STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on May 18, 2005

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin

CASE 05-M-0332 - In the Matter of Central Hudson Gas & Electric Corporation's Plan to Foster the Development of Retail Energy Markets.

ORDER ACCEPTING RETAIL ACCESS PLAN, MODIFYING RATE PLAN, AND ESTABLISHING FURTHER PROCEDURES

(Issued and Effective June 1, 2005)

BY THE COMMISSION:

BACKGROUND

On December 15, 2004, Central Hudson Gas & Electric Corporation (Central Hudson) filed a Plan to Foster the Development of Retail Energy Markets (the Retail Access Plan or the Plan),[1] in response to the Statement of Policy on Further Steps toward Competition in Retail Energy Markets (Statement of Policy) issued August 25, 2004 in Case 00-M-0504.[2] The Statement of Policy directs electric and gas utilities to prepare retail access plans that “foster the development of retail energy markets in collaboration with [Staff of the Department of Public

---

[1] Central Hudson filed a supplement to its Plan on March 16, 2005.

[2] The Central Hudson Plan filing was docketed as Case 05-M-0332, replacing the Case 00-M-0504 designation.

Service (Staff)] and other interested parties."[3] The retail access plans would implement the policies and achieve the goals set forth in the Statement of Policy, including accelerating the migration of regulated utility electric and gas commodity customers to non-utility suppliers.

Notice of Central Hudson's filing was published in the State Register on January 12, 2005, in conformance with the State Administrative Procedure Act (SAPA). Prior to the expiration of the SAPA comment period on February 28, 2005, a joint comment was received from New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (collectively, NYSEG/RGE).

THE RETAIL ACCESS PLAN

Central Hudson's Retail Access Plan sets forth the company's previously-approved, on-going and pending initiatives for facilitating the growth of competitive retail energy markets in the utility's service territory. Many elements of the Plan were developed through the collaborative process established in the Rate Plan Order, which stipulated that parties in the proceeding should "promptly convene" a Retail Access Collaborative (the Collaborative) on facilitating customer migration to alternative suppliers,[4] such as energy services companies (ESCO). Central Hudson commenced that Collaborative shortly after the issuance of the Rate Plan Order, prior to the August 25, 2004 issuance of the Statement of Policy. Central Hudson, Staff, and other parties agreed the company could fulfill its obligations under the Statement of Policy through the Collaborative established under the Rate Plan Order.

---

[3] Statement of Policy, p. 52.

[4] Cases 00-E-1273 & 00-G-1274, Central Hudson Gas & Electric Corporation, Order Modifying Rate Plan (issued June 14, 2004), Appendix, p. 18.

The Retail Access Plan is analyzed below. The success of Central Hudson's efforts to comply with the Statement of Policy are assessed, followed by analyses of the Plan's previously-approved, on-going and pending initiatives. Issues requiring further consideration are then identified. Several initiatives would be accomplished through modification of Rate Plan Order provisions.

Compliance with the Statement of Policy

Parties in the Collaborative worked to develop proposals to facilitate residential, commercial, and industrial customer migration in Central Hudson's service territory. The company's Retail Access Plan lists the initiatives, programs and proposals that have been developed through the Collaborative, or by the company independently, including a purchase of receivables (POR) program; removal of certain gas charges from listing on customer bills; electric hourly pricing for large commercial and industrial electric customers; an electric competitive metering program; a Market Match and Market Expo program; a Customer Education program; Web site enhancements; modifications to the company's customer migration incentive; an ESCO savings program; and, participation in New York State's Light the Way campaign for electric service to government facilities. An initiative to aggregate customers for migration to ESCO supply service, and balancing and cashout issues arising out of ESCO supply service to small gas customers, remain under consideration.

Discussion

Central Hudson's proposed Retail Access Plan, in laying out specific retail access initiatives, demonstrates the fruits of the Collaborative's labor and its successful progress to date. Parties examined competitive market best practices found across New York and the nation and, based on the outcomes of that inquiry, proposed programs that will facilitate retail access, thereby providing benefits to all customers in the service territory by ushering in more pricing and service options than would be available under the prior regime of integrated utility monopoly service. We conclude that Central Hudson's Retail Access Plan is consistent with our Statement of Policy, which strongly encourages the implementation of retail access initiatives, notably POR and ESCO savings programs, as interim steps in the development of competitive electric and gas retail markets.

