Energy Choice Matters

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Kaye Scholer Finds No Collusion or Abuse in BGE Auctions

The facts surrounding Baltimore Gas & Electric's SOS auctions, "do not support a finding that SOS prices are unreasonable, unjust, or must be changed in order to protect the public interest," Kaye Scholer found in a report to the PSC prepared in October but distributed yesterday.

The PSC had directed Kaye Scholer to probe whether Maryland could pursue action at FERC or in courts over the SOS auctions, similar to a complaint filed by the Illinois Attorney General over the state's 2006 descending clock SOS auction.

After a thorough review of past auctions, Kaye Scholer, "found no evidence to support allegations of unlawful conduct by Constellation, BGE, or any other participants."

In fact, the SOS auctions, "were competitive, and the resulting prices reasonably reflect prices for comparable products in the wholesale market." Since FERC and the PSC approved the auction design, and independent consultants monitored the process and found no abuse, "it would be very difficult to prove that the SOS auction prices are unlawful," Kaye Scholer concluded.

Kaye Scholer found no evidence of collusion or market power abuse. Bids remained confidential, and no pattern in the timing, number, or prices of bids that would suggest collusion was found.

The PSC would not likely win a code of conduct complaint since Constellation and BGE do not share offices or electronic files, Kaye Scholer noted. Although they share some key personnel, the dual roles of those individuals do not violate Maryland's affiliate regulations, and those individuals do not have access to competitively sensitive information.

TXU Energy Gains Residential Customers For First Year Since ERCOT Market Opened

Despite struggling due to a 15% price cut for legacy North Texas customers and cooler summer weather (Matters, 4/1/08), TXU Energy did see growth in its residential customer count for the first time since 2001, adding a net 4,000 residential customers for a total of 1.875 million.

TXU saw 34% growth in its Houston/South Texas customer base and cut attrition in its North Texas base to 5% from an average of 9% over 2005-06.

TXU's 15% rebate for legacy customers created tighter pricing among REP offers in the North Texas market compared to other service areas, which placed a greater emphasis on the value of individual products in the North Texas market, TXU Energy CEO Jim Burke told investors. The value in TXU's products boosted retention in the tight-price environment, he explained.

Burke attributed the lower prices offered by competitors last year to falling natural gas prices in addition to price following.

REPs' prices have risen so far this year, following the trend in natural gas, Burked added.

TXU cut retail bad debt expense 15% and recorded 6% fewer complaints with the PUCT.

TXU reiterated its intent to invest $100 million over five years in new tools for customers to manage their electricity usage through innovative energy efficiency and conservation approaches, an intent previously revealed at KEMA.

PJM Plan for Converting Network Service Would Violate OATT, P3 Says

PJM's proposal to convert network transmission service into firm point-to-point service for generators serving Duquesne load (Matters, 3/27/08), "is plainly inconsistent with [FERC's] open access policies as implemented in the PJM Open Access Transmission Tariff," the PJM Power Providers Group (P3) told the Commission (ER08-194).

P3 had originally asked FERC to rule that generators in the Duquesne zone should be treated as external resources for the May 2008 RPM auction since their deliverability in the 2011-12 year, once Duquesne is in MISO, cannot be guaranteed. Duquesne zone generators protested that request, arguing that since PJM still controlled the Duquesne grid, they had no way of obtaining the necessary rights to participate in RPM as external resources.

As an alternative, PJM proposed giving Duquesne zone generators firm point-to-point service duplicative of the network service that they rely upon now.

But PJM's plan would grant firm point-to-point transmission rights without any assurance that such service would be available, at least not without elevating the proposed service above existing transmission service and outstanding transmission service requests, P3 reasoned.

That would be a, "clear violation of the rules established by the PJM Tariff for obtaining such service," P3 charged.

"PJM's proposal violates the Commission's long-standing first-come, first-served open access policies and would unduly discriminate against existing transmission customers and transmission service requests seeking to transmit power from MISO to PJM," P3 explained.

There hasn't been any indication that the Midwest ISO would honor PJM's proposal, or that MISO could grant such new service without violating its own OATT, P3 added.

While PJM claims it could grant firm point-to-point service without performing any reliability studies because no usage of the system is contemplated beyond the current use, P3 cautioned that, "there is no guarantee that the system will be used in the same way."

Once the Duquesne zone leaves PJM, there is no guarantee that it will continue to be supplied by the same generation currently used, P3 explained, since MISO will be using its own security constrained least cost dispatch based upon a different portfolio of available plants.

Thus, P3 urged the Commission to deny PJM's proposal and require all generation located in Duquesne's zone to adhere to the provisions of the PJM tariff for participating as external generation in future RPM auctions.

