

Announcements

1. NEM released its *National Guidelines for Designing and Pricing Default Energy and Related Services*. Regulators and journalists from all over the country have been calling and covering these guidelines. NEM has been asked to present at the Winter NARUC meeting.

Federal

- **House Majority Whip Tom Delay (R-TX) and U.S. Secretary of Energy Bill Richardson Agree that a Restructuring Agreement must be reached this Year.** Although no "detailed agreement" has been reached, Delay and Richardson intend to make restructuring a priority. House Commerce Committee Chairman Tom Bliley (R-VA) has yet to establish a schedule for meetings or hearings on the legislation. Bliley intended to present his electricity restructuring agenda at a speech to a legislative conference at the American Public Power Association, but the meeting was postponed due to poor weather conditions. Bliley plans to have a bill ready for Committee mark-up in March, as the legislative calendar will be cut short due to elections.

FERC

- **Order Approving Commonwealth Edison Company's (ComEd) Imbalance Trading Proposal** - Docket No. ER99-3886. The Commission approved ComEd's imbalance trading proposal, but ordered the utility to offer the program to both wholesale and retail customers. The mechanism permits transmission customers to trade imbalances over the Internet, thereby reducing penalties and promoting system balance. ComEd had proposed making the program available to retail customers only, but the Commission found no justification for so limiting the proposal and ordered them to include wholesale customers. Commission Massey moved the item to the discussion agenda to stress the importance of such market-based alternatives to traditional imbalance penalties and OFOs.
- http://www.energymarketers.com/documents/FERC_2-9-2000_ER993886_00C_TXT.htm

- **Final Rule Regarding Regulation of Short-Term and Interstate Natural Gas Transportation Services** - Docket Nos. RM98-10, RM98-12. This action follows a comprehensive re-examination of the Commission's post Order No. 636 policies. The Final Rule contains the following elements:
 - **Price Cap on Secondary Capacity Lifted Temporarily.** The rule will waive the price cap on secondary (*i.e.* released) capacity for short-term transactions (*i.e.*, shorter than one year), with the waiver to expire on September 30, 2002. The waiver is experimental; Staff will gather data and the Commission will consider whether to terminate, extend temporarily, or adopt the waiver on a permanent basis. If no action is taken, the waiver will automatically expire in September 2002, with the price cap reinstated.
 - **Pipelines Can File for Seasonal and Term-Differentiated Rates.** The Final Rule permits pipelines to seek authority for seasonal rates for short-term services through limited Section 4 filings, with true-up in fifteen months (excess revenue to be shared 50-50 between the pipeline and its customers). Pipelines also can seek term-differentiated rates for short-term services, but through a general Section 4(e) filing.
 - **Modifications to the Right-of-First-Refusal.** Firm shippers with long-term contracts (*i.e.*, one year or more) will retain their Order No. 636 ROFR. However, in some circumstances a shipper exercising this right may be required to pay a rate higher than the currently applicable maximum tariff rate to retain the capacity. Specifically, if (i) the pipeline has higher-rate incrementally priced capacity and is fully subscribed, and (ii) another bidder for the capacity is willing to pay up to the A rolled up rate for the existing capacity subject to the ROFR, the existing firm shipper must match the other party's bid to retain the capacity. **Reporting Requirements.** The final rule increases the reporting requirements generally as proposed in the NOPR. The proposed requirements included, *e.g.*, Internet posting of operationally available capacity on a design basis; expanded index of customer data, including identification of receipt and delivery points, zones and segments, contract numbers; disclosure of affiliate information; validation of capacity auctions through (i) information posting or (ii) another mechanism such as an independent third party; and provision of the same information regarding pipeline capacity transactions that is required for capacity releases.
 - **Voluntary Capacity Auction Mechanisms for Short-Term Capacity.** The final rule would not eliminate rate ceilings and mandate capacity auctions for short-term capacity, as had been proposed in the NOPR. Commissioner Massey stated that voluntary programs could be proposed, but did not indicate whether the final rule specifically provides a mechanism for such proposals.

