Energy Choice Matters
August 26, 2010

PUCO Approves FirstEnergy Utilities' Stipulated Electric Security Plan

The Public Utilities Commission of Ohio has approved a stipulation, with some modifications, to establish an electric security plan governing the FirstEnergy utilities' Standard Service Offer for the period June 1, 2011, through May 31, 2014 (10-388-EL-SSO).

The approved stipulation establishes laddered, descending clock auctions to procure slice of system, full requirements (excluding renewables and Network Integration Transmission Service) supply for Standard Service Offer customers (Matters, 7/23/10 & 3/24/10). The contracts will be for a mix of 12, 24 and 36 months.

The Commission found that the electric security plan is more favorable than a Market Rate Offer. Since a competitive bidding plan will be used to procure generation supply under the electric security plan, the generation rates under the electric security plan should be equivalent to the results which would be obtained under a market rate offer, PUCO said. However, the electric security plan also includes economic development and low income assistance funding, as well as a cap on certain RTO-related transmission costs, PUCO noted.

As originally proposed, the competitive auctions were to be held in July 2010, October 2010, July 2011, and July 2012.

Due to the passage of time while the case was pending, PUCO ordered that the first two auctions should now be held in October 2010 and January 2011.

Furthermore, the Commission agreed with concerns about conducting auctions during peak

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RetailOPCO of Texas Seeks REP Certificate, Directors Include Australian Power Market Veterans

Start-up RetailOPCO of Texas, Inc. filed for a Texas REP certificate. Information on its principals, past electric/gas experience, and risk management experience were marked confidential on its application.

Thomas Alexander Gilpin is listed as CEO and Director, with an email address from Arthur Phillip, an Australian boutique investment and advisory house. Arthur Phillip has invested in retail supplier Australian Power & Gas, which has approximately 150,000 accounts and is targeting 450,000 accounts by 2014. Australian Power & Gas exclusively serves the residential electric and gas market.

Directors of RetailOPCO of Texas, according to Texas Secretary of State filings, are Richard Jonathan Poole, Thomas Gilpin, James Myatt, and Kevin Howell.

The CEO and Managing Director of Australian Power & Gas is James Myatt. Richard Poole serves as executive director of Australian Power & Gas and as Managing Director of Arthur Phillip. Thomas Gilpin was listed as General Manager for Commercial Operations for Australian Power & Gas in a 2006 prospectus and application for a Victoria supplier licence.

Sales and marketing channel the Cobra Group owns nearly a third of Australian Power & Gas' shares, and is the supplier's largest shareholder.

Australian Power & Gas is described as Australia's fastest-growing publicly listed company.

Maryland PSC Approves POR at Pepco Effective Oct. 1

The Maryland PSC approved Pepco's Purchase of Receivables compliance plan, with an implementation date of October 1, 2010.

Pepco said that rather than using its Merchandising Module to bill pre-POR arrearages related to competitive supply on utility consolidated bills, it will implement a solution similar to what is being used at Delmarva, which will identify the amounts as supplier arrearages, answering concerns raised by Washington Gas Energy Services.

The Commission directed Pepco to participate in the supplier coordination tariff working group established for the other utilities to address several Staff concerns with the POR tariffs, such as including the calculation methodology of the discount rate in the tariff itself, and the amount of interest to be charged for reconciliations (Only in Matters, 8/23/10).

The approved discount rates at Pepco are:

Residential:	1.1438%
Type I:	0.4330%
Type II:	0.3093%
Hourly Service:	0.0016%

IDT Energy Receives Maryland Gas, Electric Licenses

The Maryland PSC granted IDT Energy electric and natural gas supplier licenses, conditioned on IDT conducting an agent training program similar to that conducted in New York in response to complaints experienced more than two years ago.

Commissioner Lawrence Brenner dissented from the approval, as he wished to limit IDT's license such that it could only offer month-to-month contracts initially, without prejudice to IDT seeking to offer other products with termination fees upon application to the Commission. Brenner sought the limitation since one of the mitigation measures concerning complaints cited by IDT was that its contracts currently do not include termination fees, thus customers may freely leave if dissatisfied.

