Energy Choice Matters

August 25, 2010

UGI - Gas 1307(f) Settlement Includes One-Year Delay in Mandatory Direct Capacity Assignment

A settlement in the 1307(f) rate investigation of UGI Utilities - Gas Division provides a similar transition to mandatory direct capacity assignments based on peak day requirements as that contained in a UGI Penn Natural Gas stipulation; however, one of several key differences is that UGI - Gas will not mandate direct assignment until the winter of 2011-12 (R-2010-2172933).

As only noted in *Matters* yesterday, PNG is to begin mandatory direct capacity assignments to suppliers starting with the period December 1, 2010 through October 31, 2011, with a two-year transition in which direct capacity assignments based on the January Normal Daily Delivery Requirement would be available in addition to direct assignment options based on the peak day requirements. At PNG, direct capacity based only on peak day requirements would begin with the 12-month period beginning November 1, 2012 (see Matters, 8/24/10 for greater detail).

At UGI - Gas, whose 1307(f) proceeding saw Shipley Energy intervene (while the PNG case had no supplier intervenors), suppliers' participation in the direct capacity assignment program for the December 1, 2010 through October 31, 2011 period would be made voluntary under the stipulation. Mandatory direct assignment at UGI - Gas would commence with the period of November 1, 2011 through October 31, 2012, or a year later than at PNG.

Shipley called the delay in the mandatory direct assignment program a significant change because it will allow suppliers a year's time to adapt their current operations to a new system where they will be assigned capacity assets at a price that may not be as favorable as that in the marketplace.

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Draft Calif. Order Would Exclude ESPs from Renewable Auction Procurement Obligations

A proposed California PUC decision (R. 08-08-009) would impose a new obligation on investor owned utilities to procure renewable energy transactions with capacity of up to 20 MW through a must-take Renewable Auction Mechanism (RAM).

The Renewable Auction Mechanism would use standardized contracts and impose a total capacity obligation of 1,000 MW to be procured among the three largest investor-owned utilities. Aside from the capacity cap, the must-take obligation would also be capped at a Simplified Preapproval Threshold price equal to the Market Price Referent (MPR) times 1.5, allocated to time of delivery (TOD) periods using each utility's individual TOD factors.

The draft would not apply to electric service providers as written, though the applicability of various procurement requirements on competitive suppliers, per SB 695, is being debated in other proceedings.

"We need further information before considering whether and how to apply RAM to other [non-utility] LSEs," the draft states. "ESP obligations relative to RAM requirements, if any, need further development. We will hear from parties at a later time regarding whether or not to require ESPs to implement RAM, and if so under what terms and conditions," the draft adds.

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Ambit Energy Tops Inc. 500 List

Ambit Energy ranked first in the 2010 Inc. 500 rankings of private companies ranked by revenue growth from 2006 through 2009, based on its revenue growth from $1.6 million in 2006 to $325 million last year.

Other suppliers, broker/consultants, marketing agents, and curtailment service providers which made the 500/5000 list are as follows:

Rank	Company	Employees	3-Year Growth	2009 Revenue
1	Ambit Energy	171	20,369%	$325 million
553	U.S. Gas & Electric	122	555%	$152.4 million
613	StarTex Power	111	487%	$317 million
962	CPower	79	309%	$38.9 million
1199	BlueStar Energy Services	80	248%	$187.1 million
1890	Customized Energy Solutions	48	143%	$12.3 million
1924	Prenova	84	139%	$11.5 million
2139	Green Mountain Energy Company	288	121%	$477.2 million
2158	Energy Curtailment Specialists	120	120%	$41.9 million
2232	Stream Energy	259	114%	$848 million
2833	U.S. Energy Services	77	78%	$17.7 million
3398	Ameresco	639	54%	$428.5 million
3410	Pegasus Alliance (OnPAC Energy)	11	53%	$3.7 million
3764	Consumer Sales Solutions	198	40%	$6.4 million

The employee counts listed are as reported to Inc. and do not reflect current totals

New Coalition Pushes for Higher Michigan Electric Choice Cap

A new grassroots coalition has been established to lobby for an increase in the current 10% electric choice cap in Michigan.