Previously-Approved Initiatives

A. Purchase of ESCO Receivables (POR) Program

One of the issues proposed in the Rate Plan Order for discussion in the Collaborative was consideration of the POR approach to consolidated bill and accounts receivable procedures, whereby the company would conduct billing and collection activities for the ESCOs. Central Hudson notes that implementing the POR approach was the highest priority expressed by ESCOs participating in the Collaborative.

Under Central Hudson's POR program, ESCOs that do not desire to issue their own bills may elect to delegate the billing function to Central Hudson, which will then issue a consolidated bill combining ESCO and company charges and collect payment from customers on behalf of the ESCOs. In conjunction with the consolidated bill, the company purchases the ESCOs' accounts receivable, at a discount through which the ESCOs compensate the company for absorbing the cost of those accounts that become uncollectible and the expense of administering the POR program. Central Hudson's POR program ties together consolidated billing and the purchase of accounts receivable; ESCOs opting to join the program must agree to both components, and cannot elect to participate in one program component standing alone. The company commenced implementation of the POR program on November 1, 2004, after tariffs detailing the POR mechanisms were approved in an Untitled Order issued October 20, 2004 in Case 00-E-1273.[5]

During the Collaborative, parties developed the POR mechanisms that were incorporated in the company's tariffs. They agreed to set, at 0.90%, the discount that compensates Central Hudson for its purchase of accounts receivable under the program. The discount consists of the company's average net write-off of 0.65% attributable to those accounts it cannot recover and must treat as bad debt, and a factor of 0.25% that represents the company's administrative costs of running the program.

The write-off component of the accounts receivable discount rate is updated annually. At the first annual update, effective April 1, 2005, the average net write-off was increased to 0.72%, which, when added to the 0.25% administrative cost component, results in a discount rate of 0.97%.

Discussion

Through its POR program, Central Hudson joins the ranks of the other large electric and gas utilities in New York, which currently have or are planning to implement such a program. The POR program will reduce uncollectibles cost uncertainties for participating ESCOs, decreasing their costs for collecting unpaid bills and minimizing their administrative costs, while simplifying their operations. The company also benefits, because it may implement the streamlined procedures for collecting unpaid ESCO charges that will accompany the assumption of accounts receivable from ESCOs under the POR

[5] The costs of the POR program to Central Hudson, and the recovery of those costs, are described in the company's POR tariff filing.

program,[6] and because the receivables discount rate is set, establishing the value of the compensation it will receive for assuming the uncollectibles risk. Ratepayers benefit, because ESCOs are better able to offer them the advantages of enhanced competition, including value-added services and more pricing options. Therefore, all parties to the competitive retail market will realize advantages from the implementation of the POR program.

B. Removing Gas Charge Listings From Customer Bills

Parties to Central Hudson's Collaborative also discussed the removal of pipeline release, storage, and peaking service charges from the gas bills of customers that select ESCOs as their gas commodity suppliers. The parties believe deleting the charges allows customers to compare more accurately the price of ESCO service against the cost of the supply the company would provide.

As noted in the Plan, to effect this change, Central Hudson filed tariffs on November 1, 2004, with a requested effective date of April 1, 2005. In the Collaborative, ESCOs supported the April 2005 date, as affording the time needed to prepare for the impact of the proposed bill changes on the commodity prices that they charge their customers. To further accommodate the ESCOs, Central Hudson subsequently requested that the changes take effect on April 4, 2005 instead of April 1, to take into account the company's billing cycle. The company's tariffs and the implementation date were approved in an Untitled Order issued March 16, 2005 in Case 00-G-1274.

[6] See Case 03-M-0017, Implementation of Chapter 686 of the Laws of 2002, Order Relating to Implementation of Chapter 686 of the Laws of 2002 and Pro-Ration of Consolidated Bills (issued June 30, 2003) and Order on Petitions For Rehearing and Clarification (issued December 5, 2003).

Discussion

Central Hudson's modification of its bill format to remove the listing of certain gas charges is appropriate. In order to shop for energy supply effectively, customers should be able to readily compare gas commodity supplier offers against the company's charges for commodity service. Central Hudson's prior approach of listing certain charges on bills inadvertently created confusion rather than aiding comparison, because the charges could not be matched directly against comparable ESCO service offerings, and it appeared that the company was imposing additional charges, beyond what company customers pay, on those customers that selected ESCOs as their gas supply providers.[7] Consequently, the removal of these charges from retail access customer bills will result in a more level playing field for ESCOs competing in the marketplace for gas service.

