Energy Choice Matters

November 4, 2008

D.C. PSC NOPR Would Permit SOS Contracts Beyond Three Years

SOS contracts could exceed the current three years in length under proposed rules issued by the District of Columbia PSC (FC 1017). A NOPR issued by the Commission would codify rules for SOS but would not conclude a related investigation into supply procurement which is ongoing in FC 1047, where active portfolio management, among other things, is being explored.

While SOS would still be procured via an annual RFP for full requirements, fixed-price service, the contracts comprising the portfolio for residential customers and small commercial customers could include contracts greater than three years in length. Contracts at least three years in length would have to comprise 40% of the SOS portfolio for each of those classes, absent Commission direction to change the mix. Remaining load would be procured via contracts lasting one, two or three or more years.

Varied lengths for SOS contracts are intended to stabilize retail prices, the Commission said in its NOPR.

Large commercial customers would be served on an SOS portfolio composed of fixed-price, full requirements contracts of one to two years in length.

Retail prices would be adjusted at least twice a year to reflect seasonal pricing and other appropriate price changes. SOS bids could include a time-of-use component.

Under the proposal, the PSC would conduct a review of the SOS program every two years, starting in 2010, to make any appropriate adjustments to SOS as competitive developments in the District change.

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Nonbypassable Charges Focus of Testimony on AEP Electric Security Plan

Competitive suppliers, consumer advocates and industrial customers assailed proposed POLR charges at AEP's Columbus Southern Power and Ohio Power utilities, arguing the fees are not justified and have no relationship to potential costs of POLR service. The POLR charges are part of AEP's electric security plan (ESP) which would set the Standard Service Offer through the end of 2011 (08-917-EL-SSO, Matters, 8/1/08).

AEP is requesting to annually recover via a nonbypassable surcharge POLR fees of $60.9 million at Ohio Power and $108.2 million at Columbus Southern Power, or about $508 million over the three-year ESP. The request represents a dramatic increase in the residential POLR charge from 0.8 mills to 6.08 mills; an increase from 0.7 mills to 5.2 mils for Small General Service (GS-1); an increase from 0.6 mills to 5.3 mills for Medium General Service (GS-2); and an increase from 0.5 mills to 3.5 mills for Large General Service (GS-4).

Those amounts have no foundation in the true cost of POLR service, numerous parties argued, and ignore the likely small amount of shopping (and thus potential return to SSO) that will occur under the ESP. The Ohio Consumers' Counsel noted that there has been no indication that the current POLR amounts have been inadequate, or even needed.

AEP has not yet made a decision as to whether it plans to purchase any options for POLR service. Therefore, simply allowing AEP to recover costs that may never occur would not be appropriate, Industrial Energy Users-Ohio (IEU) said.

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Pepco Energy Services Earnings Fall on Hedging Impacts

Pepco Energy Services reported net income of $3.0 million for the third quarter, down from $9.8 million a year ago, on mark-to-market losses related to economic hedges of PJM congestion risk and power, as well as lower generation output.

Gross margin from retail energy supply was $13.5 million in the third quarter of 2008, compared to $28.6 million a year ago. Sales were 5,614 GWhs, up from the year-ago total of 5,510 GWhs due to additional commercial and industrial customer loads.

Conectiv Energy posted higher earnings of $48.7 million, versus $36.5 million a year ago, on gains from fuel hedges, higher capacity prices, higher energy marketing margins, and a mark-to-market gain related to economic coal hedges. Lower spark spreads, lower generation output, and lower emission credit sales due to mild weather offset some of the gains. Gross margin from Merchant Generation and Load Service was $113.1 million in the third quarter, compared to $99.2 million in the year-ago period.

Conectiv's average power sales price for generation was $117.50/MWh versus $88.89 a year ago. Conectiv's total generation output was 1,851 GWhs in the third quarter of 2008, compared to 2,382 GWhs a year ago, due to milder weather.

Parent Pepco Holdings reported lower third quarter earnings of $118.8 million, compared to $167.6 million a year ago, on lower results from its regulated utilities.

