CASE 00-M-0504 - Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets, and Fostering the Development of Retail Competitive Opportunities - Unbundling Track.

NEM Contributions to Issue Compilers

Issue 1

Method for calculating unbundled costs, comprising such issues as the appropriate methods for performing embedded cost studies, especially the assignment of indirect costs (e.g. administrative and general expenses) to each of the utilities' functions

The Commission has directed that a bottom up unbundling approach be employed for calculating unbundled costs. A bottom up approach would start with a determination that each function, product, service, information or technology provided by each New York utility is or should be offered by a monopoly or competitively. Thereafter, all direct and indirect costs for each function, product, service, information or technology will be identified, quantified and justified (if determined to require monopoly protection). This is in contrast to the method used to derive back-out credits which employs a top down approach in which the costs of specific competitive functions are estimated and backed out of bundled rates. The Commission has recognized that traditional cost of service analyses may need to be modified to reflect the transition to competition in certain functions, products, services, information and technologies.

The method for calculating cost of service studies must ensure that all costs are adequately transparent. As an initial matter, the utilities must disclose those costs associated solely with rendering the transmission and distribution functions. The studies must identify each cost that can only be performed by an efficient "wires only" business. All utility costs associated with energy and energy related products, services, information and technologies that can be performed by competitive sources must be separately identified, properly labeled, adequately explained and properly quantified.

The cost studies should identify and properly label, for each of the functions, products, services, information and technologies identified as competitive in Issue 5:

(1) every individual employed by the utility, directly or as an independent contractor, whose job is related, to any extent;
(2) every utility asset currently utilized, directly or indirectly; and
(3) all monies embedded, accrued, or spent by the utility, directly or indirectly.

Importantly, the unbundled cost studies must contain sufficiently specific information about each function, product, service, information or technology currently supplied by the utility that if any of the products, services, information or technologies were to be let out for competitive bids, the bidder would have enough information to form an accurate appraisal.

The unbundled cost studies must also contain sufficiently specific information with respect to all non-competitive functions, products, services, information or technologies so that if a subsequent Commission order determined a particular function, product, service, information or technology could be rendered on a competitive basis there would be adequate information to establish either proper back-out credits and/or to facilitate immediate market entry by competitive suppliers responding to accurate price signals.

If it is determined that a utility has failed to fully disclose all of the information and costs associated with providing any of the competitive functions, products, services, information or technologies listed in Issue 5 the utility shall be subject to a two-fold penalty. The ESCOs should be provided with the full recovery of attorney and consultant fees associated with discovery of the undisclosed costs, and the utility should be denied recovery of any attorney or consultant fees associated with that matter through the time of proper disclosure.

Issue 2

Methods for performing forward-looking cost studies

The Commission has also ordered that forward-looking cost studies be performed for those functions with the most likelihood of becoming available competitively. These forward looking cost studies should be performed for each competitive function, product, service, information and technology identified in Issue 5 and reflect that the utilities will be shedding these costs within a relatively short time frame. To the extent that a given function, product or service is determined to be entitled to continued monopoly protection, a procedure must exist to revisit that evaluation.

Issue 3

The rate treatment that should be accorded stranded costs or competitive losses

NEM historically has had no objection to the proper recovery of prudently incurred and aggressively mitigated stranded costs. Utilities have had many years to start the meaningful competitive restructuring of their core monopolies.

Consequently, it would be inherently unfair to New York consumers to permit a utility to drag out the unbundling process and at the end of another lengthy process be entitled to 100% of any costs they chose not to avoid. NEM urges a declining stranded cost recovery formula that is time-sensitive and targeted to specific competitive functions, products, services, information and technologies. The longer it takes a utility to exit these functions or stop providing these products, services, information and technologies, the lower the percentage of stranded costs should be allowed.[1] Technically, there should be no stranded costs if utilities stop performing competitive functions or supplying competitive products, services, information and technologies. If a monopoly chooses to continue in these competitive lines of businesses, it should be fully at risk and they should only perform these functions or provide competitive services, products, information and technologies through a completely separate legal entity that is fully at risk.

Issue 4

The degree of statewide consistency in defining utility functions, assigning costs, and defining customer classifications (among other issues) that is needed to promote the development of retail markets as well as interutility inconsistencies that allegedly impede retail market development

[1] The process of devising the rate treatment that should be accorded stranded costs or competitive losses should be informed by the Commission's previous Orders providing guidance on the subject. The Commission held in the billing proceeding that, "utilities are also authorized, as they were in the metering context, to petition for recovery of any sufficiently documented and fully mitigated net differences between the costs that are ultimately avoided and the projected costs assumed here and for any net incremental costs associated with implementation of the new billing arrangements." CASE 99-M-0631 - In the Matter of Customer Billing Arrangements Alternative Billing Arrangements, ORDER PROVIDING FOR CUSTOMER CHOICE OF BILLING ENTITY (Issued and Effective March 22, 2000), page 12.

