Energy Choice Matters

August 27, 2010

Constellation Offering Residential Electric Supply at JCP&L, PSE&G

Constellation Energy has expanded its residential electric marketing to the Public Service Electric & Gas and Jersey Central Power & Light territories.

Constellation is offering an 18-month plan (12 months fixed, last six months variable) and a 30-month plan (24 months fixed, last six months variable). Both plans include $150 termination fees if cancelled during the fixed-price term of the contract.

At JCP&L, the 18-month plan is fixed at 10.6¢/kWh for the first 12 months, and the 30-month plan is fixed at 10.4¢/kWh for the first 24 months. At PSE&G, the 18-month plan is fixed at 10.3¢/kWh for the first 12 months, and the 30-month plan is fixed at 10.1¢/kWh for the first 24 months.

The fixed rate for each 18-month plan is 10% lower than the currently applicable Basic Generation Service rate. The fixed rate for each 30-month plan is 12% lower than the currently applicable Basic Generation Service rate.

The variable monthly price will reflect the average real-time PJM energy price plus a retail service charge not to exceed 6.5¢/kWh for congestion, capacity, transmission, line losses, ancillaries, renewable portfolio charges, and a, "reasonable profit margin."

The 18-month plan includes a $75 Target gift card, and the 30-month plan includes a $150 Target gift card. The offers are valid through September 30.

Constellation is dropping 2.4 million pieces of direct mail in support of the offerings, backed by a large media campaign including radio and print ads and billboards, with a particular emphasis on

Continued P. 5

DPUC IRP Draft Would Open Proceeding on Utility Contracting for Repowering, Similar Projects

A draft DPUC decision on the integrated resource plan would conclude that no new energy or capacity resources are needed for reliability purposes, but would establish a future proceeding to further examine the procurement of resources, particularly repowered projects and demand-side resources, for economic or environmental reasons (10-02-07).

The draft agrees with the utilities' and Connecticut Energy Advisory Board's (CEAB) conclusion that Connecticut is not forecasted to have a shortage of any energy or capacity requirements during the statutorily defined planning horizon. However, because uncertainties exist, the draft would direct the Department to carefully monitor resource needs. Uncertainties include the status of the Kleen project, and the New England East-West Solution transmission project.

"As such, the Department will initiate a review of which processes to proceed with to analyze certain actions such as repowering or the procurement of other resources that could provide substantial or economic [sic] benefits to Connecticut ratepayers," the draft states.

"[T]he Department also recognizes that these issues can change rapidly and there are situations wherein Connecticut could end up capacity constrained over the near term or that other economic and environmental opportunities beneficial to ratepayers could present themselves. Therefore,

Continued P. 5

Briefly:

Ambit Energy Receives Maryland Electric, Gas Licenses

The Maryland PSC granted Ambit Energy electric and natural gas supplier licenses to serve residential and commercial customers in all service areas (Only in Matters, 6/18/10).

South Jersey Energy Co. Receives Conn. Gas Registration

The Connecticut DPUC granted South Jersey Energy Company a registration as a natural gas supplier, effective October 1, 2010 (Only in Matters, 8/25/10).

Nstar Files Lower Gas Supply Rate

Nstar filed to reduce its Cost of Gas Adjustment to 21¢/therm, effective September 1.

MISO Seeks Authority to Suspend Customers with Potential Events of Default Without Seeking FERC Approval

The Midwest ISO filed tariff revisions at FERC to provide remedies associated with a potential event of default by a Tariff Customer. The change is intended to prevent a Tariff Customer from entering into additional transactions and incurring additional charges where there exists a continuing event which, with notice or passage of time, or both, would result in a default. The revisions provide that in the Potential Event of Default, MISO shall have the right to suspend, without having to obtain approval from FERC, any and all services the defaulting Tariff Customer receives under its various MISO agreements. Potential Event of Default is defined as, "[a] continuing event which, with notice or passage of time, or both, would constitute a Default under Section 7.13.1(a), 7.13.1(b) or under Attachment L of this Tariff." For example, "a written letter from the Tariff Customer stating that it will not be paying any further invoices would constitute a potential event of default, as defined in the proposed revisions," MISO said.

