STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

Application of The Connecticut Light & Power Company to Amend its Rate Schedules – Public Act 07-242, Seasonal Rates, Non-Generation Related Time-of-Use Pricing and Related Rate Design Issues	:	Docket No. 03-07-02RE10
	:	October 12, 2007

BRIEF OF RETAIL ENERGY SUPPLY ASSOCIATION

Introduction

The Retail Energy Supply Association ("RESA") is a nonprofit organization and trade association that represents the interest of its members in regulatory proceedings in the New England, New York, Mid-Atlantic and Great Lakes regions.[1] RESA's members include providers of competitive supply products to electricity and gas consumers in the five New England states – including Connecticut – that have restructured their electric markets. RESA was designated an intervenor in this docket on September 7, 2007, and is pleased to submit this Brief to address the rate-design issues that will be examined by the Department of Public Utility Control ("Department") in this proceeding.

The Department reopened Docket No. 03-07-02 on July 25, 2007 to address provisions of Public Act No. 07-242, *An Act Concerning Electricity and Energy*

---

[1] RESA's members include Commerce Energy, Inc.; Consolidated Edison Solutions, Inc.; Direct Energy Services, LLC; Gexa Energy; Hess Corporation; Integrys Energy Services, Inc.; Liberty Power Corp.; Reliant Energy Retail Services, LLC; Sempra Energy Solutions, LLC; Strategic Energy, LLC; SUEZ Energy Resources NA, Inc.; and US Energy Savings Corp. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

Efficiency ("P.A. 07-242" or "Act"), that will affect certain CL&P tariffs.[2] These provisions include, among others:

- Section 49 of the Act, which modifies Section 16-244c(e) of the General Statutes to eliminate the one-year stay on supplier of last resort ("SOLR") service and to require procurement of SOLR service electricity supplies not less frequently than quarterly;

- Section 85 of the Act, which modifies Section 16-243n of the General Statutes to allow the Department greater discretion in designing mandatory time-of-use ("TOU") rates for customers with a maximum demand of 350 kilowatts ("kW") or more; and

- Section 99 of the Act, which requires each electric distribution company ("EDC") to implement voluntary critical peak pricing ("CPP") or real-time pricing ("RTP") for each customer class on or before January 1, 2008.

In addition, the Department has stated that it will examine in this proceeding whether it is appropriate to implement seasonal pricing for the standard service generation charge and TOU pricing of non-generation related charges.[3] RESA's Brief focuses predominantly on the implementation of Sections 49 and 99 of the Act.

On July 2, 2007, CL&P filed revised Supplier Terms and Conditions that eliminated the mandatory stay on SOLR service pursuant to Section 49 of the Act.[4] On August 10, 2007, the Company issued a request for proposals ("RFP") for SOLR service supplies for the three-month period commencing January 1, 2008 to implement the shortened procurement cycle required by Section 49 of the Act.[5] Although Section 16-244c(e) of the General Statutes, as amended by the Act, ("SOLR Statute") states that

---

2 Decision (July 25, 2007), p. 2, Docket No. 03-07-02.

3 *Id.*

4 CL&P Letter to Louise E. Rickard, July 2, 2007 (filed as undocketed correspondence).

5 CL&P Standard Service and SOLR Service RFP (Aug. 10, 2007), p. 10, available at http://www.cl-p.com/esupplier/wholesale.asp.

EDCs shall procure SOLR service supplies "at least every calendar quarter," it affords the Department discretion to structure the procurements as it sees fit. RESA urges the Department to exercise that discretion and order CL&P to implement mandatory RTP for SOLR service customers. This would be accomplished by having CL&P solicit bids from wholesale suppliers that would pass through the actual locational marginal price ("LMP") for the SOLR service load and set forth an additional price for non-energy supply costs such as capacity and ancillary services.