- **Pipeline Operations.** The final rule evidently retains much of what the NOPR had proposed regarding scheduling procedures, capacity segmentation, and pipeline penalties. The objective with these revisions is to improve the competitiveness and efficiency of the pipeline grid.
- **No Negotiated Terms and Conditions of Service.** The final rule would not permit negotiated terms and conditions of service. Chairman Hoecker suggested that pipelines seeking to provide more customized services follow the examples of other pipelines that have implemented, or are in the process of implementing, hourly flexibility services.
- The final rule will take effect 30 days after issuance of the final rule, with the exception of the revised reporting requirements, which will go into effect on September 1, 2000. The Commission will also initiate a new process designed to systematically evaluate the future of natural gas regulation. In this regard, the Commission will monitor the market and maintain a dialogue with industry participants.
- *Not yet available electronically*
- **Order Rejecting in part, Accepting in part, and Suspending Tucson Electric Power Company's (Tucson) Proposed Amendments to its Open Access Transmission Tariff - Docket No. ER00-771-000.** The Commission rejected in part and accepted and suspended in part, Tucson's proposed amendments to its open access transmission tariff (OATT), to be effective on January 28, 2000 subject to refund and subject to further revision upon the final disposition of certain operating protocols discussed below. Tucson's proposed OATT revisions included among other things, changes in the calculation of the Energy Imbalance Service charge and the load ratio share methodology for retail transmission customers. Tucson is directed to file, within 30 days of the date of this order, revisions to its amendments to its OATT.
- http://www.energymarketers.com/documents/FERC_2-8-2000_ER00-771_00A_TXT.htm
- **ORDER on Motion to Strike Testimony in Central Hudson Gas & Electric, et al** – Docket No. ER97-1523-000. Sithe/Independence Power Partners filed the direct testimony of Jennifer Tripp and Albert Malmsjo – see January 28, 2000 Update. This order strikes the entire testimony of Malmsjo and the Tripp testimony between pages 22, line 9, through page 27, line 5. A ruling on the balance of the Tripp testimony is reserved. Oral arguments on the motions to strike testimony will resume at 10:00 a.m. March 1, 2000 at the FERC hearing room.
- **APPA Filing to the FERC Notes that Large Mergers Need to Undergo Increased Scrutiny.** The filing attacks the merger of ComEd and PECO Energy. APPA made the same complaint against the AEP merger with Central

and South West. The filing states, "The proposed merger is rendered doubly troubling by the fact that it involves transmission regions plagued with serious congestion problems." APPA explains the ComEd-PECO merger as "another in a spate of 'checkerboard' merger proposals that seek to subvert the commission's market power screen, PUCHA's integration requirements, or both." APPA claims this particular proposal is intended to avoid FERC's market power screen.

- **Midwest Utilities Present Conceptual Model to FERC for the Formation of an Independent Transmission Company (ITC) Empowered to own and Operate the Midwest Transmission Network more Efficiently and Effectively.** According to the utilities, their model represents a significant step towards enlarging the MISO and providing functionality that the MISO currently lacks. Commonwealth Edison, MidAmerican Energy and Interstate Power Companies assured FERC that their model for an ITC operating under the MISO is entirely consistent with FERC policy. The Companies refute claims that their ITC model would "risk destroying the MISO" as one objector claimed. The ITC model offers in part: 1) a mechanism to allow immediate structural separation of transmission assets from all other utility holdings; 2) immediate elimination of any preference for native load in transmission service; 3) two levels of independence; 4) a commitment to consolidate several existing control areas and to operate as a single NERC recognized control area from day one of operations and; 5) a Pay for Performance approach.
- **DOCUMENTS AVAILABLE TO NEM MEMBERS** – The following documents are not available electronically but will be retained in hard copy for a reasonable time for NEM members. Should you wish a copy or have any questions pertaining to these documents, please contact NEM headquarters.
- **NYISO Filing of Transitional Installed Capacity Market Design.** The filing contains revised sections to the ISO Services Tariff, an installed capacity auction description, a redlined comparison of "Installed Capacity Auction Description" document with the "interim" ICAP auction proposal submitted on August 1, 1999, as supplemented on September 17, 1999 and a draft *Federal Register* notice.
- **NYISO Filing of Executed Agreements and Signature Pages.** It includes an executed copy of the ISO/TO Agreement, the ISO Agreement, and the NYISO/NYSRC Agreement, and the *Federal Register* Notice.
- **NYPP Response to Comments Filed By MEUA Concerning the December 29, 1999 Attachment L Filing.** The NYPP states that MEUA has failed to demonstrate why the Village of Freeport should be allotted an extra MW and asking that the MEUA filing be denied.
- **Settlement Between PG&E and NU.** PG&E motions the Commission to approve the settlement. The settlement establishes the Projects' transmission rates under NU open access transmission tariff from November 1, 1995, until March 1, 1997 and establishes the Projects' transmission rates for subsequent years in which the Projects' transmission service agreements are "grandfathered" under the NEPOOL Tariff.

