

Energy Choice

Matters

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Nelson Seeks Delay in Consideration of Switch Hold, Deferred Payment Plan Rule

Proposed rules which would allow Texas REPs to impose switch holds on certain delinquent customers and which would modify the eligibility of customers to take advantage of deferred payment plans (both expanding and narrowing current rules depending on the customer), "are not ready for primetime," PUCT Commissioner Donna Nelson said in a memo in advance of today's open meeting (36131).

The rules were expected to be considered for final adoption today (Matters, 8/2/10). Nelson said that she would like the opportunity to work with stakeholders one last time to resolve several issues, and would like to bring the rulemaking back at the following open meeting, which would be September 15.

Nelson, who has been leading working groups on the rule, said that her intent was for customers who receive Lite Up assistance (under Subst. R. §25.454) to be eligible for a level or average payment plan even if they are delinquent. However, when read together, subsections (h)(1) and (h)(2) of the amended Subst. R. §25.480 are not clear in this respect, Nelson said.

Subsection (h)(1) provides that, "[a] REP shall make a level or average payment plan available to a residential customer receiving a rate reduction pursuant to §25.454 of this title (relating to Rate Reduction Program)."

Subsection (h)(2) provides that, "[a] REP shall make a level or average payment plan available to a customer who is not currently delinquent in payment to the REP."

Continued P. 4

PULP Says PLAN Controller Received High Pressure Door-to-Door Solicitation

The Pennsylvania Utility Law Project submitted a sworn affidavit to the Pennsylvania PUC from Karen Stokes, Controller for the Pennsylvania Legal Aid Network (PLAN) who stated that she received an unsolicited door-to-door electricity sales call from agents representing an unknown electric generation supplier who allegedly claimed they were associated with PPL and used, as described by PULP, "high pressure sales practices, perhaps even misleading tactics." PLAN's offices are in the same building as PULP, and PLAN has designated PULP for several Legal Aid projects.

PULP's comments came in reply comments concerning proposed interim marketing standards for Pennsylvania electric and natural gas suppliers (M-2010-2185981). PULP has proposed prohibiting door to door sales.

Stokes' affidavit said that she met with the sales agents on or about August 17.

According to the sworn affidavit, Stokes said that three salesmen visited PLAN's office and informed her that she had forgotten to respond to something in a bill about the ability to choose an alternative electric supplier. Stokes said that the agents did not provide a business card or contact information to confirm their affiliation, nor did they wear any uniforms or identity tags.

Continued P. 5

Cirro Energy Services Offers Automated Load Management in Partnership with Vedero Software

Cirro Energy Services has entered into a partnership with Vedero Software to offer its demand response and load management customers an automated solution to participate in various load response programs.

The automation will facilitate customer participation in the ERCOT Emergency Interruptible Load Service (EILS) program, as well as load management strategies offered by Cirro Energy Services to help customers minimize usage at the four coincident peaks, and, with implementation of the nodal market, avoid hours with high nodal prices.

Cirro Energy Services' notifications to customers of load response events has previously occurred through automated emails or phone calls, but customer action has had to occur manually in response to such notifications.

Integration of Vedero Software's building automation systems with Cirro Energy Services will allow Cirro Energy Services' signals to automatically be sent via the internet, which will facilitate automated response from various building systems.

Michael Cozzi, Director of Cirro Energy Services, said that Vedero's solution also features a simple, web-based interface that allows building managers to adjust participation in response to the signals if they desire, such as to maintain comfort levels for tenants.

Cozzi also said that while Cirro Energy Services' integrated solution will initially be offered in ERCOT, it will eventually expand the offering to its other load management markets, such as PJM.

Central Hudson Earmarks \$354,000 for Retail Access Enhancements, Education

In a status report to the New York PSC, Central Hudson Gas & Electric reported that its Retail Access Collaborative is continuing to discuss the disposition of \$354,000 of the deferred balance of the Competition Education Fund for use in

various retail access enhancements and education, and reported that the remaining \$468,000 of the deferred balance will be used to eliminate an existing regulatory asset and to establish a customer benefit fund.

In June 2009, the Commission directed the Collaborative to study the funding of retail access initiatives from the \$822,000 deferred balance attributable to the Competition Education Fund, in an order on Central Hudson's rate cases (08-E-0887 et. al, Matters, 6/23/09).

Specifically, the June 2009 order expressed agreement with Staff's recommendation to fund three new programs aimed at fostering retail access market development, and proposed that the projects be funded from the Competition Education Fund at a total cost of \$107,000 (see Matters, 4/13/09). The projects, which were endorsed by the Collaborative, were enhanced mailing functions, website enhancements, and an E-Bid System (a successor to Market Match).