The Commission subsequently held in the ConEd phase 4 proceeding that ConEd would be required to demonstrate in any request for recovery for phase 4 costs that it could not, in fact, avoid the costs associated with its retail access reductions, rather than begin with the presumption that the costs were unavoidable. CASE 00-M-0095 et al., ORDER ADOPTING TERMS OF JOINT PROPOSAL, SUBJECT TO MODIFICATIONS(Issued and Effective April 9, 2001), page 10.

Most recently, the Commission denied NYSEG's request for an energy rate surcharge and deferral treatment with respect to its' market-based retail access credit. Cases 96-E-0891 and 01-E-0217, ORDER ON TARIFF COMPLIANCE FILINGS, CANCELLING ORDINARY TARIFF FILING, AND REJECTING OTHER REQUESTS FOR RELIEF (Issued and Effective April 26, 2001), pages 14-16. The Commission reasoned that since NYSEG avoids costs when customers move to retail access, NYSEG would receive a double recovery if it were allowed to implement a surcharge. Id. at 14. Further, the Commission found that the changes to the retail access credit were not entitled to deferral treatment as an uncontrollable cost because such changes were reasonably foreseeable by NYSEG. Id. at 16. (This is as opposed to accounting, legislative, regulatory or tax changes that were not anticipated at the time NYSEG's restructuring plan was adopted.) Also, the Commission reasoned that NYSEG should be revenue neutral with respect to the change in the retail access credit.

Statewide consistency in defining utility functions, assigning costs and defining customer classifications is critical to facilitate energy price competition and lower energy costs to the retail consumer. Creating an environment that allows each marketer to create a single system capable of transacting business with all New York utilities on a uniform basis will permit marketers to aggregate larger numbers of customers over the entire state and to achieve efficiencies and economies of scale. When marketers are able to achieve economies of scale, they can devote their resources to the development of innovative energy products, services, information and technologies. The savings that energy service providers could realize by spreading costs over larger numbers of customers and only having to program systems one time as opposed to developing utility-specific programs, can be passed on to consumers in the form of lower prices.

The creation of uniform tariff language, rate service classifications, and names and descriptions of utility service offerings in tariffs, operating manuals, and regulations will allow marketers to design single information systems capable of transacting business with all of the utilities. It will also facilitate marketers' abilities to design offerings of products, services, information and technologies for various customer classifications.

Uniformity in customer service provision, particularly the creation of a unique customer identification number that is easy for a customer to remember will facilitate customer switching. In a restructured energy market, switching energy suppliers must be simple and inexpensive. Customer information must be available to appropriate parties in a timely, accurate, low-cost and easily usable format. Utilities, suppliers, vendors and consumers must be able to exchange vital information in the lowest-cost, most efficient manner possible. Relatedly, differences in the information protocols between each utility service territory are significant, slowing the progress of restructuring and increasing substantially the cost of doing business. Adoption of Uniform Business Practices and the adoption of Standard Information Protocols that integrate Uniform Business Practices will lower costs and help the existing billing, back office and customer care systems to accommodate a competitively restructured energy market.

Uniformity in the methodology employed to determine natural gas balancing charges and penalties will help ESCOs better manage natural gas deliveries. Furthermore, standardization of the rules for declaration of OFOs and the application of those rules will provide greater certainty to ESCOs that utility decisions are fairly and uniformly applied.

Some of the interutility inconsistencies that impede the development of the retail market, that can and should be remedied, include:

(1) elimination of utility tariff language differences that have no meaningful distinction, creation of uniform rate service classifications for residential, small C&I, large C&I customers, etc. (e.g. SC1 = residential for all utilities), uniformity in the names and descriptions of various utility service offerings in tariffs, operating manuals, regulations, etc. (e.g. aggregation and pooling services);

(2) creation/adoption of a uniform service endpoint identifier (unique identifier for each service point in the state of NY – not utility specific);

(3) uniform definition and cost computation of products and services pursuant to a bottom-up unbundling process;

(4) standardization of arrangements for new customer service provision such that there would be a single call necessary to initiate service;

(5) uniformity in the methodology employed in determining natural gas balancing charges and penalties and standardized rules and application of those rules for the declaration of OFOs;

(6) Standardized internet-based information protocols;[2]

(7) Standardized billing procedures and protocols;[2] and

(8) Uniform Business Practices for the Retail Energy Market, sponsored by NEM, EEI, CUBR, and EPSA.[3]

The goals of deregulation are to lower costs, improve the quality of service and provide value-added services to consumers. These goals are attainable if the state implements uniform, consistent standards, processes, contract terms, and information protocols that allow competitive suppliers to effectively compete in multiple utility service territories and jurisdictions at the lowest cost to consumers.