Ohio

- **NEM Filed Preliminary Objections in First Energy, Dayton Power & Light and Cincinnati Gas & Electric; and Shell Filed Preliminary Objections in First Energy** - These documents are available on the NEM site.
 - First Energy
 - <http://www.energymarketers.com/documents/ACF32EF.doc>
 - Dayton Power & Light
 - [http://www.energymarketers.com/documents/OH_ObjectionstoDaytonOhio\(finalversion\)_2-7-00.doc](http://www.energymarketers.com/documents/OH_ObjectionstoDaytonOhio(finalversion)_2-7-00.doc)
 - Cincinnati Gas & Electric
 - [http://www.energymarketers.com/documents/OH_ObjectionstoCG_E\(finalversion\)_2-7-00.doc](http://www.energymarketers.com/documents/OH_ObjectionstoCG_E(finalversion)_2-7-00.doc)
 - Shell – First Energy
 - http://www.energymarketers.com/documents/OH_ShellObjections_FirstEnergy_2-8-2000.doc

- **PUCO Modifies Rule on Corporate Separation in Electric Transition Plan Applications.** The Commission modified the corporate separation rule to clarify the information that must be maintained in the cost allocations manuals for shared consultants and shared independent contractors and to require all electric utilities to provide information in their transition filings, to enable the Commission to determine whether they will ensure against unreasonable sales practices, market deficiencies and market power. The amendments to transition plans necessitated by the rule modification are due by February 28, 2000. Any supplements to preliminary objections necessitated by the plan modifications are due by March 13, 2000. A copy of the new rule is included with the Order.
 - http://www.energymarketers.com/Documents/OH_PUC_99-1141_revisedrule_1-20-2000.pdf

- **Settlement Conferences at the Commission are to be held on the following dates:**
 - **Dayton Power & Light** **February 17, 2000**
 - **First Energy** **February 22, 2000**
 - **Cincinnati Gas & Electric** **February 24, 2000**
 - **American Electric Power–** **February 28, 2000**

- **DOCUMENTS AVAILABLE TO NEM MEMBERS** – The following documents are not available electronically but will be retained in hard copy for a reasonable time for NEM members. Should you wish a copy or have any questions pertaining to these documents, please contact NEM headquarters.
 - **Order Granting NEM Motion to Intervene in Dayton Power & Light Electric Restructuring Proceedings.** The settlement and procedural conference is

scheduled for Thursday, February 17, 2000, at 10:00 a.m. at the Commission headquarters.

