Energy Choice Matters

December 30, 2009

ICC Does Not Modify Long-Term PPA Proposal in Accepting Procurement Plan

The Illinois Commerce Commission approved, without modification for the instant procurement plan, the Illinois Power Agency's petition to procure long-term, bundled renewable contracts to serve default service load (09-0373). The approval was first reported by *Matters* yesterday, but a final order with precise findings was not then available (Only in Matters, 12/29/09).

The plan was approved in a 3-1 decision, with Commissioner Sherman Elliott dissenting, and Commissioner Lula Ford absent. Elliott's dissent will be filed at a later date.

The approved procurement plan allows the IPA to procure 20-year PPAs bundling energy and RECs totaling 3.5% of the default service portfolio, or 2 million MWh annually over the 20-year period for a total purchase of 40 million MWh. The 2 million MWh annually will be split as 1.4 million MWh at Commonwealth Edison and 600,000 MWh at the Ameren utilities. Capacity will not be procured in the renewable contracts.

The ICC's final order calls the 20-year PPAs "reasonable," stating that the bundled energy and RECs, "will potentially benefit utility customers."

Prices for the long-term PPAs will be set through the IPA's competitive RFP process, where the contract terms will be standardized and winning bids will be selected on the basis of price alone. The RFP criteria will require all offers to be in the form of a base price with a fixed escalation rate of 2% per year, provided that allowances for short-falls and carry-overs in production will be priced as

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Mass. DPU Approves RFP Process for Long-Term Renewable Solicitations

The Massachusetts DPU approved the timeline and process of a proposed Request for Proposals for long-term renewable energy contracts jointly filed by the state's four investor-owned electric distribution companies and the Department of Energy Resources (09-77).

Under the RFP, Nstar, National Grid, Fitchburg Gas & Electric and Western Massachusetts Electric Company will, in consultation with DOER, conduct a competitive solicitation for bids for renewable energy and renewable energy certificates for approximately 1.5 percent of their total annual load for a period of ten to 15 years. Final contracts would be subject to DPU approval.

The bidder will have discretion on submitting a bid between 10 and 15 years. Bids will be required in quantities equal to or greater than one megawatt. The RFP specifies no maximum contract size. While the objective is to procure 1.5 percent of each company's distribution loads through the RFP, the target is a guideline rather than an express limit.

The RFP sets a three-stage bid evaluation process. The first stage identifies bidders that have satisfied certain eligibility and threshold requirements. To be eligible, facilities must:

(1) Be qualified by DOER as an RPS Class I Renewable Generation Unit;

(2) Come into operation on or after January 1, 2008, and

(3) Be located within the jurisdictional boundaries of the Commonwealth of Massachusetts.

Bids that meet these eligibility requirements will then be evaluated to determine whether they

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PG&E Reports Available Room Under Proposed Direct Access Cap

Pacific Gas & Electric reported that, should its proposed level of the direct access cap be accepted, about 3,900 annual GWh of load would be available under the cap (R. 07-05-025).

In a supplemental filing in response to a PUC ruling, PG&E reported that for the latest available recorded month (November 2009), the annual load of current direct access customers was 5,574,241,258 kWh. As only reported by *Matters*, PG&E has said that its maximum amount of direct access sales in a 12-month period was 9,520,453,983 kWh, which SB 695 sets as the direct access cap. This leaves 3,946,212,725 annual kWh available to new or returning direct access customers under the cap, as of November (Only in Matters, 12/8/09).

PG&E also clarified that the load data provided in the figures is based on customer metered billing data. An additional amount of energy would need to be generated to serve this load to cover distribution and transmission losses.

Mass. DPU Approves Negotiations Between National Grid, Cape Wind

The Massachusetts DPU approved National Grid's proposed timetable and method of solicitation for the potential execution of a long-term contract for renewable energy with Cape Wind Associates' offshore wind development, as the Department noted that the individual negotiations to be undertaken by National Grid are expressly authorized by the Green Communities Act (09-138).

