

# Energy Choice

# Matters

September 7, 2010

## RESA Says Current Design of POR at PPL Hindering Long-Term Contracts

PPL Electric Utilities should revise its Purchase of Receivables program to recover all generation-related uncollectibles in a nonbypassable Merchant Function Charge because the current methodology of including uncollectibles in the discount rate leads to uncertainty and prevents suppliers from offering long-term products to customers at PPL, the Retail Energy Supply Association said in a post-hearing brief in PPL's rate case (R-2010-2161694).

As previously reported, PPL is seeking to increase the residential POR discount rate to 1.855% from the current 1.37%, to reflect an increase in the uncollectibles factor to 1.805% from 1.32%. The small commercial and industrial discount rate would decrease to 0.06% from the current 0.17%, reflecting a decrease in uncollectibles to 0.01% from the current 0.12%. An unmodified administrative cost discount component of 0.05% would apply to all customer classes (Only in Matters, 4/22/10).

RESA said that PPL's uncollectibles component in the POR discount rate fails to reflect actual uncollectible costs for the group of customers being required to pay for it.

PPL's total uncollectible accounts expense percentage includes an amount for expected write-offs plus changes in the reserve for doubtful accounts due to increased accounts receivable. According to RESA, PPL has said that the reason for the increased percentage allocated to uncollectible accounts is due to a projected increase in generation-related revenue. However, RESA argued that PPL fails to take into consideration the loss of generation-related revenue from

***Continued P. 3***

## FERC Approves PJM Settlement, Inc. as Counterparty to Transactions in PJM Markets

Dismissing protests from several market participants, FERC approved PJM's application to designate PJM Settlement, Inc., a new public utility, as the counterparty to transactions in the PJM markets (ER10-1196).

Under FERC's order, PJM Settlement shall perform the following functions: (1) performing billing and settlement functions; (2) issuing invoices to, and receiving payments from, market participants; (3) serving as the entity with which market participants establish credit and being a beneficiary under market participant guarantees and letters of credit; and (4) acting as a billing agent on behalf of PJM with respect to PJM fees and services to which PJM Settlement is not the counterparty.

Despite the creation of PJM Settlement representing a "radical departure from the structure of the market historically envisioned by the Commission," as described by Dominion Resources, FERC scantily justified its dismissal of several protests.

FERC, without any substantive explanation, rejected protests that there may be unintended consequences of PJM's proposal, such as increased stakeholder liability, increased tax liability, and increased likelihood of the Commodity Futures Trading Commission asserting jurisdiction over PJM Settlement. FERC merely said that such arguments were not persuasive.

***Continued P. 5***

## Maryland PSC Releases July Migration Statistics

The Maryland PSC has released electric migration statistics for the month ending July 2010 (as well as the month ending June 2010 which are not shown here). While *Matters* does not routinely publish migration statistics which do not identify individual suppliers for a variety of reasons (the several months lag which make the statistics stale, the minimal changes in migration levels month to month, etc.) the Maryland July statistics, aside from being fairly recent, represent the first month (at least partially) in which POR was in effect for three of the utilities, and will represent the baseline on which to determine the success of the Maryland POR programs. A comparison with January 2010, when a handful of suppliers renewed mass marketing due to favorable headroom, is also provided.

### Number of Customers Served by Competitive Suppliers

	Residential		Type I		Type II		Hourly Eligible		Total	
	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10
Allegheny	4,271	2,957	4,434	4,082	2,762	2,634	111	115	11,578	9,788
BGE	102,543	55,075	27,320	26,177	13,925	13,881	680	610	144,468	95,743
Delmarva	3,271	2,478	4,487	4,139	2,463	2,365	74	69	10,295	9,051
Pepco	46,136	41,217	9,094	8,888	8,485	8,277	504	491	64,219	58,873
Total	156,221	101,727	45,335	43,286	27,635	27,157	1,369	1,285	230,560	173,455

