

Energy Choice *Matters*

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PPL Residential Migration Approaches 100,000

Just over 97,000 residential customers have switched to a competitive supplier in the PPL Electric territory ahead of the January 1, 2010 expiration of rate caps, PPL said yesterday.

In total, nearly 117,000 customers have switched, or about 8% of PPL's customer base.

As of September 30, 2009, there were zero residential shoppers and only 43 non-residential shoppers at PPL. Migrated non-residential customers by rate class as of September 30, 2009, were as follows: GS-1: 10; GS-2: 31; LP-4: 1; LP-5: 1.

Six load-serving competitive suppliers are currently active in the PPL residential market: ConEdison Solutions, Dominion Retail, Direct Energy, Liberty Power, MXenergy, and Anthracite Power & Light. The number could easily reach more than dozen by the second quarter of 2010. Gateway Energy Services, Washington Gas Energy Services, Champion Energy Services, and BlueStar Energy Services have all announced intentions to serve the PPL residential market soon. WGES has been licensed for some time, and Gateway received its license last week (Only in *Matters*, 12/18/09). BlueStar and Champion are seeking license amendments to serve residential customers.

As only reported in *Matters*, Energetix, Energy Plus Holdings, IDT Energy, and Public Power & Utility all have pending license applications to serve residential customers in Pennsylvania, though unlike the previous four suppliers, have given no indication of whether they will enter the market immediately upon licensing. PUC Chairman James Cawley has also said that he expects FirstEnergy Solutions to enter the PPL residential market. Mass marketer Just Energy also recently received a license to serve residential customers, though in its initial application it only listed Duquesne Light as the area it intended to serve (Just Energy also owns Commerce Energy's Pennsylvania electric license).

BHE Says Prior Maine Order Does Not Allow Residential Customer Lists

Bangor Hydro-Electric argued that Maine PUC precedent does not allow utilities to make residential customer lists available to competitive electric suppliers, but suggested that an opt-in process could be used to share customer information with suppliers (Only in *Matters*, 12/10/09).

As only reported by *Matters*, Glacial Energy asked the Commission to direct the utilities to make customer lists of small volume customers available to suppliers (docket 2001-399). Currently customer lists containing customer names and addresses are only available for the medium and large commercial and industrial classes at Central Maine Power and BHE.

The sharing of customer-specific information is prohibited without the customer's consent per 35-A M.R.S.A §3203(16-A). BHE noted that in a 2001 order allowing the sharing of customer lists for medium and large customers, the PUC found that, "[t]he term 'customer-specific information' is not defined in statute, but, at least in the context of business customers, typically refers [to] confidential business information such as usage data or technical configurations. Names and addresses are not generally considered proprietary business information."

"A reasonable construction of this language suggests that while a list of names and addresses of commercial customers is not confidential, the names and addresses of a utility's residential customers would remain proprietary to the customers themselves," BHE argued.

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Connecticut Light & Power Reports November Migration Data

Supplier Accounts as of 11/30/09	Nov. '09 Residential	Nov. '09 Business	Nov. '09 Total	% of Migrated Customers	Change vs. Oct. '09 Total
Clearview Electric	5,860	771	6,631	3.4%	1,523
ConEdison Solutions	4,320	2,168	6,488	3.4%	491
Constellation NewEnergy	1,016	8,812	9,828	5.1%	24
Direct Energy Business	111	1,625	1,736	0.9%	(18)
Direct Energy Services	42,656	7,123	49,779	25.9%	5,544
Discount Power Inc	0	0	0		0
Dominion Retail	53,981	10,927	64,908	33.8%	1,277
Energy Plus Holdings	3,716	153	3,869	2.0%	1,392
Gexa Energy	47	1,232	1,279	0.7%	114
Glacial Energy	1,573	2,085	3,658	1.9%	729
Hess Corporation	520	1,872	2,392	1.2%	3
Integrays Energy Services	33	3,144	3,177	1.7%	(31)
Liberty Power Holdings	322	125	447	0.2%	34
MXenergy	3,008	1,854	4,862	2.5%	380
Pepco Energy Services	0	9	9	0.0%	0
Public Power & Utility	21,363	4,035	25,398	13.2%	1,083
Rescom Energy, LLC	0	0	0		0
Sempra Energy Solutions	3	985	988	0.5%	(11)
South Jersey Energy Company	0	1	1	0.0%	1
Suez Energy Resources NA	12	723	735	0.4%	47
Transcanada Power Marketing	26	2,369	2,395	1.2%	(9)
Viridian Energy, Inc	3,417	237	3,654	1.9%	2,484
Whole Foods Market Group	0	2	2	0.0%	0
Total All Suppliers	141,984	50,252	192,236	100.0%	15,057

