submitting their GAC statements on fewer than three days' notice would enable them to set a monthly commodity price of gas that is more reflective of the actual gas purchase costs (Only in *Matters*, 4/13/10). The National Grid LDCs purchase a substantial amount of their natural gas supplies at first of the month price indices reported in industry publications that are issued at the beginning of each month. Based on calendar year 2008, on a weighted average, 77% of all volumes purchased were at or tied to first of month prices for the three LDCs.

The LDCs explained that the closing price of natural gas futures contracts traded on the New York Mercantile Exchange is a superior indicator of the market price of natural gas reported in various industry publications for the upcoming month. The NYMEX natural gas futures contract closing price, however, is not set until three business days prior to the end of the month. Currently, in order to file its GAC statements three days prior to the effective date, National Grid must estimate its commodity price of gas before the NYMEX futures contract closing price is known. As a result, the estimated

***Continued P. 5***

## PPL Seeks Limited Waiver to Share Customer Information with Penn State Retail Study

PPL Electric Utilities has requested that the Pennsylvania PUC issue a declaratory order allowing PPL to share certain, limited customer information, on a confidential basis, with the Pennsylvania State University electricity markets initiative, for the purpose of conducting an academic study on competitive markets in Pennsylvania following the expiration of rate caps.

The information sharing would occur on a one-time basis.

As first reported in *Matters*, the Penn State electricity markets initiative is funded by several competitive suppliers and was formed to investigate possibilities and challenges surrounding electricity restructuring in Pennsylvania (*Matters*, 3/25/10).

The information PPL is seeking to release is limited to residential and small commercial and industrial customers, and includes:

- Rate Schedule;
- Customer Zip code;
- Historical usage data limited to kWh used beginning Jan. 1, 2009, or, for newer accounts, the account start date;
- Meter read dates;

***Continued P. 6***

## **Briefly:**

### **Volunteer Energy Services Receives Maryland Electric, Gas Licenses**

The Maryland PSC granted Volunteer Energy Services electric and natural gas supply licenses to serve residential, commercial, and industrial customers (Only in Matters, 7/21/10). The awarding of the electric license is contingent on Volunteer submitting a signed signature page of the application which was inadvertently omitted from the electric application.

### **Interstate Gas Supply Receives Virginia Gas Supplier License**

The Virginia SCC granted Interstate Gas Supply a license to act as a natural gas competitive service provider serving residential and small commercial customers at Washington Gas Light Company, including WGL's Shenandoah Gas Division service area, and Columbia Gas of Virginia (Only in Matters, 8/12/10).

### **DPUC Draft Would Re-open Public Power License Docket to Determine Whether Change in Control Has Occurred**

The Connecticut DPUC issued a draft decision under which it would re-open the electric supplier licensing docket (07-06-13) of Public Power LLC to investigate and determine whether Public Power's license, "has effectively been transferred without the Department's prior approval as required pursuant to Conn. Gen. Stat. §16-245(j)." On October 17, 2007, the DPUC issued Public Power & Utility, Inc. a license. Effective March 19, 2010, the company legally changed its name and began operating as Public Power, LLC, with identical ownership. On July 27, 2010, Public Power informed the DPUC that Robert Gries, Jr. had assumed the role of President & CEO, and that David Pearsall was no longer acting as President. The draft does not include any discussion of what constitutes a transfer of a license (e.g. whether it includes a legal reorganization or change in management). Under section 16-245(j) of the General Statutes of Connecticut, no electric supplier license may be transferred without the prior approval of the Department. Further, the Department is authorized to assess additional licensing fees to pay the administrative costs of

reviewing a request for such transfer.

### **Prospect Resources Seeks Md. Broker Licenses, Has Already Brokered Electric Load**

Prospect Resources, Inc. applied for Maryland electric and natural gas broker licenses, stating that it has already operated in Maryland by brokering a single electric customer. The brokering represents serving a single Maryland location of an Illinois customer for whom Prospect Resources has brokered supply. Prospect Resources said that it was unaware Maryland brokering required a license. Annual revenues from the Maryland account are \$15,000, and Prospect Resources has been serving the customer since August 2008. For both commodities, Prospect Resources is seeking to broker commercial and industrial customers in all service areas.

