Energy Choice Matters

February 29, 2008

Nstar Green Program Poses Big Risks for Basic Service Customers

CONTINUING COVERAGE

Nstar's analyses do not support the utility's conclusion that its proposed wind contract prices (Matters, 2/25/08) compare favorably with forward prices for energy or RECs, an expert Retail Energy Supply Association witness told the Massachusetts DPU in testimony filed yesterday (07-64).

And the wind contracts, rather than resulting in a credit to customers as Nstar had claimed (Matters, 2/12/08), will actually result in a debit and cause Nstar's green adder to be "substantially" higher than projected, explained Guy Sharfman, Managing Director at Intelometry who testified for RESA.

Nstar's analysis improperly compared unit-contingent contract prices from the wind farms to fixed price, fixed volume forward market prices, and also failed to account for "well established" seasonal and hourly pricing patterns in its forecast of forward markets, Sharfman observed.

The utility also projects forward prices through 2018 while the NYMEX prices that it relies on are only published through 2012.

Another big problem for basic service customers is that they are on the hook for energy not used by customers electing Nstar's green option. Nstar is to charge green customers the difference between the wind contracts' price and the ISO New England hourly price, but basic service customers would inherit that risk if Nstar's program is not fully subscribed.

Financial risks from the wind farms' contingent operations will be transferred to both basic service and "green" customers, Sharfman added.

Worse, wind farm operators do not have an incentive to ensure that the plants are operational

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Report Says Firm Contracts Could Help Maine Depress Capacity Prices

London Economics International punted on making concrete recommendations on Maine's electric policy in a report on resource adequacy commissioned by the PUC in response to 2006 legislation directing the PUC to study whether long-term supply contracts are appropriate (Case ID 2008104)

"It is difficult at this stage to recommend a concrete set of policies and actions for the state of Maine," London Economics concluded, given the breadth of scenarios regarding transmission and generation investment.

"Resolution of certain future events, for example, selection, approval, and realization of transmission investment paths, and analysis of the impact of these events and other parallel market proceedings, such as the outcome of [the] first FCA [Forward Capacity Auction], are necessary before concluding on a specific set of options to pursue," the consultants added.

Still, London Economics found incremental demand response to be beneficial under almost any scenario, even though Maine has excess capacity and does not need additional resources "per se."

Although Maine's electricity usage isn't rising that fast, peak demand is increasing more quickly (likely due to air conditioning load), and London Economics does see a need for more peaking

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Surges and Circuits

A weekly review of what's up and down in energy markets.

Power Surges

Day-1 RTOs: APPA sees them as the solution to the ills of organized markets.

Illinois Electric Market: Serious players FirstEnergy Solutions and Juice Energy apply for ARES licenses.

Short Circuits

Wind Power: ERCOT's need for Load Acting as a Resource (LaaRs) Tuesday, linked to a sharp decline in wind production, makes a tougher case for proponents arguing ERCOT discounts wind's availability too much.

Texas Former AREP Mass Market Business: In the past 10 days, Reliant and Direct reported continued churn and/or lower margins in their ERCOT mass market customer bases. (We take liberty classifying Direct as a former AREP based on its ownership of CPL Retail and WTU Retail).

DPUC Stands By Requirement for Labels to Include Mass Market Pricing

CONTINUING COVERAGE

The Connecticut DPUC affirmed its decision to make retailers list generally available mass market prices on product disclosure labels in addition to listing prices on the DPUC's website, in its final decision in docket 07-05-33.

The DPUC made a few tweaks, such as explicitly subjecting distribution utilities to the disclosure label rules, in its final order but generally kept most of the policies from its original draft (Matters 2/18/08).

But the DPUC rejected two of retailers' bigger requests (Matters, 2/26/08), which were to remove specific prices from the labels (since prices will be on the DPUC's website), and to not require retailers to post all their labels on their websites.

The Department granted retailers' request to allow existing customers to only receive their annual disclosure label upon requesting one via a toll-free phone call.

For the questions provided on the label for customers to ask their prospective suppliers, the DPUC removed a question about whether a retailer offered a "bonus" for switching. Several retailers had noted the question was vague.