Aggregate Data

Customer Load - Suppliers and CL&P (MWh)

	Residential - SS		Business - SS		Business - LRS		Total CL&P Territory	
	MWh	% of Class	MWh	% of Class	MWh	% of Class	MWh	% of Total
Suppliers	100,182	15.4%	353,832	68.3%	382,742	91.5%	836,755	52.7%
CL&P	552,358	84.6%	164,341	31.7%	35,607	8.5%	752,305	47.3%
Total	652,540		518,172		418,348		1,589,060	

Customer Count - Suppliers and CL&P

	Residential - SS		Business - SS		Business - LRS		Total CL&P Territory	
	Customers	% of Class	Customers	% of Class	Customers	% of Class	Customers	% of Total
Suppliers	141,984	12.9%	49,400	41%	852	82.9%	192,236	15.8%
CL&P	956,496	87.1%	69,765	59%	176	17.1%	1,026,437	84.2%
Total	1,098,480		119,165		1,028		1,218,673	

SS = Standard Service;
LRS = Last Resort Service

Data as reported by CL&P

Md. Collaborative Reaches Consensus on Contingent Bidding

The Maryland SOS collaborative has developed consensus changes to the model SOS RFP to implement contingent bidding in the SOS procurements, as recommended by Consolidated Edison Energy during the Procurement Improvement Process working group (Only in Matters, 8/21/09).

Contingent bidding, used in other jurisdictions such as Massachusetts, allows wholesale suppliers to specify constraints at the time of bid submission, such as a detailed matrix listing the number of bids the supplier is submitting versus the maximum number of blocks the supplier wishes to serve (Only in Matters, 8/21/09). It allows a supplier to submit bids on more blocks, increasing price competition, since the supplier can bid on some blocks contingent on not winning others.

Although not addressed on point in an explanatory letter filed by PSC Staff, the proposed changes to the model RFP to implement contingent bidding ostensibly only permit contingent bidding in a specific utility procurement, and not across procurements as originally proposed by Consolidated Edison Energy, because the model RFP is used by specific utilities, and makes no provision for contingencies across multiple utility procurements.

Under the revised language, a bidder could submit Type II SOS bids contingent on the amount of Residential and Type I SOS bids it is awarded. Residential and Type I SOS bids would be firm and not subject to any contingency.

The revised model RFP also clarifies that the wholesale supplier shall only post collateral equal to the total number of bid blocks that the supplier could receive through the contingent bidding, and not collateral for the total number of bids the supplier may offer.

Peoples Natural Gas Seeks Extension of Date to File Decision on POR

Despite signing a settlement under which it agreed to decide whether to pursue a POR program, or instead file an updated cost of

service study, within 30 days of a Pennsylvania PUC order on its sale application, The Peoples Natural Gas Company petitioned the PUC for an extension of the deadline due to ongoing regulatory review of the sale in West Virginia (R-2009-2088069).

As the West Virginia proceeding has not concluded, the change of control from Dominion Resources to SteelRiver Infrastructure Fund North America contemplated by the Pennsylvania PUC's November decision has not been completed (Only in Matters, 11/20/09). In response to the PUC's December 2008 SEARCH order to either file a voluntary POR plan or an updated cost of service study to permit unbundling, Peoples opted at that time not to pursue a POR program, due to its uncertain corporate ownership under the then-pending sale. However, in its 2009 1307(f) proceeding, Peoples entered into a settlement providing that it would re-evaluate its decision on offering POR, and file its intent within 30 days of a final PUC order on its sale (which was issued November 19).

But since corporate ownership of the LDC remains uncertain pending the outcome of the West Virginia case, Peoples asked that the deadline for filing its intent regarding POR be extended until 30 days after the closing of the stock transfer under the sale, or, should closing not be completed within 60 days, that Peoples provide a further status report to the Pennsylvania Commission in 60 days time.

Under the 1307(f) settlement, if Peoples elected to offer a voluntary POR program, it was originally to file the plan within 90 days of an order in the acquisition proceeding. If Peoples does not elect to institute a POR program, the updated cost of service study will be filed at the earlier of its next base rate case, or the annual purchased gas cost 1307(f) proceeding scheduled to be filed on or about April 1, 2011.