After a review, Central Hudson determined that implementation of these projects would result in either no incremental costs to ratepayers or cost significantly less than the estimated \$107,000.

Implementation of the enhanced mailing function, which enables the billing system to identify ESCO customer bills and allows for targeted bill inserts, has been completed without any additional costs, through the migration of the billing responsibility to another vendor, Central Hudson said.

With the exception of changes related to the E-Bid System, the website enhancements have been completed without incurring any additional costs.

Development and implementation of the E-Bid System, which will allow consumers to easily obtain pricing information from ESCOs through Central Hudson's website, is scheduled for completion in 2010. After a reevaluation of the project, Central Hudson determined that system development and coding could be done in-house thus mitigating any incremental costs for technical changes. However, Central Hudson spent \$2,000 for legal services associated with research related to compliance with consumer protections and privacy statutes as part of the implementation of the E-Bid System. Further,

Central Hudson has projected that an additional \$50,000 will be attributed to the E-Bid System in order to provide required technical training to ESCOs, and for consumer outreach about the availability of E-Bid.

Adding the cost of a retail access seminar held in September 2009, Central Hudson said that the combined cost of the three programs ordered by the PSC will not exceed \$54,000.

During a January 22, 2010 meeting of the Collaborative, parties agreed to continue discussions on: a direct mail campaign; bill inserts with educational messages about Central Hudson's Energy Choice program; a public information program regarding Energy Choice, including a description of the enrollment process and how the program works; and the development of an online micro-site devoted to the Energy Choice program. Central Hudson estimated that completion of these initiatives, each of which is consistent with the Commission's order, will require up to \$300,000.

To date, no additional projects have been agreed to by the Collaborative because competing priorities have prevented additional discussion. As such, \$354,000 of the Competition Education Fund shall continue to be deferred until June 30, 2011 to allow for the Collaborative to consider other proposals and related costs.

Any amounts unencumbered or remaining in the fund on June 30, 2011 will be transferred to the customer benefit fund.

Briefly:

Interstate Gas Supply Seeks Expanded Authority to Market at People's Natural Gas in Pennsylvania

Interstate Gas Supply filed an amendment to its Pennsylvania gas supplier license to add People's Natural Gas to the list of markets in which IGS will serve customers, in addition to Columbia Gas and National Fuel Gas Distribution.

Central Hudson Won't Seek Cost Recovery from ESCOs to Implement Remote Account Number Access

Central Hudson Gas & Electric informed the

New York PSC that it will not seek cost recovery from ESCOs for implementing its mechanism to allow customers to remotely access their utility account numbers. Central Hudson said that the cost of the plan, as revised by the PSC in its July order, is minimal (98-M-1343). Since Central Hudson is not seeking cost recovery from ESCOs and thus need not design a cost recovery plan, Central Hudson said it will proceed with implementation of the remote account access functionality as modified by the PSC. Central Hudson expects that implementation will take approximately 90 days.

Commerce Energy Files New Georgia Gas Marketer Application

Executing on a previously reported plan to re-enter the Georgia gas market, Commerce Energy filed a new application for a natural gas marketer certificate with the Georgia PSC yesterday. A copy of the application was not immediately available. Commerce, which is owned by Just Energy, has previously said that it intends to start marketing to potential Georgia customers and start processing customer enrollments no later than January 31, 2011 (Only in Matters, 7/22/10).

Exelon Purchasing 735 MW of John Deere Wind Assets, Plus Development Pipeline

Exelon has entered into an agreement to acquire John Deere Renewables, which will add 735 operating megawatts from 36 projects in eight states to Exelon's portfolio. The transaction also includes a total of 1,468 MW of in-development wind projects, including 230 MW in advanced stages of development. The acquisition is valued at approximately \$860 million with a provision for up to an additional \$40 million upon commencement of construction on the advanced development projects. Approximately 75 percent of the operating portfolio is already sold under long-term power purchase arrangements. Exelon will finance the transaction using Exelon Generation debt. Deere said that the \$900 million sale, including earn-out provisions, will result in an after-tax charge of approximately \$25 million in its fourth quarter results.

PSEG Seeking to Sell Two Texas Plants

PSEG is seeking buyers for two Texas gas-fired assets totaling 2,000 MW according to a memo first obtained and reported by Dow Jones Newswires. PSEG confirmed the memo's existence but declined comment on the auction process. The combined-cycle assets to be auctioned are Odessa and Guadalupe, and the memo states PSEG will retain the assets if a satisfactory price is not obtained.

