



Regulatory Update

April 20, 1999

Announcements

1. NEMA's Membership Meeting starts with an Executive Committee meeting opened to the public at noon on April 22, 1999 at the Georgetown Club followed by a Conference and Cruise starting at 8:30Am on April 23, 1999 at the Latham Hotel in Georgetown. Call, there are fewer than 10 seats left.

2. The Clinton Administration issued its proposed restructuring bill on April 15, 1999. The proposal calls for consumer choice for competitive electricity providers by January 1, 2003. The legislation would also give the FERC broad new powers to police the electric market and would create a special panel to prevent any major power outages. The average American family's power bill will be reduced by an estimated \$232 per year. An electricity outage investigations board will probe any major power outage. If needed, the Secretary would call meetings with state officials to develop "consensus approaches" for adding transmission capacity to maintain reliable supplies. States could opt-out of the federal program if state regulators think consumers would be hurt by joining the program. Copies will be on the NEMA web site shortly.

3. This week, NEMA has been actively involved in restructuring proceedings in New Jersey, New York, Michigan, Virginia Alabama and North Carolina. Members are actively involved in the Texas Legislation. NEMA will also be filing comments with the FERC on the Natural Gas NOPR this week.

FERC

➤ **Western Systems Coordinating Council Draft Order - Docket No. EL99-23-000- April 14, 1999.** The Commission approved the WSCC's criteria for an experimental project to allow parties to contract to conform with regional reliability criteria. By contracting with WSCC, parties will be subjected to a range of sanctions, imposed by the WSCC, for violations of the WSCC's reliability criteria. The program will be implemented on a voluntary, contractual basis, is supported by the NERC and the Commission still retains the authority to step-in and excersice its authority where needed.

- **Maritimes & Northeast Pipeline, L.L.C. ORDER– Docket No. CP96-809-008, et al. – April 14, 1999** . The Commission approved Maritimes request to downsize the project due to concerns over regional demand and approved proposed increases in Maritimes initial rates. The Commission also approved a waiver of certain Commission rules which allow Maritimes to inform one capacity holder of requests for capacity. Mobil will assume the majority of risk through a backstop agreement to cover unused capacity. The project has the full support of the State of Maine and will fill an important market need.

- **Anticipated Demand for Gas in the Eastern Half of the US – ORDER-Notice of Public Conference - Docket No. PL99-2-000- April 14, 1999**. The inquiry into natural gas demand could provide insight into the Commission’s pipeline certification policy. There has been much talk of the expected demand growth in the Northeast but the Commission should not ignore the Mid-Atlantic and Southeastern states.

- **The Commission is amending its regulations – Final Rule– 18 CFR Part 284 Standards for Business Practices of Interstate Natural Gas Pipelines – April 9, 1999**. The standards establish rules for conducting business practices and electronic communication with interstate natural gas pipelines, promulgated July 31, 1998 by GISB, will be incorporated by reference. The rule is effective May 10, 1999.

ARIZONA

- **Commission unveils new electric deregulation plan – April 14, 1999**. The new plan could allow competition later this year and would open the utilities service territories over a one-year period. A public comment period is now open through mid-August. The original plan, developed last November but now void due to the election which altered the political makeup of the Commission, called for a 4 % rate cut. The new plan does not specify any rate cuts. The latest plan gives utilities 4 options for recovering their stranded costs. The 4 options include: calculating net revenue likely to be lost because of competition; selling off the assets; determining revenue needed to meet minimum financial ratios; or some combination of three separately negotiated for each utility.

New Jersey

- **GPU Approaching Settlement – April 14, 1999** – NEMA has been actively involved in Settlement negotiations in the GPU proceeding. **Details are available on a confidential basis to member firms.**

- **BPU Postpones PSE&G decision– Until April 21, 1999.** The delay will not hinder the start of competition in the sale of electricity in New Jersey. This will be the first decision under the “Electric and Discount/Energy Competition Act and will affect the largest service territory in New Jersey of 2 million customers.
- **PSE&G Plan may prompt legal action – April 14, 1999.** NEMA participated in and filed comments on the PSE&G Settlement Proposal. MAPSA has threatened litigation. Copies of the NEMA comments are on the website