The final label includes a new question that suggests customers ask prospective retailers how customers can receive disclosure labels in the future.

Retailers must submit generally available offers to the DPUC's website within five business days of the Order's effective date (http://www.dpuc.state.ct.us/EL_Aggre.nsf).

Retailers were given 45 days to supply the DPUC with their new disclosure labels (a requested extension from the 30 days in the draft).

Within 90 days from the Order's effective date, retailers and utilities are to use the new labels when marketing to new customers.

DPUC Claims FERC Usurped States' Resource Adequacy Rights in ICR Ruling

CONTINUING COVERAGE

The Federal Power Act "unmistakably" gives states jurisdiction over generating facilities and resource adequacy determinations such as setting an installed capacity requirement (ICR), the Connecticut DPUC asserted in a request for rehearing at FERC (ER05-715-002).

FERC recently accepted on remand ISO New England's 2005-06 ICR, ruling it could do so since the ICR affects capacity prices, over which FERC has jurisdiction (Matters, 2/22/08).

But the DPUC says FERC's actions intrude on states' rights, noting, "The most fundamental aspect of a state's jurisdiction over generating facilities must be its authority to determine how much generating capacity is required."

In setting an ICR, FERC essentially determines how much capacity is needed and contradicts states' determination of proper capacity levels, DPUC said.

A FERC ICR that is higher than the state's would force the state to acquire and site new generation, even if such capacity does not comport to a state's environmental goals.

"An excessive annual ICR may also force a state to forego development of longer lead time, base load generating facilities – e.g., a new nuclear power plant – because it must instead add a succession of new peaking units each year simply to satisfy the annual ICR," the DPUC protested.

"An ICR that is greater than a state concludes is warranted may compel the state to keep environmentally hazardous or undesirable units in service when they should be retired – and would be except for a federal imposition of unwanted and unnecessary capacity mandates," the DPUC concluded.

FERC has not justified how the ICR impacts capacity prices, the DPUC added, noting under the ISO New England's Forward Capacity Market, "ICR is no more than a plug-in number in the rate formula that does not affect the auction that sets the capacity price."

Luminant Asserts PUCT Staff Changing Nature of Alleged Violation

CONTINUING COVERAGE

Luminant pointed to the PUCT staff's inconsistent characterization of alleged violations from 2005 in its latest reply in the case reviewing alleged withholding in ERCOT (docket 34061).

The staff had argued that when assessing penalties, each MW or MWh of withholding should constitute a separate violation (Matters, 2/27/08), because treating an entire bid – even when 1,000 MW – as a single violation would allow generators to pay minimal costs through small penalties when withholding massive quantities of generation or capacity.

Staff explained that it was seeking penalties for "withholding of production," not improper bids. Luminant seized on that statement and tried to paint it as inconsistent with staff's original Notice of Violation.

"It is simply not credible to assert that this proceeding is not about bidding and it is especially improper for the Response to try to re-characterize the fundamental basis of the Revised NOV in an appellate posture," Luminant argued.

Luminant pointed to a report on which the NOV is based which "flatly" stated, "TXU's 2005 *bidding behavior* constituted market power abuse [emphasis added]."

Luminant claims pursuing violations for "withholding production" is a "newly hatched" argument from staff. But in its revised NOV on Sept. 14, PUCT staffer Danielle Jaussaud clearly explained, "The purpose of this memorandum is to recommend that TXU Corp. and certain of its subsidiaries pay $171,000,000 for engaging in numerous instances of *withholding of production* [emphasis added]."

Constellation Letter Doesn't Refute FERC MBR Decision, Boralex Says

CONTINUING COVERAGE

Boralex wants FERC to strike a letter from Constellation Energy Commodities Group to the Maine PUC regarding the state of competition in the Northern Maine Independent System Administrator (Matters, 2/20/08), which the PUC has used to ask for rehearing of FERC's decision to allow Boralex to charge market-based rates in the region (ER01-2569-006 et. al.).