C. Hourly Pricing Proposal

On November 1, 2004, Central Hudson filed tariffs requiring all large electric customers, under Service Classification No. 3 (S.C. 3) and S.C. 13, that opt to purchase electric commodity from the company to take that service at hourly prices. The hourly pricing of commodity service to these large customers is intended to encourage the development of retail markets. The option to purchase commodity at a traditional utility rate offering carries with it hedges against short-term fluctuations, through company contracts for long-term supply or other financial arrangements. With the elimination of the traditional rate option, customers are encouraged to seek out hedging through supply arrangements with ESCOs. As

[7] For bundled service customers, the charges are subsumed in the bundled rate bill they receive, and so are not easily visible to them. The unbundling of charges into components that accurately convey information on competitive functions is under consideration in Case 00-M-0405, Development of Retail Competitive Opportunities, Order Directing Submission of Unbundled Bill Formats (issued February 18, 2005).

discussed in the Statement of Policy, utilities are expected to phase-out hedging services for their larger customers, because that type of service can now be supplied to them from the competitive market.

Central Hudson's tariff filing on the implementation of hourly pricing was approved in an Untitled Order issued April 13, 2005 in Case 00-E-1273. Eleven ESCOs have expressed an interest in offering commodity service alternatives to these hourly customers within Central Hudson's service territory.

Discussion

The Statement of Policy encouraged Central Hudson to discuss in the Collaborative proposals for implementing hourly commodity pricing for large commercial and industrial customers, because the hourly pricing of utility electric commodity service promotes the development of retail market alternatives to that price. The Collaborative was helpful in addressing issues related to implementation of this pricing method. The number of ESCOs interested in providing service alternatives to utility hourly pricing indicates the market is responding as anticipated.

Ongoing Initiatives

A. Electric Competitive Metering

The Rate Plan Order called for the development of an electric competitive metering initiative, with the development costs recovered from the Benefit Fund;[8] up to $500,000 was reserved to fund installation of "advanced metering technologies and implementation of related pricing strategies intended to

[8] As discussed in the Rate Plan Order, that Fund is comprised of the gain the company realized on the sale of its generation plants upon divestiture, and other ratepayer credits.

facilitate the development of competitive markets."[9] Staff and the company worked in collaboration to research appropriate metering enhancement tools.

Central Hudson determined that obtaining metering software to track and monitor energy usage would be an efficient and productive tool for the S.C. 3 and S.C. 13 electric customers that are moving to hourly pricing. The company, with Staff input, developed and issued a Request for Proposals (RFP) to solicit bids for software intended to provide these hourly pricing customers with the ability to study and manage their energy usage, as well as assist in their solicitation of competitive offers from ESCOs. Customers also may use the data the software yields to facilitate participation in New York State Energy Research and Development Authority (NYSERDA) energy efficiency programs and New York Independent System Operator (NYISO) demand response programs.[10]

Central Hudson reviewed the submitted bids and recently awarded the contract to a vendor. The vendor will manage all aspects of installing the software and provide training and ongoing support to the participating customers. The vendor will also conduct an analysis of the effectiveness of the initiative by surveying participating customers about the program. The installation of the software has been planned for May 2005. Central Hudson estimates that the costs of the

[9] Rate Plan Order, pp. 19-20, §IV.k.

[10] NYSERDA has agreed to assist customers in determining their eligibility for energy reduction programs, as well as assist in investigating expanding the availability of the software to smaller commercial customers in the S.C. 2 and S.C. 2D customer classes.

metering initiative will fall within the $500,000 reserved for the project.[11]

Discussion

The implementation of the competitive metering initiative will equip Central Hudson's largest customers with metering software improvements that will assist them in monitoring their energy usage. They may then participate more effectively in retail access and better manage their electricity bills through energy efficiency, load management, and demand reduction programs.

B. Market Match and Market Expo Programs

The Rate Plan Order requires Central Hudson to develop a Market Match program to create opportunities for ESCOs and the company's commercial customers with a peak demand of 250 kW or more to exchange information, which will facilitate development of competitive energy markets. Central Hudson may opt to reduce the peak demand eligibility threshold, if necessary to increase customer and ESCO participation in the program.

The Rate Plan Order also calls for the continuation of Central Hudson's Market Expo program to open an opportunity for ESCOs and Central Hudson's business customers to meet together in an informational setting. Central Hudson held its third Market Expo on September 23, 2004, and a fourth was conducted on April 21, 2005.