Constellation Suggests New Cost-of-Service Studies at Consumers

The Michigan PSC should direct Consumers Energy to file cost-of-service studies for each customer class in order to ensure proper rate-setting and the fulfillment of new legislative provisions, Constellation NewEnergy said in comments on Consumers' plan to implement many new legislative requirements in its next rate case (U-15681, Matters, 10/15/08).

Legislation requires rates to be cost-based except in limited circumstances, specifically low income and senior citizen rates and educational rates. The cost-based provision will require several current rate schedules to be deskewed to remove subsidies and reflect cost-of-service.

Since Consumers has identified a variety of rate schedules that currently reflect skewing, including economic development and municipal pumping rate schedules, cost-of-service studies for each class are clearly needed, CNE said.

Of particular concern to Constellation is that Consumers does not intend to treat metal melting customers as a separate class as required by statute. Such customers are currently in the primary rate class. Consumers currently extends metal melting customers a discount that is to be ended under the new legislation, but the end of the subsidy cannot raise rates more than 2.5% annually for metal melting customers. Consumers estimates it will take 8-9 years to end the subsidy given such a limitation.

But regardless of how long it will take to move industrial metal melting rates to cost, Constellation insisted that Consumers must include a study treating metal melting customers separate from the primary class in the rate case, since statute refers to metal melting customers as a separate class. “No other reading of the statute is plausible ... [and] Consumers' rate case filing will be a non-starter if it employs any other approach," Constellation said.

Cost of Customer Contracts Increases for Nicor Marketers

Operating income from Nicor's "other energy ventures," a segment that includes retail marketing and energy services, decreased $9.9 million to $0.6 million for the third quarter, due primarily to lower operating results at Nicor's wholesale natural gas marketing business, Nicor Enerchange ($7.1 million decrease), and lower operating income at Nicor's energy-related products and services businesses ($2.6 million decrease).

Lower operating results at Nicor's energy-related products and services businesses, including retail marketing and service contracts, were due to higher operating expenses ($1.8 million increase) and lower operating revenues ($0.8 million decrease).

The increase in operating expenses was due to higher average costs associated with customer contracts. Decreased operating revenues were attributable to lower average utility-bill management contract volumes. Under the utility-bill management contracts, Nicor Solutions bills a fixed amount to a customer, regardless of changes in natural gas prices or weather, and in exchange pays the customer's utility bills from Nicor Gas.

Nicor Enerchange operating results fell due to unfavorable costing of physical sales activity and weaker results from the company's risk management activities associated with hedging the product risks of the utility-bill management contracts offered by Nicor's energy-related products and services businesses, partially offset by favorable changes in valuations of derivative instruments used to hedge purchases and sales of natural gas inventory. Operating expenses at Nicor Enerchange increased $5.5 million due primarily to transportation and storage charges.

Total operating revenue for Nicor's other energy ventures segment fell $2.4 million year-over-year to $34.9 million for the quarter.

Parent Nicor Corp. reported quarterly net income of $1.3 million, down from $14.5 million a year ago.

Briefly:

Duquesne Appeals PJM Exit Order

Duquesne Light has appealed FERC's January 17 order and September 3 order on rehearing regarding its exit from PJM to the D.C. Circuit U.S. Court of Appeals (FERC dockets ER08-194 and ER08-1235, Matters, 9/4/08).

ERCOT Asks for Interim Relief on Nodal Delay

ERCOT asked the PUCT to grant it interim relief by ordering, on an interim basis, that the completion date for implementation of the Nodal Protocols be extended beyond the January 1, 2009 date contained in the Final Order in Docket 31540. ERCOT is currently updating the nodal cost/benefit analysis at the Commission's request, and a new implementation date will not be set until the new analysis is completed. With implementation pushed beyond Jan. 1, 2009, ERCOT is concerned it could be found in "technical violation" of the terms of the Final Order in Docket 31540.

Credo Energy Granted Texas Aggregator Certificate

The PUCT granted Credo Energy an aggregation license to pool residential customers, C&Is, municipalities and political subdivisions. Credo principal James O'Reilly is a 20-year veteran of the financial services and lending industry, having held senior positions at Citigroup.

Direct Energy Business Unit Can Use CPL, WTU Names

The PUCT granted the application of Direct Energy Business (formerly Strategic Energy) to add the trade names WTU Business and CPL Business to its REP certificate.

