

# Energy Choice

# Matters

September 6, 2010

## Connecticut DPUC to Establish Electric Marketing Code of Conduct

The Connecticut DPUC said that it intends to establish a code of conduct for all electric suppliers and aggregators, which shall set forth guidelines governing (a) sales and marketing practices, (b) authorized business relationships between suppliers and aggregators, (c) interactions between suppliers and electric distribution companies, and (d) suppliers' compliance with Department requirements.

The pronouncement came in a notice of hearing and request for comments in Docket 10-06-24, relating to the current status of the retail market and marketing conduct (Only in Matters, 8/11/10). The DPUC further refined the docket's scope to include an examination of, "the relationships between suppliers and customers, suppliers and aggregators, third parties who provide marketing and sales support to licensed suppliers, and suppliers and the Department."

Among other things, the DPUC sought comments on the supplier referral program and, "whether it should be discontinued or modified."

Furthermore, the Department sought comment on whether additional rules should be established governing its online price comparison website, given the dramatic increase in the variety of offers posted to the site since the parameters for the site were first established in Docket 07-05-33, in a final decision dated February 27, 2008.

The DPUC also asked stakeholders to comment on the DPUC's interpretation of the aggregation statute as prohibiting an aggregator from having an agency relationship with a supplier, and that the

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## ICC Staff Reiterates Per Bill Charge for ComEd POR Will Discourage Offers to Small Customers

"A fixed per bill charge that results in a relatively high discount rate for customers who are consuming relatively small amounts of electricity each month has the potential to discourage RESs [retail electric suppliers] from signing up those customers," Illinois Commerce Commission Staff said in a post-hearing brief in support of its modification to the proposed Commonwealth Edison Purchase of Receivables discount rate (10-0138).

As only reported in *Matters*, ComEd is proposing to recover implementation costs through a flat 50¢ per bill charge to suppliers, with uncollectibles recovered through a percentage discount.

However, as previously reported, Staff noted that such a construct means that the larger the monthly customer supply charges, the smaller the effective POR discount rate will be (Only in Matters, 8/5/10).

"All else being equal, it is not hard to imagine that a PORCB participating supplier will want to focus on signing up customers that leave the supplier with the highest percentage of net receivables (the amount of the receivables sold to the electric utility minus the PORCB discount rate). In Staff's view, such an outcome would not be desirable, as it may exclude residential customers from receiving competitive supply offers," Staff said in its brief.

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## **Briefly:**

### **Santanna Energy Services Seeks Ohio Gas Supplier License**

Santanna Energy Services applied for an Ohio natural gas supplier license to serve all customer classes in all service areas. Santanna said that it currently serves over 60,000 natural gas customers behind eight natural gas distribution companies in Illinois and Michigan, and brokers supply for more than 500 commercial and industrial electric customers in Illinois.

### **Infinite Electric Applies for Texas REP Certificate.**

Infinite Electric, LLC applied for a Texas REP certificate, and sought to use the trade name Infinite Energy. Affiliate Infinite Energy, Inc. currently holds a REP license granted in 2009 (Only in Matters, 3/2/09).

### **AOBA Alliance Seeks Pennsylvania Electric Broker License**

AOBA Alliance, Inc. applied for a Pennsylvania electric broker license to serve all sizes of non-residential customers in all service areas.

### **Conn. Draft Would Grant Electric License to Spark Energy**

A draft Connecticut DPUC decision would grant Spark Energy, L.P. an electric supplier license to serve residential and commercial customers (Only in Matters, 6/15/10).

### **School Power Seeks Pennsylvania Broker License**

School Power, Inc. applied for a Pennsylvania electric broker license to serve commercial customers over 25 kW in all service territories.

### **Quest Energy Solutions Seeks Maine Broker License, Registers as Conn. Gas Supplier**

Quest Energy Solutions, a trade name for Kevin J. Cobb & Associates, Inc., applied for a Maine electric aggregator/broker license to serve all customer classes at Central Maine Power, Bangor Hydro-Electric, and Maine Public Service. Quest Energy Solutions also registered as a Connecticut natural gas supplier last week. Quest Energy Solutions, active in

Massachusetts, New Hampshire and Rhode Island, said it is in the process of entering seven additional states.