Discussion

Central Hudson's proposals to initiate a Market Match program and continue its Market Expo program are accepted. This approach is consistent with the Statement of Policy, which

[11] While this approach differs somewhat from the metering initiative that was first envisioned in 2001, it is an effective means of promoting retail access and more efficient energy usage, and so satisfies the intent of the Rate Plan Order. Cf. Case 00-E-0073, supra, Order Establishing Rates (issued October 25, 2001), pp. 8-9, with Rate Plan Order, p. 10.

identified these programs as among the “best practices” for promoting retail access. The programs have demonstrated their value, within Central Hudson’s service territory and elsewhere, in connecting customers to ESCOs and the service options and value they afford.

C. Competition Education Program

The Rate Plan Order authorizes Central Hudson to offset up to $250,000 in each of the Rate Years ending June 30, 2005 and June 30, 2006 against the Benefit Fund for incremental spending on a competition education campaign aimed at promoting customer migration to ESCOs. The company developed an education campaign in consultation with Staff and interested parties. As one feature of the campaign, the company, in January 2005, mailed bill inserts to encourage customers to give permission for the release of their name, phone number, and/or e-mail address to ESCOs, in order to allow them to contact the customers with information on price and service options. This program led to over 1,000 sales leads and is still in progress. As of the end of February 2005, however, less than $30,000 of the $250,000 available for outreach and education had been expended, and the company does not expect that the remainder will be spent by the end of the current Rate Year on June 30, 2005 (June 2005 Rate Year).

In its supplemental filing, Central Hudson proposes to carryover unused competition education funds from the June 2005 Rate Year to the Rate Year ending June 30, 2006 (June 2006 Rate Year). It believes the funds may be more efficiently and effectively spent in the latter year, when additional elements of its Retail Access Plan will have been implemented.

Discussion

Central Hudson’s proposals for the uses and carryover of competition education funds are acceptable, and the Rate Plan Order is modified accordingly. With the implementation of ongoing retail access initiatives, and the development of the initiatives currently awaiting approval, additional opportunities are expected where the company may deploy these educational funding resources in an efficient and cost-effective manner to facilitate competition in its service territory. The selection and implementation of the additional competitive education efforts deserving of support through the disbursement of these funds should be discussed in the ongoing Collaborative.

D. Web site Enhancements

In the Collaborative, the company proposed improvements to the quality of the presentation of retail access information on its Web site. These changes are aimed at better launching initiatives like the ESCO savings program (discussed below), and making it easier and more efficient for ESCOs to access, where authorized, customer information, including customer billing data and billing determinants for natural gas pipeline capacity, storage, and peaking service.

In its supplemental filing, Central Hudson expresses an interest in redirecting up to $75,000 of the competition education funds, provided for in the Rate Plan Order, to the purpose of retaining an outside contractor who will professionally upgrade the Web site’s performance, resulting in an improved presentation of the new retail access initiatives. The company believes these changes would benefit customers through enhanced use of the Internet as a tool for widely disseminating pertinent information on retail choice, in a manner that facilitates customer understanding of their retail access opportunities.

Discussion

Better deployment of the Internet as a tool for promoting competition would further the Commission’s policies for developing competitive markets. Customers increasingly rely on the Internet as a tool for gathering information on options for obtaining the services they desire, and to shop directly for those services. Therefore, the Rate Plan Order is modified, to authorize Central Hudson to implement its Web site improvement proposals.

E. Customer Migration Incentive

The Rate Plan Order establishes a customer migration incentive that encourages the company to facilitate movement of its commodity customers to alternate suppliers. Under the incentive, the company's electric and gas earnings threshold for each rate year will be increased by up to 30 basis points in return on equity if annual customer migration targets are met; those targets are set at approximately 14,478 electric customers and 3,583 gas customers above the number of customers previously participating in retail access.

Central Hudson believes the migration targets will not be achievable during the June 2005 Rate Year, because, in that time period, the implementation of programs promoting retail access in its service territory either had not commenced or were in the early stages, resulting in low levels of ESCO penetration and activity. Given the progress made in the Collaborative in introducing and implementing programs like POR, and in developing an ESCO savings program, Central Hudson sees a more realistic chance of achieving the migration targets in the June 2006 Rate Year. As a result, it requests permission to carry over any unearned incentives from the June 2005 Rate Year to the June 2006 Rate Year.

