Energy Choice Matters

April 23, 2008

Ohio House OKs Electricity Bill with Few Changes to Earlier Approach to Market-Based Rates

Although Gov. Ted Strickland, D, got House lawmakers to insert the phrase "excessive earnings" into a final House bill that was approved 93-1 yesterday, the amended bill which should easily sail through the Senate and be signed by the governor doesn't change much in the proposed bifurcated approach to market-based pricing the state's utilities will embark upon starting in 2009, depending on if they own generation.

The methodology of potentially moving to market-based rates has not changed from an earlier Republican draft (Matters, 4/14/08), but PUCO received added authority in some instances to delay market pricing, and to create phase-in programs through nonbypassable charges.

PUCO will also ensure that utilities do not earn "excessive earnings" but it seems that would mostly apply to any cost-of-service pricing linked to utility-owned generation, and would not be able to be used to prevent market pricing, since utilities do not earn a return on equity on market-based rates.

For January 1, 2009, when the current rates end, all utilities must file an "electric security plan" and may also choose to ask PUCO to be allowed to charge market-based rates.

The electric security plan would be analogous to cost-of-service pricing with a return on equity, reflecting utilities' own generation and fuel costs, plus purchased power agreements.

Under the security plans, utilities could earn a reasonable allowance for construction work in progress for generation sources built via competitive bidding, collected via a nonbypassable surcharge.

The security plans could include terms, conditions, or charges relating to limitations on customer shopping and could address bypassability and standby, back-up, or supplemental power service.

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Michigan PSC Staff Opposes POR in Exceptions

The Michigan PSC staff opposed instituting a POR program for electric customers of Consumers Energy (U-15245), in exceptions to an ALJ proposal favoring POR (Matters, 4/1/08).

The staff argued that implementing POR for small customers would be "untimely" since, "no residential or small volume customers are being served [competitively] at this time."

Staff pointed to legislative uncertainty over the future of retail access as another reason to delay consideration of POR.

While POR may be a viable option to increase retail access participation, staff favors stakeholder meetings to thoroughly discuss POR and its impact on customers before instituting a "significant change" such as POR.

POR would exacerbate the ability of competitive retailers to, "pursue inappropriate marketing strategies by becoming insulated from the potential for uncollectible expenses," Consumers Energy argued. Consumers also cautioned that POR, by increasing uncollectibles for residential customers, would raise residential rates at a time they are already slated to rise due to de-skewing.

But Energy Michigan complained that, "Consumers Energy is at it again," and opposed the ALJ's decision to make shoppers immediately pay full de-skewing charges, which would significantly inhibit competition.

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ERCOT REP Wants to Hear of Merger, Acquisition, or Sale Opportunities

A mid-size Texas REP with 40,000 meters retained Affiliated Energy Group (AEG) to explore strategic merger, acquisition and sale opportunities. The REP, which only does business in ERCOT, has mostly mass market customers with several hundred large commercial end-users, positive EBITDA, and annual sales of about 1.5 million MWh.

That portfolio could smooth out the load characteristics of a competitor, explained Rob Potosky, Executive Vice President at AEG. Potosky, one of Dynowatt's co-founders, led that REP through its acquisition by Accent Energy last year. Other M&A benefits include the standard cost savings and synergies, economies of scale, and access to new sales channels and marketing cache, Potosky added.

Although REP consolidation has been slower than many have predicted, Potosky believes interest has picked up because after several years of operations, REPs now have stronger histories and records that potential buyers can rely on in performing due diligence.

The biggest combinations in the past year (Accent-Dynowatt, Energy Savings-Just Energy) have focused on retailers with little or no ERCOT presence acquiring a well-known or entrenched brand with rooted sales channels, local marketing and operations, Potosky noted. The acquisitions allow the new entrants to realize positive gross margin far faster than incrementally enrolling customers organically.

AEG is fielding inquiries for its client on a blind inquiry basis.

Retailers Need to Know Utility Prices Sooner to Offer More Products

The Connecticut DPUC should require EDCs disclose the average price paid for each default service term and the nature of the contract (full requirements, energy only, etc) when the contracts are publicly filed two weeks following procurement, Dominion Retail urged in comments on a working group proposal.

EDCs do not make the retail price or material terms of SOS contracts public until the EDCs file their proposed rates, Dominion pointed out.

That leaves competitive retailers unable to assess the potential impact of the EDCs' procurement until just before the rates take effect. Consequently, retailers' opportunities to provide customers with truly competitive offers are limited, Dominion argued.

Standard service and last resort rates should be approved and published at least 60 days before they are to take effect in order to assure that customers have sufficient time to make informed choices about their energy supply, Dominion urged.

But the working group proposal, in one instance, would publish last resort rates just one week prior to their effective date, Dominion pointed out. That does not give customers time to shop and switch suppliers before the new rates would take effect, since a switch can take 30 to 45 days depending on when it is submitted in relation to the customer's next meter read.

Connecticut Light & Power, however, argued that prices should not be included in the procurement reports due two weeks after procurement since the ratemaking process, "requires adjustments and refinements to be made to RFP pricing results."