### **PPL EnergyPlus Wins CL&P Last Resort Service Load**

Connecticut Light & Power reported that PPL EnergyPlus, LLC won 100% of CL&P's Last Resort Service load for the three-month period beginning October 1, 2010.

### **Fawcett Energy Partners Registers as N.H. Electric Aggregator**

Fawcett Energy Partners, Inc., trading as Energy Partners, submitted a registration at the New Hampshire PUC to provide electric aggregation services to customers in all service areas.

### **PUCT Approves Spark Energy Settlement Relating to Customer Protection Compliance**

The PUCT approved a settlement under which Spark Energy will pay \$44,500 to resolve Staff's allegations that Spark was not in compliance with 20 provisions of the Substantive Rules (38394). Among other things, Staff alleged that the affirmative consent utilized by Spark was not provided in the language the customer had chosen for communications. The full extent of the settlement and Staff's allegations were first reported by *Matters* in our June 30, 2010 issue. Spark has corrected all of the deficiencies.

### **PUCT Approves Ambit Energy Settlement Relating to Customer Protection Compliance**

The PUCT approved a settlement under which Ambit Energy will pay \$22,500 to resolve Staff's allegations that Ambit was not in compliance with five provisions of the Substantive Rules (38392). Among other things, Staff alleged that the 12-month price history for all variable rate products was not publicly available on the Ambit website. The full extent of the settlement and Staff's allegations were first reported by *Matters* in our June 30, 2010 issue. Ambit has corrected all of the deficiencies.

### **PUCT Approves First Choice Power Settlement Relating to Customer Protection Compliance**

The PUCT approved a settlement under which First Choice Power will pay \$16,500 to resolve Staff's allegations that First Choice was not in compliance with six provisions of the Substantive Rules (38433). Among other things, Staff alleged that First Choice's Electricity Facts Label did not precisely conform to the format provided in the rules. The full extent of the settlement and Staff's allegations were first reported by *Matters* in our July 13, 2010 issue. First Choice Power has corrected all of the deficiencies.

### **PUCT Approves Tremcor Settlement Regarding Compliance with Annual Reporting**

The PUCT approved a settlement under which Tremcor Energy will pay \$2,500 to resolve Staff's allegation that Tremcor violated PURA §39.353 by failing to file an annual aggregator report with the PUCT since its registration in May 2004 (38439, Only in *Matters*, 7/13/10).

### **CMP Agrees to Staff Proposal on Retainage Factor**

Central Maine Power informed the Maine PUC that it is agreeable to Staff's recommendation to increase CMP's adder for uncollectible accounts associated with Standard Offer residential and small commercial service to 0.0225, which is the rate in place at Bangor Hydro-Electric (Docket 2010-173). As only reported in *Matters*, CMP had originally requested to set the so-called retainage factor at an overall level of 0.045,

which would require the next Standard Offer solicitation for small customer load to use a retainage factor of 0.100 (Only in *Matters*, 6/7/10). CMP said that to achieve an overall retainage rate of 0.0225 as recommended by Staff, CMP has calculated that the retainage factor for the 33% of the small customer Standard Offer load that will be awarded during the Commission's next solicitation would need to be 0.0325. The current overall retainage level is 0.017.

### **PUCT to Issue Proposal for Publication on State Estimator Data Release**

The PUCT voted to publish for comment Staff's proposal for publication to amend Subst. R. §25.505 to provide that, notwithstanding other provisions under subsection (f) of the rule, the ERCOT State Estimator Report shall be posted 14 days after the day for which the data was accumulated, once the nodal market goes live (38470, Only in *Matters*, 8/13/10).

### **PUCT to Issue Proposal for Publication on Jurisdiction Over ERCOT**

The PUCT voted to publish for comment Staff's proposal for publication, with minor changes, clarifying the Commission's jurisdiction over ERCOT and amending Subst. R. §25.363 to provide that ERCOT's annual budget is subject to review by the Commission (38338). As more fully described in our August 13, 2010 issue, ERCOT would be required to file with the Commission its Board-approved budget, budget strategies, and staffing needs, with a justification for all expenses, capital outlays, additional debt, and staffing requirements. ERCOT would not be able to implement a new budget absent Commission approval. The proposed amendments would also provide that the appointment of ERCOT's chief executive officer and certain other management would be subject to Commission approval.