Discussion

Because ESCO activity in the past year lagged in its service territory while retail access programs were under discussion and development, the Rate Plan Order is modified to allow Central Hudson to carryover any unearned migration incentives from the June 2005 Rate Year to the June 2006 Rate Year. Implementation of the retail access programs arising out of the Collaborative in the coming year, as described in the Retail Access Plan, will create a more realistic opportunity for the company to meet the proposed migration targets. The carryover would also result in an incentive for the company to achieve the overall 10% migration goal that was intended as the target at the end of the two year period.

As Central Hudson proposes, however, the carryover should be made contingent upon implementation of Energy CHoice, the ESCO savings program it proposes (discussed below). December 1, 2005 is selected as the date that the Energy CHoice program must commence, in order for Central Hudson to carryover the incentive. That time frame should be sufficient for the company to resolve any details affecting implementation of the program in the Collaborative.

Pending Initiatives

A. The "Energy CHoice" Program

The Rate Plan Order specifies the development and implementation of an ESCO savings program, modeled after "Power Switch," the successful customer migration program instituted by Orange and Rockland Utilities, Inc. (O&R). In the "Power Switch" program, customers contacting O&R via telephone, in writing, or by visiting the utility's Web site are asked if they want to enroll with an ESCO for an introductory period, with a guarantee of a percentage discount from the utility's commodity rate. In "Power Switch", the discount is set at 7% for an introductory period of two months. ESCOs are queued, and then referred on a rotating basis, to inquiring customers that desire to join the program and take the standard discount offer, but do not express an interest in enrolling with a particular ESCO. Customers can also specifically designate a particular participating ESCO at the time they enroll in the program, instead of opting to accept an ESCO from the queue.

As noted in its filing, Central Hudson proposes to implement its version of “Power Switch,” tentatively entitled “Energy CHoice,” no later than December 1, 2005. “Energy CHoice” has been discussed extensively in the Collaborative, and the details of its implementation remain under consideration.

Under Energy CHoice, upon answering a customer’s telephone call to the company, Central Hudson’s personnel will either enroll willing customers with the ESCO referred from the queue, or, if the customer desires, enroll it with a participating ESCO of its choice. The company will also calculate the introductory discount price on the customer’s commodity bills. Before the end of the introductory period, the ESCO and the customer make pricing arrangements to continue ESCO commodity service after the introductory period expires. The customer retains the option to return to Central Hudson commodity service.

Discussion

O&R launched its “Power Switch” program in August 2000, when only 9,836 residential electric and 9,794 residential gas customers were participating in competitive markets. One year after the launch of “Power Switch,” 32,711 residential electric and 25,986 residential gas customers were participating. Currently, approximately 31% (56,213) of O&R’s residential electric and 37% (40,010) of residential gas customers have switched to an alternative competitive supplier. O&R reports that only about 1% of the customers that have participated in “Power Switch” have returned to utility commodity service. Therefore, the “Power Switch” type of ESCO savings programs has demonstrated its worth.

The administrative details attending Central Hudson’s implementation of “Energy CHoice,” including provisions for ESCO notification to customers regarding the terms and conditions of an offer to continue service after the introductory period, and the potential impact of implementing the program on Central Hudson's provision of customer service, will be discussed in the Collaborative, prior to the program launch date. Once these administrative details have been finalized, in conformance with the principles established here, Central Hudson shall list and describe them in a compliance filing made at least 60 days prior to the planned commencement of the "Energy CHoice" program. The company may then launch the program following our approval of the compliance filing.

B. State Facilities Initiative

Central Hudson plans to work with Staff, NYSERDA and the Office of General Services (OGS) on the "State Facilities Light the Way" program which facilitates enrollment of state facilities with competitive suppliers. Commencement of this initiative is in its initial stages.

Discussion

Central Hudson's participation in "State Facilities Light the Way" promotes retail access and reduces burdens on New York's taxpayers. Central Hudson is advised to continue its efforts.

ISSUES REQUIRING FURTHER CONSIDERATION

Parties to the Collaborative plan to continue to review and discuss items, such as development of additional competitive education programs and innovative methods for promoting retail access, to give customers the opportunity to experience the benefits of the competitive marketplace. Central Hudson notes two issues that are unresolved -- the aggregation of customers for migration to ESCOs and gas balancing and cashout for ESCOs that provide gas service.