- **Order Granting NEM Motion to Intervene in First Energy Electric Restructuring Proceedings.** The Commission denied First Energy's motion that CCE and its member organizations only be allowed to participate as individuals or as a part of the organization and denied its motion for case management. A settlement conference is scheduled for February 22, 2000 at 10:00 a.m. at the Commission headquarters.
- **Order Granting NEM Motion to Intervene in Columbus Southern and Ohio Power Electric Restructuring Proceedings.** The settlement conference will be held on Monday, February 28, 2000, at 10:00 a.m. at the offices of the Commission.
- **Order Granting NEM Motion to Intervene in Cincinnati Gas & Electric Proceedings.** The settlement conference is scheduled for February 24, 2000, at 10:00 a.m. at the offices of the Commission.
- **Columbus Southern Power Company Served the First Set of Interrogatories and Document Production Requests on NEM and other Intervenors.** They served substantially the same documents on the Ohio Rural Electric Cooperatives and Buckeye Power, Industrial Energy Users – Ohio, the Ohio Manufacturers' Association and Ohio Partners for Affordable Energy. Columbus Southern also served discovery on Shell Energy Services, WPS Energy Services, Ohio's Consumer Counsel, NewEnergy Midwest, Unicom, Enron, Kroger, and Ohio Council of Retail Merchants.
- **Preliminary Objections in DL&P Electric Restructuring Proceedings.** The following intervenors filed preliminary objections: IEU-Ohio, Ohio Consumers' Counsel, SCOPE (adopted the objections of the Coalition for Choice in Electricity), Ohio Hospital Association and Utility Workers Union - Local 175.
- **Preliminary Objections in FirstEnergy Electric Restructuring Proceedings.** The following intervenors filed preliminary objections: Ohio Schools Council, Cities of Brook Park and EastLake, Utility Workers Union of America-Local 270-AFL-CIO, IEU-Ohio, Unicom, Ohio Consumers' Counsel, the Board of Lucas County Commissioners (Lucas), Ashtabula County Community Action Commission, Inc. (Ashtabula), the Coalition for Ohio Appalachian Development (COAD), and the city of Toledo. Lucas, Ashtabula, COAD and WSOS adopt the preliminary objections of the CCE.
- **Motion of CCE to Reject the Transition Plan of Monongahela Power.** CCE objects to the plan on the grounds that the plan (1) fails to provide analysis and justification of the "total allowable amount of the transition costs of the utility to be received as transition revenues; (2) fails to limit its transition charges to the allowable transition costs; (3) fails to contain a rate reduction for residential customers of 5 percent of the unbundled generation component; (4) fails to propose a shopping incentive; (5) unlawfully reduces the generation ("G") service component; (6) does not comply with the Commission's transition plan rules; (7) does not have the initial tax-related adjustment to the rate cap equal the rate of taxation specified in the rules; and (8) does not include information concerning the

utility's participation in an RTE. The CCE requested an expedited ruling on its motion.

- **DL&P Filed an Opposition to CCE's Motion to Reject DL&P's Transition Plan.** DL&P contend (1) the rules do not authorize CCE to file a motion to reject or the Commission to consider the party's motion to reject; (2) that since the commission did not find the plan inadequate by January 19, 2000, it was automatically deemed minimally adequate; (3) that DL&P's application for transition revenues was adequate; (4) that DL&P's residual "g" unbundling plan complies with the statutory requirements, while CCE's does not; (5) that DL&P's rate unbundling plan properly adjusts the rate cap in conformity with code; (6) that they did comply with the filing requirements; and (7) the plan does not violate the requirement of participation in an RTE.
- **Motions to Intervene in FirstEnergy Electric Restructuring Proceedings -** Filed by the Ohio Schools Council, the Board of Lucas County Commissioners on behalf of Lucas County, Ohio, WSOS Community Action Commission, Inc., and the cities of Brook Park and Eastlake.
- **Appalachian People's Action Coalition's Leave to Intervene in Columbus Southern and Ohio Power Electric Restructuring Proceedings.** The memorandum in support sets forth the standard for intervention and states that their motion is timely and that they have a substantial interest in the proceedings.
- **DP&L Response and Objections to the Discovery Requests of IEU – Ohio.** The discovery requests were focused on the MAPS model.
- **Ohio Consumers' Counsel Served Two Sets of Discovery and Document Requests on DP&L.** The first set is seeking tax-related data and information on the testimony of Hethie Parmesano and Ralph Luciani. The second set concerns the testimony of James M. Speyer and Howard W. Pifer III.
- **Industrial Energy Users – Ohio Served Interrogatories and Document Requests on Cincinnati Gas & Electric.** The discovery is directed at the testimony of Howard D. Pifer III and his use of the GE-MAPS model discussed in his testimony.
- **FirstEnergy's Response to Discovery Requests of AK Steel Corp. -** FirstEnergy objects to all discovery requests on the grounds that the requested materials are protected and privileged information.
- **FirstEnergy's Response to Discovery Requests of Ohio Consumers' Counsel -** Contains information regarding transmission costs, forecast load projections, operating expense budgets, unit fuel costs, combined cycle capacity additions, etc.

