STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2013-00200

August 26, 2013

MAINE PUBLIC UTILITIES COMMISSION
Inquiry into Residential and Small Commercial Customer Standard Offer Service and Customer Protection

COMMENTS OF RETAIL ENERGY SUPPLY ASSOCIATION

The Retail Energy Supply Association ("RESA")[1] hereby submits its comments in response to the Public Utilities Commission's ("Commission") August 12, 2013 Request for Comment on Standard Offer Procurement ("Request") in connection with the above-referenced matter.

INTRODUCTION

RESA is a non-profit organization and trade association that represents the interests of its members in regulatory proceedings in the Mid-Atlantic, Great Lakes, New York and New England regions. RESA members are active participants in the retail competitive markets for electricity, including the Maine retail electric market. Several RESA member companies are licensed by the Commission to serve residential, commercial and industrial customers in Maine, and are presently providing electricity service to customers in the State. As such, RESA has an interest in ensuring that modifications to the Standard Offer procurement process do not have an adverse effect on RESA members, their customers or the continued success of the retail electric market in Maine.

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[1] RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. 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.

BACKGROUND

On April 9, 2013, the Commission initiated an inquiry into existing rules and practices related to residential and small commercial customer ("Small Customers") Standard Offer and competitive electricity provider ("CEP") services.[2] On August 12, 2013, the Commission issued the Request. In the Request, the Commission explained that, with the increase in CEPs serving Small Customers, the use of staggered terms to solicit proposals for one-third of the load for three-year terms no longer appears necessary.[3]

The Commission invited interested stakeholders to comment on the phasing out of the staggered terms and moving to solicitations for the entire load for one-year terms and on other issues related to Standard Offer procurements.[4] RESA hereby submits its comments in response to the Request.

COMMENTS

The Commission previously found that the purpose and design of Standard Offer service should be tailored to reflect the nature of the competitive market.[5] In particular:

> In market sectors where retail suppliers are providing options and reasonable prices for customers, standard offer service should ***not*** be "just another supply option," but should serve as a ***last resort or contingency service***. By its design, standard offer service in these sectors should encourage and sustain customer out-migration to the retail market. Standard offer prices should closely track changes in the wholesale market, and other features of its design, such as treatment of customer credit, should parallel the market as much as possible.[6]

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[2] Request, at 1.

[3] *Id*.

[4] *Id.*

[5] Standard Offer Study and Recommendations Regarding Service after March 1, 2005, Maine PUC, December 1, 2002 ("2002 Report"), at 4.

[6] *Id.* (emphasis added).

Because customers now have many more supply options available in the market, Standard Offer has reached the point where it can be viewed more as a transitional service for ***all*** customer classes as it was originally intended to be.[7] Accordingly, in setting the length of time for each procurement, the Commission should strive to obtain a result that allows the ultimate consumer to receive the most accurate price signals. Thus, for reasons described more fully below, RESA encourages the Commission to move toward a procurement and pricing process that provides more market reflective pricing by instituting shorter term procurement cycles with delivery dates occurring closer in time to the bid dates.

I. STANDARD OFFER PROCUREMENTS FOR ALL CLASSES SHOULD BE MODIFIED TO PROVIDE MORE MARKET REFLECTIVE PRICING TO CUSTOMERS

In order for customers to make informed decisions about their energy supply options, they require accurate price signals that reflect the underlying market price of electricity. A procurement system comprised of more frequent solicitations for the full load would generate more market reflective Standard Offer pricing because it would minimize the time over which the Standard Offer price can diverge from actual market prices. Thus, RESA requests that the Commission implement, in an orderly fashion, six month fixed price procurements for Small Customers, three month fixed priced procurements for medium commercial and industrial customers ("Medium Customers") and monthly variable priced procurements for large commercial and industrial customers ("Large Customers").

[7] *See* 2002 Report, at 4; *see also* Docket 97-739, Order Provisionally Adopting Rule and Statement of Policy Basis ("97-739 Order"), at 5.