The Collaborative process born out of the Rate Plan Order should continue its progress, and the parties should work together to resolve all outstanding issues, to facilitate competition in Central Hudson's service territory. On a number of outstanding issues, including several not raised to date by Central Hudson, further procedures are needed. In some cases, guidance to the Collaborative should be sufficient to facilitate continued progress. In other circumstances, additional filings are called for.

Customer Aggregation and Migration

Central Hudson plans to continue to study the proposals other utilities may present on the aggregation of utility commodity customers for migration to ESCO commodity suppliers. It does not propose to implement an aggregation and migration plan at this time.

Discussion

Central Hudson is advised to continue to monitor customer aggregation and migration proposals made by other utilities. It should discuss any such proposals implemented by other utilities with ESCOs and other parties in the on-going Collaborative.

Gas Competitive Market Issues

A. Gas Balancing and Cash-Out

An issue affecting competitive retail gas supply markets that has been discussed in the Collaborative is Central Hudson's approach to gas balancing charges for ESCOs.[12] As noted in Central Hudson's filing, ESCOs are allowed to rely upon supply from the company's natural gas storage arrangements to

[12] A related issue discussed in the Collaborative was real-time metering and daily balancing for large customers, which would send more accurate pricing signals, facilitating the growth of competitive markets. Most of Central Hudson's large customers, however, are not equipped with the meters that can record and report the data necessary to achieve daily balancing. The installation of that metering is under consideration, as discussed in an Order on Real-Time Marketing and Daily Balancing, and Notice Soliciting Comments, issued today in Case 04-G-0463, and daily balancing for large customers shall be considered there in conjunction with the metering issues.

balance the amounts they have had delivered to the "city gate" against the actual usage of their small customers. The company cashes out charges for this balancing service on an annual basis using average annual gas prices, based on the company's requirement that ESCOs nominate a uniform daily delivery amount throughout the year. Conducting cashouts on a more frequent basis, to more accurately account for varying gas prices and usage throughout the year, was discussed in the Collaborative.

Discussion

Due to variations in gas prices and usage that occur during the course of a year, Central Hudson's current approach to balancing and cashouts does not properly capture the actual value of the ESCO imbalances that arise during different periods of the year. The Collaborative should develop a monthly balancing and cashout process for ESCOs that would reflect monthly delivery requirements and would more properly align the amount ESCOs are charged with the actual costs Central Hudson incurs in balancing gas supplies.

Central Hudson is directed to report on ESCO balancing issues within 60 days of the date of an Order here. The report should reflect the next steps the company plans to take, after consultation with the parties to the Collaborative, to address the effects of gas balancing and cashout for ESCOs on promoting retail access in gas markets in a cost-effective manner. To the extent consensus is not achieved in the Collaborative, other parties are invited to submit their own proposals as of the 60 day deadline.

B. The Fixed Price Offering

An issue that Central Hudson did not discuss in its Plan, but has been raised by parties in the Collaborative, is the elimination of the fixed price option the company offers gas retail customers each winter season. The Small Customer Marketer Coalition (SCMC) filed a petition on March 8, 2005, initiating Case 05-G-0311, requesting that Central Hudson be directed to cease offering such a fixed supply price, because it is a value-added service that should be provided by ESCOs and not the utility.

Discussion

Central Hudson's fixed price gas service option has been discussed in the Collaborative, but the issue was not resolved. We will address the merits of SCMC's proposal to eliminate the option at an appropriate time after comments have been received in Case 05-G-0311.

Back Out Credits

Central Hudson's electric back out credits for customers that select alternative electric retail access providers are currently set at 4 mills per kWh for S.C. No. 1, 2 and 6 residential and commercial non-demand customers, 3 mills for S.C. 2D commercial demand customers, 2 mills for S.C. 3 customers and 0.5 mills for S.C. 13 customers. The gas back out credit is set at $0.15 per Mcf. These credits are subtracted from the company's charges for delivering ESCO commodity to customers, and are intended to represent the customer service and other cost savings the company realizes when ESCOs assume responsibility for supplying services to the customers that purchase commodity from them. The amounts of these credits were not based on actual costs at the time they were set and they have not undergone a detailed review recently. Their amounts may exceed the company's embedded costs of supplying the services that have been transferred to the responsibility of the ESCOs.