### **Electricity Maine Receives Maine Electric License**

The Maine PUC granted Electricity Maine, LLC a competitive electricity provider license to serve all customer classes in all service areas. The PUC also reduced the security requirement for Electricity Maine from \$100,000 to \$15,000. Electricity Maine has said that it would focus on residential and small non-residential customers (Only in Matters, 8/16/10).

### **Energy Management Services Receives Maine Broker License**

The Maine PUC granted sole proprietor John Orr, doing business as Energy Management Services, an electric broker license to serve non-residential customers at Central Maine Power, Bangor Hydro-Electric, Maine Public Service, Kennebunk Light and Power District, Madison Department of Electric Works, and Van Buren Light & Power District.

### **Buckeye Energy Brokers Protests Palmer Energy Company Ohio Broker Applications**

Buckeye Energy Brokers, Inc. has sought intervention and protested the Ohio electric and gas broker applications of Palmer Energy Company, alleging that Palmer has been acting as a broker in Ohio without the requisite license for 10 years (Only in Matters, 8/6/10). Buckeye Energy Brokers had previously filed a pending complaint against Palmer Energy regarding Palmer's license status (10-0693-EL-CSS). In its answer to that complaint, Palmer said that it acts as a consultant for licensed government aggregators and other licensed suppliers and broker/aggregators. Palmer said that a PUCO decision in 99-1609-AU-ORD found that consultants need not be certified by the Commission.

### **RESM Energy Negotiating with Suppliers, May Not Use Maine Supplier License**

RESM Energy, LLC, which was recently granted a Maine competitive electric provider license to provide low-cost off-peak power to thermal storage customers of an affiliate (see Matters,

8/6/10), informed the PUC that it has received expressions of interest from other retail suppliers now interested in serving the off-peak load. RESM originally sought a supplier license because it had not been able to find a retail supplier interested in serving the load. RESM said that discussions with these new potential suppliers will likely obviate the need for it to act as a supplier, and informed the PUC that it will not post financial security within 30 days as required under its licensing order, since it does not anticipate operating as a supplier. RESM understands that not posting security will prevent its supplier license from going into effect; however, it asked the PUC to stay its license pending the posting of security, rather than canceling the license, in case efforts to find a retail supplier to serve the thermal storage load are not successful, so that RESM could then activate the license by posting the requisite security.

#### **Direct Energy Signs Five Conn. Towns to Direct Choice Marketing Program**

Direct Energy has signed marketing agreements with five Connecticut municipalities to offer residents and small businesses a fixed electric rate of 9.29¢/kWh for the nine-month period covering the November 2010 to July 2011 billing cycles. Senior citizens who own residences within the communities will be eligible for a discounted price of 8.99¢/kWh. The agreements are with the towns of Coventry, Hampton, Hebron, Marlborough and Windham. The Direct Choice program is an opt-in program. Direct's standard one-year fixed rate under the customer referral program is 9.59¢/kWh at both Connecticut Light and Power and United Illuminating.

#### **Nordic Energy Services to Supply, Sponsor Chicago Bears**

Nordic Energy Services, LLC has reached an agreement to supply electricity and natural gas to the Chicago Bears, under an arrangement which also makes Nordic the team's official energy sponsor. Included in Nordic's sponsorship package is logo placement on a new, interactive Fan-O-Meter. The meter is displayed on all of Soldier Field's LED display boards during in-game activities. Despite the

mass market appeal of the sponsorship, Nordic said that it remains focused on serving only the non-residential market at this time.

#### **PPL Electric Seeks to Continue Current Generation Rates Through End of the Year**

PPL Electric Utilities reported that it still has an outstanding undercollection balance of approximately \$67.5 million for its 2010 generation supply costs, resulting primarily from the proration of customer bills in January 2010 (M-2009-2145482). Similar to the relief requested in two prior reconciliation reports (Only in Matters, 6/8/10), PPL asked that the Pennsylvania PUC waive the requirement for PPL to adjust generation rates effective October 1, and that the Commission allow the current rates to continue through January 1, 2011. Because PPL is continuing to defer the balance of the January 2010 proration undercollection until January 1, 2011, PPL Electric also requested that the Commission grant a continued extension of the waiver of the provision regarding the accrual of interest until January 1, 2011.

