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DEMAND RESPONSE UPDATE—IMUA ANNUAL CONFERENCE

Demand Response—What Is It?

- Term often used interchangeably with energy efficiency, conservation, demand-side management, etc.
- FERC's definition:
 - “Changes in electric usage by end-use customers from their normal consumption patterns in response to changes in the price of electricity over time, or to incentive payments designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized.”
 - Includes both incentive-based demand response (e.g., direct load control, interruptible contracts, demand bidding/buyback, etc.) at both the wholesale and retail level, and retail time-based rates.

Why Implement Demand Response ?

- It makes economic sense. It may require some up-front investment, but if you price it out as part of an integrated resource plan, it generally is the least cost resource.
- It produces no CO₂. Compared to most new generation sources (even natural gas) it is cleaner.
- The public likes it, IF they are properly involved and educated about it. (Do it with them, not to them!)



Retail Demand Response

- Many public power systems in both RTO and non-RTO regions have implemented retail demand response programs:
 - DR shaves demand at peak, thus avoiding peak power supply costs/more expensive generation and ratchets under supply contracts.
 - Benefits accrue to all public power system customers in the form of lower rates.
 - Can do economic development/large customer retention with special programs.

“Wholesale” Demand Response


- RTO-run centralized markets create new opportunities for demand response:
 - Public power systems can aggregate the demand response of their end use customers and sell the aggregated demand reduction to the RTO’s markets as an alternative to a sale of power to the RTO markets.
 - DR sellers must be able to meet the necessary program requirements, including measurement and verification (M&V)(no “phantom” demand response).
 - Some joint action agencies in RTO regions are doing this aggregation for their distribution members; it can serve as a new source of revenues to reduce rates.

“Third Party” Aggregation

- The opportunity to make money from sales of DR to RTO centralized markets has fostered a new market niche for “third party aggregators” (FERC calls them “aggregators of retail customers” or ARCs).
- ARCs solicit specific end users behind one or more Local Distribution Companies (LDCs), aggregate their demand, and sell it to the RTO.
- ARC and customers split the money.

Public Power Concerns with the ARC Model

- Peeling off the DR of a specific end user (usually the most profitable and desirable end use customers) from the LDC's load means that the LDC loses the benefit of that DR resource for both retail and wholesale purposes.
- LDC must continue to stand ready to serve the end user, but the end user's reductions are not necessary coordinated with the LDC. Can lead to over-scheduling, increased costs.



Parallels to Retail Choice/Access

- Illinois implemented retail choice for customers of investor-owned utilities.
- The theory sounded good (who can oppose “customer choice?”) but in the end, it was not necessarily in the best interests of the retail customers, especially residential customers.
- Meant loss of economies of scope and scale.
- Looking back, the obligation to serve does not look so bad!

FERC Support For ARCs

- FERC supports the use of third party ARCs, because it believes this is the fastest/best way to get more DR, which it strongly supports.
- APPA (and NRECA) have made clear to FERC their belief that as to consumer-owned electric systems, each system and its consumer-owners/regulators should decide whether third party ARCs should be allowed to aggregate retail customers.

FERC Order No. 719

- Despite APPA's/NRECA's opposition, FERC ruled last October in Order No. 719 that unless a public power distribution system's "Relevant Retail Electric Regulatory Authority" (RERRA) has an explicit "law or regulation" to the contrary, **third-party ARCs can aggregate retail customers behind public power distribution systems and sell that DR directly into an RTO's centralized market.**

Rehearing of Order No. 719

- APPA/NRECA sought rehearing of this ruling:
 - They argued that the “presumption” should be reversed: unless the RERRA passes a law or regulation expressly allowing third party ARCs to aggregate demand on the system, the RTO (and FERC) should presume such third-party activities are **not** authorized.
 - APPA did offer a compromise: reverse the presumption for “small utilities” (total output of 4 million MW hours a year or less).

Rehearing Is Pending...

- FERC is currently considering rehearing petitions, including those of APPA/NRECA.
- BUT IN THE MEAN TIME, RTOS ARE IMPLEMENTING ORDER NO. 719, AND MOVING FORWARD WITH WHOLESALE DR PROGRAMS UNDER THOSE RULES.
- Thus, RTOs will accept ARC bids aggregating demand response of public power systems' end users per Order No. 719.

APPA's Response

- At the request of a number of public power systems and attorneys, APPA formed a volunteer legal team to consider these issues.
- In states where public power systems' RERRAs are their city councils, utility boards, or other local bodies (but NOT state public utility commissions), the relevant RERRA can enact a local "law or regulation" to deal with Order No. 719's provisions.

Model ARC Ordinance

- APPA's volunteer legal team drafted a model ordinance for the local RERRAs of public power systems located in RTO regions.
- The model ordinance makes clear the policy of the RERRA on third party DR aggregation: it designates the public power system as the only authorized ARC for its retail customers for demand response purposes, unless otherwise authorized by the public power system.

Each Public Power System Should Assess Its Own Situation

- The model ordinance sets out one approach for dealing with this issue, but each public power system needs to assess its own situation and decide how to proceed.
- A public power system member of a joint action agency (JAA) needs to consider the impact of its decision on the JAA and its other members; remember, DR can be a resource that might contribute to the JAA's own resource plan.

The Worst Case Scenario--PJM

- Some APPA members in PJM passed ordinances similar to the model ordinance.
- PJM has refused to honor those ordinances.
- Its position is that a public power system cannot designate itself as an ARC without allowing third parties to also aggregate the end users of that public power system.
- This issue is now in litigation before FERC.

Takeaways

- Demand Response is, relatively speaking, low hanging resource fruit of which public power systems should take advantage.
- If you are not doing DR with your retail customers, others may well step in to do it for you, to the possible detriment of your system, its customers, and your JAA (if it is relying on DR as a resource).
- The best defense here is a good offense!