The benefits of RTP are recognized by leading economists throughout the nation. Most notably, by delivering accurate price signals, RTP fosters greater participation in energy conservation and demand response programs, which is an overarching goal of the Act. It also arms customers with the information to make informed choices about products and services offered by competitive electricity providers ("CEPs") and spawns innovation in the marketplace. In recognition of these benefits, an increasing number of states are adopting RTP as the mandatory pricing scheme for utility offerings to commercial and large ("C&I") customers. This rate-design proceeding provides the Department with the perfect opportunity to follow the lead of these states and implement mandatory RTP for SOLR service customers in CL&P's service territory.

Section 99 of the Act requires the EDCs to implement voluntary CPP or RTP for each customer class by January 1, 2008. This provision is important because it provides the means by which standard service customers can choose a variable-priced utility offering as an alternative to the fixed-price standard service product that embodies costly risk premiums. In the event that the Department chooses not to implement

mandatory RTP for SOLR service customers, the voluntary offerings made pursuant to Section 99 of the Act take on even greater significance.

CL&P's variable peak pricing ("VPP") proposal does not comply with Section 99 of the Act because it is neither a CPP nor an RTP product. Rather, it is essentially a TOU product with a pricing structure that is so unattractive that very few, if any, customers will choose it. RESA requests that the Department order CL&P to implement a pure RTP offering to comply with Section 99 of the Act as it is preferable to a CPP product.

Argument

I. THE DEPARTMENT SHOULD ADOPT MANDATORY RTP FOR SOLR SERVICE CUSTOMERS PURSUANT TO SECTION 49 OF THE ACT.

A. The SOLR Statute Can Be Construed to Permit RTP.

Prior to the enactment of Section 49 of the Act, the SOLR Statute did not specify the frequency of the EDCs' procurements of SOLR service power supplies.[6] It simply required the EDCs to serve SOLR customers and directed the Department to determine a price for SOLR service that reflects the full cost of providing the electricity on a monthly basis.[7] In the June 21, 2006 Decision in Docket No. 06-01-08PH01, *DPUC Development and Review of Standard Service and Supplier of Last Resort Service – Phase I,* the Department ordered the EDCs to implement a semi-annual procurement cycle for SOLR service, reasoning that the Legislature intended the price of SOLR service to reflect current market conditions.[8] The Legislature thereafter

---

6 *See* Conn. Gen. Stat. § 16-244c(e) (revised to 2007).

7 *Id.*

8 Decision (June 21, 2006), p. 16, Docket No. 06-01-08PH01.

enacted Section 49 of the Act to mandate more frequent procurements. The SOLR Statute, as amended, now reads in pertinent part:

> An electric distribution company shall procure electricity at least every calendar quarter to provide electric generation services to customers pursuant to this subsection. The Department of Public Utility Control shall determine a price for such customers that reflects the full cost of providing the electricity on a monthly basis.[9]

In CL&P's August 10, 2007 RFP for SOLR service supplies, the Company directed wholesale suppliers to submit bids for a three-month period commencing January 1, 2008.[10] Although the plain language of the SOLR Statute sets a ceiling on the frequency of SOLR service procurements (*i.e.* quarterly), it gives the Department discretion to adopt shorter cycles and/or integrate RTP supply requirements into the procurement regime. Consequently, the Department could order CL&P to solicit bids from wholesale suppliers that would pass through the actual LMP for the SOLR service load and include a price for non-energy supply costs such as capacity and ancillary services.

RESA recognizes that RTP does not fit neatly with the statutory requirement that the price for SOLR service be set on a monthly basis because prices change hourly under RTP. The SOLR Statute, however, does not require that the price be set in advance. Rather, it simply states that the Department must "determine a price for such customers that reflects the full cost of providing the electricity on a monthly basis."[11] This passage is ambiguous and lends itself to different interpretations. One such

---

9 Conn. Gen. Stat. § 16-244c(e)(2), as amended by Section 49 of P.A. 07-242.

10 *See supra* note 5.