FirstEnergy EDCs Cite Higher Costs, Risks of Managed Portfolio Procurement

Replacing a full requirements procurement process with a portfolio management approach, as recommended by the Ohio Consumers' Counsel, "would expose customers to significant

risks currently borne by full requirements suppliers, could result in higher, not lower costs over the long term, and could undermine wholesale competition," the FirstEnergy Ohio utilities said in rebuttal testimony regarding their application for a Market Rate Offer (MRO).

The FirstEnergy distribution companies argued that their proposed ladder full requirements procurements strike the appropriate balance between pure spot purchases and long-term portfolio contracting, as each procurement in the three-year ladder will only procure about 17% of supplies at a single time, insulating default service customers from volatility (Only in Matters, 12/8/09).

In contrast, a managed portfolio, "would expose customers to additional risks and could result in higher prices," the FirstEnergy companies said. Under portfolio management, many risks are simply not hedged, the FirstEnergy utilities noted, including weather risk, migration risk, and market risk. Instead, such risks are borne by Standard Service Offer customers under a managed portfolio.

"Longer term contracts by their nature involve more time for market prices to vary from the contract price, thereby increasing the probability of customer migration and the risk of stranded costs being the responsibility of the remaining default service customers," the FirstEnergy utilities said.

To illustrate the rapid change which can occur in the electric markets, the FirstEnergy companies noted that in the summer of 2008 switching levels in the companies' service territory were around 15%, and had been at around that level for the prior 12 months or more. At that same time, block forward contracts for around-the-clock (ATC) energy at the Cinergy Hub for 2010 delivery were trading at around \$55/MWh.

"If the Companies had been under a portfolio management approach at that time, a portfolio manager in the summer of 2008 could have recommended and the Commission might well have approved a hedge target of 90% of the anticipated supply obligation for 2010. However, if it had done so, it would have purchased too much electricity under the hedge, since the amount of customer load that has switched to competitive suppliers has more than tripled,

increasing from 15% in the summer of 2008 to the current level of 48%. At the same time, the market price for the 2010 forward contracts has dropped by more than \$20/MWh. If the Companies had purchased ATC block forward contracts for the Cinergy Hub for 2010 delivery, and this excess energy was sold at the lower market prices to re-balance the portfolio and maintain a 90% hedge target, the trading loss would have been approximately \$370 million," the utilities reported.

Furthermore, "[s]preading these costs over the remaining default customer service load would increase the average retail rate by approximately \$12/MWh," the FirstEnergy companies added.

Additionally, the FirstEnergy utilities opposed suggestions from several stakeholders to accelerate several of the proposed scheduled procurements to take advantage of current power prices. While the Northeast Ohio Public Energy Council and Northwest Ohio Aggregation Coalition recommended accelerating procurements on the belief that procuring power in early 2010 for delivery in 2012 and 2013 would result in cheaper prices than the scheduled procurements closer to delivery, due to expected economic recovery, the FirstEnergy companies noted that, "today's forward market prices for power to be delivered in future years already reflect the market's judgment about the very same economic trends."

"There is no basis for believing, however, that market prices for any given future delivery year will be lower now or in the first half of 2010 than they will be at a later date," the utilities said.

Regarding PUCO Staff's suggestion that a load cap be evaluated, the FirstEnergy companies opposed a load cap, citing the success of the May 2009 auction which did not feature a load cap, which saw ample supplier participation and diversity. "[G]iven that the imposition of a load cap could result in a higher clearing price (because a bidder at the load cap would be precluded from offering additional supply at a price below the auction clearing price) and therefore higher costs to SSO customers, the May results do not suggest any need, or benefit, from the imposition of a load cap at this time," the FirstEnergy companies said.

The FirstEnergy utilities also opposed a

series of credit-related recommendations from Constellation Energy regarding the wholesale master supply agreements. Among other things, Constellation requested that the Independent Credit Requirement be eliminated, since it is duplicative due to the Mark-to-Market credit calculations contained in the wholesale supply agreement. Constellation noted that several jurisdictions with wholesale procurements similar to the MRO, such as Delaware, the District of Columbia, Illinois, and Maryland, have eliminated or have never included an Independent Credit Requirement.