#### **Conn. Draft Would Open Peaking Generation Docket to Review Pricing Issue**

A draft Connecticut DPUC decision would re-open the Department's investigation of the cost-of-service peaking generation projects (08-01-01) to review a request by GenConn Energy LLC to modify the pricing mechanism in the contract for differences with the utilities. The modification would change the pricing mechanism to reflect the actual ISO-New England market rule for crediting the Forward Capacity Market price from the Locational Forward Reserve Market price. The utilities, Office of the Consumer Counsel, and PSEG Power Connecticut concur with the request.

#### **Boston Pacific to Continue as D.C. Procurement Monitor**

The District of Columbia PSC exercised its option to extend its contract with Boston Pacific for Boston Pacific to act as the SOS procurement monitor an additional year.

## **PUCT Staff Moves to Revoke REP Certificate of Proton Energy**

PUCT Staff filed a petition (38633) to revoke the retail electric provider certificate of Proton Energy Inc. for its alleged failure to meet several requirements under the Substantive Rules, including financial requirements under §25.107(f).

The petition is the first action by Staff to revoke a REP certificate prompted solely by non-compliance with the new certification requirements (the issue of a REP's compliance with the new certification requirements has been cited in several recent revocation proceedings, but those were mainly prompted by issues surrounding changes in control).

Staff alleged that Proton Energy has failed to demonstrate its compliance with the access to capital and protection of customer deposit rules prior to the deadline of May 21, 2010. Staff also alleged that Proton has not demonstrated compliance with §25.107(g) relating to required technical and managerial resources.

In July, Proton sought an extension for compliance until the beginning of August, but has made no subsequent filing.

It was not immediately clear if Proton is actively serving load. It does not currently have an offer on Power to Choose.

## **Conn. DPUC Denies Northgate Technologies Aggregator Application**

The Connecticut DPUC denied Northgate Technologies, Inc.'s application for an electric aggregator certificate after determining that Northgate is an agent acting on behalf of electric suppliers, and would not be acting as the customer's agent (10-01-04, Only in Matters, 8/5/10).

The Department has held that aggregators must act as the customers' agent, and that aggregators may not simultaneously be agents or representatives for electric suppliers.

The DPUC noted that Northgate has executed an agent agreement with Glacial Energy, and is in negotiations for similar agreements with other suppliers, including Hess.

Although Northgate said that it will maintain a business relationship with its business customers and will supply information through notices, the DPUC found that the sample "customer notice" submitted by Northgate contains only Glacial's logo and information - the name "Northgate" does not appear anywhere on the notice, and references to Northgate's electric aggregation program cannot be found anywhere in the sample notice.

While Northgate said that it does not intend to work "exclusively" with any supplier, "exclusivity is not the threshold," the DPUC held.

"In Levco Decision, the Department clearly pronounced that the Department would not sanction any type of supplier-aggregator agency relationship, and that the aggregator's loyalty must lie with the customers," the DPUC affirmed.

## **Tentative Pa. Renewal Notice Rules Would Require EDCs to Estimate Price to Compare**

Pennsylvania electric distribution companies (EDCs) would be required to estimate the future Price to Compare for the purposes of creating a uniform estimate to be used by electric generation suppliers in renewal notices which are sent to customers prior to the actual Price to Compare being known, under tentative guidelines issued by the PUC (M-2010-2195286).

As noted Friday, the tentative guidelines would require that the Price to Compare be listed on renewal notices, or, if the Price to Compare is not known, an estimate of the price (Matters, 9/3/10).

The tentative guidelines, published for comment Friday, hold that the electric distribution company is the entity best situated with the information needed to calculate an estimate of the Price to Compare.

Renewals notices shall clearly identify the Price to Compare as an estimate, and should note that the Price to Compare is subject to change quarterly, or otherwise as set forth in the EDC's default service plan.

Additionally, renewal notices shall direct customers to both the electric distribution company and the PowerSwitch website to obtain the latest Price to Compare.

## Conn. DPUC Denies Changes in Project 150 Contracts

The Connecticut DPUC denied requests from Watertown Renewable Power, LLC and Clearview Power, LLC, to modify their standard electricity purchase agreements with Connecticut Light and Power on the basis that the requested changes are material and substantial, and would harm other participants in the Project 150 procurement process as well as ratepayers (03-07-17RE05).

