Energy Choice Matters

Most Important Party Missing From Maryland Hearing on Stranded Costs, Decommissioning

Yesterday's Maryland PSC hearing scheduled to give Constellation a chance to provide rebuttals to PSC reports criticizing Baltimore Gas & Electric's 1999 restructuring settlement left more questions than answers – literally – when Constellation declined to send any representatives despite an "invitation" by the PSC (Case 9137).

Only BGE appeared on the record, with all comments funneled through outside counsel Deborah Jennings of DLA Piper. We'll attribute all her comments to BGE here. Although BGE's general counsel and a few other representatives at times convened with Jennings off the record, no one besides her spoke on the record for BGE.

BGE thought it was "inappropriate" for Constellation to attend the hearing, noting the Order only required BGE to attend and the utility was responding in "good faith." PSC Chairman Steve Larsen rebuked that the Commission's Order clearly sought Constellation's appearance if BGE's representatives were going to have insufficient information to answer the PSC's probes – which they did. The PSC could not order Constellation to attend, he reminded, since it is not regulated by the Commission.

From that beginning, the hearing quickly became a farce as BGE's response to the PSC's Order was a topline, 17-page power point presentation long on rhetoric but short on figures, lacking the specific itemization of Constellation's problems with the PSC's reports, even though Constellation has no problem telling everyone in Annapolis what's wrong with it. One would even assume from the power point that BGE didn't have much problem with the PSC's factual data and

… Continued Page 3

Pepco DC SOS Rates to Rise Again

Most Pepco SOS rates in Washington DC are set to rise significantly June 1 after results from Pepco's most recent RFP for supply is blended with older prices. The summer (June 1 – Oct. 31) generation rate (including the administration charge) for General Service Low Voltage No Demand (GSLV ND) customers is to rise 16.4% to 10.887¢/kWh while the winter rate will be 18.9% higher at 10.276¢/kWh. General Service Primary Service (GS 3A) SOS customers will pay more too, 11.7% more in the summer versus a year ago and 9.1% higher in the winter, based on demand and energy charges. The energy (throughput) rate starting June 1 for GS3A customers will be 13.579¢/kWh, replaced by the winter rate of 12.811¢/kWh Nov. 1.

Residential customers will see big jumps too. Schedule R residential customers will see a 19.2% higher summer rate (10.815¢/kWh) and a 22.2% larger winter rate (10.404¢/kWh). All-electric residential customers (Schedule AE) will pay 10.760¢/kWh starting June 1, an 18.2% boost, and pay 10.232¢/kWh starting Nov. 1, an 18.6% rise.

Some SOS rates dropped slightly for some types of larger customers. Time Metered General Service - Low Voltage Service (GT LV) customers will see a half a percent decrease in summer rates and 2.1% drop in winter rates while Time Metered General Service Primary Service (GT 3A) saw similar decreases. General Service Low Voltage (GSLV) customers will see a half a percent rise in summer rates but will get 1.6% lower winter rates.

Pepco's charts of the generation rates from the RFP and new blended prices are on our website at: http://www.energychoicematters.com/issues/PEPCO200809SOS.pdf

Two-Part Time-Of-Use Rates Stay at CL&P

The Connecticut DPUC affirmed its decision to create a two-part Time of Use (TOU) rate for Connecticut Light & Power customers (docket 05-10-03RE03).

The state's Office of Consumer Counsel had protested the decision because a statue had originally required a three-part TOU rate. The law was subsequently changed to allow DPUC discretion and the department did not find evidence to change its policy. Additional time periods may be justified when there is a wide divergence between prices across different hours of the day, the DPUC said. But the ISO New England's energy market prices and the most recent bids for last resort service indicate that CL&P's actual cost for supply does not provide sufficient price variations to accommodate an effective three-period TOU structure at this time, it explained.

DPUC rescinded its order setting a TOU price differential of 5¢/kWh. OCC had complained the differential was to be cost based but DPUC set the figure administratively. DPUC will examine what the differential should be in docket 03-07-02RE10.

The DPUC agreed with OCC that a decoupling measure in its previous order was inappropriate for the docket. The DPUC had ordered that CL&P increase rate recovery from fixed distribution rates to encourage energy efficiency. But that policy should be determined in a Section 16-19 rate setting proceeding, DPUC found, rescinding its original decoupling order.

The DPUC rejected OCC's claims that it failed to meet customer education requirements on TOU rates, noting such efforts were only required for three-part TOU rates which have not been implemented. Thus, CL&P's efforts to meet with customers impacted by TOU rates, its comparative bill analyses, and its creation of an online bill calculator exceed the educational obligations.