New Jersey

- **Energy America Reached an Agreement with BPU and Division of Consumer Affairs to Continue Energy Marketing Program –** Energy America will contribute \$140,000 to energy deregulation education and future enforcement activities, and will begin to deliver electricity to its NJ customers by March. By this time, PSE&G will have completed the electronic switchover for customer accounts.

New York

- **NYS Reliability Council Executive Committee Notice of Adoption of Statewide Reserve Margin for Capability Year from May 1, 2000 through April 30, 2001** At its January 31, 2000 meeting, the Executive Committee of the NYSRC adopted the attached resolution requiring a statewide Installed Reserve Margin of 18% for the capability year from May 1, 2000 through April 30, 2001. The NYSRC will be filing this statewide IRM at FERC in the near future.
- [http://www.energymarketers.com/documents/NY_IRMResolution\[1\]_2-10-2000.doc](http://www.energymarketers.com/documents/NY_IRMResolution[1]_2-10-2000.doc)

Pennsylvania

- **Columbia Gas Issues Latest Version of Rules Applicable to Distribution Service** – This document is available on the NEM site.
 - http://www.energymarketers.com/documents/PA_COPA_RulesApplicableToDistributionService_2-9-2000.doc
- **DOCUMENTS AVAILABLE TO NEM MEMBERS** – The following documents are not available electronically but will be retained in hard copy for a reasonable time for NEM members. Should you wish a copy or have any questions pertaining to these documents, please contact NEM headquarters.
 - **Equitable Reply to OCA and Statoil/TXU Exceptions.** Equitable replies to the exceptions of OCA regarding the LIURP Program and motions to strike the exceptions of Statoil/TXU as not being genuine exceptions.
 - **Consumer Advocate Reply to Equitable Exceptions.** Consumer Advocate supports the ALJ decision that jurisdictional revenue includes both sales revenue and revenue from transportation services. It believes that Equitable should be required to recalculate its LIURP budget based on the total jurisdictional revenue.
 - **PG Energy Filed Tariff Reflecting the Terms of the Joint Petition for Settlement.** The communications protocol provides for regular communications between PG Energy and NGSs, in addition to the Stakeholder Collaborative Group established in the settlement. Rule 12 reflects the Standards of Conduct and dispute resolution procedures for any alleged violation of the Standards of Conduct. Rule 13 provides rules and regulations for the change of an NGS by a customer, including customer dispute procedures. Rule 14 deals with miscellaneous customer information. The supplier tariff incorporates an additional dispute resolution procedure for issues arising under the supplier tariff.
 - **Response Testimony of Timothy J. Oaks on Behalf of UGI to the Surrejoinder Testimony of Jerome D. Mierzwa On Behalf of the PA Consumer Advocate.** The testimony discusses interruptible load and the impact of the loss of control of PGC capacity.

- **Met-Ed Industrial Users Group (MEIUG), Penelec Industrial Customer Alliance (PICA) and the Office of the Consumer Advocate's (OCA) Comments on the Commission's Tentative Order Dated January 27, 2000 Regarding Competitive Default Service (CDS).** MEIUG and PICA request that the Commission firmly establish that CDS bids must comply with the generation rate cap provisions of the Electricity Generation Customer Choice and Competition Act. The OCA supports consideration of a stranded cost buy down methodology as an alternative methodology for obtaining CDS.