New York

- **Commission Grants Capacity Waiver – April 1 , 1999** National Fuel’s, NYSEG’s and NiMo’s Requests for Waivers for certain capacity segments was granted, at least temporarily. The utilities requested waivers to accommodate specific operational needs in those capacity segments (load pockets and/or intermediate pipelines). The order also addresses generic issues related to stranded costs, voluntary capacity assignment, and marketer capacity requirements. The Commission issued a related order clarifying its gas policy by stating that utilities are required to file non-confidential rate and restructuring proposals pursuant to guidelines specified in the order from November 1998, requiring utilities to stop assigning mandatory capacity to migrating customers by April 1, 1999.
- **Con Edison begins Second Phase of Retail Choice – April 8, 1999.** The program attracted nearly 22,000 customers at the end of the sign-up period, which recently concluded. Con Edison will continue to accept small customers into the program on an ongoing basis and encourages small customers who are interested in participating to contact energy marketers serving Con Edison customers. The two phases brought total enrollment from all customer classes to nearly 68,000. Of the 31 energy marketers participating in phase two, 15 of them were actively enrolling customers.

Texas

- **House Electric Deregulation Bill Submitted to Committee by Rep. Wolens lacks support – April 13, 1999.** The Senate version of the bill, passed last month, received strong support. Under House rules, the committee has until May 22 to vote on the Senate bill. Wolens’ warned that if Texas does not deregulate, the state’s utilities would have more incentive to seek out-of-state merger partners or even worse foreign buyers. The two bill differ greatly on how utilities will be allowed to recover stranded costs. The Senate bill would allow utilities to sell ratepayer-backed bonds, giving the utilities a lump sum payout upfront. Wolens’ bill would give utilities 2 options for retiring stranded costs. The first option would require a utility to immediately freeze its rates

through January 1, 2002, with excess earnings paying off stranded costs. The utility would give up all further claims to stranded costs when competition begins. The second option would require an immediate rate freeze and rate cut of 6% when competition is scheduled to start in January 2002 and the use the over earnings to pay down stranded costs, and allow a utility to charge a fee for any stranded costs remaining when competition begins. Both bills also would let electric cooperatives and municipals to opt out of competition.

New Mexico

- **Governor Signs Electric Choice Bill – April 8, 1999** – The law gives residential and small business customers choice of suppliers beginning in January , 2001. All customers will have choice in January 2002. Rural electric cooperatives and municipal electric systems have the option not to participate in the competitive market. The law does not require utilities to sell their generating plants or exit the power production business, but does require them to separate the competitive parts of their business from the regulated part. The PNM is required to file a transition plan to the PRC by March 1, 2000.

Alabama

- **Study urges delay in Electric Restructuring - April 12, 1999** - A joint study by economists from Auburn and the U. of Alabama determined that, with rates currently about 15% below national average, retail competition would cause rates to rise 6%. Alabama producers would choose to sell to consumers in other states at higher prices in order to make the highest profit. The authors suggest the state should maintain its comparative advantage in electricity and not deregulate its electric markets.

Arkansas

- **Legislature approves electric restructuring bill that is supported by the Governor and backed by a coalition of cooperatives and utilities. April 8, 1999.** Under the bill, retail supplier choice could begin as early as January 1, 2002, but the Commission would have the option of delaying restructuring until June 30, 2003. The bill also provides for a 3 year rate freeze. However, if the utility does not request stranded cost recovery, the rate freeze will be limited to one year. Finally, the bill gives the Commission authority to set standard offer rates and divide stranded costs between shareholders and ratepayers.

MISC

- **Terra Group Survey – April 12, 1999 – *Crossed Wires: Electric Power Deregulation Leaves Holes in the Nation’s High-Voltage Transmission System.*** According to the study, confusion and frustration over electric power deregulation has gotten worse in the past 3 years and environmental and consumer groups have now become active participants in many states. The study concludes that “even in areas where new transmission capacity may be needed, construction of any transmission line will be controversial.” The study also concedes that many regulatory officials believe that instead of an integrated wholesale market for electric power, what exists now is an emerging patchwork of regional grids that work at cross purposes to each other. According to some respondents what is needed is more initiatives from the federal government – on transmission tariffs, on ISO operations, and a host of other issues. The study also concludes that in general enthusiasm for deregulation has increased slightly among state regulators over the past 3 years.