Currently, Standard Offer procurements for Small Customers are conducted annually by soliciting three-year bids to supply one-third of the load ("Staggered Term").[8] The Staggered Term approach was adopted in order to protect Small Customers from "large and frequent electricity price swings."[9] In an attempt to protect Small Customers against the natural volatility of market pricing,[10] however, Staggered Term procurements also insulate customers from receiving market-reflective price signals and create a barrier to high value competitive offerings; thereby, inhibiting the continued development of the competitive market.

The Staggered Term procurement approach was adopted when the competitive market was in its infancy. However, the competitive market in Maine has grown significantly. As of June 2013, 18.4% of Bangor-Hydro Electric Company's ("BHE") Small Customer class load was served by CEPs as compared to just 0.8% in June 2006, and 40% of Central Maine Power's ("CMP") Small Customer class load was served by CEPs as compared to only 0.3% in June 2006.[11] Moreover, migration is expected to continue to increase as the Commission adopts more market favorable policies that include retail market enhancements like a well-designed Purchase of Receivables program, customer referral measures and additional consumer education initiatives.[12]

[8] *See, generally*, Docket 2004-147, Report on Standard Offer Procurement for Residential and Small Commercial Customers ("2004 Report"); *see also* Docket 2004-606, Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, at 7.

[9] 2004 Report, at 5.

[10] *Id.* (recognizing that "some amount of price volatility can be expected as a natural result of market-based electricity prices.").

[11] Maine Market Migration to Competitive Electricity Providers Statistics ("Migration Statistics"), June 2013, available at: http://www.maine.gov/mpuc/electricity/choosing_supplier/migration_statistics.shtml.

[12] *See* Comments of Retail Energy Supply Association, dated May 15, 2013; Reply Comments of Retail Energy Supply Association, dated June 7, 2013 (discussing various retail market enhancements).

With numerous CEPs offering a wide selection of competitive options and pricing, the Staggered Term procurement approach is no longer necessary. Indeed, because it prevents customers from receiving accurate pricing signals, the Staggered Term procurement approach is responsible, in large part, for most Small Customers still taking Standard Offer service, rather than taking advantage of high value competitive offerings that provide energy savings.

In particular, the current Staggered Term procurement approach creates a disconnect between retail prices and the wholesale market, sending inaccurate pricing signals with regard to the value of competitive, retail offerings and the cost-effectiveness of demand-side management strategies. The boom and bust inherent to the Staggered Term procurement approach, where Small Customers pay artificially low or high prices for electricity based on three-year, laddered bids, distort the market in years when the Standard Offer pricing is artificially above or below market prices. As a result, energy customers in Maine lose out on the myriad of value-added products and services that are available to customers in the competitive market, including cost savings, price stability, electricity from renewable energy sources, or other attributes of value.

Market reflective pricing signals provide customers with the information they need to understand the value of competitive, retail electric market offerings and to encourage load shifting, conservation and energy efficiency. In addition, in order for Small Customers to take full advantage of the recently installed smart meters, they must have access to accurate and timely market pricing. The combined effect of more accurate market pricing and the real-time information provided by smart meters will have a significant impact on the development of competitive options and innovative products available to consumers, especially in the Small Customer segment.

Indeed, in jurisdictions with well-designed market structures and smart meters, competitive providers have been able to offer customers high value products, including dynamic pricing products that encourage conservation, energy efficiency and renewable energy solutions. For instance, in Texas and Pennsylvania, competitive providers are now offering a plethora of competitive supply products enabled by smart meters that encourage customers to move their consumption away from peak price periods, such as free power during the evenings or on the weekends.[13] Similarly, the combination of smart meters and more accurate pricing resulting from shorter Standard Offer procurement terms will allow suppliers in Maine the ability to offer price response demand ("PRD") products to their customers that will encourage load shifting, conservation, and energy efficiency; resulting in real cost savings for customers.