Md. PSC Sets RM 41 Rulemaking Session

The Maryland PSC scheduled a rulemaking session on revised net metering regulations (RM 41) for October 26, and will consider adopting the regulations as emergency regulations. Staff was directed to filed a recommended proposal, in COMAR format, by October 8. Previously, a working group offered the PSC two alternatives for the revised language (see Matters, 8/3/10).

PPL Rate Case Settlement Reserves POR Issues for Litigation

A settlement among several parties in PPL Electric Utilities' distribution rate case leaves issues related to its Purchase of Receivables program to litigation (R-2010-2161694).

As only reported in *Matters* (4/22/10), PPL is seeking to adjust the POR discount rates as follows:

Residential	**Current**	**Proposed**
Uncollectibles	1.32%	1.804%
Administrative	0.05%	0.050%
Total	**1.37%**	**1.854%**

Small Commercial	**Current**	**Proposed**
Uncollectibles	0.12%	0.007%
Administrative	0.05%	0.050%
Total	**0.17%**	**0.057%**

The Retail Energy Supply Association has argued that uncollectibles should be removed from the discount rate, with all uncollectibles, from both competitive supply and default service, recovered through a nonbypassable charge applicable to all distribution customers, similar to the program at PECO. Additionally, RESA is seeking to extend the mass market POR program to large commercial customers, who are governed by a separate POR program which includes a 90-day reversion to dual billing.

Testimony related to POR has been entered into the record with live cross examination waived, and the issue will proceed to briefing.

Also reserved for litigation are issues raised by Richards Energy Group, including the allocation of additional revenue requirement to customers under Rate Schedule GS-3, the determination of billing demand under Rate Schedules GS-1 and GS-3, the definition of billing demand, and the availability of certain data to customers and electric generation suppliers.

FERC Delays Load Reconstitution at ISO-NE Until April 2012 FCA, At The Earliest

FERC accepted ISO New England's proposal to extend the current practice of not reconstituting the load reductions for Demand Resources participating in ISO-NE's Forward Capacity Market (ER10-1653).

Under FERC's order, a load reconstitution methodology would become effective no earlier than for the Sixth Forward Capacity Auction on April 2, 2012.

Load reconstitution involves increasing the loads of a particular end-use customer or group of end-use customers, by the amount of load reduction for which they are receiving compensation through the wholesale electricity market. Load reconstitution is a mechanism employed to determine proportionate capacity cost allocations for customers that sell load reductions in the wholesale markets. With load reconstitution in place, retail customers selling load reductions would pay for the capacity required to serve their pre-reduction load, and then receive a capacity payment for their commitment to reduce load.

The Commission dismissed objections from the Retail Energy Supply Association, which had opposed the delay. RESA noted that the failure to reconstitute loads can result in capacity charges that unduly discriminate among loads. RESA noted that ISO-NE testimony showed that load reconstitution can help mitigate the shifting of capacity costs among retail customers.

NIPSCO Rate Case Settlement Calls for Code of Conduct

A settlement among parties in NIPSCO's current gas rate case, made publicly available yesterday, would provide that NIPSCO will develop a code of conduct governing the competitive neutrality and cost allocation of NIPSCO's competitive products such as fixed bill and fixed price offerings (Cause No. 43894).

Settling parties include the NIPSCO Marketer Group in addition to NIPSCO, the Indiana Office of Utility Consumer Counselor, the NIPSCO Industrial Group, and Citizens Action Coalition of Indiana.

The settlement would hold that the margins associated with NIPSCO's Current Gas Alternative Regulatory Plan (ARP) programs shall be included in the Gas Cost Adjustment (GCA) Net Operating Income earnings test pursuant to Ind. Code §§ 8-1-2-42(g)(3)(C) and 8-1-2-42.3 except for: (a) NIPSCO's Gas Cost Incentive Mechanism (GCIM), Capacity Release, and Optional Storage Service Rider (Rider 482A), which shall be treated as below-the-line but shall continue to be shared with customers through the GCA as provided in the Current Gas ARP; (b) NIPSCO's DependaBill fixed bill program; and (c) NIPSCO's Price Protection Service fixed/capped price product (PPS).