Issue 5

Identify functional areas to which utility costs should be assigned and distinguish those functional areas with the most promise of becoming competitive from those that will retain a monopoly status

[2] The items related to bottom-up unbundling, standardized internet-based information protocols, and standardized billing procedures and protocols have already been the subject of Commission action.
[3] The full text of the Uniform Business Practices document is available at www.eei.org.

Utility functions can generally be defined as transmission, distribution, energy and energy related products, services, information and technologies including conservation, efficiency and distributed generation. Only those assets and employees associated 100% with transmission and distribution services should be entitled to state franchise monopoly protection. All other energy and related products, services, information and technologies should be available from competitive sources. In this way consumers are guaranteed reliable delivery of energy at the lowest possible prices.

Examples of competitive retail energy services include, but are not limited to the marketing, sale, design, construction, installation, or retrofit, financing, operation and maintenance, warranty and repair of, or consulting with respect to:

(1) retail marketing, selling, demonstration, and all energy commodity related functions including the supply and installation of distributed generation, fuel cells, and microturbines;

(2) energy commodity provider of last resort;

(3) hedging and risk management services;

(4) fuel storage facilities;

(5) imbalance services;

(6) billing services - services related to the production and remittance of a bill to an end use customer and/or a utility for competitive service charges applicable to a competitive provider's customers. Competitive billing system services include, but are not limited to, the following:

(a) generation of billing charges by application of rates to customer's meter readings, as applicable;

(b) presentation of charges to utilities for the actual services provided and the rendering of bills;

(c) extension of credit to and collection of payments from end-use customers and utilities, as well as uncollectible accounts;

(d) disbursement of funds collected;

(e) customer account data management;

(f) customer care and call center activities related to billing inquiries from end-use customers and utilities;

(g) administrative activities necessary to maintain utility billing accounts;

(h) an operating billing system; and

(i) error investigation and resolution.

(7) customer care services - customer care services are services rendered to customers associated with support of a competitive provider's products, services, information and technologies;

(8) installation and maintenance of metering equipment;

(9) metering system services - metering system services relate to the installation, maintenance, and polling of an end-use customer's standard meter. Metering system services include, but are not limited to, the following:

(a) ownership of standard meter equipment and meter parts;

(b) storage of standard meters and meter parts not in service;

(c) measurement or estimation of the energy consumed or demanded by a retail consumer during a specified period limited to the customer usage necessary for the rendering of a monthly bill;

(d) meter calibration and testing;

(e) meter reading, including non-interval, interval, and remote meter reading;

(f) individual customer outage detection and usage monitoring;

(g) theft detection and prevention;

(h) customer account maintenance;

(i) installation or removal of metering equipment;

(j) an operating metering system; and

(k) error investigation and re-reads.

(10) energy-consuming, customer-premise equipment;

(11) the provision of energy efficiency and control of dispatchable load management services;

(12) the provision of technical assistance relating to any customer-premises process or device that consumes electricity or natural gas, including energy audits;

(13) customer or facility specific energy efficiency, energy conservation, power quality and reliability equipment and related diagnostic services, and load management and resale services;

(14) the provision of anything of value other than tariffed services to trade groups, builders, developers, financial institutions, architects and engineers, landlords, and other persons involved in making decisions relating to investments in energy-consuming equipment or buildings on behalf of the ultimate retail customer;

(15) customer-premises transformation equipment, power-generation equipment and related services;

(16) privately-owned and operated power generation equipment and related services;

(17) the provision of information relating to customer usage, including electrical pulse service;

(18) communications services related to any energy service;

(19) provision of financial services, insurance products, and home or property security services;

(20) non-roadway, outdoor security lighting,;

(21) building or facility design and related engineering services, including building shell construction, renovation or improvement, or analysis and design of energy-related industrial processes;

(22) propane and other energy-based services;

(23) facilities operations and management;

(24) controls and other premises energy management systems, environmental control systems, and related services;

(25) performance contracting (commercial, institutional and industrial);

(26) indoor air quality products (including, but not limited to air filtration, electronic and electrostatic filters, and humidifiers);

(27) duct sealing and duct cleaning;

(28) air balancing; and

(29) other activities identified by the commission.