Constellation's letter is new evidence introduced on rehearing, contrary to Commission practice, Boralex observed, noting the PUC didn't explain why it did not file the letter earlier, since the PUC received it on Nov. 20 and FERC did not grant Boralex's MBRs until Jan. 17.

Regardless, the letter does not provide evidence of frequently binding transmission constraints that isolate from Northern Maine from the Maritimes Control Area, Boralex argued.

"Constellation does not claim in its comments that it is prevented from selling power in Northern Maine; it simply states that 'serving load in [N]orthern Maine is a very different task from serving load within the

NEPOOL Control Area,'" Boralex pointed out.

"[T]his just tells the Commission that for Constellation, Northern Maine may not be a promising profit opportunity," Boralex asserted.

The PUC's reliance on "unsupported anecdotes" to support its claims, "ignores the overwhelming statistical evidence relied on by the Commission in finding that Boralex has no market power in the Maritimes market," Boralex concluded.

Briefly:

Juice Eyeing ComEd Market

Juice Energy applied for an alternative retail electricity supplier license in Illinois, asking to be certified in Commonwealth Edison's territory (08-0161). The retailer, which focuses on combining risk management and greenhouse gas solutions, applied to sell to customers above 15,000 kWh annual usage, telling the ICC it still evaluating whether to expand to Ameren or sell to smaller customers. Juice Energy, which currently markets in New York and Texas, does not intend to provide single billing services.

MidAmerican Gets Texas License

The PUCT granted MidAmerican Energy Company's REP license and issued it certificate No. 10159, good for the geographic area of ERCOT. Don't expect to run into them too quickly though; MidAmerican had told the PUCT staff it expects to participate in the third or fourth quarter ERCOT test flight.

Duke Ohio Pact Would End Double Payment for Shoppers

A proposed all-parties settlement in Duke Energy Ohio's gas rate case would "foster" gas customer choice by moving approximately $5 million of carrying costs associated with gas inventory from base distribution rates to the Gas Cost Recovery mechanism. That will ensure shopping customers don't pay the costs twice, once in their distribution rates and once to their supplier.

NY Generator Faults ICAP Curves for Referencing Unproven Technology

The New York ISO's Installed Capacity Demand Curves through the 2010-2011 capability year incorrectly use "commercially unproven" equipment as the reference peaking technology, KeySpan-Ravenswood told FERC in a rehearing request (ER08-283). FERC had accepted the ISO's use of LMS100 gas turbine technology as the reference peaking technology but KeySpan-Ravenswood argued such a finding violates the ISO's tariff which calls for the reference technology to be "economically viable."

Filed evidence in the docket shows the LMS100 technology is not economically viable for merchant development of a new peaker in New York City, KeySpan-Ravenswood claimed, noting the risks of the unproven technology "are so profound and unmanageable that merchant developers and institutional lenders would not risk their capital on development of a merchant LMS100 peaking facility." The ISO based its use of the technology on the "scant" performance history of a non-merchant LMS100 unit, KeySpan-Ravenswood complained, adding that the ISO failed to assess the economic viability of a merchant project using the technology.

Crane Attacks Ratings Agencies as NRG Profits Rise

NRG Energy fourth quarter profits soared to $104 million, up from a loss of $30 million in the prior year's quarter. Texas operations posted a $188 million quarterly profit compared with a loss of $13 million a year ago. Northeast operations added $82 million in profits, up from $69 million in the prior year's quarter. Quarterly operating revenues grew 22% to $1.4 billion. For the year, net income fell to $586 million from $621 million in 2006 but net income from continuing operations rose to $569 million from $543 million.

CEO David Crane attacked the ratings agencies for not recognizing NRG's improvement, arguing there are only three people in the world who have not noticed NRG's progress since its 2003 bankruptcy – Mr. Standard, Mr. Poor's and Mr. Moody's. Crane was "at a loss for words" that one major ratings agency has not acknowledged any improvements in the four years since the bankruptcy while another has had NRG on negative outlook for 14 months despite the IPP's $2.7 billion of current liquidity.