NIPSCO will agree to maintain competitive neutrality, to proactively support customer choice, to enhance transparency, and to ensure fair cost allocation in regard to its products and service in order to avoid: (a) subsidization of its competitive products, specifically PPS and DependaBill, and the operational and overhead costs associated with those products; and (b) optimization of assets in a manner inconsistent with or broader than otherwise currently permitted by the stipulation approved by the Indiana Utility Regulatory Commission in Cause No. 43837 (see Matters, 4/7/10).

NIPSCO further agrees that a code of conduct consistent with the principles and objectives agreed to above is to be established within the context of the upcoming proceeding in which NIPSCO seeks approval of a merger with its affiliated gas utilities, and that pending the implementation of such code of conduct NIPSCO will not alter its current market practices and policies in connection with its competitive products.

The stipulation calls for the cost of Unaccounted for Gas (UAFG) to be fully recoverable within the GCA mechanism based on a maximum system-wide UAFG rate of 1.04%. Customers served directly from the transmission system will pay the system-wide UAFG percentage rate less .10, and the rate for other customers, including Choice customers, PPS customers, and DependaBill customers will be set at an amount in order for NIPSCO to recover the system-wide percentage.

Settling parties agree that NIPSCO's UAFG percentage shall be updated annually, capped at the 1.04% maximum.

FERC Audit Finds PJM Undercharged Subsidiaries; Employees Used Unauthorized First Class Travel

An audit of PJM conducted by FERC (PA09-10) concluded that PJM's customers incurred higher costs as a result of several actions by the RTO and its employees, including undercharging subsidiaries for work and the use of first class travel when such travel was not authorized by PJM's travel policy.

The audit covering January 1, 2007 through December 31, 2009 found, among other things:

- PJM had inadequate controls to ensure it consistently applied procedures for identifying potential price errors in real time Locational Marginal Prices, and its lack of procedures for posting actual price errors in a timely manner;
- PJM did not always charge time for services performed on behalf of its subsidiaries or for subsidiaries' use of PJM data, in accordance with its policies. As a result, PJM members subsidized some labor and data services costs of PJM's subsidiaries;
- PJM employees traveled in a higher class fare than allowed by its travel policy;
- PJM had inadequate procedures to monitor and enforce employees' acceptance of gifts and entertainment from vendors, and some PJM employees accepted vendor gifts of entertainment that had no business-related purpose or proper management approval;
- PJM did not always follow its procurement policies regarding competitive bidding and sometimes did not retain procurement records
- PJM did not ensure its Secretary recorded all proceedings for Board of Managers meetings as required by its Operating Agreement;

In addition to these findings, the audit discovered that PJM provides generators zonal dispatch rate data through dispatch instructions about five seconds prior to making this information available to all market participants on its public website. PJM said that it was unaware of any member having used this prior notice for improper purposes. The audit determined PJM should address this matter as part of its stakeholder process with market participants to determine whether changes are necessary. PJM met with stakeholders several times between April 14, 2010 and June 16, 2010, to address their concerns regarding this issue. These discussions resulted in PJM committing to change the dispatch instructions PJM provides its members to eliminate the zonal dispatch rate data by the end of the fourth quarter of 2010.

Regarding travel, FERC Staff identified 23 instances during the audit period, involving domestic travel for two employees, in which PJM's travel coordinators purchased first class tickets when this was not permitted by PJM travel policies and employee contracts.

The difference between first class and a lower class of travel resulted in additional costs to PJM customers. However, FERC Staff could not determine the exact amount absent historical pricing information for these flights.