However, the FirstEnergy utilities called the Independent Credit Requirement "essential" to address, "the high volatility risk inherent in power markets and the time lag of posting margin." The companies said that the Independent Credit Requirement is meant to protect the companies by allowing the companies to recover additional costs incurred through immediate power purchases on the spot market along with the purchase of capacity up until the companies have entered into a new contract with another supplier to replace the defaulting supplier's load. The Mark-to-Market credit requirement does not cover such inter-month exposure, the utilities argued.

Per the FirstEnergy companies' proposal, prospective bidders possessing a credit rating of anything less than BBB by S&P and Fitch's, or less than Baa3 by Moody's, would not be entitled to any credit. "This restriction makes it much less likely that entities that possess a desire and ability to serve a portion of the load to be auctioned would in fact be able to participate," Constellation had said, recommending that the master supply agreement be modified to add thresholds for lower credit ratings, while recognizing that non-investment grade companies should not be entitled to the same credit as would a company possessing a higher credit rating.

The FirstEnergy companies countered that, [t]he bankruptcies of Enron, Mirant, and NRG have shown that a rapid deterioration of a company's credit rating to below investment grade or 'junk' level impacts its ability to access bank lines of credit, which in turn impacts the ability to post liquid collateral under a supply contract."

"Indeed, Constellation's public disclosure in August of 2008 that it faced billions in potential collateral calls in the event of a downgrade to speculative grade called into question Constellation's risk management and created a crisis of confidence that resulted in Constellation's near collapse and emergency sale," the FirstEnergy utilities added.

While in FirstEnergy's Pennsylvania territories, the Pennsylvania PUC required Penn Power and later Met-Ed/Penelec to lower the credit threshold matrix to allow \$5 million of unsecured credit at the BB- level, such action was due to concerns about bidder participation in Penn Power's relatively small territory, the FirstEnergy companies said.

"In contrast, in Ohio, the highly successful May 2009 Ohio auction had high levels of bidder participation ... [which] demonstrates that the [Pennsylvania PUC's] rationale for lower credit thresholds does not apply to the [Ohio] Companies," the FirstEnergy utilities said.

Wind Generators Appeal PRR 830 to PUCT

Over half a dozen wind generators have appealed ERCOT Protocol Revision Request 830, relating to reactive power requirements, to the PUCT, arguing that the PRR is discriminatory, unsupported, and contrary to PURA. In separate appeals and/or complaints, wind generators moved to suspend the PRR pending Commission review, and to either reverse PRR 830 in its entirety, or as it relates to certain existing wind generators.

Filing appeals or complaints were Iberdrola Renewables, Duke Energy, NextEra Energy Resources, RES America Developments, Buffalo Gap Wind Farm (AES), and (filing jointly) Horizon Wind Energy, Sweetwater Wind and Silver Star I Power Partners.

PRR 830, adopted at the November Board meeting, essentially codifies an earlier (and later withdrawn) ERCOT Protocol interpretation regarding the level of reactive power that must be provided by wind generation resources.

PRR 830 holds that generation resources shall comply with the following Reactive Power requirements: an over-excited (lagging) power factor capability of ninety-five hundredths (0.95)

or less and an under-excited (leading) power factor capability of ninety-five hundredths (0.95) or less, both determined at the generating unit's maximum net power to be supplied to the ERCOT Transmission Grid and at the transmission system Voltage Profile established by ERCOT, and both measured at the Point of Interconnection. Additionally, PRR 830 is explicit that the Reactive Power requirements shall be available at all MW output levels, essentially codifying a November 2008 ERCOT Protocol Clarification/Interpretation that was subject to a complaint ultimately dismissed by the PUCT on procedural grounds (36482, Only in Matters, 10/12/09).

The requirements of PRR 830 apply to any wind generator that (i) commenced operation on or after February 17, 2004, and (ii) signed a Standard Generation Interconnection Agreement (SGIA) on or before December 1, 2009.

Although ERCOT says that the Protocols have always provided for a requirement that generators supply the same amount of reactive power regardless of the unit's actual output, the appealing wind generators disputed this claim. The wind generators cited Protocol § 6.7.6(5) as requiring a minimum reactive power capability equal to "the required installed reactive capability multiplied by the ratio of the lower active power output to the generating unit's continuous rated active power output." In other words, the wind generators argued, the reactive power obligation varied with a generator's output, and was not constant.

Among other things, Iberdrola Renewables claimed that PRR 830, "discriminates against wind generators and is not narrowly tailored to minimize its impact on the competitive market, thus violating PURA § 39.001(c), § 39.001(d), and § 35.004(e)."