The department delayed seasonal rates, to be set in docket 03-07-02RE10, until 2009. The DPUC had originally ordered seasonal rates to start July 1 for Standard Service customers, but a one-year education effort is required by statute. The effort hasn't begun yet.

Strategic Energy Core Earnings Down for the Year

Strategic Energy battled customer attrition in the small customer segment, higher bad debt expense, higher power prices, and a first quarter resettlement charge in 2007 on its way to core annual earnings of $7.6 million compared with $23.5 million in 2006. Total yearly earnings were $38.4 million for 2007 versus a loss of $9.9 million in 2006 as mark-to-market impacts for the full-year 2007 resulted in a reported earnings gain of $31.3 million due to generally higher power prices during the year compared to a loss of $33.4 million in 2006.

Revenue grew 29% in 2007 to $1.97 billion while delivered volumes rose 22%. Its average retail gross margin per MWh in 2007 was $6.99 compared to $2.52 in 2006. Excluding unrealized net mark-to-market impacts, the average retail gross margin per MWh in 2007 was $4.39 compared to $5.93 in the previous year.

Fourth quarter core earnings were $3.7 million compared to $3.1 million a year ago. Strategic's total backlog at the end of the year grew to 36.6 million MWhs up 12% compared to the end of 2006. Backlog for 2008 of 18.5 million MWhs at the end of 2007 increased 25% compared to 14.7 million MWhs in backlog for 2007 at the end of 2006.

Strategic Energy's full-year 2007 retention rate including month-to-month customers was 68%, down slightly from 71% for 2006; however, the fourth quarter 2007 retention rate including month-to-month customers of 87% was stronger than the 85% level for the same period a year earlier.

Parent Great Plains intends to announce the results of its strategic review of the marketer by the end of the first quarter, with possible outcomes being considered including joint ventures, sales of part or all of the retailer, or keeping the status quo.

Briefly:

ConEd Wholesaler Wins CL&P SOLR

Consolidated Edison Energy won all five blocks put out for bid by Connecticut Light & Power to supply Last Resort Service utility customers from April 1 through June 30. Final bids were submitted January 22 and the DPUC approved the results (docket 06-01-08PH02). The DPUC is to open a separate proceeding to incorporate the RFP results into a generation service charge effective April 1. CL&P's Last Resort Service (also known at SOLR in DPUC orders) is for customers 500 kW and above who don't choose a competitive supplier.

New Name for Econnergy

Econnergy asked the Texas PUC to approve a name change in its REP certificate. Econnergy wants to change its name to Gateway Energy Services Corp. with the trade names Gateway Power Services and Econnergy Energy listed on the certificate as well.

...And For BOC Energy Services

BOC Energy Services, a competitive retailer created by the gas company to self-supply its retail electricity, told the Maryland PSC it is changing its name to Linde Energy Services, reflecting a change in parent ownership of BOC.

Dominion Joins Utilities With Efficient Websites

Another utility is offering an online energy calculator in another brick to the wall against competitive retailer or energy-service company offered efficiency programs and information. This time it's Dominion Virginia Power whose calculator allows customers to create a profile of their current household energy use, calculate the energy used by various appliances and discover ways to make better energy decisions by reducing consumption and improving energy efficiency. It includes an energy-smart library, with detailed information about topics including weatherization, heating, cooling, lighting, water heating and food storage.

Constellation Wins Calpine Plant

Constellation's CER Generation won an auction to buy Calpine's Hillabee Energy Center, a partially completed gas-fired power project near Alexander City, Ala. For $155 million, Constellation gets the 774-MW plant which is nearly 80% complete and scheduled to go online in 2010.

ECS Previews Summer

Energy Curtailment Specialists expects to pay out more than $18 million this summer to its customers participating in its Operation Save New York Demand Response Program.

Md. Hearing .... *From 1*

only regretted its tone and process. BGE of course rebutted that assumption by claiming it only had one week to respond to the Commissioner's order of appearance, although that excuse fell on deaf ears given the lengthy rebuttals Constellation has been circulating even before the Commission's order.

BGE told the Commission that SB 400 which directed the PSC to compile the stranded cost reports required hearings to gather the information, and argued that hearings should have been held before the PSC drew inflammatory and inaccurate conclusions in its report. BGE also attacked the tone of the report, contending it was written virtually as an "advocacy piece."

While Constellation's absence wasn't the most constructive strategy, we'll note it wasn't Constellation that politicized deregulation in 2006 to start this whole mess. Since BGE's response yesterday was mostly a recitation of Constellation talking points from a few weeks ago we won't repeat them here, but will note BGE reminded the Commission the 1999 settlement included a comprehensive, 80-page report in the PSC's final order, with the pact supported by Office of the People's Counsel, the Maryland Energy Administration, the Maryland Industrial Group and PSC staff, all of whom entered sophisticated testimony and evidence into the record. And of course, the settlement has twice been upheld in state courts.