ComEd Seeks Alternative Ratemaking on Smart Grid, Customer Applications

Commonwealth Edison has applied for alternative ratemaking treatment from the Illinois Commerce Commission for several proposed investments, including expanded advanced metering investments (Docket 10-0527). The proposed advanced metering investments would be contingent on results of the current advanced metering pilot, but may include accelerated deployment of 190,000 additional smart meters. Furthermore, of interest to retail suppliers, is that ComEd is also seeking alternative ratemaking treatment to support potential acceleration or expansion of the customer-facing applications included in its smart grid pilot, contingent on the outcome of the pilot. Current customer applications being tested in the pilot include in-home display devices and programmable controllable thermostats, along with enhanced customer information via website. Suppliers have previously raised competitive concerns regarding such customer applications, since the devices may be considered a competitive service (see Matters, 10/15/09).

StarTex to Launch Affinity Programs, New Products as Part of New "Return the Favor" Campaign

StarTex Power has announced a "Return the Favor" campaign to further emphasize its level of customer service and appreciation of customers. StarTex said that the campaign will include strategic partnerships which will offer customers various rewards, but declined to discuss any impending affinity partnerships at this time. StarTex also said that new products would be announced in the next month, but declined to give specifics. The Return the Favor

program includes extended call center hours (7:00 AM - 8:00 PM Monday through Friday and 9:00 AM - 2:00 PM Saturday) and enhanced functionality on StarTex's website. A community giving initiative which is part of the campaign will be launched at the State Fair of Texas, where StarTex is the official energy sponsor and will host booths offering customers information on StarTex's products. StarTex's previously reported employee stock ownership plan is also part of the campaign (Matters, 7/9/10).

Champion Energy Signs Elk Grove Park District

Champion Energy Services has executed a 36-month contract to provide electricity to the Elk Grove Park District outside of Chicago. The contract includes 10% wind energy.

Switch Hold ... from 1

Even without the clarifications sought by Nelson, it appears that nothing in subsection (h)(2) would control over subsection (h)(1). Nothing in subsection (h)(2) suggests that the requirement to provide a level payment plan to non-delinquent customers is the only circumstance in which REPs are compelled to offer a level payment plan, or that REPs are relieved of their obligation under subsection (h)(1) if the Lite-Up customer is delinquent.

Additionally, Nelson said that subsection (h)(4) of the proposed rule seems to confuse level or average payment plans with deferred payment plans, and said further examination is needed since the intent of this provision is unclear.

Subsection (h)(4), regarding levelized payment plans, holds that if the customer is delinquent in payment when the level or average payment plan is established, the REP may require the customer to pay no greater than 50% of the delinquent amount due. The REP may require the remaining delinquent amount to be paid by the customer in equal installments over at least five billing cycles unless the customer agrees to fewer installments or may include the remaining delinquent amount in the calculation of the level or average payment amount. If the REP requires installment payments, the REP

shall provide the customer a copy of the deferred payment plan in writing as described in subsection (j)(5) of this section.

Nelson also noted that it is unclear what happens when a customer owes a balance at the end of the term of a level or average plan. Nelson asked whether the balance should be averaged out over the term of the next level or average plan.

Furthermore, Nelson asked, for a customer on a level or average payment plan who has a switch-hold on their account, whether the switch-hold will remain on the account if the customer has a balance at the time the level payment plan is reconciled. Nelson asked whether the rule should include a provision stating that 12 consecutive months of timely payment would result in the removal of a switch-hold.

Separately, Staff proposed delaying the implementation date for the amended §25.483, which includes revised disconnect provisions (mostly relating to critical care), from December 1, 2010 until January 1, 2011. Staff did not propose any change to the June 1, 2011 effective date for amendments to §25.480, which includes the switch hold and revised deferred payment plan and levelized payment plan rules.

Staff offered several changes in preamble language, but no changes to the proposed rule's text aside from the modified effective date.

Pa. ... from 1

Stokes said that the agents informed her that they had a deal for switching electric providers that was good only through the end of the day.

"I asked them to confirm they worked for PPL, and they then confirmed they worked with PPL but were actually with Gateway Energy Services - supplier to PP&L," Stokes swore.

However, according to the affidavit, Stokes swore that after she provided the agents with PLAN's electric bill, the agents began filling out a contract, which was for Champion Energy Services, and not Gateway who the agents had claimed to represent.

PULP said that neither it or Stokes allege that the agents actually were employees, agents,

or affiliates of Gateway Energy Services, nor does PULP or Stokes allege that Gateway Energy Services was or is any way aware or condones the activity of the agents.