Iberdrola Renewables claimed that, "PRR 830 ignores the unique operating characteristics of wind generation facilities," dismissing concerns that applying a different standard to wind resources than conventional generation would be discriminatory. Iberdrola Renewables cited several ERCOT operational practices which recognize the unique operating characteristics of certain types of generation (such as not requiring nuclear and hydro units to

operate below their low operating limits except if other possibilities are exhausted), though none of the cited unique practices related to reactive power.

"PRR 830 imposes reactive power control requirements on wind generators greater than those required to address the wind generators' own effects on system reliability, thus exceeding ERCOT's authority under PURA § 39.904(I)," Iberdrola Renewables contended.

Additionally, Iberdrola Renewables and other wind developers called PRR 830 "arbitrary and capricious" because it was adopted in the absence of any reliability, economic, or technical study, or other evidence that a reliability problem exists, or that PRR 830 is an appropriate solution.

From a practical perspective, Duke Energy said that the PRR may not benefit some low load areas, requiring costly compliance for no reason, and that an excess of reactive power may require transmission service providers (TSPs) to take measures to remove the excess.

"PRR 830 is not economically efficient because it will necessitate the installation of reactive resources in locations where, as a practical matter, grid reliability benefits will not be realized or ensured. The majority of ERCOT wind farms are located in remote areas far from load. Even if wind resources were able to provide significant amounts of reactive power, there would likely be no benefit to loads that are hundreds of miles away due to the poor traveling characteristics of reactive power. Further, if too much reactive power is provided in remote areas, TSPs may have to add equipment on their lines to remove the excess in order to maintain reliability. Thus, the unique location and generation characteristics of wind, particularly in the western zone, cause that area to have very different reactive power requirements than the rest of ERCOT. This creates a unique situation that should be addressed with a unique solution tailored to address the specific issues," Duke said.

Iberdrola Renewables said that PRR 830 affects 38 generators, estimating total compliance costs in the hundreds of millions of dollars. Iberdrola Renewables said that its own compliance costs will be \$5 million to \$10 million. Duke projected its compliance costs at \$5 million to \$7 million. NextEra forecast its compliance

costs in the, "tens of millions of dollars." Horizon said its compliance costs would be \$9.6 million to \$11.2 million. Such costs will, "degrade the economics and potential market savings of future wind generation projects in this state," Iberdrola Renewables said.

The retroactive application of PRR 830 back to 2004 will have a particularly negative impact on the market, Duke said. "Creation of an environment where the expectations of investors are frustrated as a result of post-operational protocol revisions made without substantial supporting evidence that such steps are necessary for grid reliability and which dramatically change the economics of a wind project on a retroactive basis, will chill further investment in Texas wind power project development," Duke argued.

The appeals were docketed as 37817, 37818, 37819, 37823, 37824 and 37827.

Briefly:

FPL Group Lowers Earnings Outlook on Seabrook Outage, Weak Wind Generation

Citing an extended outage at its Seabrook nuclear plant and lower wind results, FPL Group lowered its expected 2009 adjusted earnings by about \$70-87 million. Adjusted earnings for 2009 are now forecast at \$1.62 billion to \$1.65 billion. FPL said that, consistent with what it had reported in prior quarters, weather patterns have reduced wind output, with actual versus predicted output of approximately 81% for the fourth quarter to date.

SolarReserve Signs PPA with PG&E

SolarReserve said that it has signed an agreement with Pacific Gas and Electric for the sale of electricity from its 150 MW Rice Solar Energy Project in eastern Riverside County, California. When completed, SolarReserve's facility will supply approximately 450,000 megawatt-hours annually during peak periods.

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BHE, "believes that the Commission should make every effort to directly gauge the reaction of Maine residential customers to this release of

their information," and suggested that the Commission invite comments from ratepayers.

BHE further said that should competitive suppliers begin marketing through direct mail to residential customers, inquiries to its call center regarding the supplier offers will likely increase. As BHE is limited by law regarding what information it can provide regarding specific suppliers, customers may become frustrated from the mailings, BHE said.

A workable solution may be allowing customers to affirmatively opt-in to allowing the sharing of their information with suppliers, and to indicate their willingness to receive supplier offers, BHE suggested.

BHE said that it has no objection to sharing customer lists containing the names and addresses of small commercial customers.