Electric Competition for Michigan NOW! includes customers, suppliers, and trade associations, and has the support of Rep. Roy Schmidt (D-Grand Rapids), who introduced legislation earlier this year to raise the cap to 25%. The legislation (HB 6127), and companion legislation (SB 1317) introduced by Sen. Wayne Kuipers (R-Holland), has languished in committee.

The coalition noted that in the 22 months since the passage of legislation capping choice at 10%, which also allows for self-implementation of rate increases, electric rates have increased despite falling energy prices. For Consumers Energy customers, rates have risen from 20 percent for the average residential customer to the upper 20s to upper 30s percentages for businesses.

"The crisis is real, the time is now, the need is urgent," said Schmidt. "Michigan's businesses, especially our small businesses, have been caught in an economic recession for many years - longer than most states. To now have to absorb 30 to 40 percent price hikes on their utility rates over the course of just 22 months is inordinately handicapping Michigan business. We need to start looking out for all of our business community, not just our two largest utilities."

Detroit Edison currently has 426,418 MWh encompassing 713 enrollments in its choice queue. Consumers Energy has 865,199 MWh encompassing 1,111 customers in its queue.

The coalition's members include: American Hospitality Management; Bay County Maintenance Department; Buffalo Wild Wings; Campbell Grinder Company; Capstone Enterprises, LLC; Constellation NewEnergy; Dart Container Corp.; Direct Energy; Duncan Aviation, Inc.; Durcon, Inc.; Energy Plus Holdings, LLC; Harding's Galesburg Markets, Inc.; Haworth, Inc.; Hess Corp.; International Extrusions, Inc.; Just Energy; Kent Quality Foods; L.C. Manufacturing; Leggett & Platt, Inc.; Liberty Power; Monroe Environmental Corp.;

Nu-Wool Co.; Oleson's Food Stores; Retail Energy Supply Association; Sempra Energy Solutions; T&J, Inc.; Wendy's Arby's Group.

Pa. PUC Clarifies PECO Electric POR Order

The Pennsylvania PUC said in a clarification requested by the Office of Small Business Advocate that the revised electric POR program does not apply to dual billing accounts (P-2009-2143607).

"In its Petition the OSBA states that the Commission's apparent understanding that 'consolidated billing is a condition precedent to the creation of EGS receivables [for pre-2011 service] that are eligible for purchase' implies that the Commission did not intend to approve the use of termination if a customer fails to pay PECO for service giving rise to 'Dual Billing Receivables,' i.e., for EGS service originally billed to the customer by the EGS through dual billing (rather than by PECO through consolidated billing). We agree with the OSBA. The Commission's intent is to allow PECO to commence service termination actions when any consolidated billing account purchased by PECO, pursuant to its Revised POR Program, becomes delinquent to PECO. Additionally, PECO is to follow its normal business practices of billing and collecting as well as all notice requirements and winter moratorium restrictions when dealing with EGS accounts through its Revised POR Program," the PUC said in an order published yesterday.

"The last point of clarification requested by the OSBA is the identification of the proper 'initial billing date' for EGS charges through dual billing. The OSBA suggests that there are two approaches. The first approach would be to consider the 'initial billing date' to be the date on which PECO first bills the customer for an EGS charge underlying a 'Dual Billing Receivable.' The second approach would be to consider the 'initial billing date' to be an earlier date when the EGS first billed the customer for service. PECO also clarified in its Answer that the OSBA's suggestion that PECO intends to purchase dual billing receivables is simply incorrect. As previously noted, the Revised POR Program does not apply to dual billing accounts," the PUC recounted.