It was not clear with what supplier, marketer, or broker the agents were associated. The sales call as sworn in the affidavit is odd, to say the least. Even granting all the sworn statements as fact, the probative value of the facts is questionable, since even Stokes cannot say who these agents were. This is not to question Stokes' recitation of the events, but rather the conclusion that these agents were bona fide marketing agents and not something else.

While agents claiming to be with, or affiliated with or endorsed by, a utility is not uncommon in marketing complaints, claiming to be with one competitive load serving supplier, then producing a contract from another competitive load serving supplier is less common, if for no other reason than no competitive load serving supplier has enough brand recognition for this tactic to even be valuable (marketing agents providing their agency or broker name and then producing a contract from one of their contracted suppliers obviously being different and not contradictory). While certainly some brokers carry contracts with multiple suppliers in making sales calls to offer customers several options, they would not identify themselves as with one supplier then produce a contract from one of the other suppliers without explanation, since this would only confuse the customer and slow, if not sour, the sale.

While misrepresentation of one competitive supplier in place of another has occurred in ERCOT, it has typically been the case of an agent misrepresenting themselves as with the affiliated REP, which as the former incumbent is more akin to misrepresentation as a utility, rather than another competitive supplier. There have also been instances in which an agent switches supplier affiliations and attempts to contact old clients as still with the former supplier, but as Legal Aid is apparently still with PPL, that also would not be the case here.

Apart from three agents being oblivious enough to make the alleged misrepresentation to what is essentially a legal advocate, sending three agents on a sales call for what would

presumably be no larger than a mid merit customer (and likely smaller, depending on Legal Aid's office space) for a non-national account client also appears unusual and potentially an inefficient use of sales agents, unless two of them were trainees, or were there as specialists to market non-commodity services as well (Stokes does not describe any such additional products offered). Stokes does not describe the specific actions of any of the individual agents and describes all three collectively.

In any case, Stokes said that, "[t]he salesmen repeatedly pointed to a charge on the bill as the price to compare. They referred to it as the generation charge and said it was \$.13625 per kWh, and their quote was for \$.0968 per kWh. Only after they left did I realize the rate they had pointed out was not the generation rate but the competitive transition rate."

Stokes did not indicate in the affidavit PLAN's rate class or the month of the bill which she provided, and thus it is not possible to determine what the listed charge of \$.13625 per kWh was for, as it does not appear the transition charge would be that high (0.13¢ is more likely if it was an older bill).

Stokes also said that while the agents said that there would be a cancellation fee for cancelling the contract after three days, "the salesmen refused to say exactly what the fee would be, and the cancellation fee was not addressed in the contract."

Stokes said that she informed the agents she could not make a decision at this time and asked for a business card. When Stokes refused to sign the contract, she said that the agents left PLAN's office without leaving any card or identifying information, and "refusing to provide any information about how to contact them or the company they worked for."

Using Stokes' experience to support its call for a prohibition on door-to-door sales, PULP said that, "[i]t is clear that no matter what good intentions are expressed by market participants, there are entities involved that will victimize customers."

"The question is not whether these practices will occur; the question is how often they will occur and what level of damage they will inflict

on residential and other customers."

However, the National Energy Marketers Association reiterated that prohibiting door-to-door sales prior to the implementation of new marketing standards would be premature, since the new standards will protect customers. NEM cited the experience in New York after the adoption of marketing standards within the Uniform Business Practices as showing the effectiveness of standards in reducing customer complaints.

NEM said that at the end of 2008 when the New York marketing standards were adopted, the number of initial complaints against marketers was 2,238, and the number of escalated complaints was 435. By the end of 2009 when the New York marketing standards had been in place for a year, the number of initial complaints against marketers had declined to 1,444, and the number of escalated complaints had declined to 298. Through July 2010 initial complaints against marketers are 505 and escalated complaints are 56, indicating the trend in reduced complaints has continued, NEM said.

"To put these statistics in better context, this is the level of complaints experienced with 1,280,000 electric customer accounts migrated and 828,479 natural gas accounts migrated in New York, which translates into .00024% of migrated customers making an initial complaint and .000027% having an escalated complaint," NEM said.

"We believe these statistics are strong proof of the willingness of the marketer community to conform its conduct in compliance with Commission-approved marketing standards that provide robust consumer protections. We likewise believe that a similar experience will be realized upon this Commission's adoption of its proposed marketing standards," NEM said.

Responding to Interstate Gas Supply's initial comments that the PUC should create a separate door-to-door certification/licensing process under which a supplier is certified and an individual is licensed, MXenergy called IGS' suggestion unnecessary since the Commission has repeatedly held that suppliers remain responsible for the actions of their third-party marketing agents who do not currently require a license.