Thus, RESA encourages the Commission to abandon the existing Staggered Term approach and transition in an orderly fashion to shorter term procurements of the entire Small Customer load at one time. Since six month procurements for medium and large customers have not resulted in "large and frequent" price swings,[14] RESA recommends that Small Customer solicitations be conducted every six months so that Standard Offer prices more accurately reflect actual market prices.

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[13] *See, e.g.*, TXU Energy, *Choose Free Nights or Free Weekends* (visited July 24, 2013), available at: http://www.txu.com/en/residential/promotions/mass/plan-free-nights-weekends.aspx?PromoCode=ONFRE132&WT.mc_id=ONLBAN13Q2FREENIGHTSHOMEPAGE; Direct Energy, *Direct Energy's Newest Product Encourages Customers to Control Electricity Costs* (Sept. 27, 2011), available at: http://www.directenergy.com/en/about-us/newsroom/pages/press-releases/20110927articleb.aspx; Time-Herald, *Power Companies Dangle Free Nights and Weekends* (visited August 26, 2013), available at: http://www.timesheraldonline.com/business/ci_23877219/power-companies-dangle-free-nights-and-weekends.

[14] *See, e.g.*, Central Maine Power Historic Standard Offer Prices: Medium Commercial Class available at: http://www.maine.gov/mpuc/electricity/standard_offer_rates/current_sorates_cmp_med.shtml.

In the Request, the Commission also invited comments on the overall procurement process and, in particular, procuring Standard Offer once a year for all three customer classes.[15] Currently, Standard Offer procurements are conducted every six months for Medium and Large Customers.[16] Primarily as a result of the more accurate price signals provided by these shorter term procurements, 62% of BHE's medium class and 96.8% of BHE's large class load is currently served by CEPs[17] and, in CMP's service area, the migration statistics are equally high – 62.5% and 97.1%, respectively.[18]

As the Commission previously recognized, Standard Offer service "should encourage and sustain customer out-migration to the retail market."[19] However, moving toward longer term procurements will actually discourage and diminish customer migration and reduce the load shifting, conservation and energy efficiency efforts that have already been undertaken by many Medium and Large Customers; thereby, furthering a structure under which the generation supply service provided by the transmission and distribution utilities ("T&D Utilities") remains the long-term alternative to competitive supply, rather than a short-term service of last resort. Thus, rather than taking a step back from the current progress in the development of the Medium and Large Customer competitive markets, the Commission should shorten the procurement cycles for these customers to provide even more market reflective pricing. In this way, Standard Offer prices will more closely track changes in the wholesale market; thereby, providing customers the necessary price signals to understand the value of competitive, retail electric market offerings and encouraging load shifting, conservation and energy efficiency. Thus, RESA encourages the

[15] Request, at 1-2.

[16] 2004 Report, at 3, n.2.

[17] *See* June 2013 Migration Statistics.

[18] *Id*.

[19] 2002 Report, at 4.

Commission to adopt a quarterly Standard Offer procurement process for Medium Customers and a monthly procurement process for Large Customers.

II. CUSTOMER CLASSES SHOULD NOT BE COMBINED OR LINKED FOR THE PURPOSE OF STANDARD OFFER PROCUREMENT

In its Request, the Commission suggested several options that would result in combining or linking customer classes for the purpose of Standard Offer procurement.[20] RESA strongly encourages the Commission to refrain from combining customer classes or linking bids so they would be cross-contingent.

Different customer classes have different customer profiles, including different load shapes. As a result, not all Standard Offer Providers ("SOPs") wish to provide service to all customer classes. If a SOP does not serve a particular class, then it will not bid on a combined or linked procurement containing a class it does not serve. Thus, fewer SOPs will participate in the Standard Offer solicitations. Fewer bidders means less competition and less competition leads to higher prices for customers. A healthy, active Standard Offer supply market depends on a variety of SOPs actively participating in the procurement process. Thus, RESA encourages the Commission to forego combining or linking customer classes for purposes of Standard Offer procurements.