CL&P wants to avoid "confusion" if pricing is announced after the RFP but is changed a short-time later when the EDC publicly files its rates for DPUC approval.

Although RFP results obviously must be reconciled into class-specific retail rates, CL&P did not elaborate on what, if any, additional "refinements" may arise which could change RFP pricing, and did not elaborate why such refinements could not be processed in the two-week timeframe.

Pepco Energy Services Files Complaint Over PJM Availability Charge

PJM's rules governing the Peak-Hour-Period Availability Charge (PHPAC) discriminate against infrequently-run generators and harm reliability, Pepco Energy Services (PES) argued in a complaint against PJM at FERC (EL08-58).

In order to provide incentives to generators to be available during critical Peak-Hour Periods, RPM incorporates rules which impose charges or provide credits based on their availability during the peak periods.

Generally, the charges or credits are based on a generator's Equivalent Forced Outage Rate during the approximately 500 hours that comprise the Peak-Hour Periods (EFORp). However, for an infrequently-run generator that has fewer than 50 total Service Hours during Peak Hours, the charges or credits are not based on the EFORp but are instead based on the resource's actual Equivalent Demand Forced Outage Rate (EFORd) for all 8,760 hours during the applicable Delivery Year.

The RPM settlement, PES claimed, implemented special rules for seldom-run generation to protect such resources from being unduly penalized by charges based on EFORp. However, using EFORd is having the opposite effect, PES reported, as EFORd is an, "inaccurate and biased measure" of Peak-Hour Period availability.

EFORd is unjust and unreasonable because a generator that is available during the approximately 500 Peak Hours can nonetheless be assessed substantial charges if it unavailable during the approximately 8,260 hours that fall outside of the Peak-Hour Periods., PES reported.

That methodology also unreasonably magnifies the Capacity Resource Deficiency Charges that are imposed for all 8,760 hours of the Delivery Year, PES reported.

Thus, the EFORd metric has had the unintended effect of subjecting PES' infrequently-run generation to unreasonably high charges that are unrelated to their availably during Peak Hours.

The EFORd methodology is discriminatory because it subjects certain resources to a risk of PHPACs that are disproportionately greater than those faced by other generators whose PHPACs are calculated using the EFORp metric. In essence, resources measured on the EFORd standard face double counting of RPM-related penalties for unavailability, PES observed,

The discriminatory nature of the rules threatens reliability, PES cautioned, as infrequently-run generators will be unable to recover their costs, prompting retirements. That contradicts the intent of RPM to provide incentives for new generation or the retention of existing resources.

PES urged FERC to exempt generators with fewer than 50 Service Hours during the Peak-Hour Periods from PHPAC penalties or credits for the 2007-08 Delivery Year such that those resources will neither be harmed by, nor benefit from, their operations outside the critical Peak Hours.

PES suggested that PJM replace the EFORd metric with one based on EFORp for all generation resources for the 2008-09 Delivery Year. PJM should develop a stakeholder process to determine a more appropriate availability metric for infrequently-run generation that is consistent with the RPM settlement, PES argued.

Briefly:

U.S. Gas & Electric Growing Beyond New York

The Michigan PSC awarded an alternative gas supplier license U.S. Gas & Electric (U-15490). Currently U.S. Gas & Electric serves New York customers but lists plans to enter several new markets including Ohio, Massachusetts, Maryland and Washington, D.C. in the near future.

MXenergy Offering Energy Star Rebate

MXenergy is putting $100 into the pockets of new customers who buy Energy Star appliances. New customers enrolling online for an electricity or natural gas plan are eligible to receive a $100 rebate check by submitting an Energy Star product receipt, claim form and their first three bills with MXenergy. The offer is limited to one $100 rebate check per natural gas or electricity account per household or business.

Parties Ask for Hearing in MEPCO Case

The NEPOOL Participants Committee, ISO New England and Maine Electric Power asked

FERC to set the issue of grandfathering Casco Bay Energy's transmission rights on the MEPCO line for hearing (Matters, 4/21/08), since issues of factual dispute have arisen in settlement talks (ER07-1289 et. al.). A settlement judge separately recommended terminating settlement proceedings because of the impasse. A hearing is needed to develop an evidentiary record regarding the nature of any rights Casco has under its transmission service agreement, including the nature of any congestion hedges, marginal loss hedges or Capacity Transfer Rights. The movants do not understand Casco's claimed rights asserted in settlement talks and need the obligatory discovery available under a hearing process to evaluate the claims.

Reliant Selling Vegas Plant

Nevada Power is buying for $500 million Reliant Energy's 598-MW natural gas-fired, combined-cycle Bighorn Generating Station outside of Las Vegas.

Michigan PSC Adjusts PSCRs

The Michigan PSC reconciled Detroit Edison's 2006 power supply cost recovery (PSCR) plan, authorizing the utility to collect an under-recovery of $50 million. The PSC also determined that Consumers Energy's 2006 PSCR led to an under-recovery of $55 million.