### **PUCT Approves CPS Energy Ancillary Service Provider Obligations Settlement**

The PUCT approved a settlement under which CPS Energy will pay \$35,000 to resolve allegations that it failed to adhere to ERCOT Protocol § 6.3.2(2), concerning ancillary service provider obligations, by failing to deploy

sufficient Responsive Reserves, Up Regulation, and Non-Spin ancillary services during the November 29, 2007, Emergency Energy Curtailment Plan (EECP) Step 1 event (Only in Matters, 7/9/10).

### **PUCT Approves Austin Energy Ancillary Service Provider Obligations Settlement**

The PUCT approved a settlement under which Austin Energy will pay \$35,000 for its failure to adhere to ERCOT Protocol § 6.3.2(2), concerning ancillary service provider obligations (Only in Matters, 7/2/10). During the November 29, 2007, Emergency Electric Curtailment Plan event, Austin Energy fell short of its required ancillary service reserve obligations during 15-minute intervals falling within two separate clock hours within the event which violated ERCOT Protocol § 6.3.2(2)

### **PUCT Approves Updated Discretionary Charges at CenterPoint**

The PUCT approved several reduced Discretionary Charges (e.g. Move-In, Disconnect for Non-Pay, etc.) at CenterPoint Energy, due to lower costs from advanced meter deployment (38299). The charges, approved as filed, were detailed in our May 26, 2010 story.

### **RESA Seeks Rehearing of N.Y. Cost Recovery Determination for Remote Account Number Access**

The Retail Energy Supply Association has sought rehearing of the New York PSC's order providing customers with remote access to their account numbers, arguing that ESCOs should not be allocated the costs of the remote access programs (98-M-1343).

The Commission cited its prior retail practices order, in which it found that promotional programs undertaken for ESCOs should not be subsidized, in reaching its conclusion (Matters, 7/16/10).

However, RESA said that the remote account number access programs are actually part of the "retail access platform" for which the Commission has said that cost recovery through distribution rates is appropriate, similar to EDI or utility consolidated billing programs.

RESA said that the Commission's retail practices order held that, "a program is only deemed to be promotional where it is primarily designed to aid ESCOs in adding customers rather than seeking to allow ESCOs to operate on a competitive footing with the utility or helping customers participate in retail access."

"It remains undisputed that without access to account number information, customers cannot participate in customer choice, it is virtually impossible to maintain a viable competitive market structure, and ESCOs cannot operate on equal footing with the utility," RESA argued.

RESA noted that a customer may obtain commodity and/or distribution service by merely calling the utility and presenting some information, which does not include an account number. In contrast, enrollment with an ESCO may only occur with a valid utility account number.

"Thus, ESCOs operate at a distinct competitive disadvantage to the utility with respect to customer enrollment. The institution of corrective measures to address this competitive disparity is therefore properly viewed as an effort to buttress the retail access platform," RESA said.

### **Pa. Trial Staff Says PECO Gas POR RD Threatens Future Unbundling**

Reiterating its arguments from post-hearing briefs, the Pennsylvania PUC Office of Trial Staff filed exceptions against a recommended decision which would institute a natural gas Purchase of Receivables program at PECO and provide for recovery of supplier uncollectibles in base rates (P-2009-2143588, Only in Matters, 8/12/10).

Trial Staff repeated arguments rejected by the ALJ that recovering POR uncollectibles in base rates would force jurisdictional ratepayers to pay the non-jurisdictional suppliers' avoided costs, and therefore subsidize suppliers. As only noted in *Matters*, Staff favors recovering supplier uncollectibles in the POR discount rate, with an equal uncollectibles charge applied to the Price to Compare via a Merchant Function Charge. Staff has recommended a discount rate of 5%, reflecting both uncollectibles and

implementation costs.

In the exceptions, Staff placed greater emphasis on the impact of the recommended decision on future unbundling, which was not as extensively discussed in its briefs.

"[T]he recommendation to allow the continuation of bundled rates severely jeopardizes the regulatory goals contemplated by deregulation and the Natural Gas Competition Act ... [because] delaying the full unbundling of rates will lead to complications that will make the ultimate allocation of costs untenable," Staff argued.