11 Conn. Gen. Stat. § 16-244c(e)(2), as amended by Section 49 of P.A. 07-242.

interpretation is that the monthly pricing provision could be satisfied by having the Department publish the average price paid by all SOLR customers at the end of each month based on the load-weighted average LMP plus the price for non-energy products.

RTP would provide substantial benefits to Connecticut consumers, as further discussed below, and comports with contemporary pricing trends of other states. RTP is also consistent with the objective of SOLR service – that is, to provide a short-term, last-resort service for large C&I customers with the expectation that they will be served principally by CEPs. Finally, implementation of RTP for SOLR service customers would not require significant investments in metering technology because these customers already have interval meters.

B. SOLR Service Customers Have Meters That Will Support RTP.

Billing under an RTP structure involves applying hourly prices to the customer's corresponding energy consumption. Hence, RTP requires interval meters. Fortunately, CL&P has already installed interval meters for customers that are eligible for SOLR service, thereby paving the way for the adoption of RTP.

In CL&P's March 15, 2007 proposal to offer VPP to SOLR service customers, it stated: "All VPP candidates already have interval metering as a [Last Resort Service ("LRS")] tariff customer. As such, no additional metering requirements will be required to support the VPP program."[12] In CL&P's Advanced Metering System Plan ("Metering Plan") that was filed in Docket No. 05-10-03RE01, the Company indicated

12 CL&P's VPP Proposal (Mar. 15, 2007), p. 3, Docket No. 05-10-03.

that its current metering technology used for customers with over 350 kW of demand "can support any type of time-base rate including Real-Time and Time-of-Day rates."[13]

CL&P is also implementing a new billing system, commonly known as "C2", that is expected to become operational in the second quarter of 2008.[14] RESA understands that this new system will accommodate RTP, but if it is mistaken in that regard, the Department should direct CL&P to modify its C2 design specifications to provide for automated RTP billing no later than June 1, 2008.

C. RTP Will Foster Greater Participation in Demand Response Programs and Other Energy Efficiency Measures.

A fundamental objective of P.A. 07-242 is to foster energy efficiency. Although quarterly procurements with monthly pricing for SOLR service customers is a tremendous improvement over the former transitional standard offer, the SOLR service price under the present regime nonetheless obscures the significant variability that characterizes hourly marginal supply costs, as represented by the LMP at the wholesale level. Because customers cannot see these real supply cost variations in the SOLR service price, they are deprived of the information needed to make informed decisions regarding their electricity usage. On a societal level, generation resources are likely being misallocated because the current pricing structure partially masks actual hourly prices that are visible in the market.

RTP, by contrast, provides customers with the price of electricity during each hour of the day. Armed with this information, customers will have a strong incentive to shift their electricity consumption to hours when electricity is cheaper and engage in

---

13 CL&P's Metering Plan (July 2, 2007), p. 4, Docket No. 05-10-03RE01.

14 CL&P Response to Data Request Q-LF-003 (Oct. 1, 2007), p. 1, Docket No. 03-07-02RE10.

demand response ("DR") programs that will reduce peak load. These initiatives will save money for customers shifting or curtailing such load, as well as for all other consumers in the region by improving the efficiency of the wholesale markets.

The Center for Energy, Economic & Environmental Policy ("CEEEP") at Rutgers University recently studied 40 papers and reports that were published by academic and industry groups around the nation to assess how customers respond to RTP (the "CEEEP Assessment").[15] CEEEP's findings confirmed RESA's view that RTP fosters greater participation in DR programs, which in turn, can bring significant improvements to the wholesale markets for the benefit of all customers. CEEEP summed up its findings this way:

> The vast majority of the literature reviewed endorses real-time pricing as the most efficient approach to achieving demand response and recognizes that the performance of competitive wholesale markets is improved by providing customers with an incentive to respond to high wholesale market prices. RTP could serve to improve market efficiency, mitigate market power, dampen wholesale volatility, and bolster system reliability. Demand response would eliminate intra-class subsidies on the energy portion of customer's bills by having each customer pay an amount for electricity exactly equal to the costs imposed on the grid.[16]

