STATE OF PENNSYLVANIA
PUBLIC UTILITIES COMMISSION

Provider of Last Resort Roundtable
Docket Number M-00041792

Reply Comments of Amerada Hess Corporation

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June 17, 2004

Executive Summary

Pursuant to the March 18, 2004 notice of the Pennsylvania Public Utilities Commission ("Commission"), Amerada Hess Corporation ("Hess") submits these reply comments for consideration in the Provider of Last Resort ("POLR") roundtable. This roundtable process has provided a comprehensive discussion on the POLR issues and it is apparent there are a number of divergent positions. Hess reiterates its position outlined in its initial comments that in order to foster a competitive market place, POLR rules must provide for POLR service that accurately reflects market prices and serves only as the intended default or backstop service. Hess would like to respond to several issues that were raised during this collaborative process.

POLR Pricing Options

In its initial comments and as suggested by Constellation NewEnergy Inc., Hess advocated a POLR model that represents a backstop or default option only, and should therefore consist of only one pricing option that would be available to a customer. Multiple pricing options, as proposed by the Energy Association of PA, is not consistent with the spirit and intent of POLR service as it would effectively allow the POLR provider to compete against product offerings of the Electric Generations Suppliers ("EGS"). Additionally, PECO Energy Company proposed both a variable pricing option, and the option for fixed-priced deals through contracts administered by the Electric Distribution Company ("EDC"). The Industrial Energy Consumers of Pennsylvania also propose that multiple POLR pricing options, including an hourly option and variations of fixed price options should be offered. Not only are multiple pricing options anti-competitive, fixed-priced contracts provide the EDC with a marketing tool that would directly compete with EGS products. Therefore, in order to ensure a robust competitive market, a POLR provider must not offer more than one pricing option.

Wholesale Procurement Process

To ensure a level playing field in the procurement process, Hess maintains that the Commission must approve a competitive procurement process and the results thereto. Exelon Generation Company, however, suggests that the EDC should be responsible for its procurement process. Additionally, the Pennsylvania AFL-CIO Utility Caucus recommends that the POLR provider should be afforded flexibility and that a particular procurement process should not be required. These proposals present two major concerns: (1) increased possibilities of affiliate abuse that could occur if an EDC had the ability to exercise preferential treatment with its affiliate to procure its POLR requirements, and (2) difficulty assuring that the EDC's procurement decision is market based. For these reasons, Hess suggests that the Commission build on the proven experiences of the New Jersey and Maryland competitive bid processes; a statewide procurement process conducted and approved by the Commission promotes a competitive and fair process.

Wholesale Bid Term

In order to provide accurate pricing signals for customers, POLR pricing must reflect the wholesale electric market prices. Hess recommended in its initial comments that an hourly spot price is appropriate for large commercial and industrial customers, while fixed prices (which at a minimum should include seasonal differentiation) through a competitive bid process may be appropriate for small commercial and residential customers. In order to develop wholesale commitments that are market based, the Commission needs to balance the price stability afforded by long-term commitments with the more accurate pricing signals provided under short-term commitments. PSEG Energy Resources & Trade LLC suggests a portfolio of wholesale commitments of up to five years. Locking into prices for longer terms, while providing a longer period of price certainty, does not necessarily provide accurate pricing signals. For example, such a portfolio during periods of decreasing power costs would not experience as accurate a pricing adjustment compared with shorter-term commitments. Shorter-term bids would more accurately reflect current wholesale markets and therefore appropriately mitigate price risk for participants.

Moreover, accurate pricing signals allow customers to recognize higher cost periods of time, and take actions to consume energy more efficiently than they might absent those price fluctuations. Therefore, Hess supports wholesale bids of one year which would appropriately balance price risk concerns with the need for market based pricing.

Switching Restrictions

A truly competitive environment gives customers the freedom to switch supply options based on market decisions, without any mandated limits on their movement between suppliers. Citizen's and Wellsboro Electric Companies propose a 12-month stay provision for its customers, while Exelon Generation Company proposes generic switching restrictions to minimize risk. Hess, Strategic Energy, Reliant Energy and Direct Energy maintain that switching restrictions would impede competition, and are therefore not appropriate. A properly designed POLR model prevents gaming and obviates the need for switching restrictions.

Retail Adder or Administrative Charges

In its comments and presentation, PSEG Energy Resources and Trade LLC suggested that adders do not represent the true costs for POLR service. On the contrary, adders or administrative charges are pricing mechanisms developed to mirror the costs for providing POLR service. Adders help to reflect the EDC's costs for providing generation or POLR service that would otherwise remain in its distribution charge.

EDC Serving Beyond its Service Area

Pennsylvania Power and Light Energy Plus states in its comments that an EDC should be permitted to supply services outside of its service territory. As stated in Hess' comments in the Pennsylvania proposed rulemaking on permanent standards of conduct (52 PA. CODE CH. 62.141 and 62.142, Docket No. L-00030162) for natural gas service, Hess asserts that an EDC must compete only through an unregulated affiliate. The creation of a separate affiliate to provide competitive products or services would alleviate concerns of cross subsidies and anti-competitive behavior between the EDC and its affiliate. To allow otherwise would permit the EDC to compete at an unfair advantage.

Timing of Adoption of POLR Regulations

UGI Utilities, Inc. suggests that the Commission delay the adoption of permanent regulations until the majority of the generation rate caps are about to expire. On the contrary, POLR regulations with staggered implementation schedules to account for the various rate cap terms can be adopted in a reasonable time frame and Hess sees no reason to delay adoption of these regulations even though implementation would not be undertaken in each utility simultaneously. Additionally, the adoption of general rules would not prevent the Commission from modifying the POLR model should there be any significant changes in the market. Having POLR rules in place would provide a level of market certainty on the major POLR issues, thereby providing incentives for market participation.

Flexibility of the POLR Model

UGI Utilities, Inc. states that POLR rules should allow a variety of approaches to address circumstances for each EDC and account for a level of supply risk. In its initial comments, Hess recommended that the Commission adopt uniform POLR rules for all EDCs to allow for a more efficient process. Uniform rules would allow the Commission to streamline the implementation of POLR service in the respective service areas including addressing key policy issues, reviewing the POLR proposal, administering the competitive bid process, validating the bid results, etc. Regarding the concerns on EDC risk, with uniform rules that properly design the POLR model (e.g., market based service), the risks to the EDC are minimal.

Conclusion

The proper resolution of these POLR issues is essential for a robust competitive market. Hess urges the Commission to establish POLR rules that include the policies and provisions outlined in Hess' initial comments and herein. Such a structure will provide the intended default/backstop service while supporting a thriving competitive power market. Hess looks forward to participating in the next steps in the roundtable process.