### Percentage of Customers Served by Competitive Suppliers

	Residential		Type I		Type II		Hourly Eligible		Total	
	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10
Allegheny	1.9%	1.349%	15.8%	14.6%	43.7%	41.7%	79.3%	83.3%	4.6%	3.9%
BGE	9.2%	4.9%	28.3%	27.3%	55.0%	53.9%	91.2%	90.0%	11.7%	7.8%
Delmarva	1.9%	1.4%	16.6%	15.3%	48.8%	47.1%	94.9%	94.5%	5.0%	4.4%
Pepco	9.5%	8.5%	26.8%	26.1%	51.8%	51.2%	85.9%	85.7%	12.0%	11.0%
Total	7.8%	5.1%	24.5%	23.4%	52.1%	51.0%	88.3%	87.9%	10.3%	7.8%

### Percentage of Peak Load Obligation Served by Competitive Suppliers

	Residential		Type I		Type II		Hourly Eligible		Total	
	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10	July-10	Jan-10
Allegheny	2.4%	0.0%	24.6%	20.9%	61.8%	59.1%	82.9%	86.3%	34.0%	32.1%
BGE	10.5%	5.5%	27.1%	24.2%	69.2%	68.2%	92.4%	91.9%	43.1%	39.4%
Delmarva	2.6%	2.0%	32.1%	28.6%	67.8%	67.2%	97.0%	96.7%	34.0%	33.3%
Pepco	11.1%	9.9%	30.2%	29.3%	71.4%	69.3%	96.2%	95.5%	49.1%	46.1%
Total	9.1%	5.7%	28.1%	25.6%	69.0%	67.5%	92.8%	92.6%	43.1%	40.0%

### Number of Customers that Switched from or to a Supplier

	Residential		Type I		Type II		Hourly Eligible		Total	
	Jul-10	Jan-10	Jul-10	Jan-10	Jul-10	Jan-10	Jul-10	Jan-10	Jul-10	Jan-10
AP Switches from Supplier	28	12	218	138	14	13	1	0	261	163
AP Switches to Supplier	858	99	135	32	18	21	2	0	1,013	152
BGE Switches from Supplier	2,945	1,845	398	154	243	147	3	8	3,589	2,154
BGE Switches to Supplier	14,533	13,781	1,815	394	415	153	7	7	16,770	14,335
Delmarva Switches from Supplier	61	25	79	45	26	26	0	1	166	97
Delmarva Switches to Supplier	572	52	194	39	63	49	1	1	830	141
Pepco Switches from Supplier	832	67	119	15	55	27	6	1	1,012	110
Pepco Switches to Supplier	3,613	1,374	279	220	246	205	17	74	4,155	1,873
Total Switches from Suppliers	3,866	1,949	814	352	338	213	10	10	5,028	2,524
Total Switches to Suppliers	19,576	15,306	2,423	685	742	428	27	82	22,768	16,501

*Note: A switch from a supplier can be either to another supplier or to Standard Offer Service  
Data as reported by PSC*

## **Publication Note:**

For those out of the office, *Matters* published an issue on Sept. 6. Stories included

- Connecticut DPUC to Establish Electric Marketing Code of Conduct
- Santanna Energy Services Seeks Ohio Gas Supplier License
- Infinite Electric Applies for Texas REP Certificate
- AOBA Alliance Seeks Pennsylvania Electric Broker License
- PUCT Staff Moves to Revoke REP Certificate of Proton Energy
- Conn. DPUC Denies Northgate Technologies Aggregator Application
- ICC Staff Reiterates Per Bill Charge for ComEd POR Will Discourage Offers to Small Customers
- And a dozen other stories

## **N.Y. Utilities Oppose RESA Rehearing Request on Cost Allocation of Remote Account Number Access Programs**

"Funding of changes to Interactive Voice Response ('IVR') systems, including costs associated with providing customers with remote access to their utility account numbers, for the purpose of enrolling customers for ESCO service clearly falls into the category of promoting retail access," the joint New York utilities said in answering the Retail Energy Supply Association's rehearing request of the New York PSC's recent order on providing customers with remote access to their account numbers (98-M-1343).

As only noted in *Matters*, the Commission has determined that ESCOs shall be allocated costs of the remote account number access programs to the extent that the utilities seek recovery of such costs. In its rehearing request, RESA argued that the remote account number access programs are actually part of the "retail access platform" for which the Commission has said that cost recovery through distribution rates is appropriate, similar to EDI or utility consolidated billing programs (Only in *Matters*, 8/20/10).