Maryland

- **Order Regarding Electric Restructuring - (A) The Appropriate Content of Advertising; (B) The Need for or Substance of Mandatory Contract Provisions; (C) The Methods by which Customers will Finalize Agreements with Suppliers; and (D) Other Issues - Case No. 8738.** The Order addresses the following issues upon which the Consumer Protection Working Group (CPWG) was unable to reach a consensus:

A. The Appropriate Content of Advertising

- Suppliers may not use the negative option process (the process by which a customer may create a contract by simply refraining from action) to enroll a customer.
- A supplier may refuse to provide service to a consumer based on the consumer's poor credit history.
- The Commission will not permit the transfer of customer lists -- by sale or otherwise -- from utilities to suppliers.
- **Marketing advertisements** must include the following: (1) the precise rate for service; (2) a disclosure that the rate stated in number one is for generation only, and that the total rate for electric service will be higher; (3) any offer that compares a supplier's price to the rate the customer will pay for standard offer service after July 1, 2000 must be based on the official "price to compare;" (4) the time of day the rate will be in effect; (5) any minimum contract duration necessary to obtain the advertised rate; (6) any fees and charges, other than electric generation, which will automatically be charged to consumers who contract for advertised service; and (7) the offeror's Maryland license number or a statement that a license application has been filed with the Commission.
- **Marketing solicitations** (marketing advertisements that provide consumers an opportunity to sign-up with suppliers) must contain all of the disclosure requirements applicable to marketing advertisements as well as the following: (1) itemization or description of the services offered, including minimum use requirements; (2) unit price (if not a flat rate, it has to be in cents per kWh); (3) notice that generation as opposed to transmission or distribution is being offered; (4) duration of the

agreement; (5) notice that there may be a deposit required, including amount of the deposit; (6) all applicable fees and charges; (7) notice regarding early termination by supplier or customer; and (8) notice that customers will have a 10-day rescission period for all contracts after July 1, 2000.

- If a supplier approves the consumer for service, the supplier must send to the consumer who signs up through a solicitation, with the shortest period possible, the following information: (1) notice of enrollment; (2) a description of the agreed upon billing option; (3) Due date for payments and mailing address for payments; (4) customer service information (including toll-free telephone, mailing address, and dispute process information); and (5) notice that customer has 10 calendar days from the receipt of this information to rescind any agreement with supplier.

B. The Need for or Substance of Mandatory Contract Provisions

- The Commission will permit a contract between a supplier and a customer to occur in three ways: by actual signed contract (wet signature); by Internet sign-up; and by telephone.
- All contracts or agreements for service must contain all material terms and conditions, including the following: (1) itemization of services provided; (2) unit price; (3) notice that generation is being offered; (4) description of agreed upon billing option; (5) duration of agreement; (6) notice that deposit may be required; (7) payment due date and mailing address for payment; (8) all fees and charges; (9) notice concerning termination; and (10) customer service information.
- **Telephone contracting will be permitted only under the following conditions:** (1) all material terms must be disclosed to the consumer over the phone; (2) the consumer's agreement to contract must be verified by an independent third party and the tape of the verification maintained by the supplier; (3) a complete written contract must be mailed or otherwise transmitted to the consumer within two business days from the day the consumer agreed to contract with the supplier telephonically; (4) and the consumer will have 10 calendar days after receipt of the contract to rescind the contract without penalty.
- Telephone solicitation shall not be initiated to a residential subscriber before the hours of 8:00 a.m. or after 9:00 p.m.
- **Evergreen contracts** (existing contracts that are capable of automatic renewal without any action by customers) are permitted, but the supplier must provide customers with notice of the pending renewal of the evergreen contract 60 days before that renewal is scheduled to occur, and another notice 30 days before the customer's automatic renewal date.

C. The Methods by which Customers will Finalize Agreements with Suppliers

- Any offer that compares a supplier's price to the rate the customer will pay for standard offer service after July 1, 2000 must be based on the official "price to compare."
- The Commission approves the last-in approach (under a last-in approach, LDCs would presumably wait until the November 15 through November 23 notification period has ended and then act upon the last change notice received from a particular customer) to customer's choice of supplier.