Discussion

To address the problem of back out credits that do not match embedded costs, the Statement of Policy on Unbundling directs each utility to file embedded cost studies with new rate proceeding filings or filings to extend existing rate plans, as well as file proposed competitive service rates based on those studies and a proposed mechanism to recover lost revenues.[13] Central Hudson, however, may not file a new rate plan, or for an extension of the existing plan, for some time. With the increases in customer migration expected as a result of the adoption of the Retail Access Plan, any incongruities between embedded cost and the amount of the credits could result in improper cross-subsidies and windfall cost recoveries to the detriment of ratepayers.

Moreover, circumstances affecting the back-out credits have changed substantially since the Rate Plan Order and the Statement of Policy were issued. The POR program alters the division of responsibilities between Central Hudson and ESCOs, and could substantially affect the cost to Central Hudson of providing the services reflected in the credits. Implementation of the Retail Access Plan, including the Energy CHoice program that would replicate O&R's highly successful "Power Switch" approach to promoting retail access, could significantly increase migration levels at Central Hudson. Indeed, given that retail access penetration rates among Central Hudson's residential customers was below 1%, and O&R's residential penetration rates are in excess of 30%, the effects of the new programs at Central Hudson should be significant.

Therefore, Central Hudson shall file a new unbundled cost of service study, either by January 1, 2006, for the twelve months ending December 2004, or with its next rate plan filing, using the same test period as the rate filing, whichever is earlier. The filing shall satisfy the requirements set forth in the Statement of Policy on Unbundling. Once the study is filed, we will embark upon those procedures that will enable us to

---

[13] Case 00-M-0504, supra, Statement of Policy on Unbundling and Order Directing Tariff Filings (issued August 25, 2004).

identify costs, and establish credits for Central Hudson that properly balance the promotion of retail access with the correct allocation of cost responsibility between retail access and utility service customers.

THE NYSEG/RGE COMMENT

In its comment, NYSEG/RG&E urges us to forgo taking "any action on the Plan until the completion of a meaningful collaborative process that includes research, fact finding, analysis, input from other parties, and a full opportunity to reach consensus."[14] The utility also proposes that we defer action on the Plan until there is "an affirmative demonstration that the existing model programs have produced sustained benefits for customers that are likely to be replicated in the proposed programs."[15]

Discussion

NYSEG/RGE maintains that additional collaboration is needed before Central Hudson's Retail Access Plan is addressed. The Collaborative Central Hudson has already conducted, however, has been an effort undertaken by the company, Staff and all parties to the proceeding, including NYSEG/RG&E to the extent it decided to participate. Additional retail access program proposals arose out of the Collaborative following issuance of the Statement of Policy, after fact finding, discussion, and negotiation of the issues among the parties.

The retail access programs developed as a result of the Collaborative, as reported in Central Hudson's Retail Access Plan, reflect a thorough review of the issues and the efforts of most of the parties to work together to reach consensus. The Collaborative has been entirely representative of what was expected when the Statement of Policy was issued, directing

---

[14] NYSEG/RG&E Filing, p. 1.

[15] NYSEG/RG&E Filing, p. 9.

utilities to prepare retail access plans following consultations with interested parties. Therefore, NYSEG/RG&E's claim that the collaborative process was inadequate lacks merit.

Also without merit is NYSEG/RG&E's request that action on the Retail Access Plan be deferred until there is a showing, to the extent NYSEG/RG&E deems sufficient, of sustained customer benefits from competition.[16] In continuing, with the issuance of the Statement of Policy, our long-established policies for promoting development of retail energy competitive markets,[17] we determined that competition "is the preferred means of promoting efficient energy services, [is] well-suited to deliver just and reasonable prices, while also providing customers with the benefit of greater choice, value and innovation."[18] The Statement of Policy also notes that "[competitive] policies have been guided by the successes and challenges experienced in this and other states and especially by the promising level of success that has been achieved in New York."[19]

Moreover, in the Order Continuing Programs,[20] arguments against continuation of policies for promoting the growth of competitive markets were rejected. We decided that those arguments, which resemble the positions taken here by NYSEG/RGE, were "wholly inconsistent with [the] policy objectives of

---

[16] NYSEG/RG&E's objections to the aggregation of customers for migration to ESCOs are not ripe for consideration, as Central Hudson has not yet made such an aggregation proposal.

[17] Case 94-E-0962, Competitive Opportunities Regarding Electric Service, Opinion No. 96-12 (issued May 20, 1996).

[18] Statement of Policy, p. 18.

[19] Statement of Policy, p. 1.