"To further clarify back billing for unpaid arrearages resulting from prior under-billings, we note that our Opinion in the Angie's Bar v. Duquesne Light Company, 72 Pa. PUC 213, 217 (1990), proceeding aligned the four-year time frame used for residential back billing to commercial accounts in cases where the commercial customer has no culpability. Accordingly, we expect all EDCs to adhere to the Commission's findings in Angie's Bar when addressing residential and commercial underbilled account balances. Unless the customer is directly responsible for an unpaid service and has enjoyed the utility service provided, for example, for a theft of utility service, the statute of limitations established in Angie's Bar is controlling. Accordingly, we do not agree with the OSBA's reliance on Angie's Bar as being applicable to unpaid, uncontested consolidated billings," the PUC said.

Briefly:

South Jersey Energy Co. Registers as Conn. Gas Supplier

South Jersey Energy Company, d/b/a Halifax American Operating Company, submitted a natural gas supplier registration with the Connecticut DPUC. As only reported in *Matters*, South Jersey Energy Co. is focusing on expanding its retail natural gas business to New England (see Matters, 8/6/10).

Glacial Natural Gas Registers as Conn. Gas Supplier

Glacial Natural Gas submitted a natural gas supplier registration with the Connecticut DPUC.

Conn. Draft Would Grant Aggregation License to Freedom Logistics

A draft Connecticut DPUC decision would grant Freedom Logistics, LLC an electric aggregator certificate to serve commercial, industrial, municipal and governmental customers. The draft is scheduled to be considered at the DPUC's September 1 meeting. As only reported in *Matters*, the DPUC recently suspended temporarily the acceptance of aggregator applications, though the Department was silent on the applicability to pending applications (Only in Matters, 8/12/10).

Conn. Draft Would Grant Aggregation License to Standard Power of America

A draft Connecticut DPUC decision would grant Standard Power of America, Inc. an electric aggregator certificate to serve commercial, industrial, municipal and governmental customers. The draft is scheduled to be considered at the DPUC's September 29 meeting. As only reported in *Matters*, the DPUC recently suspended temporarily the acceptance of aggregator applications, though the Department was silent on the applicability to pending applications (Only in Matters, 8/12/10).

Sprague Energy Relinquishes Conn. Electric License in Order to Broker

Sprague Energy Corp. has asked to withdraw its Connecticut electric supplier license, as it will instead act as a non-load serving electric broker.

Clearview Seeks Hearing on Financial Requirements Waiver in Texas

Clearview Electric has requested a hearing on its request for a waiver of the financial requirements under Subst. R. §25.107 (38446). As only reported in *Matters*, PUCT Staff have recommended denying the waiver (Only in Matters, 8/19/10).

Constellation Supplying Baseball Hall of Fame with RECs

Constellation Energy said that it will supply 2,000 renewable wind RECs to the National Baseball Hall of Fame and Museum to match the estimated 2,000 MWh of electricity used by the Hall of Fame over the course of the baseball season, under an agreement facilitated by Usource, LLC.

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While direct assignment at UGI - Gas would be voluntary for the 2010-11 period, suppliers would be able to elect direct assignment under four options, similar to the four options to be in place at PNG. In short, these options would be a monthly release of interstate pipeline capacity at a price equal to the projected weighted average demand cost of all Purchased Gas Cost capacity, storage, and peaking assets (based on either the January Normal Daily Delivery Requirement or Peak Daily Delivery Requirement); or, a mix of released pipeline capacity combined with baseload sales (again, based on either the January Normal Daily Delivery Requirement or peak day requirement).

The mix of pipeline capacity and baseload sales would differ based on whether the supplier elected to use the January Normal Daily Delivery Requirement or peak day requirement, and also differs from the percentages used at PNG. Specifically, for the 2010-11 period at UGI - Gas, portfolios of releases and sales based on the January Normal Daily Delivery Requirement would be 40% released capacity, with 60% of the requirements covered by bundled city gate sales of gas to the supplier by UGI. For the 2010-11 period at UGI - Gas, portfolios of releases and sales based on the Peak Daily Delivery Requirement would be 62% released capacity, with only 38% of the requirements covered by bundled city gate sales of gas.