On December 1, National Grid entered into a Memorandum of Understanding with the Department of Energy Resources and Cape Wind that sets forth a proposed timetable and method by which National Grid will solicit a proposal from Cape Wind and potentially execute a long-term contract for energy, capacity, renewable energy certificates and related products from Cape Wind's proposed 468 megawatt offshore wind-energy generating facility (Matters, 12/3/09).

The Green Communities Act requires electric distribution companies to solicit long-term contracts (10-15 years) for renewable energy twice in a five-year period, with the Act allowing such solicitations to be conducted through public solicitations, individual negotiations, or other methods.

As the use of individual negotiations is expressly authorized by the Green Communities Act, the Department found that the bilateral approach to be used under the MOU qualifies as a solicitation required by the Green Communities Act, and authorized National Grid to begin negotiations.

Any contract resulting from negotiations must be approved by the DPU. As the Department must approve any potential contract, it dismissed opposition to the MOU, since the opposition mostly related to the cost-effectiveness of any potential contract, which shall be addressed in reviewing any individual contract eventually filed.

The Alliance to Protect Nantucket Sound had opposed the MOU and any contract with Cape Wind as not cost effective, estimating that the cost to individual ratepayers would exceed $200 per year. The Alliance pointed to the 24.4¢/kWh base price National Grid agreed to for energy from a Deepwater Wind project off Block Island in Rhode Island.

The Alliance further noted that the MOU fails to specify the length of the contract that National Grid will negotiate with Cape Wind. The Green Communities Act, the Alliance argued, limits contracts to 10-15 years, but claimed that the high capital cost of the Cape Wind project would require a contract of between 20 to 25 years to permit a reasonable amortization of the investment.

Additionally, the Alliance contended that the MOU is inappropriate because it does not place any limits on the amount of energy to be procured, and Cape Wind's projected output will be greater than the procurement authorized by the Green Communities Act, which will hinder competition and, therefore, harm other renewable energy generators and ratepayers. Distribution companies are not required to enter into long-term contracts exceeding 3% of their annual load in the aggregate.

Under the MOU, negotiations are to be

completed within 60 days of the MOU's execution. National Grid has previously said that a decision on the cost allocation (e.g. application to basic service or sale into the market with a nonbypassable rider) of any potential contract resulting from negotiation is premature until the contract is executed.

Duquesne Files Framework for TOU Pilots, Evaluation

Duquesne Light filed with the Pennsylvania PUC a framework for complying with Time of Use requirements under Act 129, though the plan leaves many details to future filings after conducting additional research and smart meter implementation.

Duquesne proposed to conduct three Time of Use pilots to help it develop future Time of Use rates that would be available for nearly all customers (excluding unmetered usage, traffic lights, etc.).

The initial Time of Use pilot would be a time of week pilot plan designed around the limited capabilities of the existing meter reading system. The time of week pilot would reward an enrolled residential customer for reducing their weather-normalized weekday usage during the months of July and August from baseline consumption during those months from the preceding year. If a residential customer can reduce their baseline consumption by a predetermined percentage (such as 10%) on weekdays during the months of July and August, they will not only receive a lower bill due to lower consumption but will also receive a financial incentive from Duquesne (a rebate or credit) on their total bill as a reward for curtailing usage during those high peak months.

For the time of week pilot, the customer would need to be a POLR customer and would need to have historical consumption data for those summer months. Duquesne said that its existing meter reading system could be modified and configured to handle up to 1 000 enrolled customers on such a time of week pilot. The time of week program is conceptual at this point in time, but Duquesne hopes further research will allow it to file for approval for such a pilot to begin in 2012.

The second Time of Use pilot program is a time of day rate designed to encourage residential customers to move usage during the June to August weekday period from on-peak hours to off-peak hours. Two different rates would be charged to participating customers during the summer weekdays beginning in 2012. During on peak hours of 1:00 p.m. to 7:00 p.m. weekdays in June through August, the supply rate would be much higher to reflect higher hourly market prices as load builds during the day. For off-peak hours (all hours other than 1:00 p.m. to 7:00 p.m. weekdays) during the summer months, the rate will be lower in order to encourage load shifting to those off peak hours.