D. Other Issues

- **Partial Payments** - LDC arrearages will be paid first, followed in order by supplier arrearages, then LDC current charges, supplier current charges, and the value added services.
- **Accounts Receivable** - The biller must purchase only those receivables that they do not bill in a timely fashion.
- **Seasonal Gaming** - If the customer's relationship with the supplier is terminated without the customer having selected an alternative supplier, the customer will return to standard offer service.
- **Disconnection** - Only LDCs have the authority to disconnect customers from the distribution system for non-payment (of LDC charges only) during the period when LDCs are providing standard offer service.
- **Termination Fees and Deposits** - There shall be no termination fees during the requisite 10-day recision period and for the period prior to July 1, 2000.
- **Consumer Protection of Small Commercial Customers** - No decisions have been made at this time, but a separate committee will study the issue.
- **Consumer Protection of Large Commercial and Industrial Customers** - They may waive specific contract provisions or requirements, and may enter special contracts that do not comply with all marketing advertising requirements.
- **Aggregation Issues** - Further studies to be conducted by the CPWG.
- **Complaint Procedures** - Further studies to be conducted by a Complaint Procedure Design Group.

Michigan

- **Citizens for Power & Reliability Study Reports Detroit Edison may Receive \$1.3 billion in Stranded Benefits** - According to the study, Detroit

Edison under the current restructuring program does not balance the company's profitable plants with the anticipated losses from its unprofitable plants. The study concludes that if the additional profit were used to offset the charges customers must pay for stranded costs, Michigan consumers would benefit significantly. The voluntary plan Detroit Edison and the PSC have adopted does not explicitly require the utility to offset stranded costs with stranded benefits. Senate Bill 937, introduced by Sen. Dunaskiss, does specifically require that any stranded costs be offset by stranded benefits in a fair process called "netting". CPR Chairman Stevenson said the study shows why it is imperative that the Legislature work towards developing restructuring legislation this year.

- **Detroit Edison (DTE) will not Support Senator Dunaskiss' Bill Unless it is Amended.** DTE noted in a letter that the measure is a nice start, but it still falls short of what the Company is looking for. The letter says, "pending satisfactory resolution of two major outstanding issues dealing with market power and stranded cost recovery, Detroit Edison cannot support this legislation." DTE has a problem with any provisions calling for mandatory divestiture.
- **CMS Marketing, Services and Trading Company, Claims DTE is Violating the Michigan Electricity Choice Pilot Program.** CMS claims DTE is not allowing new suppliers to participate in their program unless they pay an "emergency energy supply" service fee, according to a filing with state regulators. The filing states that competition will never be allowed to occur in DTE territory and notes that the Public Service Commission never approved the fee.
- **Electric Choice Program –Third Round of Bidding for Capacity is Completed** – Consumers Energy has made available 7.5% of its electric capacity, or 450 megawatts. A total of 40 bids were submitted by 19 individual bidders - nearly 1-1/2 times the available amount. Successful bidders will have the opportunity to purchase electricity in the third phase of Michigan's Electric Choice Program. The fourth bid phase will open February 28, 2000.

Vermont

- **Notice of Investigation into Electric Retail Access** - Docket No. 6330. The Vermont Public Service Board has opened an investigation into the establishment of retail access policies and procedures for the introduction of competition and retail access in the Central Vermont Public Service Corporation and Green Mountain Power Corporation utility service territories. Central Vermont and Green Mountain Power are Vermont's two largest electric utilities and currently serve approximately 75% of Vermont's electric loads. The utilities do not have any present plans to sell electricity at retail to Vermont consumers and the petition indicates the Companies' preference that any transition service offer be provided by a retail energy supplier selected by the Board after competitive bid. A memo to all retail energy service providers, a copy of the petition and the Board's Order are available on the NEM site.