ERCOT Reports Release of Confidential Data

ERCOT reported to the PUCT that it erroneously disclosed Operating Day Schedule information, which is "Protected Information," to a Market Participant in violation of ERCOT Protocol § 1.3.1.1. ERCOT reported that it accidentally made a Market Participant's Operating Day Schedule information available to another Market Participant on October 28. The Operating Day Schedule information did not include information identifying the impacted Market Participant, ERCOT said. ERCOT Wholesale Client Services identified the error on October 29, after ERCOT Settlement & Billing Staff identified unusual mismatches with a particular Market Participant. On October 29, ERCOT IT Staff removed the Scheduling and Bidding data extract of the Market Participant for which the incorrect Operating Day Schedule information was posted. The Market Participants were contacted on October 30, and the Market Participant who incorrectly received the impacted Market Participant's Operating Day Schedule information was told to destroy the information if it had accessed the information. ERCOT is currently investigating the root cause of the error in order to prevent the situation from arising in the future.

SaveOnEnergy.com Inks Deal with Nokia Theatre as Part of Greater Branding

Online broker SaveOnEnergy.com yesterday inked a three-year partnership to serve as the official energy partner of Nokia Theatre at Grand Prairie, outside of Dallas. The deal includes significant onsite signage and logo placement throughout the 194,000 square-foot Nokia Theatre, part of an aggressive branding strategy going forward. As part of the partnership, Nokia Theatre used SaveOnEnergy to procure a new power supply agreement at a reported savings of $500,000 over the three-year partnership.

Amerex Announces Heat Rate Product for Illinois Schools

Broker Amerex Energy Services said yesterday it has developed a Managed Heat Rate product designed for Illinois educational institutions in association with ARAMARK. Loyola University, Saint Xavier University, Rockford College and Indian Prairie School District have used the heat rate product in their supply agreements.

NYISO Asks FERC to Extend Lake Erie Measures

The New York ISO asked FERC to continue the effectiveness of temporary tariff amendments enacted this summer that preclude the scheduling of External Transactions over eight Scheduling Paths around Lake Erie to prevent gaming of the transmission network seen earlier this year (Matters, 7/31/08). The provisions are due to expire Nov. 18 absent FERC action.

D.C. SOS ... from 1

Non-residential customers returning to SOS from competitive service would be obligated to remain on SOS for a minimum term of 12 months, unless electing to receive market-priced service upon their return. Residential customers would not have a minimum stay. The NOPR is silent on minimum stays, if any, for SOS customers who have never elected competitive service, which has previously been the subject of several clarification and rehearing requests.

The NOPR states that, "The contract provisions and exit fees of the competitive electricity suppliers remain valid and shall be enforced before a customer will be permitted to switch to the SOS supplier or another competitive electricity supplier." The meaning of the term "enforced" is not defined, and it's unclear if suppliers could prevent returns to SOS until exit obligations are fulfilled, or if the NOPR merely recognizes the legal authority suppliers retain to seek collection of liquidated damages and similar fees.

Elsewhere, the NOPR holds that, "All residential customers shall be eligible to switch from SOS to competitive suppliers and return to SOS without restrictions," and provides that customers may return to SOS by contacting the utility. The utility shall process such switches on the next meter read if notified 17 days before such read, and the NOPR does not mention any potential eligibility requirements or restrictions on returning to SOS if a customer has not met their exit obligations to their competitive supplier.

The proposal further states that, "SOS shall be provided to any customer who purchases a new service within the District of Columbia and who does not obtain electric generation service from an alterative retail electricity supplier at that time," suggesting that customers will be allowed to be served by a competitive supplier coincident to their delivery service initiation.

AEP ESP ... from 1

"For the risk of a customer switching to a competitive supplier and then subsequently returning to AEP to be real, customer switching must actually occur," IEU added, noting the low levels of shopping at the AEP utilities which will likely persist given other nonbypassable surcharges and deferrals under the ESP.

Given the low levels of shopping, hedging the POLR risk, "is analogous to buying insurance in excess of your actual needs ... like buying homeowners insurance when you only rent," IEU assailed.