After the CEEEP Assessment was issued, researchers at the Department of Energy's Lawrence Berkeley National Laboratory ("Berkeley Lab") published a study of the experiences of eight states with retail choice where RTP has been adopted as a

---

15 Center for Energy, Economic & Environmental Policy, Rutgers University, *Assessment of Customers Responses to Real Time Pricing – Task 1: Literature* (June 30, 2005), p. 18, available at http://policy.rutgers.edu/ceeep/images/Assessment%20of%20Customer%20Response%20to%20Real%20Time%20Pricing%20Report%20June%2030%2020053.pdf.

16 *Id.*

default or optional service for C&I customers.[17] The Berkeley Lab researchers reported that RTP can be an effective strategy for simultaneously advancing retail market development and DR goals:

> RTP has been adopted as the default service in a number of states primarily to facilitate retail market development, because it always reflects current market conditions, does not require the use of class average load profiles for setting the commodity charge, and does not require imposing switching restrictions. At the same time, RTP also has the potential to stimulate DR, both from customers that remain on the default service and from those that seek out a competitive supply arrangement with a similar pricing structure to the default service. [18]

ISO New England, Inc. has posited that RTP is more effective at encouraging DR than separate DR programs that are unbundled from retail rates:

> The structure of retail rates determines the incentives for any retail customer – large, medium, or small – to take part in demand response, particularly in price responsive behavior. While demand response programs that are separate or "unbundled" from retail rates can be designed to give retail customers financial incentives to become more price responsible, such programs are not as effective in delivering price response as dynamic retail prices that vary with changes in wholesale power costs.[19]

In summary, experts agree that RTP can increase participation in DR, which enhances wholesale market performance to the benefit of all customers.

---

17 Charles A. Goldman, Lawrence Berkeley National Laboratory, *Real Time Pricing as a Default or Optional Service for C&I Customers* (August 2005), available at http://drrc.lbl.gov/pubs/57661.pdf.

18 *Id.* at pp. xx-xxi.

19 Comments of ISO New England, Inc. on Wholesale and Retail Electricity Competition (Nov. 18, 2005), pp. 31-32, Federal Energy Regulatory Commission, Docket No. AD05-17-000.

D. RTP Will Empower Customers to Maximize Retail Choice and Will Spawn Innovation in the Marketplace.

Customers that are exposed to accurate price signals through RTP become very smart electricity shoppers because they are educated on their consumption patterns and the true cost of electricity. Based on this information, they seek out CEP products that best suit their consumption profiles and budgetary needs, which may include, among others, fixed-priced products, index-priced products, TOU products, or some combination thereof. Customers that are exposed to RTP through utility offerings often wish to procure a portion of their supplies from a CEP on an RTP or index-priced basis because of the significant premiums inherent in fixed-priced offerings. Customers have also begun to seek out CEPs that can provide sophisticated energy efficiency services that will further allow them to reduce their electric bills. CEPs have responded to these needs by continually adding new products and services to their suite of offerings. Simply put, RTP empowers customers to maximize the benefits of retail choice while spawning innovation in the competitive electricity marketplace.

E. An Increasing Number of States are Adopting RTP.

Recognizing the unique advantages of RTP, an increasing number of states are adopting RTP models for their C&I customers. For example, the New York State Public Service Commission, citing the numerous benefits of RTP discussed in this Brief, ordered the implementation of mandatory hourly-priced default service for customers with peak demands of 500kW or higher.[20] Similarly, the Maryland Public

---

[20] *See* Order of the New York State Public Utility Commission ("NYSPC") Denying Petitions for Rehearing and Adopting Mandatory Hourly Pricing Requirements (April 24, 2006), pp. 14-15, 20, Case No. 03-E-0641 ("Order"). Specifically, the NYSPC ordered implementation of hourly default service for the following service territories: Niagara Mohawk Power Corporation – 500 kW and higher; New York State Electric and Gas Corporation – 1,000 kW and higher; Rochester