- [http://www.energymarketers.com/documents/VT_MemotoESPregardingDocketProcedure\(2-4-00\)\[1\].doc](http://www.energymarketers.com/documents/VT_MemotoESPregardingDocketProcedure(2-4-00)[1].doc)
- [http://www.energymarketers.com/documents/VT_Retail_access_2-4-00_Petition\(final\)\[1\].doc](http://www.energymarketers.com/documents/VT_Retail_access_2-4-00_Petition(final)[1].doc)
- http://www.energymarketers.com/documents/VT_6330openingorder_2-4-00.doc

New Hampshire

- **The U.S. Court of Appeals, First Circuit, has Directed the U.S. District Court of New Hampshire to Rule Utilities' Request for a Permanent Injunction to Block New State Utility Restructuring Plan.** Some state sources suggest that a ruling in support of the permanent injunction would still allow the PUC to hold restructuring talks with the Public Service Company of New Hampshire. A ruling will be issued within the next 90 days.

Maine

- **The Maine Legislature is Considering Representative Patrick Colwell's Measure Encouraging Distributed Generation.** The bill, considered at a February 3 Utilities and Energy Committee hearing, would allow transmission and distribution companies to invest in distributed generation projects. Maine utilities are required to divest their generation assets under the state restructuring law, but new technology advocates argue that distributed generation technologies are worthwhile investments. The PSC has endorsed the legislation and the state consumer advocate currently opposes the measure, but sources suggest the office is reconsidering its position.

West Virginia

- **A Plan to Restructure Electric Utility Industry over the next 13 Years has been Approved by the Public Service Commission.** Under the plan, customers will receive a four-year rate freeze and by 2003, transmission-owning companies must join regional transmission organizations. The plan was altered slightly from its December draft due to the concerns of AEP. AEP and other utilities may now seek the recovery of costs associated with environmental upgrades up until at least seven years after the implementation of the plan. A state legislature hearing is scheduled for February 7.

Florida

- **Florida Progress and Carolina Power & Light Merger** – The utilities are hoping that FERC approve their merger application by June 30. The utilities want to complete the deal by September, which would be about one year from the time CP&L agreed to buy Florida Progress, the parent of Florida Power

Corporation. They feel that their pending merger will not harm wholesale competition in the Southeast. The combination of the two utilities would create a new company that would control more than 18,500 megawatts of power. The amount of power would be less than Southern Company but slightly more than Duke Energy. The Companies also plan to establish or join an RTO. The decision to merge is a shift in policy for both companies.

Misc

- **Gas Daily, Bureau of National Affairs and Restructuring Today have published articles discussing NEM's "National Guidelines for Designing and Pricing Default Energy-Related Services."**
- **Gas Daily** – NEM has developed guidelines for regulators that will promote competition. In states where default customers were allowed to stay with the utility, or given to the utility's affiliate, competition has changed nothing. The default price becomes the price to compare – the target against which all competition offers are judged by consumers. Early evidence suggests that in those markets where default pricing reflects the true costs of providing retail services rather than hiding these costs in distribution rates, markets are developing quickly, those that have set artificially low default service prices relative to retail costs are developing much more slowly. The Atlanta Gas Light choice program has been successful because of the customer assignment component and a market-driven retail-wholesale price spread.
 - http://www.energymarketers.com/documents/NEM_GasDailyDefaultpaper.pdf
- **Bureau of National Affairs** – As state's transition to competition, competitive neutrality must be scrupulously safeguarded and maintained. The selection of default service providers on a non-competitive basis runs contrary to these principles. The assumption that customers who do not select a competitive supplier and have made an affirmative decision to receive service from the utility is unwarranted – Craig Goodman. A significant barrier to new suppliers will perpetuate if the same non-competitive energy services exist that restructuring is designed to replace.
 - http://www.energymarketers.com/documents/NEM_defaultService_article_2-8-2000.htm
- **Restructuring Today** - Quote of the Day: The most important issue for the development of competitive retail energy markets is the design and the pricing of default services – by Craig Goodman. Default service policy has most often been the device used by regulatory commissions or state lawmakers to make sure customers of incumbent utilities don't shop. If the price is set too low marketers lack incentive to come in and spend money to

win customers. Where states do adopt default service pricing it should reflect the true cost of providing retail services.

- http://www.energymarketers.com/documents/NEM_RestructuringArticleonDefaultServices_2-9-2000.pdf