Chairman Douglas Nazarian was hesitant to impose any conditions on product type in the license, questioning the Commission's authority to do so. However, Nazarian stressed that IDT was "on notice" that any sort of complaints similar to those experienced in New York would cause the PSC to bring the "wrath of 7-507 [of the Public Utilities Companies Article] down on them."

Penstar Power to Pay $14,000 to Resolve Alleged Substantive Rule Violations in Texas

Penstar Power, LLC would pay an administrative penalty of $14,000 to resolve alleged violations of nine provisions of the PUCT Substantive Rules relating to consumer protection under a settlement agreement with Staff (38596).

Among other things, a Staff audit alleged that Penstar provided the historical price information for its variable price products to existing customers only, contrary to SUBST. R. 25.475(c)(2)(G). Penstar disagrees with the Commission's interpretation of the rule, but for settlement purposes has agreed to disclose its pricing history to both applicants and existing customers.

Staff alleged that Penstar charged a fee for terminating a month-to-month contract contrary to SUBST. R. 25.475(b)(7). Staff also alleged that Penstar's website stated that it did not require deposits or run credit checks, which is contrary to its Terms of Service, in contravention of SUBST. R. 25.475(c)(1)(A).

Maryland PSC Declines to Modify Allegheny SOS Procurement Schedule

The Maryland PSC adopted the report of the SOS Procurement Improvement Process working group. In doing so, the Commission said that Allegheny Power's current procurement schedule should continue, with all contract delivery dates starting June 1, rather than transitioning Allegheny to the schedule used at the other utilities where contracts begin on both June 1 and October 1.

The report had presented an alternative

schedule to align Allegheny's schedule with those of the other utilities, but the Commission heeded concerns that the October 1 start dates would prevent winning bidders from selecting their own Auction Revenue Right paths, potentially raising bid prices (see Matters, 8/3/10).

The Commission also directed that the working group recommended in the report, which is to examine alternatives to the current treatment of renewables in the SOS procurement process, shall file a status report by January 2011.

Staff stressed that its preference, when legislative certainty is present, is for all requirements to be included in the SOS full requirements product, as opposed to a carve out for certain renewables. Renewable procurements outside of the SOS bid product should be limited to situations where the RPS requirements change after the products have been procured, Staff said.

Calif. Draft Would Raise Utility T-REC Caps, Lift Stay on T-REC Use for RPS

A proposed California PUC decision would increase the level at which tradable REC usage by the investor owned utilities is temporarily capped, would decline at this time to impose a tradable REC cap on electric service providers, and would lift the stay on RPS compliance through the use of tradable RECs (R. 06-02-012).

The draft order would increase the amount of the utilities' annual RPS targets which could be met using tradable RECs from 25% to 40%.

The draft would also decline to extend the cap to electric service providers and other non-utility load serving entities, as requested by the utilities.

"Because we are comprehensively addressing this and other issues related to harmonizing the RPS rules as applied to the IOUs and other RPS obligated retail sellers pursuant to new Section 365.1, enacted by Senate Bill 695 in Rulemaking (R.) 08-08-009, we do not adopt the modifications requested by the IOUs as they relate to these two specific issues. As we stated in D.10-03-021, 'We prefer to approach equalization of RPS requirements through a comprehensive review of all program requirements to be undertaken in R.08-08-009, rather than by changing this one element...,'" the draft states.

The draft would also modify the provisions in D.10-03-021 relating to the characterization of contracts approved prior to the effective date of the tradable RECs decision as REC-only, so that all contracts that were approved by the Commission before the effective date of D.10-03-021 will be characterized as bundled contracts for RPS compliance purposes and will not count toward the temporary REC usage cap adopted in D.10-03-021 and as modified by the draft.

Briefly:

Md. PSC Approves WGL Winter Hedging Plan

The Maryland PSC authorized Washington Gas Light to proceed with its proposed hedging plan for the 2010-2011 winter heating season for Maryland customers, subject to a maximum quantity of 2,720,000 Dth of hedged winter season purchases for Maryland sales customers or the Maryland allocated share of a total WGL system quantity of 6,350,000 Dth (Case 9224). The PSC declined to prohibit WGL from using options in connection with its hedging strategy (Only in Matters, 7/21/10).