PJM has agreed to several remedial actions in connection with the audit, several of which have already been implemented, including:

- Updating procedures to ensure employees adjust and reset the Price Bounding Tolerance (PBT) default value timely and consistently, and provide documented reasons for changes;
- Implementing procedures to timely notify market participants of price corrections;
- Charging subsidiaries PJM EIS and PJM Tech $7,950 for unbilled employee labor hours and making appropriate refunds to customers;
- Charging PJM EIS $40,000 for unbilled data services fees;
- Providing training to ensure all necessary PJM employees are familiar with the classes of travel allowed for all employees, and first class travel is used according to PJM's Business Travel Policy and the terms of employment contracts;
- Creating procedures that require employees to document and report all gifts equal to or exceeding $50 from business vendors;

- Training employees involved in the purchasing of goods and services to ensure all employees consistently apply procurement policies for sole, single-source, and competitively bid contracts;
- Defining PJM's threshold for accepting gifts as per year, per vendor, or an aggregate limit over a 12-month period;
- Strengthening procedures to ensure that minutes for executive and closed sessions are taken and provided to the Secretary for recordation in accordance with PJM's Operating Agreement

Constellation ... *from 1*

signage at train and transit stations. Constellation is also using a Facebook application to promote the offer.

Kenny Matula, Constellation's senior vice president for mass markets, said that New Jersey was chosen, aside from the available headroom, due to its low residential migration rate and less crowded mass market versus other residential markets in which Constellation is not currently active, such as New York, Connecticut, and PPL. Recent entrants into the New Jersey residential electric market include Gateway Energy Services, Dominion Retail, Viridian Energy, and Verde Energy.

Constellation will use utility consolidated billing for its New Jersey residential products.

Branded as Constellation Energy, the New Jersey residential business will be run by a group within Constellation NewEnergy, separate from the group at affiliate BGE Home which is running the Maryland residential electric offers under the Constellation Electric banner.

Conn. IRP ... *from 1*

undertaking a more comprehensive analysis of these opportunities will provide the Department with a much more informed study to utilize," the draft states.

"The Department cannot ignore the possibility that was raised by the CEAB that the repowering of resources, or other actions, can potentially provide substantial economic benefits to Connecticut ratepayers. Further, the Department believes it is important to take into account the legislation that passed the House and Senate this past session, Public Act No. 10-97, vetoed by Governor Rell, May 24, 2010, that among other things would have required the IRP developed in 2010 to indicate options to reduce the price of electricity by at least fifteen percent less than the price at the time of the effective date of the bill and maintain at least such decrease for another five years. The Department recognizes that various parties noted in this Docket that a 15% rate reduction was almost assuredly unachievable, but the Department cannot ignore the potential of taking actions that will benefit ratepayers and the environment," the draft states.

The draft notes that the choices for its review of such contracts are between starting a procurement process first (as NRG proposes) or starting a generic docket to develop more information prior to the next IRP.

The draft would defer a decision on what process to pursue until after reviewing filings made in compliance in the IRP docket. In determining what route to take, the DPUC would ask parties to address any difference between: 1) initiating an RFP process and; 2) beginning an investigation into repowering, or procurement of other resources including energy efficiency, demand side management, or generating assets, to achieve economic and environmental benefits to ratepayers.

"The Department's conclusion here should not be interpreted as a commitment to procure any resources. The Department has determined that undertaking this process will position the Department to have the information required to provide the most informed input to Connecticut's lawmakers," the draft adds.

The draft also cites the, "responsibility and the opportunity that the EDCs [electric distribution companies] have under current statutory authority to investigate and enter into contracts, pending Department approval, that can yield benefits for ratepayers." The draft would encourage the EDCs to thoroughly investigate such opportunities and to bring any proposals forward, at any time for a review by the Department, apart from whatever "backstop" process the DPUC elects to pursue.

