

Energy Choice Matters

March 14, 2008

Bad Debt Burdens Commerce Energy

New Commerce Energy CEO Gregory Craig is clearly at the retailer as an agent of change, he told investors as Commerce reported a loss of \$1.2 million for the second quarter of fiscal 2008, compared with net income of \$2.5 million a year ago.

The biggest culprits for the slowdown have been bad debt and higher sales, marketing and administration costs, Craig reported.

Bad debt for the second 2008 quarter rose \$4.9 million to \$6.2 million, from \$1.3 million in the prior year's quarter. Bad debt for the first quarter of 2008 was \$3.7 million. Much of the increase was attributed to higher bad debt levels in ERCOT.

As Commerce added more customers in key markets, it did not upgrade its back office rapidly enough to ensure customers were quickly contacted with collection calls when they became delinquent on bills, Commerce said.

Compounding the problem was Commerce's enrollment of low-credit customers without a deposit requirement during its latest round of customer acquisitions.

Finally, the retailer did not strengthen its electronic data interfaces to handle higher volumes of transactions.

Commerce expects bad debt to trend downward to historic levels, but not until it experiences higher levels for the third and fourth quarters.

Bad debt may still fluctuate based on regulatory climate and general economic conditions, Commerce said.

While bad debt levels rose as Commerce tried to gain more customers, the retailer has lost about 10% of its customer base since the summer, with accounts falling from 195,000 to 175,000.

Quarterly sales and marketing expenses increased to \$4.3 million from \$2.6 million in the year-

... Continued Page 6

MMC Complaint Alleges CAISO Discrimination in Spinning Reserves

MMC Energy filed a formal complaint at FERC over the California ISO's allegedly discriminatory and unlawful decision to effectively prevent three MMC power plants from fully participating in the spinning reserves market (EL08-46).

The ISO's move to disqualify some owners of aggregated capacity from the spinning reserves market has been implemented contrary to the Filed Rate Doctrine, MMC argued, and without the necessary Tariff change via a Section 205 filing required by the Federal Power Act.

MMC's plants are "aggregated units" comprised of two generators, one of which is synchronized to the transmission grid and spinning, and one that remains off-line until needed.

The three units were tested and certified by CAISO as meeting all spinning reserve requirements less than two years ago, MMC asserted.

But incidents in which generators selling spinning reserves were unable to perform fully on dispatch instructions prompted CAISO to review its policies.

CAISO, in a market notice from September 2006, reported that in some cases, a portion of the awarded spin capacity from aggregated units had not been synchronized to the grid.

The ISO proceeded to develop a process to examine spinning reserves, and moved to decertify

... Continued Page 6

Surges and Circuits

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

Power Surges



KEMA

Kudos for another great conference

Short Circuits



Retailers Not Considering Conn. Mass Market

Because of the busy news cycle, full elaboration on this item has to be kicked to Monday, but we think the majority of retailers overlooking the Connecticut mass market are making a mistake.

UI Files Last Resort Rates

United Illuminating has filed with the DPUC last resort generation rates for the next quarter:

Rate Classes: GST, LPT, NUS

	¢/kWh	
	On-Peak	Off-Peak
April	11.5872	11.5872
May	11.1143	11.1143
June	11.8064	11.8064

Small ESCOs Harmed by NYISO Refusal to Re-bill Flawed Data

ESCO representatives urged FERC to grant National Grid's petition for the New York ISO to re-bill the months of March 2005 through August 2005 because a National Grid software error caused ESCOs to be overcharged by \$7 million (Matters, 2/25/08).

While \$7 million may seem small compared to the magnitude of monthly transactions in NYISO, the impact of the over-billing can be "devastating" for a relatively small ESCO competing with larger, better-capitalized marketers, ESCO Pro-Energy Development told FERC (EL08-40). It was one of the two ESCOs which first noticed the errors and told National Grid.

"Margins are thin, cash flow is critical and overdue invoices are not tolerated," Pro-Energy observed.