Md. PSC Directs Staff to Investigate Complaints for Any Suppliers Seeking to Expand to Residential Service

The Maryland PSC deferred consideration of Coastal Energy Company, LLC's application to extend its electric brokering license to residential customers for one week after directing Staff to determine whether Coastal has had any complaints in its short time of operation. Staff was unaware of any issues but had not checked. Chairman Douglas Nazarian said that, based on assurances from supplier representatives that Purchase of Receivables, "is going to bring all sorts of new entrants into the residential customer choice market," the Commission will likely see a lot more applications to expand licenses to residential customers, and directed Staff to ensure that in granting any expansions the Commission is not expanding an existing problem.

FERC Authorizes Staff Investigation of PJM Up-To Congestion Transactions

FERC has authorized its Office of Enforcement to conduct a non-public, formal investigation (IN10-5), with subpoena authority, regarding potential violations of the Commission's regulations, including section 1c.2, prohibition of electric energy market manipulation, that may have occurred in connection with, or related to, certain Up-To Congestion transactions in PJM. In seeking tariff changes, PJM had alleged unnamed market participants submitted Up-To Congestion transactions designed solely to increase their share of the marginal loss surplus refund (see Matters, 8/19/10).

PUCT Staff Files Disconnection, Critical Care Proposals for Adoption

PUCT Staff filed proposals for adoption related to customer disconnection and deferral plans (36131) and critical care designations (37622). Policy was previously locked at the Commission's August 1 meeting (see Matters, 8/2/10), and the proposals for adoption reflect the final cuts as discussed at the meeting, and also include preambles.

FirstEnergy ... *from 1*

months, and held that the auctions proposed for July 2011 and July 2012 shall be rescheduled into four auctions to be held in October 2011, January 2012, October 2012, and January 2013.

PUCO also accepted Staff's recommendation for an 80% load cap for the auctions, but reserved the right to modify and alter the load cap or any other feature of the auction process for future auctions as the Commission deems necessary based upon a continuing review of the auction process. Additionally, PUCO clarified that no bidder may obtain tranches through a post-auction assignment if such assignment, when added to the tranches won during the auction, would cause the bidder to exceed the load cap. The Commission will require all bidders to immediately disclose to the Commission, upon request and subject to appropriate protections for confidential information, any information regarding the auctions, including, but not limited to, all prices, terms, and conditions for any post-auction assignments of tranches.

The approved stipulation provides that there will be no minimum stay for residential and small commercial non-aggregation customers. Additionally, there will be no minimum default service rider, standby charges, or rate stabilization charges.

Except for limited circumstances, all generation rates are avoidable, and there are no shopping credit caps.

Rider GCR will reconcile default service supply costs and actual revenues from Standard Service Offer customers, as well as any shortfalls due to voluntary time-based rates.

Rider GCR may become nonbypassable if the allowed balance of Rider GCR reaches 5% of the generation expense in two consecutive quarters. The Commission clarified that, as with any other tariff provision, the FirstEnergy companies may modify Rider GCR to make it nonbypassable only with the approval of the Commission.

Network integration transmission services (NITS) and other non-market based FERC/RTO charges will be paid by the FirstEnergy companies for all shopping and non-shopping load, and the amount shall be recovered through the proposed Non-Market-Based Services Rider (Rider NMB).

The bypassable Generation Service Uncollectible Rider (Rider NDU) will continue to recover non-distribution-related uncollectible costs associated with supply costs from the auction to serve SSO customers.

The approved stipulation also allows PUCO to phase-in the generation rates obtained through the auctions. If such a phase-in occurs, retail suppliers of governmental aggregations 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 the government aggregation supplier delivers to an aggregation customer. Uncollectible receivables arising from government aggregation suppliers participating in the phase-in would be included in the nonbypassable mitigation cost recovery rider. PUCO declined to extend these measures, meant to maintain competitive neutrality in cases of a phase-in, to non-government aggregation retail suppliers.

Renewable energy resource requirements for the period of June 1, 2011, through May 31, 2014, will be met by using a separate request for proposal (RFP) process to obtain renewable energy credits (RECs), or a bilateral contracting process if the RFP is not sufficiently subscribed. The stipulation also calls for long-term contracts of 10 years to obtain a specific amount of RECs.