The joint utilities noted that RESA concedes that the programs will benefit ESCOs to some extent, and that RESA argues that the program serves the interest of customers by enhancing their ability to participate in the retail competitive market.

"Given that RESA concedes that the programs in question do provide benefits to ESCOs (by, inter alia allowing them to market to customers in remote locations) and that the 'benefit' to ratepayers is simply allowing them to participate in such remote marketing programs, the Order is consistent with previous Commission orders," the joint utilities said.

"Nowhere does RESA confront the matter at hand - that remote access to customer account information is intended solely to satisfy the ESCOs' desire to market to customers in public places during non-business hours - and to sign them up immediately," the joint utilities said.

"Consequently, it should be obvious that RESA is asking utilities and all their customers to pay for the ability of ESCOs to approach customers at remote locations, at hours when utility call centers are not in operation, so that ESCOs can 'sign them up on the spot.' It is difficult to imagine what activity would be more intended to enhance ESCO promotional marketing efforts," the joint utilities added.

## **PPL POR ... from 1**

customers who leave PPL's system and receive generation service from electric generation suppliers. PPL also fails to account for the fact that customers receiving competitive supply are generally paying something less than the default service rate which would mean that, to the extent these customers are generating any uncollectible accounts expense, the level of the uncollectible accounts expense for these customers would be less, RESA said.

In discovery, PPL has said that it does not know the uncollectible costs associated with shopping customers, even though its generation rate caps expired December 31, 2009. "Even though PPL acknowledged that it was capable of gathering information related to the uncollectible accounts expense of shopping customers and that developing such a report is

'not a major undertaking,' PPL chose to 'delay producing reports on individual EGS uncollectibles,'" RESA said.

Because PPL does not know the true uncollectible accounts expense that can be fairly attributed to shopping customers, PPL uses the same system-wide uncollectible accounts expense factor for the generation-related uncollectible accounts expense, and requires both shopping and non-shopping customers to pay this same amount, RESA said.

"PPL has not shown that using this same system-wide uncollectible accounts expense fairly allocates the true uncollectible accounts expense associated with either the shopping or non-shopping customers who fail to pay their bills. In fact, it is quite possible that shopping customers, as a whole, are better paying customers which would justify applying a lower discount rate to purchased EGS receivables to recover the uncollectible accounts expense of shopping customers," RESA said.

RESA further noted that PPL's proposed uncollectible accounts expense fails to account for revenue received from late payment charges which reduce this expense. RESA said that such revenue reduces uncollectibles by \$14 million in the future test year, but PPL allocates all of the revenue to distribution uncollectibles.

RESA said that, using PPL's cost of service study, residential customers are responsible for \$9.7 million of this revenue, which should offset the uncollectible level used in PPL's proposed residential discount rate. RESA said that using such revenue to offset uncollectibles reduces the uncollectibles discount percentage for residential customers to 1.31%, for a total POR discount of 1.36%.

However, rather than revise the uncollectibles discount in the POR discount rate, RESA's preference is to remove the discount component from the rate, and collect it through a nonbypassable Merchant Function Charge.

RESA argued that this methodology would provide more certainty to competitive suppliers, and allow them to offer long-term products which are currently risky to offer due to the significant fluctuations in the POR discount rate. For example, RESA said that the proposed change in the residential discount rate represents a 37% increase from the current level.

"Uncertainty about what price an EGS will get for its accounts receivable bought by PPL will impact the price and type of product an EGS will offer to customers. In other words, an EGS may hesitate to offer long-term products (such as a 2-year, fixed-price product) because at some point in that term PPL may pay less for the accounts receivable," RESA said.

The current all-in/all-out requirement for residential customers also limits available choices to these customers, RESA added, arguing that the restriction should be removed.

While the measure is meant to prevent cherry-picking of customers with better payment practices, RESA said that there are legitimate reasons why a competitive supplier may want or need to dual bill customers, such as to offer a complex, customized product.

"PPL's restriction ... forces the EGS to choose either to not participate in the POR program at all or forego offering any innovative products to residential customers that are not conducive to utilizing the POR program," RESA said.

While RESA favors its proposed nonbypassable Merchant Function Charge to recover both default service and supplier uncollectibles, it is willing to use the current mechanism only for a proposed expansion of the revised POR program to large commercial and industrial customers. Currently, large commercial customers are only eligible for the de facto POR program which reverts the customer to dual billing after 90 days of being in arrears.

Notably, generation-related uncollectibles for large commercial customers remain in distribution rates, which RESA said places electric generation suppliers at a competitive disadvantage. The PP&L Industrial Customer Alliance supports this revised proposal from RESA to modify the POR program applicable to large customers.

PPL and the Office of Trial Staff oppose RESA's changes and favor continuation of the current POR methodology, noting that it has not apparently impeded retail competition as about one-third of residential customers have switched to competitive supply in less than a year.

"The Company, the EGSs and, most of all, consumers would benefit from a period of plan stability," Staff said in its brief.

"[C]ompetition has been thriving on the PPL

system since the current plan was put into operating at the beginning of the year," Staff said.

"[RESA's] changes may provide benefits for the EGSs, but are unnecessary in terms of fostering competition. Moreover, the Commission lacks the requisite authority to mandate such changes in a POR program. As the PUC has acknowledged, it does not have jurisdiction to impose a POR plan on a utility," Staff added.

Likewise, PPL argued that, "[b]efore any changes are made, sufficient time should be given to fully implement the current POR program and evaluate its effectiveness." PPL also said that any modifications could require additional costs that would be recovered through the administrative factor.

Citing the Commission's order on PPL's current POR program, PPL stressed that the Commission lacks authority to require distribution companies to offer POR. In that order, the PUC held that, "[n]o provision of the Code either expressly or by 'strong and necessary implication' provides the Commission with the authority to require EDCs to purchase accounts receivable from EGSs."

While RESA argues that the Commission can make minor modifications to the POR programs, PPL said that RESA's proposed changes, "clearly are not minor, but, rather, are major, substantial and burdensome."

PPL said that RESA's proposal for a nonbypassable Merchant Function Charge (MFC) to recover uncollectibles, "attempts to shift the risk of non-payment for competitive supply from EGSs, and their shopping customers, to all customers."

Furthermore, PPL opposed the modification since it, "in essence, rebundles generation-related and distribution-related uncollectible accounts expense charges through a non-bypassable MFC." PPL called such bundling inconsistent with the Competition Act.

## ***PJM ... from 1***

While FERC characterized the creation of PJM Settlement as a, "reasonable solution to address a potential mutuality risk [which]

received substantial support from stakeholders," FERC did not answer protests that the solution did not conclusively resolve all mutuality risk, and thus significantly changed the market structure for no tangible benefit.

The PSEG companies, in a protest, noted that, "[c]larifying that PJM is a party to each transaction does not foreclose a debtor or its other creditors from disputing such setoffs and arguing that the PJM is not a legitimate party to the transaction for purposes of the mutuality requirement of the bankruptcy code. Instead, it is virtually an invitation to instigate lawsuits on the hope of getting additional relief from a bankruptcy court."

FERC merely offered the following:

"While protestors question the existence of the mutuality risk and whether the proposed solution solves the problem, PJM asserts that the proposal is necessary to address an identified risk and that it adequately addresses that risk. PJM's proposal is reasonable. Moreover, the Commission is only required to determine whether the proposal is just and reasonable, not whether the proposal is the only reasonable solution or whether it is more reasonable than alternative solutions."

Quoting the Midwest ISO, the PSEG companies noted that, "[i]mplementing a central counterparty proposal is likely to require market participants to post substantial additional cash collateral."

PSEG observed that MISO has estimated that an aggregated pre-funded loss pool of greater than \$100 million may be necessary to cover the largest exposure under certain market conditions within MISO. "These costs would ultimately be borne by consumers for virtually no benefit," PSEG noted.

FERC's order was silent on this cash collateral argument.

Dominion had urged the Commission to defer ruling on PJM's request until addressing its generic rulemaking on RTO credit policies, where the Commission has proposed making the RTO a central counterparty, which has engendered similar protests (see Matters, 6/9/10). FERC refused to defer action on PJM's filing, but said that PJM will have to comply with whatever final RTO credit rule FERC adopts.