[20] Case 04-G-0718, National Fuel Gas Distribution Corporation, Order Canceling Rate Schedule Amendments and Continuing Low Income and Competitive Market Programs (issued September 28, 2004).

fostering a competitive retail market,"[21] and that our policies for promoting competition were the best approach to the efficient provision of energy services at just and reasonable rates.[22]

Besides opposing implementation of the Retail Access Plan generally, NYSEG/RG&E specifically criticizes Central Hudson's proposal for replicating in its service territory O&R's successful "Power Switch" program. Those criticisms are not persuasive. Less than 1% of the O&R customers participating in "Power Switch" have returned to utility commodity service, adequately demonstrating that O&R's customers are satisfied with the program. Central Hudson's customers should not be denied the opportunity to enjoy similar satisfaction. Moreover, the "Power Switch" type of program is intended as a transitional mechanism to assist and encourage willing customers in exploring the benefits of the competitive marketplace, and Central Hudson's proposed program should reasonably perform that function. NYSEG/RG&E's proposal to require that yet more benefits be demonstrated before an additional company can implement such a program is unjustified.

NYSEG/RGE also claims that extension of the "Power Switch" program beyond O&R's service territory should depend upon a finding that customers benefit after the program's initial two-month discount ends. Again, the utilities misconstrue the purpose of the discount, which is to encourage customers to explore the competitive market for commodity supply. If dissatisfied, a customer can return to the utility for commodity supply service. Therefore, questioning the adequacy of the benefit after the end of the introductory period

---

[21] Order Continuing Programs, p. 7.

[22] That decision has been upheld in court to date. <u>National Fuel Gas Distribution Corporation v. Public Service Commission</u>, Index No. 6712-04 (Alb. Cty. Sup. Ct., March 4, 2005).

is not a reason that prevents Central Hudson from implementing the program.

That ESCO savings programs like “Power Switch” are under review in other proceedings also fails to warrant postponement of Central Hudson’s plans for moving forward with “Energy CHoice.”[23] Any potential improvements to these programs that are discovered as other utilities, and Central Hudson, implement them can be made to a particular utility’s program on a going-forward basis.

We conclude the Central Hudson Collaborative has been fruitful and the programs put forth in its Retail Access Plan are representative of the best competitive practices found currently in New York and elsewhere in the nation. The results of the extensive work and collaborative effort put forth to date by Central Hudson, Staff, and most of the other parties will assist in facilitating retail access throughout the company’s service territory. Moreover, “Energy CHoice” will be discussed further in the Collaborative, to establish the specific procedures and requirements needed for its successful implementation. For all these reasons, the NYSEG/RG&E proposal to forestall progress towards more competitive markets by suspending the development of new retail access initiatives, like “Energy CHoice,” is rejected.

The Commission orders:

1. Central Hudson Gas & Electric Corporation’s Retail Access Plan is accepted for filing as in accordance with the Statement of Policy on Further Steps toward Competition in Retail Energy Markets issued August 25, 2004 in Case 00-M-0504.

2. Central Hudson Gas & Electric Corporation’s requests to modify its Rate Plan, by restructuring its migration

---

[23] See, e.g., Case 05-M-0334, Orange and Rockland Utilities, Inc., Ruling Concerning the Submission of Comments on Orange & Rockland's Retail Market Plans (issued April 15, 2005).

incentive, providing for the carryover of competition education funds, and using competition education funds for Web site enhancements, are approved to the extent discussed in the body of this Order.

3. Central Hudson Electric & Gas Corporation is directed to continue development and implementation of retail access initiatives through the collaborative process, as discussed in the body of this Order.

4. Central Hudson Gas & Electric Corporation is directed to file, within 60 days of the date of this Order, or as the Secretary may require, the report on gas balancing and cashout issues described in the body of this Order. Other parties are invited to submit balancing and cashout proposals as of the same date. An original and five copies are to be submitted to Jaclyn A. Brilling, Secretary, Department of Public Service, Three Empire State Plaza, Albany, New York 12223-1350.

5. Central Hudson Gas & Electric Corporation is directed to make the compliance filing on its “Energy CHoice” ESCO savings program described in the body of this Order at least 60 days prior to its scheduled implementation.

6. Central Hudson Gas & Electric Corporation is directed to file, with its next rate plan filing or by January 1, 2006, whichever is earlier, an embedded cost of service study, consistent with the discussion in the body of this order.

7. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary