Energy Choice Matters
September 15, 2010

PECO Seeks Waivers to Facilitate Accelerated Posting of Generation Rate Effective Jan. 1, 2011

PECO has petitioned the Pennsylvania PUC to allow it to accelerate the release of the results from its September 2010 default service procurement, and the filing of its alternative energy portfolio standards (AEPS) rider, in order to provide the market with its Generation Supply Adjustment on October 14, 2010, rather than on or about November 15, 2010 as is currently provided in its tariff (P-2008-2062739).

Allowing an earlier filing of the Generation Supply Adjustment will, "make important default service rate information available to customers and electric generation suppliers ('EGSs') as soon as possible before the expiration of PECO's generation rate caps on December 31, 2010," PECO noted.

PECO's next default service supply solicitation is on September 22, 2010. Under current procedures, it is to release the procurement results 30 days after the procurement, or on October 22.

Additionally, PECO's current tariff calls for PECO to file its bypassable AEPS charge on November 1, 2010.

Furthermore, per the current tariff, PECO's Generation Supply Adjustment must be filed at least 45 days before its effective date. The Generation Supply Adjustment which takes effect January 1, 2011 is thus required to be filed on or about November 15, 2010.

The results of the default service solicitations and AEPS charge are several of the components included in the Generation Supply Adjustment.

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ICC Staff Says Per-Bill ComEd POR Discount Rate Arguably Conflicts with Statute

A "strong argument" can be made that a flat per-bill discount rate in Commonwealth Edison's proposed Purchase of Receivables program conflicts with the statutory mandate found in Section 16-118 (c) of the of the Illinois Public Utilities Act, Illinois Commerce Commission Staff said in a reply brief (10-0138).

As only reported in *Matters*, ComEd is proposing to recover POR implementation costs through a flat 50¢ per bill charge to suppliers, with uncollectibles recovered through a percentage discount. ComEd's proposal is supported by the Illinois Competitive Energy Association and Retail Energy Supply Association, and is opposed by Staff and Dominion Retail, who favor a purely percentage-based discount (Only in Matters 9/6/10).

Staff noted that 220 ILCS 5/16-118(c) requires that, "the discounted rate for purchase of receivables shall be included in the tariff filed pursuant to this subsection (c)."

"ComEd's proposed tariffs include the formula for calculating the discounted receivables and because of the use of the fixed $0.50 per-bill charge, the tariffs will not contain the actual 'discounted rate for purchase of receivables.' In fact, the tariff could not contain the discounted rate for purchase of receivables because, under ComEd's proposal, the discounted rate for purchase of receivables is not known in advance and the discount rate changes with the amount of receivables to be

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Pennsylvania Opt-Out Muni Aggregation Bill Advances, Eliminates Exit Fee

Pennsylvania HB 2619, which would authorize localities to conduct municipal opt-out electric aggregation, was reported out of the House Consumer Affairs Committee yesterday.

Notably, the bill was amended to provide that customers receiving electric generation service under an opt-out municipal aggregation program may switch to an electric generation supplier other than the supplier to the municipal aggregation program at any time without penalty, cancellation fees, or other restrictions, provided that the switch shall take place pursuant to PUC-approved switching procedures.

Furthermore, the amended bill would provide that the implementation of a municipal aggregation program shall be coordinated with the default service supply procurement plans of the electric distribution company whose service territory encompasses the boundaries of the municipality participating in the program, ostensibly to decrease migration risk faced by the distribution company and its wholesale suppliers, and to reduce the attendant premiums which otherwise may appear in default service rates.

Unless otherwise authorized by the PUC, no municipal aggregator could enter into a contract for electric generation services during the term of the default service supply procurement plan.

NRG Forecasts 45 TWh of Competitive Renewable Electric Sales by 2020

NRG Energy estimated that competitive renewable retail electric sales could "easily" grow by a factor of 10 to 45 TWh, or 3% of total load in competitive retail markets, by 2020, CEO David Crane told investors at a Bank of America-Merrill Lynch investor conference yesterday.

Crane said that renewable retail electric sales in competitive retail markets were 4 TWh in 2008, or less than 1% of sales in these deregulated retail markets.

Crane reported strong growth in Reliant Energy's 100% wind product in 2010, with residential subscribers to this product now accounting for nearly 5% of total Reliant customers. In particular, the amount of residential customers on the 100% wind product has grown over 150% since December 2009, despite the recession and net attrition in Reliant's broader customer count over that same period.