The PSC also approved a settlement that allows Michigan Consolidated Gas to roll an under-recovery of $9 million into its 2007-2008 gas cost recovery reconciliation

Austin Leads Utility Green Plans

Austin Energy continues to lead utility sales of green energy in terms of total megawatt hours sold in the latest rankings from the National Renewable Energy Laboratory. The muni sold over 577,000 MWh in 2007, with the rest of the top five consisting of Portland General Electric, PacifiCorp (up from fourth a year ago), Florida Power & Light (down from third) and Xcel Energy. In 2007, total utility green power sales exceeded 4.5 billion kWh, about a 20% increase over 2006, the DOE lab said, attributing growth to persistent marketing efforts and utility partnerships with independent green power marketers. The rate premium that customers pay for green power continues to drop, NREL added. NREL also ranked utilities by green customer count, percent of green sales, and other categories at: http://www.eere.energy.gov/greenpower/resources/tables/topten.shtml

Ohio Bill ... *From 1*

Utilities could securitize any phase-in under the security plans as well.

The security plans could be of any duration, but plans lasting longer than three years would automatically be tested against market prices in the fourth year and every fourth year thereafter.

In addition to filing a security plan for 2009, utilities may petition to charge market-based rates, with the schedule for moving to market rates depending on their ownership of generation.

Utilities not owning generation (only FirstEnergy) could go to full market pricing immediately if the market prices are lower than the prices in the security plan required for 2009.

Utilities would conduct competitive solicitations for market-based rates, and the solicitations would have to attract more than four bidders. At least 25% of the load must be bid upon by one or more firms other than the distribution utility.

Utilities owning generation would make a gradual move to market-based rates by acquiring small amounts of market power and blending it with their existing power sources. In its transition to market pricing, a utility would procure 10% of its load from the market in year one, not less than 20% in year two, 30% in year three, 40% in year four and 50% in year five.

Beginning in the second year of blended pricing under such a transition, PUCO could prospectively alter the proportion of load that is priced at the market to mitigate any effect of an abrupt or significant change in the standard service price. PUCO could not make such a change more than annually, and could not cause the move to full market-based prices to exceed 10 years in length. Changes could only affect the prospective proportions used during the blending period and could not affect any blending proportion previously approved and applied by the Commission.

Once a utility receives approval to use market-based rates, it would not be required to file any subsequent security plans.

PUCO could authorize phase-in of any prices increases, whether from the security plans or market-based rates, to achieve price stability. Costs would be deferred equal to the amount not collected, plus carrying charges, and would be collected through a nonbypassable surcharge.

The Northeast Ohio Public Energy Council won a big victory in the bill, getting language inserted that will free its customers from paying utility standby charges if NOPEC enrolls its 480,000 residential consumers with a competitive supplier. In exchange, customers would have to pay a market-based rate if NOPEC's supplier exits and customers return to bundled service.

PUCO is also directed to promote large-scale governmental aggregation and is to conduct an immediate review of municipal aggregation rules and consider the effects of nonbypassable surcharges permitted by the bill on such aggregation.

The bill includes two alternative energy standards applicable to both utilities and competitive retailers. Those LSEs must eventually buy 12.5% of their power from renewable sources and another 12.5% from "advanced" technologies such as clean coal or new nuclear designs. Annual increases in the alternative energy standards would be halted if they cause costs to rise more than 3%

The bill keeps special discounts for large customers but only if they are publicly filed at PUCO.

Michigan POR ... From 1

Energy Michigan pointed to the inconsistency in Consumers' arguments, noting that while the utility has proposed a gradual five year de-skewing of residential rates to eliminate rate shock, the utility wants to immediately impose 100% of skewing charges on migrated customers.

Retail access business customers currently do not pay skewed rates to support residential service since they do not use utility generation service, but shoppers do pay $5 million of securitization and stranded cost subsidies that lower all retail generation costs each year, Energy Michigan explained. Competitive customers are already subsidizing bundled customers.

The Commission, Energy Michigan reminded, already rejected imposing skewing charges on retail access customers in two recent cases.

"If Consumers claims are true that skewing charges make their commercial and industrial retail service uncompetitive with [retail access] service that has no skewing charges, how is it that Consumers currently commands over 95% of the total market for electricity in its service territory and [retail access] service is limited to less than 5% of that market," Energy Michigan wondered.

"Despite Consumers' claims that it favors cost based rates, it proposes to create a new subsidized rate for economic development service (Rate GED) which essentially requires all customers to pay skewing charges related to new economic development load," Energy Michigan added.

Adding to the confusion, Consumers proposed a cost-based seasonal rate which would clearly benefit schools and all other customers with similar loads, Energy Michigan noted. Yet Consumers also proposed the GEI educational discount rate which mimics many of the benefits provided by seasonal rates but is only available to schools and is clearly subsidized and discriminatory, observed Energy Michigan.

"There is no pattern to this blizzard of rate proposals other than to position Consumers in a more favorable competitive position against [retail access] service using monies provided by its own customers to support anticompetitive rates," Energy Michigan claimed.

Constellation NewEnergy opposed the ALJ's proposed decision to allow Consumers to spend $24 million annually on "energy efficiency" without the utility telling the PSC what it plans to do with the approved funds. There is no record evidence on the details of what programs are going to be offered under the energy efficiency program, NewEnergy pointed out.