Bundled city gate sales would be priced at (1) the average published April through October INSIDE FERC First of Month Natural Gas monthly price for Columbia Gulf Mainline, plus (2) the variable transportation and variable storage charges associated with a specified delivery path, including fuel and commodity costs for storage injection and withdrawals. Shipley said that a summer index price mitigates some of the summer/winter price differential that would otherwise be perpetuated by UGI's unwillingness to include storage capacity assets in the assignment.

As noted above, mandatory direct assignment of capacity for choice suppliers would begin with the period November 1, 2011 through October 31, 2012, with the same basic four options available for 2010-11, except that the mix of releases and baseload sales based on the January daily requirement would be 50-50 (rather than 40-60). The mix of releases and sales would not change for portfolios based on peak day requirements.

Suppliers would be required to make their election of their direct assignment option by July 15, 2011, rather than March 1, 2011 as originally proposed.

For the annual period beginning November 1, 2012, and each 12-month period effective November 1 thereafter, suppliers would no longer have the option of a direct assignment based on the January day requirement, and would only be able to select the two options (100% capacity or 62% capacity/38% sales) based on peak day requirements.

If, on or before October 31, 2013, the total design peak day Choice demand served by Choice Suppliers on the UGI - Gas system drops to a level less than 90% of the highest total design peak day demand experienced in the previous three years, or the total number of Choice customers served by Choice Suppliers on the Company's system drops to a level less than 90% of the highest total customer account experienced in the previous three years, any Choice Supplier would have the right to file a complaint to show why UGI's capacity assignment rules have resulted in the drop and to propose changes to be considered by all interested parties.

On a monthly basis, UGI would post total Choice peak day demand levels and Choice Customer numbers on its supplier website for purposes of allowing any interested party to monitor such peak day demand levels.

The right to file a complaint regarding the direct assignment program is an important "safety valve," Shipley said, who, although a signatory to the settlement, still has, "grave concerns that ... a level of assignment [based on peak day requirements], without storage, will cause it significant harm."

UGI Central Penn Gas (R-2010-2172922)

A settlement in UGI Central Penn Gas' 1307(f) rate investigation provides that CPG will propose mandatory direct assignment rules in its 2011 Purchased Gas Cost proceeding, under a program which (a) retains its current methodology through October 30, 2012 and (b) is consistent with the UGI Penn Natural Gas, Inc. rules, with appropriate modifications for the index price, storage percentage and delivery path, for annual periods beginning November 1, 2012 and thereafter. Accordingly, effective November 1, 2012, CPG is to base mandatory direct assignment options on each Choice Supplier's peak day requirements, as such will be the requirements at PNG under a pending settlement.

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The capacity obligation assigned to each utility to be procured through the Renewable Auction Mechanism would be as follows:

Southern California Edison	498.4 MW
Pacific Gas & Electric	420.9 MW
San Diego Gas & Electric	80.7 MW

"The 1,000 MW cap allocated to three IOUs is sufficiently large to provide market opportunities, while being sufficiently small to provide protection against bad outcomes," the draft says.

The auction builds upon the existing feed-in tariff mechanism for projects up to 1.5 MW in size, but uses a market-based approach to pricing rather than a fixed tariff price. Expansion to 20 MW is appropriate, "as part of our goal to streamline the entire RPS program where feasible and reasonable," the draft order states.

Individual prices for renewable transactions would be determined by each seller submitting a non-negotiable bid, with buyers selecting purchases in the order of least-costly first.

Two auctions would be conducted per year, and no single auction could include (either solicit for or result in contracts of) more than 25% of the total obligation of each utility, except in the case of an auction including unsubscribed capacity from a prior auction. Utilities could also offer no less than 25% of their total obligation in each auction, to ensure a sufficiently large market.

Costs for capacity from the Renewable Auction Mechanism would be charged to bundled and departing customers consistent with current practice.

The project eligibility criteria for the auction, aside from the 20 MW transaction limit, would only require that deliveries must be consistent with RPS eligibility standards as determined by the California Energy Commission. No California ISO or utility service area locational requirement would be used.