Crane said that the 100% wind product includes up to 4% premium margins.

Crane reiterated NRG and Reliant's previously reported focus on various renewable offerings and services to increase margins and customer retention, but did not disclose any new specifics such as price points or product roll-outs.

Arizona Solar

Separately, NRG Solar announced a partnership with Kennedy Partners, LLC to develop and operate solar installations at several Arizona school districts, initially covering 2.5 MW at 12 sites. NRG will provide capital for the installations and own the systems, and sell power under long-term PPAs, under an arrangement facilitated by the Arizona Corporation Commission's SolarCity decision (Matters, 7/14/10).

REP Group Emphasizes Expanded Protections in Deferred Payment Plan Rule

The Texas Retail Electric Provider Group issued a statement yesterday emphasizing the significant expansion of consumer protections which will occur under a proposal for adoption concerning disconnections and deferred payment plans to be considered at today's PUCT open meeting, which has continued to be criticized by consumer groups due to the inclusion of a switch hold which may be applied to delinquent customers on a deferred payment plan (36131).

The proposal for adoption would maintain the requirement that REPs shall offer a deferred payment plan to all customers during events such as extreme weather emergencies.

However, as extensively reported by *Matters* (3/29/10), the proposal for adoption would expand REPs' obligation to offer a deferred payment plan to certain vulnerable customers, such as Lite-Up, critical care, and chronic condition customers, even during times where there has not been an extreme weather emergency, and regardless of the number of disconnect notices the customer has previously been issued. Specifically, for these protected classes of customers, REPs would now be required to offer a deferred payment plan for bills that become due in July, August, or September regardless of weather, and for bills that become due in January or February, if in the prior month a TDU experienced an extreme weather emergency for at least five consecutive days during the month.

Furthermore, the final proposal for adoption eliminated a proposed narrowing of the eligibility criteria for a mandatory deferred payment plan contained in an earlier draft. Specifically, under the current rule, the REP is compelled to offer a deferred payment plan to any customer, even if not in a protected customer class, who expresses an inability to pay, if the customer has not been issued more than two disconnection notices during the preceding 12 months. An early draft would have struck this mandate; however, Commissioners elected to not only maintain, but expand, the protection afforded by this requirement.

Specifically, REPs will still be compelled to offer a deferred payment plan to a customer expressing an inability to pay, but customers will now be eligible for a deferred payment plan under this provision so long as they have not been disconnected during the preceding 12 months (as opposed to the current, more restrictive criteria of receiving more than two disconnect notices, which are often sent but do not actually result in disconnection).

"If you use a product or service provided by a company, it's only right that you pay for it. If you don't, then the cost for everyone else that does pay goes up. That's true whether you're talking about groceries, cable TV, gasoline or electricity," said Catherine Webking on behalf of the REP Group. Webking serves as General Counsel for the Texas Energy Association for Marketers.

Regarding the switch hold, Webking noted that, "[i]n exchange for what amounts to a no interest loan, the new rule simply says you must pay what you owe before you can go ... to another service provider. In doing so, it will help electric companies manage their overall cost of service for all customers while still providing important protections for at-risk customers."

The REP Group said that the new rules don't go far enough since they only address the universe of customers subject to a deferred payment plan, and not the larger bad debt problem caused by customers not subject to such deferred payment plans who switch providers prior to paying off their outstanding balances. Still, the REP Group called the proposal for adoption a "step forward and a reasonable compromise that tries to balance the concerns we have to better manage our costs to the benefit of most of our paying customers while still preserving a customer's right to choose."

The REP Group includes members of the Alliance for Retail Markets, Texas Energy Association for Marketers, CPL Retail Energy, TXU Energy, and WTU Retail Energy.

Nelson Memo

Separately, Commissioner Donna Nelson filed a memo explaining various changes reflected in the most recently filed proposal for adoption (Only in Matters, 9/10/10).

Nelson noted that language has been added regarding the obligation of REPs to offer a deferred payment plan to all customers during a state of disaster declared by the governor such that this obligation will now only be imposed, "[a]s directed by the commission." The added language ensures that the obligation to offer a deferred payment plan during disaster declarations is limited to those disaster declarations impacting electricity usage or a customer's ability to pay. Nelson noted that disaster declarations may be issued for situations not affecting electricity usage or a customer's ability to pay, such as a declaration in 2009 regarding the swine flu.