"Furthermore, while lines of credit are a

necessary cost of doing business, drawing upon one for upwards of fourteen months with no end in sight, or an ability to pay it down in the ordinary course of the accounts receivable and accounts payable cycle, magnifies that cost to the point where banking relationships are compromised and profit margins all but disappear," the ESCO added.

NYISO has refused to correct the bills because the error was detected after deadlines for challenging bills had expired.

But the circumstances underlying the NYISO invoices for the period in question made it extremely difficult to identify the error in a timely fashion, Pro-Energy argued, reporting that the usage information that was reported to the NYISO was different than the usage information reported to the ESCO.

Fluent Energy, a technical and procurement consultant to ESCOs and other market participants, supported National Grid's plea as well, noting it would further the underlying mission of ensuring that markets are administered in a fair and equitable fashion.

REPs Back PUCT Staff Draft for Separately Accounted Net Metering

Retailers think the PUCT staff got it mostly right in drafting net metering rules in new P.U.C. SUBST. R. 25.213 by requiring metering to separately track energy use and energy sales by customers with distributed generation, rather than simply allowing the meter to run backwards and account for a single surplus/debit (34890).

The need for separate accounting is "critical" given the ERCOT market structure in which REPs operate, the Alliance for Retail Markets and the Texas Energy Association for Marketers reported in joint comments.

Any metering system that does not fully measure the amount of energy consumed at a customer's premise during a billing period will have "dire" financial consequences for REPs, the groups added.

Since the amount of electric energy consumed at a customer's premise is the fundamental component used to calculate a

REP's monthly bill to the customer, it is essential that the metering system measuring such consumption be capable of reflecting all of the energy consumed during the billing month, ARM and TEAM explained.

For this reason, a meter which runs backwards, and does not record separate in-flows and out-flows, would not fully compensate REPs and distribution utilities for actual energy consumed.

Furthermore, requiring the meters to separately measure the in-flow to and out-flow from the customer premise recognizes that the value of the energy consumed at the premise may differ from the value of the surplus energy delivered to the network from the premise, retailers noted.

TXU Energy supported the separate accounting as well, but also urged the PUCT to follow the Distributed Generation Task Force recommendation that all distributed renewable generation customers with generation greater than 50 kW up to 2,000 kW be metered using an IDR meter.

Reliant Energy wants the rule to make clear that the separately accounted metered values are reported by distribution utilities to ERCOT. The rule implies the utilities would report the data to themselves.

Stakeholders Slam Premature NYRI ROE Filing

New York Regional Interconnect's application for a 13.5% ROE under Order 679 at FERC is premature and unjustified, a chorus of stakeholders told the Commission, some in very inflammatory language (EL08-39).

NYRI is the embattled 190-mile merchant grid project that would bring power from upstate New York into the Hudson Valley.

Many transmission owners and the New York PSC pointed out that NYRI hasn't justified the ROE by demonstrating its project would enhance reliability or lower power costs.

In fact, several stakeholders noted the project was omitted from the New York ISO's latest reliability needs assessment.

Several parties also pointed out a logistical problem – NYRI presently does not have any customers or a service territory. Thus it's

unclear who would pay the ROE if FERC granted it.

The City of Utica, which is in the line's planned route, urged summary dismissal on the basis that NYISO says the project is not needed for the next decade; the project lacks a certificate of public convenience and necessity; and that a high ROE is inconsistent with the, "fully regulated status of the proposed project."

"NYRI needs all the help it can get because its ill-conceived project is not needed in the next ten years," Utica ranted.

Utica also attacked NYRI's managerial and technical competence, noting, "NYRI is funding the Project solely through individual investors through a project financing mechanism."

Granting the high ROE would provide unintended assistance to NYRI's fund raising efforts, "which are directed at individual investors and, not surprisingly, do not appear to be directed at sophisticated financial firms or investment funds who would know better than to invest in such a speculative project led by unknown officers with apparently no experience in the development of such a project," Utica blasted.

"Up until now, the only representatives of NYRI have been its outside counsel and independent consultants. In the last few months, one officer, the President of NYRI, has surfaced in the media. His name is Chris Thompson. It is not known whether Mr. Thompson has any experience in the planning, operation or construction of transmission assets. NYRI affiliates do not seem to have any such expertise either, save for ownership interests in four small qualifying generating facilities," Utica claimed.

Utica pointed to the irony that NYRI was justifying a high ROE based on siting risks, as the project has been fiercely opposed by area politicians and residents.

"In effect, NYRI's ROE request can be viewed as punishment for upstate ratepayers who universally oppose this project," Utica argued.

UI Wants Technical Conference on Labels

United Illuminating asked the DPUC to hold a technical meeting regarding what obligations EDCs now must follow in providing disclosure labels to customers (Matters, 2/29/08).

The DPUC imposed the label requirements on both competitive retailers and EDCs (07-05-33), but UI thinks many of the provisions can't really be applied to EDCs, such as the list of questions on the back of the label to ask potential suppliers.

Listing pricing would be problematic as well, UI said, because a system average price would be imprecise, but UI also cannot send out specific labels to customers in different rate classes due to operational limitations.

Since UI can only offer bundled service, it's unclear whether it should list its all-in bundled price, or only on the generation price to compare.

UI claimed that it did not know the DPUC was contemplating extending the labeling requirements to EDCs until a draft decision was issued last month.

But the DPUC's original docket request in May 2007 specifically mentioned EDCs' obligations, and its June scoping memo listed as included in the docket the DPUC's obligations under General Statutes Sec. 16-245p, which specifically requires EDCs to submit information in a form determined by the department.

Briefly:

MISO Delays Ancillary Market Start

The Midwest ISO board voted to delay the commencement of its ancillary services market from the planned June 1 start to September 9, 2008. Citing a "number" of factors for the delay, MISO CEO T. Graham Edwards reiterated that the ISO, "would not launch until all of the key parties are ready." The ISO is currently determining the estimated costs to complete the project, including finalizing complete testing schedules and adding further parallel operations tests and system operations tests to ensure readiness and full tariff compliance. MISO set a conference call

for 10 a.m. EDT March 17 to discuss revised project milestones.

FERC Accepts Lower MISO Price Floors

In a letter order, FERC accepted the Midwest ISO's proposal (Matters, 2/4/2008) to clarify the effective Offer Floor into the Energy Markets and to lower the Offer Floor from the current level of negative \$30/MWh to negative \$500/MWh, effective April 1, 2008 (ER08-435).

EnerNOC Enters ERCOT Market with EILS

EnerNOC launched a new blackout prevention product in ERCOT, using the ISO's Emergency Interruptible Load Service (EILS) program. It's EnerNOC's official entry into the Texas market, as the demand response provider has existing operations on the east and west coasts. CEO Tim Healy expects demand response to thrive in ERCOT given growing use of wind power (which can fall still as ERCOT saw last month), tightening reserve margins and rising peak demand. Healy pointed to leveraging EnerNOC's national account clients as a key component of its ERCOT strategy. As much as 13% of ERCOT's peak demand (currently 63,500 MW) could be addressed by demand response by 2023, the American Council for an Energy-Efficient Economy calculated.

EnerNOC Sued

EnerNOC and certain of its officers and board members have been named as defendants in purported securities class action lawsuits filed in the United States District Court for the District of Massachusetts, the firm said yesterday. The lawsuits allege that the defendants made false and misleading statements and failed to disclose material information in various Securities and Exchange Commission filings, press releases and other public statements from November 1, 2007 through February 27, 2008, including in connection with the firm's November 13, 2007 offering of common stock. EnerNOC believes that it has "substantial legal and factual defenses," which it intends to pursue vigorously.

EnergyConnect Signs 200 PJM Locations

Microfield Group's EnergyConnect has enrolled nearly 200 locations in PJM for its 2008 EnergyReserve Corps, which is its brand for PJM's Interruptible Load Response program. That customer base can collectively reduce up to 200 MW of power, EnergyConnect said, and it will pay customers monthly standby payments for being in the corps. Customers also earn from fulfilling their commitment to shed load when instructed. EnergyConnect is still enrolling customers for 2008 voluntary demand response programs and is also providing participants with the option to lock in pricing now for the 2009 and 2010 EnergyReserve Corps.

Detroit Ed Can't Implement New PSCR Yet

The Michigan PSC rejected Detroit Edison's request to self-implement a new power supply cost recovery (PSCR) factor before the PSC ruled on a pending request for a smaller raise (U-15417). Originally, Detroit Ed had asked to set the PSCR at 9.23 mills/kWh in a September 2007 filing, reflecting a \$1 million underrecovery. But Detroit Ed came back in January and said it needed to boost the PSCR to 11.22 mills/kWh because its underrecovery had ballooned to \$43 million. The increase stemmed from lower-than-anticipated competitive retailer sales for 2008, with competitive sales expected to now be 1,940 GWh instead of the original estimate of 2,660 GWh, thus increasing the utility's bundled load by 720 GWh. But the PSC denied the motion to self-implement the new PSCR, concluding Detroit Ed has failed to explain how the increase in bundled load will greatly increase its 2008 per kWh PSCR costs to the level requested. A second prehearing conference on the case is set for March 27.

Peoples Energy Services Turns in Michigan Electric License

The Michigan PSC approved Peoples Energy Services' request to relinquish its alternative electric supplier license, as the marketer has been rolled into Integrys Energy Services and no customers were being served on the Peoples' entity in Michigan (U-14548).

DPUC Wants Comments on Class III Renewables

The Connecticut DPUC asked stakeholders for comments regarding the Class III conservation and distributed resources trading program (05-07-19RE01). The DPUC wants to know how to implement legislative provisions setting distribution of financial value from distributed generation projects receiving Conservation and Load Management funding. The Department also asked stakeholders for an appropriate definition of a "waste heat recovery system" which would qualify as a Class III source.

Another Tara Complaint Dismissed

Another of the complaints against Tara Energy has been dismissed by the PUCT at the customer's request. Wolf Manufacturing has settled its dispute with Tara Energy (33936) and will re-enroll with Tara, it told the Commission. While Tara has settled numerous complaints recently (Matters, 2/4/2008), its dispute with customers of aggregator Public Utilities Brokers, such as the Greater Houston Retail Association, is ongoing.

La. PSC Wants Safeguard in Entergy Spin-off

The Louisiana Public Service Commission does not oppose Entergy's spin-off of its merchant nuclear assets, but it wants a commitment regarding the transfer of current support functions for Entergy's regulated units to a new entity that will be sold back to Entergy Operations. The PSC asked FERC (EC08-46) to commit in any Commission order that approves the transfer to protect retail customers from any increased costs resulting from the spin-off, and that retail regulators will not be prevented from determining the level of and potential disallowance of any additional costs resulting from the approval of the application in the case.

Calif. PUC OKs Half of SCE DR Pacts

Although California only approved four of eight demand response contracts proposed by Southern California Edison (Matters, 2/21/08), "nothing in our decision today is intended to

signal that we do not want third party aggregators in California,” PUC President Michael Peevey said. An earlier PUC draft would have only accepted two contracts, a decision which would have “chilled” the demand response market, providers cautioned. The PUC concluded the four remaining contracts weren’t cost effective despite arguments from both SCE and demand response providers. Two contracts are with Ancillary Services Coalition, one is with the North American Power Partners, and the fourth is with EnergyConnect (A.07-10-013).

Calif. PUC Recommends GHG Cap-and-Trade

The California PUC approved recommending to the state’s Air Resources Board a cap-and-trade greenhouse gas regulation program that regulates the “deliverers” of electricity onto the state’s grid (Matters, 2/11/08, 3/5/2008). Although a final order was not available, the recommendations did not appear to have many changes from the draft, and would still auction a portion of GHG allowances (R 06-04-009). The PUC told the ARB all retail electricity providers, including those not under PUC jurisdiction such as munis, should be subject to RPS and energy efficiency goals. The PUC recommended not including the natural gas sector in the cap-and-trade program at this time. The PUC and Energy Commission will work together to develop recommendations for allowance allocation policy and options for flexible compliance with the recommended policies.

New Calif. Rulemaking to Access Renewables

The California PUC instituted a new rulemaking to improve transmission access to renewable energy generation, consider additional streamlining of existing regulatory processes, and address issues identified in the California Renewable Energy Transmission Initiative (RETI) which require PUC action (Matters, 3/4/08).

Commerce Loss ... From 1

ago period, reflecting higher third-party sales expenses, increased personnel costs and higher advertising costs from the company’s expanded customer acquisition initiatives.

General and administrative costs rose 66% to \$16 million from \$9.6 million in the prior year’s quarter, primarily reflecting higher bad debt expenses, increased personnel for customer service and information technology to support acquisition efforts, higher professional service fees, and larger depreciation and amortization expenses.

Craig promised immediate reforms to reduce expenses and manage bad debt. Commerce will focus sales and marketing efforts on its most profitable and high-growth markets, he added.

Commerce will also improve its credit strength, Craig reported. The retailer believes that it will require additional capital resources in fiscal 2008 to:

- (i) meet its credit facility requirement to have \$10 million in excess availability at all times on and after July 1, 2008;
- (ii) fund possible expansion of the company’s business, either from internal growth or acquisition;
- (iii) add liquidity if energy prices increase materially; and
- (iv) respond to increased energy industry volatility and/or uncertainty that create additional funding requirements.

MMC Complaint ... From 1

aggregated units because some of the certified capacity was not synchronized at all times.

MMC’s units were full participants in the spinning reserve market until CAISO “effectively decertified” the units last fall by ignoring the capacity of the larger combustion turbine at each facility as a qualified spin resource, MMC told FERC.

Instead, CAISO now only views the 0.25 MW unit which is constantly spinning and synchronized at each facility as qualified to provide spinning reserves.

Aside from attacking CAISO’s policy reversal absent a formal FERC filing, MMC

also protested that CAISO unfairly targeted it and another IPP, Wellhead Electric, in an unduly discriminatory policy change.

MMC told the Commission there are approximately 300 other aggregated generators in CAISO, but alleged CAISO's action was specifically designed to disqualify MMC's three units and three units owned by Wellhead, while allowing other, similarly-situated competitors to escape any new burdens which would have disqualified them.

According to an affidavit by an MMC vice-president, CAISO assured incumbent and utility-owned providers of spinning reserves, "not to worry," and that the changes would not affect their aggregated resources.

If CAISO's new policies were applied on a non-discriminatory basis, they would result in the decertification of many aggregated generating facilities in California, including many aggregated combustion turbine and pump storage facilities, MMC claimed.

"Since the CAISO's unilateral Tariff changes reduce competition and create significant new barriers to market entry for generators seeking to participate in the California spin market, it is critical that the Commission give this Complaint expedited consideration," MMC urged.

The loss of spinning reserve revenues has been, "extremely damaging," to MMC and the CAISO is also withholding \$522,188 in spinning reserve payments for services already provided due to the dispute, MMC said.

"The CAISO has even taken the wholly inappropriate tactic of threatening to seek rescission of additional spinning reserve revenues if MMC files a Complaint with this Commission," MMC alleged.

"CAISO has stated to both MMC personnel and MMC's Scheduling Coordinator that CAISO would seek sanctions and penalties against MMC and the Scheduling Coordinator if they continued to participate in the spinning reserve market," MMC claimed.