

## Talking points for NJ Capacity Issues Technical Forum

### “Possible Solutions Panel”

My name is Ivan Kimball, and I am Con Edison’s Director of Electricity Supply, representing Rockland Electric Company today. I have responsibility for the procurement, financial hedging, and billing of wholesale electricity supplies for the full-service customers of Con Edison’s two regulated utility companies, Con Edison Company of New York, Inc. and Orange & Rockland Utilities – which includes Rockland Electric Company.

#### Summary

Rockland Electric believes markets are effective and are encouraging a variety of supply sources in PJM. We have concerns with long term contracts and their adverse impacts on the electricity market. Namely, the length of the contracts can cause issues as the markets change; these contracts can become stranded costs for the utility; they can significantly impact the financial condition of the utility as a result of accounting rules; and, they can have unintended consequences on other market participants (generators). We propose incremental RTO based changes like: persistence pricing mechanisms that allow new capacity resources to obtain some certainty of future capacity payments, continued development of demand side resources as a viable means of capacity ‘additions,’ and recognition that market forces may not encourage large-scale capacity additions, but there are existing processes that should be used to address this situation.

Rockland Electric and Con Edison support market-oriented solutions whenever possible. Markets will generally produce the most cost-effective mix of resources needed to meet customer loads. Where other public policy objectives need to be met, such as the promotion of renewable generation or energy efficiency, we support measures that complement the market, rather than undermine it. For example, Rockland Electric supports the Regional Greenhouse Gas Initiative and a national economy-wide cap-and-trade program. These programs allow resource developers to factor the price of carbon into their bids, while preserving the elements of the market that encourage efficiency.

Generally markets have worked to bring on new capacity. New capacity can be a new facility, or an up-rate to an existing facility. Demand response is also new capacity. The RPM has encouraged a significant amount of up-rate and demand response capacity additions since it

was implemented. More than one-third of the additional capacity resources have been up-rates of existing facilities.<sup>1</sup> Additionally, demand response participation in the auctions has increased approximately seven-fold over the same period.<sup>2</sup> These facts support the assertion that the current market structure does provide incentives for new capacity additions.

Per the NERA presentation by Mr. Meehan, we agree that the adverse impact on markets that results from utilities providing out-of-market contracts to a specific generator can't be underestimated. Out-of-market contracts present significant changes to the market 'rules' and participants will react to those changes. Specifically, we have four significant issues with out-of-market, long term contracts:

- First, the length of long term contracts becomes increasingly significant when compared to the ever-shortening technology life-cycles and the current industry changes associated with the proliferation of demand response, energy efficiency, renewable resources, etc. Considering how quickly and significantly the energy landscape has been changing recently, how certain are we of the long-term necessity of the resource receiving the out-of-market contract? Entering into these contracts puts consumers at risk many years from now when the benefits of these contracts are uncertain – at best.

As we have seen numerous times over the course of long term contracts, there are often asymmetrical pressures on utilities versus generation owners of long term contract facilities to restructure/negotiate changes to the contracts associated with unanticipated changes in the markets. If there are unforeseen costs for the generators, then there is often significant pressure to compensate the generators for those new costs, based solely on the fact that they have a long term contract which may prohibit them from recovering those new costs. Whereas, there is little recourse for the utilities to argue likewise on behalf of the customers; that over-payment due to market changes should allow them to restructure the contracts to the customers' benefit.

- Second, with the expectation that retail choice will be an ongoing part of the markets, and the uncertainty surrounding the amount of full-service customer load that will remain with

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<sup>1</sup> PJM “2013/2014 Base Residual Auction Report,” p. 17.

<sup>2</sup> PJM “2013/2014 Base Residual Auction Report,” p. 8.

a utility, there is no guarantee that utilities will have sufficient customer demand to support payment of the long term contract. Depending on the particular situation, it is conceivable that long term contract supplies could be greater than the utility's full-service customer demand creating a situation where a smaller portion of customers could be required to pay for a larger portion of the supply costs. In short, these contracts could be a source of future stranded costs for the utility. This would also create a situation in which the utility might not have the incentive to pursue other means of managing customer demand like, demand response or energy efficiency.

- Third, with the advent of the new accounting regulations, the implications to utility balance sheets and financing costs could be significant. This impact would need to be effectively measured against the benefits associated with the new generation. In essence, the utility's books would be impacted by creating a liability, but without the commensurate ownership of the asset. There are also implications resulting from the Sarbanes-Oxley legislation regarding certification of the generator's financial data by the utility. These can contribute to an adverse situation for utilities and ultimately increase costs to consumers.
- And last, there is a significant risk that long term contracts will adversely affect consumers. Other generators see long term contracts as a risk to market prices, and have asked FERC to protect them from "out-of-market" actions. In NYISO, FERC ruled in favor of generators by requiring that new supply sources be required to offer their capacity into the market at a price sufficient to avoid eroding the market signal. This is intended to prevent 'buyers' of capacity from contracting with a single new source of supply at an over market price that in turn decreases the value of remaining capacity. This means that capacity under contract will be paid for by the utility, but may not count toward capacity requirements by the RTO if it does not also clear the market. Although the details of this are not necessarily implemented to our satisfaction, it is noteworthy that this rule is currently in place in New York City and is being contemplated elsewhere (New England).

So what are the alternatives? Perhaps pursuing some RTO market changes would be better.

- Rockland electric has supported persistence pricing for new capacity resources in a long term capacity market. This feature could be used to allow developers to make decisions in a

timely fashion with respect to the expected revenues from that market over a longer period of time.

- Second, continue to pursue demand response. The recent proliferation of demand response in the capacity market and the importance of energy efficiency in the utility and regulatory approach to customer cost management, it is imperative that allowances be made for the market to develop these solutions. It is critical that other long term contract arrangements do not cause situations that would hinder this progress. At the same time, we must make sure that the measurement and verification of these resources is accurate.
- And last, recognize that large-scale additions are probably not needed to maintain reliability and are therefore not necessarily supported by the markets. If needed for public policy, these issues should be taken up through the RTO and in coordination with the FERC to avoid changes to the marketplace that could have unintended consequences.