Calif. PUC Opens Review of Cost Allocation Mechanism Per SB 695

The California PUC has issued a ruling and request for comments to initiate its reconciliation of the provisions regarding the Cost Allocation Mechanism (CAM) in SB 695 with the

Commission's existing Cost Allocation Mechanism rules (R.10-05-006).

Among other things, the Commission asks whether it should grant authorization to allow utility-owned generation to be eligible for Cost Allocation Mechanism treatment, and if so, what factors should be considered in such determinations.

The PUC also sought comment on SB 695's provision which states that an energy auction "shall not be required" to establish the net cost of capacity under the CAM.

First adopted in D.06-07-029, the Cost Allocation Mechanism allocates the benefits and costs of new generation to all customers in an investor-owned utility's (IOU) service territory. Under the current CAM, the energy and capacity of a new generation PPA are unbundled. The costs and benefits of the resource adequacy capacity are socialized to all customers connected to an IOU's distribution system, and load serving entities (LSEs) within the IOU service territory can apply the allocated capacity toward their resource adequacy requirements. The energy value of the PPA is determined by periodic energy auctions among the LSEs for the dispatch rights to the contract. The IOUs are directed to charge the benefiting customers only for the net cost of capacity, calculated as the net of the total cost of the contract minus the energy revenues associated with its dispatch.

Among other restrictions, D.06-07-029 limits the CAM to only long-term PPAs with new or repowered facilities developed by independent generators. The Commission did not approve the CAM for utility-owned generation, since that generation is essentially dedicated to bundled customers.

However, SB 695 provides that, "in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the Commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the Commission, to all of the following: (i) Bundled service customers of the electrical corporation; (ii) Customers that purchase electricity through a direct transaction with other providers; and (iii) Customers of community choice aggregators."

In addition, with regard to the determination of the net cost of capacity, SB 695 provides that, "Net capacity costs shall be determined by subtracting the energy and ancillary services value of the resource from the total costs paid by the electrical corporation pursuant to a contract with a third party or the annual revenue requirement for the resource if the electrical corporation directly owns the resource. An energy auction shall not be required as a condition for applying this allocation, but may be allowed as a means to establish the energy and ancillary services value of the resource for purposes of determining the net costs of capacity."

Mich. PSC Approves Detroit Edison Critical Peak Pilot

The Michigan PSC approved without modification Detroit Edison's petition to offer a pilot critical peak pricing generation rate open to 5,100 customers who have received advanced meters under its SmartCurrents program (U-16276).

As only reported in *Matters*, the critical peak pricing rate would be made available on a voluntary basis to a maximum of 5,000 residential customers and 100 secondary commercial and industrial customers taking full service from Detroit Edison who have Advanced Metering Infrastructure installed (Only in Matters, 5/14/10).

Generation rates would be as follows, for both customer classes:

Critical Peak:	$1.00 per kWh
On-Peak:	$0.12 per kWh
Mid-Peak:	$0.07 per kWh
Off-Peak:	$0.04 per kWh

The hours included in each period and mechanics of the program are discussed in our 5/14/10 story.

At this time, Detroit Edison has not requested any change in the rates or cost of service to other customers, but has not said how it plans to reconcile any difference between the cost to supply the pilot customers and revenues received from such customers.

Briefly:

Glacial Natural Gas Receives D.C. Gas License

The District of Columbia PSC granted Glacial Natural Gas a natural gas supplier license to serve commercial and industrial customers.

Power2Switch Revamps Website to Provide Small Business Quotes Within Minutes

Illinois broker Power2Switch has launched a new online rate comparison portal (www.power2switch.com) which Power2Switch said allows Illinois businesses to receive electricity quotes from nine suppliers within minutes, as opposed to Power2Switch's prior system which took up to four days to provide quotes to customers.

Conn. Draft Would Grant Aggregator Certificate to Ness Energy Services

A draft Connecticut DPUC decision would grant Ness Energy Services, LLC an electric aggregator certificate to serve residential, commercial, industrial, municipal, and governmental customers. Hess Corporation had sought intervention to protest Ness' similar name, but the DPUC denied Hess intervenor status (Only in Matters, 8/11/10).