The average total rate overall percentage increase, for the 12 month period ending May 2012, resulting from the auction for customers on Rate GT, Private Outdoor Lighting, Traffic Lighting, and Street Lighting rates shall not exceed a percentage in excess of one and one-half times the system average increase by distribution company.

The initial allocation of revenue responsibility associated with establishing rates to recover the results of the competitive bid process for the companies' rate schedules Rate GS and Rate GP will be implemented so as to produce a percentage increase, as compared to overall July 2010 rate levels, which is approximately equal for the two schedules.

Domestic automaker facilities that used more than 45 million kWh at a single site in 2009 will receive a discount on usage which exceeds, by more than ten percent, a baseline energy consumption level based upon their average monthly consumption for 2009. Any discount provided will be collected based on a levelized rate for all three distribution companies under Rider EDR from customers under the RS, GS, CP and GSU rate schedules.

Capacity costs that result from the PJM capacity auctions will be used to develop capacity costs for Rider GEN. Rate schedule RS will have a flat-rate structure.

Under the stipulation, the FirstEnergy utilities will provide certain enhanced customer data and information and web-based access to such information to competitive suppliers by June 1, 2011, including customer sync lists. A web-based system will be implemented that provides electronic access to key customer usage and account data, updated quarterly, such as: account numbers, meter numbers, names, service addresses and billing addresses including zip codes, email addresses, meter read cycle dates, meter types, interval meter flags, rate code indicators, load profile group indicators, PLC values (capacity obligations), 24 months of consumption data in kWh by billing period including on-peak and off-peak data; 24 months of demand data (in kW) by billing period; 24 months of interval data; default service indicators (if on default service); minimum stay dates (if applicable); and identifiers of whether customers are participating in budget plans.

The Commission held that expanding the availability of, and enabling consumers to take full advantage of, dynamic and time-differentiated pricing options is essential for efficient markets and meeting state policy objectives. Thus, the competitive bidding process should ensure that consumers on such rates benefit from the generation cost savings associated with reducing their demand during peak periods. "Therefore, after consideration in future proceedings, and with sufficient notice to participants in the competitive bidding process, the Commission may carve out from future auctions supply procurements for consumers on dynamic and time-differentiated rates," PUCO ordered.

PUCO also continues to have concerns regarding the long-term impacts of PJM capacity obligations for price responsive consumers. "RTO tariffs that impose capacity obligations for demand that would not be present at higher energy prices or discriminate against price responsive demand are inconsistent with efficient markets and may be in conflict with State policy," PUCO said. While PUCO agreed, as part of the stipulation, to close the RTO Realignment Case, (09-778-EL-UNC), which had addressed such capacity cost concerns, the Commission, "put all parties on notice that, in the absence of an expeditious resolution of the issues relating to price responsive demand and scarcity pricing, we will open a new proceeding, if necessary, in order to address our concerns."

Percentage of Income Payment Plan (PIPP) load will not be included in the descending clock auctions, and instead will be procured bilaterally from FirstEnergy Solutions, with the rate priced at a 6% discount to the price to compare. As contemplated under Commission rule, PIPP customer load and usage is non-shoppable except as provided for in R.C. § 4928.54 if a better price is obtained.

PUCO rejected objections from the Ohio Consumers' Counsel and Direct Energy regarding the bilateral PIPP supply, who had argued that a competitive bid for such load would produce a lower rate. PUCO noted that the Ohio Department of Development retains its authority to competitively shop the aggregated PIPP load if a better price can be obtained.

As part of the stipulation, PUCO also approved the FirstEnergy companies' corporate separation plan as filed in Case 09-462-EL-UNC, dismissing Direct Energy's opposition to such approval as unsubstantiated.

The approved stipulation continues interruptible Riders ELR and OLR. While EnerNOC had protested the continuation of the riders, and alleged lack of notice to participants in the American Transmission Systems Inc. incremental capacity auction of the riders' continuation, PUCO found that eliminating the riders as sought by EnerNOC would be inappropriate.