Watertown Renewable Power, LLC and Clearview Power, LLC had sought various amendments to their Electricity Purchase Agreements (EPA) to, among other things, add a monthly pass-through fuel payment, add a variable cost and operation and maintenance (O&M) cost pass-through, and extend the length of the contracts (Matters, 7/30/10). The developers cited the global financial crisis as prompting the request.

"To approve modification of the Watertown and Clearview EPAs would be highly unfair to competing but unsuccessful bidders. This would have the result of undermining the integrity of the procurement process," the DPUC said.

"[T]he Department finds that modifying the Watertown and Clearview EPA contracts would also harm ratepayers. A project that was rejected in a previous procurement round may have been a less expensive contract for ratepayers compared to a modified EPA from either Watertown or Clearview," the DPUC noted.

Moreover, "[t]he proposed modified EPAs impose a transfer of costs and risks onto ratepayers," the Department concluded.

"Both of the EPA modifications propose fuel pass-throughs that allow higher costs and shift risks from the project owners to ratepayers. This is clearly beneficial to project owners and detrimental to ratepayers. The significant extension of a project's contract terms is another risk that ratepayers are asked to assume. Although the EPA modifications would enhance the attractiveness of the projects to potential lenders, the proposed changes are unidirectional in transferring greater costs and risks onto ratepayers. The Department did not find claims of significant savings to ratepayers made to the Department to be convincing or

compelling," the DPUC said.

The DPUC also declined to conduct a proposed Round 4 of Project 150 procurement on the basis that state statute places significant constraints on pricing for non-fuel cell projects. If the Department determines in a future Integrated Resource Planning process that renewable resource procurement is in the public interest, the Department said that it will conduct a procurement that preserves the integrity of the bidding process.

### **Conn. ... from 1**

aggregator must only represent the customer's interest. The Department noted that it has concluded that an electric supplier is not permitted to use any registered or licensed electric aggregators to represent it or market on its behalf in any capacity.

The DPUC scheduled a hearing on these matters for September 22.

### **ComEd POR ... from 1**

"In Staff's mind, the importance of a well-designed PORCB program for residential customers cannot be overstated."

Staff recommended that the Commission set the residential POR discount rate at 2.92%, reflecting an uncollectibles factor of 2.239% plus the 0.68% factor used for implementation cost recovery at Ameren. Staff proposed a non-residential discount rate of 1.454% (0.774% uncollectibles factor plus 0.68% cost recovery). Alternatively, Staff said that a 0.44% cost recovery charge could be used if the Commission feels that the 0.68% factor produces discount rates that are too high.

ComEd responded that the percentage charge approach, "unjustly demands much higher charges from high-use customers despite the fact these customers impose no higher costs on ComEd than low-use customers."

ComEd said that the fixed bill charge is appropriate since ComEd's purchase of receivables costs are the same regardless of whether the customer for whom it is purchasing receivables is a high-use or low-use customer.

However, while ComEd points to the fact that POR costs do not vary with usage, Staff argued that, "ComEd never addresses the fact that costs to provide PORCB service do not vary with the number of bills issued."

"ComEd did not rebut Staff's understanding that the activities to develop and implement the systems and procedures for the purchase of receivables as well as the activities to modify ComEd's billing systems are required regardless of the number of bills generated pursuant to Rider PORCB," Staff said.

ComEd said that Staff's percentage-based discount rate has not been shown that it is any more likely to encourage retail supplier participation, as ComEd noted that Staff's mechanism has been in place at Ameren for close to a year, with minimal supplier offerings to residential customers in the Ameren territory.

ComEd also cited support for its proposal from the Illinois Competitive Energy Association and Retail Energy Supply Association. Dominion Retail opposes ComEd's proposal.

While Staff has withdrawn its objection to proposed changes in the ComEd switching rules (including implementing an 18-day enrollment timeline) contingent on any order specifying that the rules do not set precedent, RESA repeated its objections to the proposals (see Matters, 8/5/10). In its brief, ComEd reiterated that any changes to the switching rules would increase costs and likely push back the go-live date of the POR program to April 1, 2011.