Compete Coalition Publishes Review of Regulatory Authority in Competitive Markets

The Compete Coalition issued a report detailing the, "substantial regulatory safeguards in place at the federal and state levels" in competitive electric markets (Compete called the term deregulated a misnomer). Compete said that the safeguards, "ensure a reliable and efficient supply of electricity while competitive forces grow and provide the innovation that will further lower costs and provide new services for consumers." Notably, Compete's report said the following: "Where retail competition is allowed, state commissions impose a number of safeguards to protect consumers. Perhaps the most important safeguard is imposing Provider-of-Last-Resort (POLR) obligations on incumbent utilities." Click here for the report

TXU Branding Efficiency Products as Brighten

TXU Energy is branding several of its smart energy products under the "Brighten" umbrella, including its Power Monitor, iThermostat, and online energy store. The Brighten group of products will also include TXU's time of use rates, though the Brighten name will not be applied to the product.

Constellation Developing Solar Installation at Denver Airport

Constellation Energy and Denver-based Oak Leaf Energy Partners announced the development of a 4.4 megawatt solar installation at Denver International Airport. Constellation Energy will finance, own, and operate the solar installation, and Denver International Airport will purchase the electricity produced by the system from Constellation Energy over a 20-year period. Constellation Energy currently has approximately 35 megawatts of on-site solar projects completed or under construction throughout the U.S.

PECO ... *from 1*

PECO has determined that it will be able to file its Generation Supply Adjustment as early October 14, 2010, since it will have the necessary components to calculate the Generation Supply Adjustment at that time. However, as noted above, several of these components are not authorized to be released publicly at that time, absent a waiver.

Under PECO's petition, the results of the September 2010 default service procurement would be released 21 days after the procurement, or on or about October 13, 2010. The release date for the results of future procurements would not be altered, and PECO said that it would continue to work with the statewide collaborative towards a uniform approach to releasing procurement results.

PECO said that no party to its default service settlement opposes the requested waivers.

ComEd POR ... from 1

purchased," Staff noted.

"Staff thinks a strong argument can be made that this result does in fact conflict with the statutory mandate found in Section 16-118 (c) of the Act."

"ComEd did not show, or even claim, that its proposed per-bill charge bears a relationship to the nature of the costs incurred for the service provided. In fact, in its [initial brief], ComEd appears to soften its earlier argument that the $0.50 charge follows traditional ratemaking principles when it states that its proposal is '*more* consistent with traditional ratemaking principles,'" Staff continued (emphasis by Staff).

"In addition, Staff continues to be surprised that the previously Commission approved percentage charge is all of a sudden so fundamentally at odds with traditional ratemaking principles," Staff said.

Reply briefs from ICEA, RESA, and Dominion Retail did not raise any novel arguments in responding to initial briefs. ComEd's reply brief was not immediately available.

Implementation Date

As previously reported, ComEd first said in rebuttal testimony that any modification to the switching rules as contained in the as-filed POR tariffs would delay the POR start date to April 1, 2011. However, Staff said that ComEd's initial post-hearing brief suggests for the first time that, in Staff's summation, "even if the Commission makes no adjustments to ComEd's proposed new switching rules the go-live date of PORCB should still be pushed back by four months."

Though Staff cited a page in ComEd's initial brief for this new provision, it was not apparent what specific language Staff believes shows ComEd's request to delay POR even if the switching rules are not modified from the as-filed tariff. ComEd does state in its initial brief that, "because of the uncertainty created by these proposals [for modified switching rules], ComEd has revised the Availability section of Rider PORCB and replaced the previous go-live date of December 1, 2010 to a date no later than April 1, 2011."

However, this is substantially similar to the language first used by ComEd in rebuttal testimony in which it was apparent that the delay would only be required if the Commission modified the switching rules.

Staff interprets ComEd's more recent statement in its initial brief, however, as requesting that the Commission should allow ComEd four additional months to make the POR tariff provisions available just because not every party in the proceeding agrees with its new switching rules, even if no change to the as-filed tariff is made.

The Retail Energy Supply Association expressed a similar concern, although not based strictly on ComEd's statement in its initial brief. Rather, RESA noted that while ComEd has said that any changes to the switching rules would delay the POR start date, ComEd did not affirm that POR would commence on December 1, 2010 as originally filed once Staff withdrew its proposals for changes to the as-filed switching rules (with Staff's withdrawal contingent on the Commission holding that inclusion of the rules in the tariff do not set precedent).

Staff recommended that the Commission only consider moving the POR go-live date if the Commission makes modifications to ComEd's proposed new switching rules. Staff does not recommend that the Commission move the go-live date if it approves ComEd's proposed switching rules.

The dispute of over the switching rules, and the latent rescission period they provide, were addressed in our story on the initial briefs and prior testimony (see 8/5/10 and 9/6/10).