Duquesne, at this point, would propose a 1.5 to 2.5 on-peak to off-peak rate differential in energy pricing as a starting point for the time of day pilot, subject to further refinements when Duquesne files for approval for the program to be implemented in 2012. For the time of day pilot, the customer would need to be a POLR customer to participate. Participation would be limited to 100 customers, who would require installation of special meters, with billing conducted manually.

The third Time of Use pilot program is designed to coincide with the full deployment of smart meters starting in 2013 with a more robust Time of Use design based on the information learned from the previous two pilot programs and other research. Duquesne said that the design of the pilot would be detailed in a subsequent filing.

Duquesne said that the implications of offering Time of Use rates to customers wherein default service rates are obtained through an RFP process should be evaluated. Adding Time of Use as a pricing option may have an impact on the RFP bid price for non-Time of Use rates, Duquesne noted. As part of its market research, Duquesne will analyze the need for a separate RFP for Time of Use default service rates.

Additionally, Duquesne said that it will determine the impact on the RFPs from migration and selection of the Time of Use rates. "A customer switching from an [electric generation supplier] to TOU may increase the RFP price absent switching restrictions," Duquesne said.

Duquesne’s Time of Use plan was filed in docket P-2009-2149807.

Briefly:

DPL Energy Resources Seeks Pa. Electric License

DPL Energy Resources applied for a Pennsylvania electric supplier license as a generator and supplier of electric power, broker/marketer, and aggregator serving all customer classes in all service areas. DPL Energy Resources said it is currently providing demand response service to a small number of customers in Pennsylvania. As only reported by *Matters*, DPL Energy Resources recently applied for electric supply licenses in Illinois and Michigan (Only in Matters, 12/24/09). DPL Resources serves about 500 MW of load in Ohio. DPL Resources said that it has arranged for its affiliate, The Dayton Power & Light Company, to serve as its provider of full requirements power supply procurement and portfolio management services, and as its PJM and Midwest ISO transmission scheduling agent.

North American Power and Gas Receives Conn. License

The Connecticut DPUC granted North American Power and Gas LLC an electric supplier license to serve residential, commercial and industrial customers. North American Power and Gas is led by President Kerry Breitbart, former CEO of United Companies, where he specialized in commodity trading, particularly oil, electricity, natural gas, and emissions credits. Carey Turnbull, founding partner of Amerex, serves as chairman of North American Power and Gas (Only in Matters, 10/19/09).

Starion Energy Receives Conn. License

The Connecticut DPUC granted Starion Energy an electric supplier license to serve residential, commercial and industrial customers (Only in Matters, 10/8/09).

Cianbro Seeks Conn. License to Self-Supply

Cianbro Energy filed for a Connecticut electric supplier license to self-supply electricity to the Cianbro Companies, which are engaged in construction. Cianbro is using Freedom Logistics for various technical and procurement services.

FERC Denies Rehearing on Nstar-NU Line for HQUS PPA

FERC denied rehearing requests from several generators regarding the Commission's approval of a declaratory order allowing Nstar and Northeast Utilities to proceed with a participant funding approach for a transmission line into Quebec which will transfer 1,200 MW of hydropower from Hydro-Quebec TransEnergie into New England under a 20-year PPA (EL09-20, Matters, 1/23/09). FERC had originally said that Nstar's and NU's retail customers are not captive since they are in retail choice states, dismissing protests raised about potential bundling of transmission and energy rates which would erode the transmission line's participant-funded status. On rehearing, generators argued that if the utilities lose default service customers to migration, the utilities might initiate a nonbypassable wires charge to recover the cost of the project that they would be required to pay HQUS under the power purchase agreement, thus creating captive customers despite the presence of retail access. But FERC rejected any argument regarding the impact of a hypothetical stranded cost wires charge on retail customers as "speculative and premature," denying rehearing on that argument and several other counts.

NRG Thermal to Provide CHP, Related Services to Princeton Hospital

NRG Energy subsidiary NRG Thermal has signed a contract to provide comprehensive, high-efficiency energy services to the new University Medical Center of Princeton at Plainsboro. Under the 13-year contract, NRG will provide services from its Combined Heat and Power Plus program, which integrates conventional energy sources with efficiency and environmental technologies. The hospital will use electricity from a combined heat and power system that includes the production of steam for heating, and chilled water for air conditioning, achieved by means of a thermal energy storage system. Other services include solar power generation and smart meters, as well as backup power.