The draft would hold that any procurement ultimately undertaken by the Department would adhere to the current criteria that (1) the proposal needs to be funded by ratepayer investment rather than market revenues, direct participant funding, private investor funding, or other market-based means; (2) there is a great degree of certainty that the proposal will substantially reduce costs or produce savings for ratepayers that exceed the cost of ratepayers' investment or substantially improve the environment and any near-term rate increases do not cause substantial hardship to ratepayers; and (3) (a) the products or services offered in the proposal will count toward satisfying Connecticut's energy or capacity requirements, (b) can displace some existing older, more expensive, less efficient, more polluting resources, or (c) can reduce the future need for additional resources to meet Connecticut's requirements.

"The Department will require a high standard to justify the procurement of additional resources if there is not a reliability based need in the near or intermediate term," the draft states.

Additionally, the draft would decline to compel Connecticut Light & Power to enter into negotiations for the output of an Algonquin Power combined heat and power facility on a bilateral basis, as requested by Algonquin, but, "encourages both CL&P and UI to negotiate with Algonquin Power as well as other projects to develop bilateral contracts to reduce the cost of standard generation service."

The DPUC's draft also concludes that there is likely to be short-term renewable resource adequacy in the region to meet regional and Connecticut Class I RPS. However, there is considerable uncertainty after 2013, the draft adds.

Furthermore, due to the high cost of a Reference Case, the draft states that the RPS requirements should be re-examined.

"Although there will be adequate renewable supply until 2013, the Department is concerned that tight credit markets and the current economic downturn have placed constraints on the types of renewable projects that can obtain financing. The CEAB testified that virtually all recent renewable projects are being financed and developed via a long-term contract with an EDC or through a bilateral contract between private entities. The [Connecticut Clean Energy Fund] also stated that renewable projects are unlikely to be developed without long-term contracts that provide a sufficient revenue stream to attract financing," the draft notes.

"The mandates of the 2020 RPS, coupled with the current challenges for renewable projects in obtaining financing, as well as concerns about the development of in-state renewables, suggest that the Department may need to consider renewable resource procurements to assure an adequate and affordable regional supply of Class I resources and as a means to fulfill the policy objective to develop in-state energy," the draft says.

The draft notes that the DPUC may exercise its authority to conduct another Project 150-type renewable solicitation, except under the more flexible pricing arrangements permitted under the IRP statute.

The draft would also direct the CEAB to consider changes to the RPS eligible technologies, such as the inclusion of large-scale hydro, modifications to the annual renewable requirements, as well as other options that might be more cost effective to meet the RPS objectives. Among the policy alternatives, the CEAB should consider (1) an increase in the annual Class I RPS requirement from 7% in 2010 to a percentage lower than 20% in 2020, and (2) a commensurate increase the annual Class III RPS requirement from 4% in 2010 to a higher percentage in 2020. Increasing the Class III requirement is one policy option that could alleviate the current Class III oversupply, provide greater incentives for independent energy efficiency projects, and meet environmental goals at a lower cost than Class I resources, the draft notes.

The draft would conclude that Class III energy efficiency resources should not be allowed to qualify as Class I resources. "The Class I and Class III markets are rightfully treated as separate markets. Class I renewable resources have a considerably higher cost structure than DSM [demand side management] installations. Recognition of these cost differences are reflected in their respective ACPs [alternative compliance payments]; Class I resources have a $55/MWh ACP while the ACP is $31/MWh for DSM resources. If Class I resources included Class III resources, at their original ACP of $31/MWH, it would draw down Class I REC prices. If Class I resources included Class III resources at an ACP equivalent to that of Class I ($55/MWh), DSM resources would receive a higher subsidy than is required for market participation, resulting in excessive expenses for ratepayers," the draft states.

The draft also rejects CEAB's recommendation for a single state agency governing energy policy.

"There is no evidence that the creation of an independent entity [in place of the current DPUC] would result in lower energy costs in today's market. It is highly speculative that such an independent entity can realize enough savings for ratepayers to offset its additional cost. The Department also notes that there is a great deal more collaboration between the gas and electric companies in Connecticut than several years ago. This should continue for the foreseeable future, especially given the recent merger and acquisition activity involving gas and electric companies in the state. The Department urges the CEAB not to spend time and resources to pursue this issue further," the draft states.