"If PECO were to purchase the receivables of Natural Gas Suppliers under the terms contemplated in the program submitted for review, the likelihood of full unbundling in the future will all but be eliminated," Staff warned.

"The most effective time to fully unbundle natural gas supply and distribution rates is during a base rate case, or, at the time of inception of the submitted POR program. If the proper modifications are not established during the periods discussed above, the ramifications of the flaws of the planned POR will be felt by ratepayers. Similarly impacted will be the goal of full unbundling of jurisdictional and non-jurisdictional costs. Full unbundling of rates becomes increasingly difficult as receivables are purchased. As non-jurisdictional costs become further imbedded in jurisdictional rates, it will be virtually impossible to equitably separate them," Staff said.

Trial Staff made similar unbundling arguments with respect to PECO's revised electric POR program which also placed supplier uncollectibles in base rates. In that case, the Commission rejected Staff's arguments.

## **PJM, MISO File Tariffs to Comply with SECA Order**

PJM and the Midwest ISO have each filed tariff revisions regarding the Seams Elimination Charge Adjustment which they said comply with FERC's May 21 order on the SECA initial decision (see Matters, 5/24/10, ER05-6 et. al.).

The RTOs said that the tariffs reflect various shift-to-shipper or other adjustments as directed

in the May 21 order, including shifting a portion of Green Mountain Energy's SECA obligations to BP Energy Company, shifting Quest Energy's (Integrus) SECA obligations with respect to the North Star Steel load and Northwest Ohio Aggregation Coalition load, and shifting CMS Energy Resource Management Company's SECA obligations.

With respect to the shifting of SECA obligations associated with Quest's North Star load and CMS Energy's load, MISO reported that the identities of the new suppliers taking transmission service to serve these loads during the transition period have not been determined. The Midwest ISO Transmission Owners said that they do not have access to the information necessary to identify the specific new suppliers for these loads. Both loads are located in Detroit Edison, but Detroit Edison informed the MISO's expert witness that its policy not to reveal customer-specific information to third parties prevents it from disclosing the identity of the new suppliers and suggested that Quest or CMS Energy or the relevant customers could provide that information. To date, the witness and MISO Transmission Owners have not been able to identify the new suppliers. To the extent necessary, the MISO Transmission Owners requested that FERC issue an order specifically requiring Detroit Edison or others who might have the information to disclose the identities of the new suppliers for the two specified loads.

## ***N.Y. GAC ... from 1***

price of gas reflected on their GAC statements is not as closely aligned with the LDCs' actual gas costs as it could be.

The LDCs said that the change will benefit the LDCs and their customers, as well as ESCOs operating in the LDCs' service territories. The modification should also reduce the amount of under or over recovery of gas costs that are reported by each company in its annual gas cost reconciliation filings, National Grid said.

## ***PPL ... from 1***

- Whether the customer has switched to a competitive supplier, and, if so, the date of the switch, and
- Whether the customer is a heating or non-heating customer

PPL will not provide the customer name, phone number, address, Social Security Number, account number, or historical billing data.

Additionally, Penn State will not provide any of the data to any other person or entity, including competitive suppliers.

"PPL Electric believes that the results of the study may foster increased [competitive supplier] participation and more effective competition in the retail electric market and, therefore, the proposed release of certain customer information, under the circumstances and limitations described below, is in the public interest," PPL said.

"The study will provide insight and data regarding customers that switch from an [electric distribution company] to an [electric generation supplier], and whether the current marketing and sales activities have been effective in increasing [electric generation supplier] competition in the retail market after the expiration of generation rate caps," PPL added.

PPL said that the results of the academic study will be publicly reported and may be valuable to the Commission in its efforts to promote competitive markets.

PPL Electric believes that the release of the customer information complies with Section 54.8 of the Commission's regulations, and is seeking a declaratory order to that effect.

As noted, the information will not contain any customer-specific identifiers, and thus PPL contended that it is not required to give customers an opportunity to opt-out of the sharing of such information.

To the extent the PUC disagrees with this interpretation, PPL sought a waiver of the opt-out requirement to allow for the sharing of the information with Penn State.