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of the year delivery was/is due.

As more fully discussed in our 11/10/09 story, the procurement will be open to both existing and new generation. The REC portion of the procurement will count towards the RPS requirements and comply with the bill-impact cap set forth in statute. The procurement will also, to the extent available, procure at least 75% of the renewable energy from wind, with statutory cost effective tests and locational preferences also applied.

The procurement will require delivery under the PPAs to commence on June 1, 2012.

Despite approval of the long-term PPAs for the instant procurement, the Commission shares the concerns raised by both competitive retail suppliers and renewable developers regarding various provisions of the PPA solicitation. The Commission encouraged the parties to address residual concerns regarding multi-year or long-term renewable resources in future procurement periods in an open and transparent process to ensure that all parties have an opportunity to participate in discussions that will affect the rates paid by consumers for years to come. The Office of Retail Market Development should be an active participant in these discussions, the Commission directed.

More specifically, the Commission agreed that several issues raised by the Illinois Competitive Energy Association should be discussed in any workshop process going forward. Among other things, ICEA noted that the procurement plan contains no analysis or fundamental view of the market showing that these long-term contracts are in the best interests of consumers. ICEA also raised concerns with how the procurement will affect the costs imposed upon retail electric suppliers and their customers since the costs of renewable energy from the procurement plan is used to set the RPS alternative compliance payment rates, which retail suppliers must pay to meet one-half of their RPS compliance obligations.

Wind developers had opposed the procurement plan's lack of a limit for PPA credit requirements under a system of non-margining contracts (under certain conditions) to calculate supplier credit requirements for energy. However, the ICC said that the proposed credit requirements, which mirror the requirements for standard product contracts in the procurement, strike a proper balance which provides appropriate protection for the utilities and their customers. "[G]iven that this is the first attempt to acquire long-term renewable resources and that the credit requirements are intended to provide protection for customers, the Commission concludes that the IPA's proposal should be adopted for this procurement event for the 2010-2011 procurement," the Commission ordered. The ICC also adopted the proposed $5 per REC supplier credit requirement.

Short-Term REC Procurements

The IPA will supplement the procurement of RECs from long-term contracts with short-term REC procurements in order to meet RPS goals. In a reversal from a draft order, the Commission ultimately accepted the IPA's recommendation to hold a single procurement event to procure RECs for both ComEd and Ameren, rejecting Staff's preference for separately conducted procurements. However, the Commission did agree with Staff's alternative recommendation that, in any such single procurement, the acquisition will be one event, where all bidders bid their supply for both ComEd and Ameren. The Commission said that a simultaneous REC acquisition event will encourage more robust competition among the bidders.

The ICC denied Constellation Energy's request to allow Green-e certified RECs, and RECs will only be eligible if accounted for through the PJM GATS system or MISO M-RETS system.

Demand Response

The ICC denied the IPA's request to procure supplemental demand resources in either a spring or fall carve-out at ComEd. Since the Reliability Pricing Model already procures cost-effective demand-side resources, "[i]t would appear highly unlikely that the IPA could successfully reduce ComEd's capacity costs by procuring supplemental demand response measures, unless it were somehow tied to the PJM process," the Commission determined. Any demand response measures outside of the

RPM process would be additive to ratepayer bills due to the RPM construct of obligating capacity resources three years in advance, the ICC added.

"We believe that we would be remiss in our oversight responsibility to endorse such a choice especially when a more tenable alternative is readily at hand. Specifically, ComEd has noted that overall capacity costs may be reduced more, and all the [statutory] requirements met automatically, simply by continuing to allow all demand response resources to bid into the RPM auction. The Commission hereby directs that the Plan be modified accordingly," the ICC ordered.

As Ameren is not in PJM, the IPA may procure demand response resources in its spring procurement for the Ameren utilities, but may not conduct a separate fall procurement for Ameren demand resources, the ICC said.