Before delving too deep into the minutia of nuclear decommission trust funds, Commissioner Harold Williams had the most direct point of the day, which cut to the heart of the matter and jettisoned the window dressing of stranded costs and decommissioning funds and affiliate relations. Williams asked BGE what was the point of deregulation. BGE responded the point was to get lower rates, and admitted the state hasn't achieved that yet. Williams asked whether the people of Maryland, "are basically suffering at this point because of customer choice."

The majority of the day was spent debating the state of the nuclear decommissioning trust funds for Constellation's Calvert Cliffs plant. The Commission is concerned the funds could be underfunded, setting up another big price shock, which always go over well with legislators, in 2016 when BGE could file for an adjustment. At the same time, the structure of the funding mechanisms could allow Constellation to manipulate the funds to reap over a billion dollars windfall, the Commission cautioned, stressing the scenario was only hypothetical.

Larsen and other Commissioners hammered BGE on an April 2006 letter from BGE to the PSC that noted under then-present assumptions, the $18 million in annual ratepayer contributions to the nuclear trust fund was going to leave a shortfall by the scheduled 2034 decommissioning. To close the gap, ratepayer annual contributions would have to rise to $25 million. But in the same letter, BGE said it wasn't asking for the adjustment immediately, because assumptions such as inflation or investment earnings could change, making the projected shortfall disappear. Commissioners noted the letter was drafted just as SB 1, the bill which originally sought to block BGE's move to market rates, was being debated and suggested BGE was holding back asking to fill the shortfall because of the firestorm over deregulation. SB 1 in its final form does prevent BGE from raising ratepayer contributions to decommission funds through 2016.

BGE assured the Commission that the fund was fully funded, and that projections of shortfalls are based on a snapshot in time, ignoring potential investment earnings from money currently in the funds.

"Isn't that kind of a roll of the dice approach," Larsen demanded, adding that what he was hearing did not give the Commission comfort.

If earnings on current funds don't surpass inflation, the PSC worried that ratepayers could be in for a big shock the next time BGE comes in for a funding level adjustment. In fact, under the 2006 assumptions, ratepayers would have to go from paying $18 million a year to $33 million a year starting in 2016 to fill a projected gap, Larsen argued.

The Commission also questioned whether Constellation was reaping benefits from ratepayer collections. Constellation controls part of the funds and merely imputes the money in accounting (rather than setting it aside in a lockbox). While Constellation must pay an administratively set rate of return on the money it administers, the Commission wondered whether Constellation is actually using the money for other investments, reaping much higher returns but only passing 8-9% onto the decommissioning fund.

"We've got a massive liability impacted by a number of moving parts that reside over at Constellation including pot of money on Constellation's books," Larsen noted, frustrated that the PSC can't get answers about it.

The Commission cautioned loopholes could allow Constellation to charge customers more decommissioning money than is actually needed, possibly reaping a $1.4 billion windfall. Under certain assumptions, BGE in April 2006 said the fund looks to be short, and annual contributions might need to be raised to $25 million, although it did not suggest raising the contributions. At the same time, Constellation told the NRC that decommissioning should cost less than initially projected, by using a generic study instead of a site-specific study (as used to set ratepayer's contributions) to set decommissioning costs. That could let Constellation collect more money than they actually need to pay to close the plant without a clear obligation to return that money to ratepayers.

"A deal is a deal," BGE responded.

Commissioner Susanne Brogan suggested language in Order 75757 which had set up trust fund obligations would let the Commission take action against Constellation should it reap a windfall because all "overcollections" are to be refunded. Brogan asked how would the company "overcollect" if ratepayers' liability is capped and BGE were continually updating its numbers to determine how much is needed each year – collecting too much money isn't possible if BGE is keeping track. She argued that the language really means that any balance in the trust fund in excess of the actual decommissioning costs is to be refunded to ratepayers, even if it means ratepayers pay less than their capped contribution.

For its part, BGE said that the fund is fully funded, but with any liability that's being paid with earnings from investments, that could change tomorrow.

BGE warned the Commission that its rhetoric was "unsettling" the capital markets and harming BGE ratepayers by potentially raising its cost of capital. That's the mantra Commonwealth Edison and Ameren hammered in Illinois when lawmakers were demanding rate rollbacks last year. At the end of the storm, both got out relatively unscathed while the Illinois retail market won some positive developments. Such an ending seems a long way away in Maryland, especially without an Emil Jones directing traffic in the statehouse.