III. LARGE CLASS INDEX PRICING SHOULD BE REPLACED WITH LOCATIONAL MARGINAL PRICING

In its Request, the Commission invited comment on eliminating the indexed price approach adopted for Large Customers.[21] While indexed pricing is more accurate than long-term fixed pricing, it still does not provide customers with market reflective pricing signals. Thus, rather than continuing to provide such pricing, RESA encourages the Commission to adopt a

[20] Request, at 2.

[21] Request, at 2.

monthly variable pricing approach that reflects the Locational Marginal Pricing ("LMP") for Large Customers.

Under this approach, SOPs would submit bids to provide Standard Offer service to Large Customers at a monthly variable price consisting of the load-weighted monthly average of the Real-Time LMP plus a fixed percentage adder to cover all non-energy costs, including capacity, ancillary services and ISO administrative charges. Since the LMP would be the same for all SOPs, CMP and BHE would then select the SOP(s) with the lowest adder(s) for the procurement period. This variable pricing option would likely increase SOP participation in the procurement process as suppliers would be better able to hedge transactions and protect against migration risk.

Under this procurement arrangement, the final customer rates would be calculated after the month of service but prior to customer billing since the weighted average LMP would not be known until after the month of service. Since the price would not be known until after the month of service, customers would not be able to arbitrage the difference between their total electricity costs under the Standard Offer rate versus the CEP price; thereby, reducing gaming.

Large Customers are sophisticated energy buyers and, as such, are able to appropriately respond to market indicators and pricing. Real-time pricing will provide Large Customers with more market-reflective price signals that will allow them to have better information on which to draw in deciding which supply and load management options meet their particular needs; thereby, encouraging adoption of load shifting, conservation and energy efficiency measures.

Moreover, this monthly procurement and pricing cycle comports with national trends implementing shorter procurement periods that better match market pricing for Large Customers as many other states are investigating and adopting shorter default service procurement periods, including implementation of hourly real-time pricing. For example, the New York Public

Service Commission, citing the numerous benefits of real-time pricing, ordered the implementation of mandatory hourly-priced default service for customers with peak demands as low as 500 kW.[22] The Maryland Public Service Commission has established mandatory hourly-priced default service for customers with peak demands of 600 kW and higher[23] and the Pennsylvania Public Utility Commission has implemented hourly-priced default service for Duquesne Power and Light customers with peak demands of 300 kW and higher.[24]

Because monthly variable pricing based on the LMP will allow SOPs to better hedge transactions and protect against migration risk, will provide more accurate price signals to customers that will improve load response decision making, and will reduce potential gaming, RESA encourages the Commission to adopt a monthly variable LMP based pricing structure for Large Customers.

IV. STANDARD OFFER TIME-OF-USE SHOULD BE ELIMINATED

In its Request, the Commission also invited comments on "a requirement that standard offer for the residential and small commercial class time-of-use (TOU) option would be linked to 'regular' flat-rate residential and small commercial class standard offer, such that the same supplier would provide both services."[25] While RESA recognizes that the Commission recently designed a Standard Offer dynamic pricing program for CMP customers, it urges the Commission to refrain from expanding that program further.

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[22] *See* New York Public Service Commission Case No. 03-E-0641, Order of the New York Public Service Commission Denying Petitions for Rehearing and Adopting Mandatory Hourly Pricing Requirements (Apr. 24, 2006), at 14-15, 20

[23] *See* Maryland Public Service Commission Case No. 8908, Order No. 78400 of the Maryland Public Service Commission Approving Hourly-Priced Default Service for Class III Standard Offer Customers (Apr. 29, 2003), at 8-9.

[24] *See* Pennsylvania Public Utility Commission Docket No. P-00032071, Order of the Pennsylvania Public Utility Commission Denying Petition for Reconsideration and Implementing Mandatory Hourly Pricing for Large Customers in Duquesne Power and Light Service Territory (Oct. 5, 2004), at 35-37.

[25] Request, at 2-3.