Other Issues

The decision sets the following maximum Alternative Compliance Payment (ACP) rates for RPS:

2009-2010 Plan Year

	Max ACP Rate ($/MWh)	Projected Deliveries (MWh)
Ameren	$ 0.938	17,700,274
ComEd	$ 1.007	39,469,952

2010-2011 Plan Year

	Max ACP Rate ($/MWh)	Projected Deliveries (MWh)
Ameren	$ 1.476	16,525,235
ComEd	$ 1.598	35,993,039

Actual Alternative Compliance Payment rates applicable to competitive suppliers are not determined until the IPA has contracted for RPS requirements.

The final order accepts the IPA's proposed three-year laddering process, but requires the IPA to analyze the trades-off between price stability and risk premiums under the laddering, as suggested by Staff.

The laddering procures 35% of requirements two years ahead of delivery, 35% one year ahead of delivery, and 30% in the year of delivery. As proposed, procurements will be for monthly on-peak and off-peak standard wholesale block energy products (or their equivalent volumes in seasonal or varietal strips).

The Commission adopted the IPA's request to procure 110% of projected requirements for the months of July and August, with no such oversubscription in other months

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comply with threshold requirements which are intended to screen out proposals that may:

(1) Be less mature, in terms of project development;

(2) Lack technical viability;

(3) Impose unacceptable financial accounting consequences on the distribution companies;

(4) Do not satisfy statutory requirements;

(5) Do not comply with RFP requirements pertaining to credit support, or

(6) Fail to satisfy minimum standards for bidder experience and ability to finance the proposed project.

The second stage of the bid evaluation process will rank bids based on specified weights given to price and non-price factors. Specifically, the utilities will assign 80 percent weighting to price factors and assign 20 percent weighting to non-price factors. Price evaluation will compare the total cost of the products bid (i.e., energy and RECs) to the estimated market value of these products, factoring in the production profile and location of the proposed project over the duration of the bid. Non-price factors will include the following:

(1) Siting and permitting;

(2) Project development status and operational viability;

(3) Experience and capabilities of the bidder and the project development team;

(4) Financing; and

(5) Exceptions to the model PPA.

Finally, the third stage of the bid evaluation process allows each distribution company to employ its discretion in the final selection of bids. The third stage considers criteria for job creation but the value assigned to this consideration will be left up to each distribution company at its discretion.

According to the RFP timeline, proposals must be submitted 35 days within issuance, and negotiation and execution of the contract will occur within 120 days after bid submission. The RFP requires bidders to provide firm pricing for 120 days. The structure of contracts resulting from the RFP will be both unit-specific and unit-contingent.

In response to comments from generation developers, the utilities and DOER did adjust two timelines in the RFP. Originally, bidders were to provide a reasonable schedule that provided for both: (1) the closing of construction financing and commencement of construction on or by December 31, 2011; and (2) a commercial operation date on or before December 31, 2014. DOER and the utilities agreed that those deadlines for financing, construction, and commercial operation are too ambitious in light of the realities of lead times for renewable energy projects in the state. Accordingly, the deadline for closing of construction financing and commencement of construction will be extended to December 31, 2012, and the deadline for commercial operation will be extended to December 31, 2015.

The DPU accepted the proposed RFP without modification since it meets all the criteria in the Green Communities Act. While several parties raised concerns about the proposed solicitation timetable of 185 days, the DPU noted that the distribution companies have met their obligation under the Act to consult with DOER with respect to the timetable and methods of soliciting and executing long-term contracts for renewable energy, with DOER supporting the filed proposal. "Because of the consultative role afforded to DOER by [the Act], the Department finds it appropriate to give considerable weight to DOER's judgment and experience with respect to the proposed timetable of 185 days for soliciting and executing long-term contracts for renewable energy," the DPU said.

Stakeholders also raised various objections to the price versus non-price weighting, and the discretion afforded to utilities in the third stage of bid evaluation. However, the DPU said that such substantive issues may be raised in proceedings determining the reasonableness of individual contracts executed by the distribution companies, which must receive DPU approval.

The Department said that it is also not necessary to review the terms and conditions of a model PPA at this time. The utilities are still working on developing a model PPA.