AEP has several minimum stay provisions for returning load that further mitigate the need for nonbypassable POLR charges, the Ohio School Boards Association and similar groups pointed out. For example, GS-1 customers returning must stay on utility service through April 15 of the following year if the customer received service from the utility from May 16 through September 15, while larger commercial and industrial consumers are required to remain for a period of not less than 12 months, the schools said.

Most of the groups objecting to the POLR charges recommended that only a small administrative fee be nonbypassable, with the rest of the charges avoidable if customers are willing to accept market-based rates if returning to utility service.

If PUCO decides POLR fees should be nonbypassable, the charges at least need to be revised so they create a smaller barrier to shopping, IEU said. IEU recommended that customers paying POLR fees should be given the ability to pledge the capacity resources AEP holds to satisfy PJM RPM requirements, so that customers are not forced to pay duplicate capacity charges to their competitive suppliers.

AEP's proposal to defer certain fuel costs for three years and then recover such deferrals via a nonbypassable surcharge from 2012-2018 also drew criticism from marketers and customers.

The total deferrals in 2009, including carrying costs for 2009, would be $118.2 million for Columbus Southern and $316.7 million for Ohio Power. Over time, customers would be charged carrying costs of $99.4 million at Columbus Southern and $361.8 million at Ohio Power.

"The phase-in and deferral will result in customers paying a projected additional $461.2 million in carrying costs in the years 2012-2018," OCC noted.

The presence of such costs means customers will either be paying more for power even if market prices fall in the future, or that deferred cost recovery will be another excuse to delay a move to market pricing, OCC argued.

It is simply "unreasonable" to impose the deferral costs on shopping customers who do not benefit from the deferred costs, OCC added. The Ohio School Boards Association and similar groups called the nonbypassable deferral charges an "unfair subsidy" to SSO customers by customers served on competitive supply. OCC recommended that costs not be deferred, while the schools suggested that, should a deferral be imposed, AEP should provide a shopping credit equal to the cost of the fuel cost deferrals.

OCC also questioned AEP's contention that it could only phase-in generation price hikes under an ESP and not a Market Rate Offer (MRO). While AEP has said phasing-in an MRO would be inconsistent with market-based rates, OCC pointed out that the initial years of the MRO will already be a blend of market pricing and "legacy" power procured either under an old rate stabilization plan or an ESP, and thus AEP's argument rings hollow.

Offering a phase-in of rates only under the ESP, "seems designed simply to make the ESPs look more favorable than the MROs since the price under an ESP would appear artificially lower as compared to the MRO," OCC noted.

Industrials and marketers also blasted AEP's proposal to prohibit direct participation in PJM's markets for demand response, forcing customers wishing to be compensated for curtailing load to use AEP programs to do so. While it appears the limitation would only apply to SSO customers, Constellation NewEnergy noted the distinction is not entirely clear and questioned whether distribution-only customers would also be subject to the limits.

PJM's demand response programs are typically more lucrative for end-users, as well as less burdensome for their operations with fewer mandatory curtailment hours and lower penalties, Integrys Energy Services reported. Aggregate demand response participation at the AEP utilities will likely be greater if direct participation in PJM is allowed, Integrys added, noting many customers who enrolled with curtailment service providers to access the PJM markets had not previously been on AEP's interruptible or load response tariffs.

Currently, Ohio-based customers are offering 676.6 MW in PJM's load management programs, and AEP is only one of two Ohio IOUs in PJM (and by far the largest). Based on the proposed limits of approximately 525 MW of participation in AEP's proposed interruptible program, "it can reasonably be assumed that load reduction capability will be have to be reduced," Integrys noted, raising reliability concerns.

AEP has failed to articulate any legal or policy reasons for prohibiting customers from PJM participation, Constellation added.

OCC argued that economic development Rider 82 should be bypassable to mitigate potential anti-competitive impacts from AEP's ability to offer lower rates to large users, which may entice AEP to keep customers from switching to competitive service. By making Rider 82 bypassable, shopping customers at least will not be subsidizing below-market rates, while non-shopping customers will bear a larger burden in their rates, perhaps prompting more to shop, and compelling AEP to balance its use of economic development tariffs.