In fact, the presence of the TOU Standard Offer option will continue to inhibit the development of the competitive market by creating customer confusion about the price to which customers should compare high value competitive offerings. Thus, instead of combining or linking procurements for both TOU and "regular" Standard Offer, RESA recommends that the Commission phase out the TOU Standard Offer and leave TOU pricing options to CEPs and the competitive market. Doing so would reduce consumer confusion regarding pricing benchmarks because consumers would be able to more easily compare CEP offers with the Standard Offer to determine the best price and product offering for them. In addition, by eliminating the TOU Standard Offer option, the Commission would not have to implement mechanisms to discourage "strategic switching" between TOU and "regular" Standard Offer service[26] as these mechanisms only create further customer confusion and add to the administrative burden associated with Standard Offer service.

Moreover, CEPs are best positioned to develop PRD products to meet individual customers' needs because they can immediately institute changes without the inherent lag that the T&D Utilities face in obtaining regulatory approval for any product or pricing offerings. Further, because suppliers can instantaneously react, they can also immediately capture changes in the wholesale market that will result in more accurate price signals to customers, which will further encourage customer adoption of energy efficiency and load management solutions. Thus, RESA encourages the Commission to maintain a market structure paradigm that allows CEPs to concentrate on what they do best - providing market based generation supply pricing and related service options - and the T&D Utilities concentrate on what they do best - providing reliable and cost effective transmission and distribution services. To do so, the competitive market should be

[26] *See* Request, at 3 (seeking comments on various approaches to avoid strategic switching between regular and TOU Standard Offer service).

provided the opportunity to offer solutions before creating further regulatory programs that impose greater costs on all ratepayers, especially low income customers. Accordingly, dynamic pricing options, including any type of time varying rates, should be optional products and should be exclusively offered by the competitive retail market, and the T&D Utilities should be required to maintain basic rate designs, rather than engaging in new rate designs that include dynamic pricing or other time varying rate options for generation service.[27]

Further, to the extent the Commission maintains the TOU Standard Offer option, RESA encourages it to refrain from linking the TOU and the "regular" Standard Offer procurements as fewer SOPs will likely participate in the Standard Offer solicitations. Fewer bidders means less competition and less competition leads to higher prices for customers.

V. STANDARD OFFER BIDDING AND PROCUREMENT SHOULD TAKE PLACE AS CLOSE AS ADMINISTRATIVELY POSSIBLE TO THE OFFERING

In its Request, the Commission invited comments on the "optimal timing for standard offer bidding and procurement . . . ."[28] Generally, the differential between Standard Offer bid prices and the forward energy prices for the corresponding delivery term decreases as the time between bid date and the commencement of delivery decreases. The decrease in this differential reflects a change in at least two components of the full-requirements price as the delivery date approaches: (1) the diminishing cost of collateral associated with forward energy contracts; and (2) the decrease in real or implied cost of options to hedge against load uncertainty. Thus, the closer in time the bid date is to the commencement of delivery, the lower the risk premium that SOPs will build into their bids. The lower the risk premium, the more accurate the price signals that customers receive. Thus, RESA encourages the Commission to undertake Standard Offer

[27] If the Commission determines it is warranted, RESA has no objection to the T&D Utilities offering dynamic pricing options for ***distribution*** service.

[28] Request, at 2.

procurements as close in time to the start of delivery as is administratively possible and, in no event, greater than 90 days from the beginning of the service term. In addition, the T&D Utilities should be required to file their applications for approval of the resulting Standard Offer rates as quickly as administratively possible after the procurements are approved and the Commission should approve such rates as quickly as possible thereafter. In this way, CEPs will be given adequate opportunity to develop their pricing offers and consumers will have adequate time to review the competitive offers available to them and make an informed decision about the source of their energy supply before being subjected to new Standard Offer rates.

CONCLUSION

For all the foregoing reasons, RESA encourages the Commission to move toward a procurement and pricing process that provides more market reflective pricing by instituting shorter term procurement cycles with delivery dates occurring closer in time to the bid dates.

Respectfully submitted,
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