Pepco Energy Services Partners with MBE to Win Chicago Deal

Pepco Energy Services (PES) inked a two-year, 300,000 MWh contract with Illinois's Metropolitan Pier and Exposition Authority (MPEA) to supply convention complex McCormick Place in Chicago. The deal includes energy audit/management services provided by Promet Energy, an African-American owned energy company. "Historically, due to the industry's lack of certified minority and women- owned business enterprises (MBE/WBE), MPEA awarded its electricity contracts without any MBE/WBE participation," PES said. "Pepco Energy Services responded as a great corporate citizen should. It made the effort to identify and include a certified minority-owned business-in a meaningful way-as a method of responding to the Authority's MBE/WBE participation goals," said Harith Razaa, Business Diversity Manager at MPEA.

Stream of Industrials Bypass Maine Retail Market

Yet another Maine industrial wants to buy directly from NEPOOL with help from August Fromuth. Correct Building Products wants its own competitive electricity provider license (as Correct Energy) so it can buy at wholesale.

Nstar Green ... *From 1*

during periods of high prices compared to a period of low prices, he explained. Nstar failed to account for those operational and maintenance risks, Sharfman testified.

All those factors combine to expose basic service customers to a "high degree" of price volatility and risk, in "stark contrast" to Nstar's assertion that the wind contracts will limit price volatility, Sharfman concluded.

Maine Capacity ... *From 1*

capacity or demand resources to meet those super peak hours.

"Therefore, we recommend that demand response be encouraged to the maximum extent possible given its cost-effectiveness," the consultants reported.

Maine demand resources are already growing rapidly, London Economics noted, and the state's demand resource portfolio is on track to become one of the largest in the nation.

London Economics explained that Maine, with its 1,250 MW of surplus capacity, benefits from congestion since its cheaper power isn't exported to the rest of ISO New England, which lowers Maine LMPs relative to the rest of the market.

Maine has also been designated an export-constrained zone for the FCA, meaning the state could enjoy lower capacity prices in the auction. Maine resources would essentially compete in their own auction and could drive the Maine capacity prices below the ISO system clearing price.

Transmission investments that boost generators' ability to move power out of Maine would jeopardize the export-constrained designation and expose Maine to system-wide capacity prices.

However, adding Maine's resources to the overall FCA may result in a lower system clearing price, London Economics noted.

Without the opportunity to conduct an FCA for just its export-constrained zone, Maine would pay a share of system-wide capacity costs, with Maine's burden expected to be $142.5 million in 2010, rising to $187.5 million by 2016.

Maine can keep its export-constrained designation by having as much installed capacity (and demand-side resources) as possible and the smallest Maximum Capacity Limit possible, London Economics argued.

Long-term contracts can be structured to ensure existing resources continue to operate and new assets (generation or demand response) come online to preserve Maine's export-constrained designation, London Economics explained.

Long-term contracts can also be designed to encourage resources to offer at the lowest possible prices in the FCA, the consultants argued.

London Economics recommends ensuring that maximum local capacity is available through firm contracts with capacity resources.

"In addition, the MPUC can also use such contracts to require existing capacity to act as a 'price taker' so that the Maine auction ends after the Rest of Pool auction," the consultants argue.

Contracts can also motivate new capacity, London Economics added, and should be designed to encourage improvements in plant operations to boost capacity ratings.

Of course, the costs from the contracts need to be less than the savings in the FCA for this policy to be beneficial, London Economics reminded.

Demand resources are especially valuable in reducing capacity prices, London Economics noted, because they benefit from a sizable markup by ISO-NE for their minimizing impact on capacity margins and losses.

If Maine can't continue to isolate itself, the only way to lower costs would be to lower system costs through additions of sufficient quantities of new low-cost supply and/or demand resources.

Regardless of the scenarios, "Maine will want to motivate generation investment that results in the lowest possible capacity clearing prices in the FCAs and in the hourly energy markets."

"Contracts for existing and new generation can be created to encourage and motivate generation resources to participate in ISO-NE markets to the fullest extent possible," the consultants added.

London Economics noted that the FCA has attracted new investments, despite ongoing opposition, pointing to over 3,700 MW of qualified new generation for the first FCA.