Cross Hudson-PSEG Project a "Merchant Generator Lead Line"

Cross Hudson's project connecting PSEG Fossil's Bergen 2 unit in New Jersey and a ConEd substation is a "merchant generator lead line" and can be priced at negotiated rates, FERC ruled in granting in part and denying in part PSEG's and Cross Hudson's request for a declaratory order (EL08-35).

PSEG wants to remove its Bergen 2 unit from PJM and sell its power to the New York Power Authority via an interconnection to NYISO that Cross Hudson is building (Matters, 3/11/08).

PSEG and Cross Hudson view the project as a "generator lead line" that isn't subject to open access rules, but New Jersey load representatives and other PJM transmission owners have cautioned FERC against exempting the line from OATT requirements and allowing PSEG to remove its Bergen 2 unit from PJM.

The Commission did not make a finding on the removal of Bergen 2 from PJM in its decision because the merits or potential results of such disconnection were not among the issues presented in the original petition.

However, FERC did deny PSEG and Cross Hudson's request that the Commission permanently commit to not ordering the project to interconnect with PJM under FPA section 202(b) in the future.

"The FPA does not provide the Commission with any authority to waive section 202(b) for the benefit of any public utility or project, much less to do so on a permanent basis," FERC explained.

The project is like a merchant transmission facility because it is a high-voltage, alternating current facility that will be built to provide Commission jurisdictional delivery service to a generator engaging in wholesale sales and will be paid for, owned, and operated by a third party merchant provider.

But it is also like a generator lead line because it is not a part of an integrated transmission grid and will be built to serve a single customer – PSEG Fossil's Bergen 2 unit. The 345-kV line will not be connected to any other load, generation facilities, or distribution systems, FERC noted.

Thus the project, "is a merchant transmission facility serving as a generator lead line," the Commission concluded.

As such, negotiated, rather than cost-based, rates are appropriate since Cross Hudson will assume full market risk and the project has no potential for cross subsidization or other affiliate abuse.

Given its status as a generator lead facility, FERC granted waivers from Order 888, and PSEG's use of the line will not be displaced by third-party requests for firm point-to-point transmission service.

At the same time, FERC denied arguments from PSEG and Cross Hudson that the line should not be required to provide service to third parties under section 13.5 of the pro forma OATT.

Although PSEG and Cross Hudson claim exclusive use of the line is needed to meet commitments to NYPA, they admit the project may have excess capacity (which is likely, given the 550 MW rating of Bergen 2 and the 600 to 610 MW capacity of the line) that could be used to transmit the additional output from other generating units at the Bergen site.

FERC stressed the designation as a merchant generator lead line is not fixed and could be modified depending on changed conditions.

"In the future, it is possible that Bergen 2 will be reconnected to the PJM system or interconnected to another market and that the Project will be open to other generators to transmit power from New Jersey to New York, or, in the reverse direction, from New York to New Jersey," FERC noted.

FERC noted PSEG and Cross Hudson have told PJM they will pay for any necessary upgrades needed to address the impacts of the project without regard to how such costs otherwise would be assigned under the PJM tariff.

EPSA Raps Dominion for Opportunistic Approach to Competition

Dominion Virginia ratepayers are to pay an additional $40 million for a new $1.8 billion ratebased power plant because of re-regulation championed by Dominion last year, the State Corporation Commission noted in an order approving the plant, EPSA reported.

EPSA used that additional burden, which would not have occurred if the SCC's traditional ratemaking authority had remained intact, to attack the "rosy" picture of re-regulation Dominion CEO Thomas Farrell painted in an op-ed in the Washington Post.

EPSA challenged Farrell to explain why Dominion was holding its Virginia customers captive to a monopoly while at the same time touting competition to New England regulators, where Dominion has a large competitive generation fleet and book of competitive retail customers.

Mass. Utilities Warn Against Added Termination Protections

Utilities agree that because DPU regulations allow elderly customers and those with medical needs to indefinitely avoid disconnects for non-payments, many of those customers, "make no effort whatsoever to make energy payments."

Utilities were responding to questions on adjusting low-income discounts and arrearage programs in docket 08-4 (Matters, 3/18/08).

Nstar reported 275 residential customers that each have past due balances in excess of $10,000, with combined past due balances of over $4 million.

"The majority of these customers have

been protected from termination for several years and have made no payments over that time," Nstar said.

"These customers also have no incentive to limit energy usage because they know their service cannot be terminated," it added.

"Customers who qualify for certain protections (i.e., medical, infant protection, winter moratorium) interpret protection as a time where they are not required to make payments," Western Massachusetts Electric Company added.

That just causes customers' to collect high arrearage balances that are nearly impossible to pay off when the protections expire, WMECO noted, resulting in more terminations.

WMECO suggesting requiring customers protected from disconnects to maintain some minimum payments in order to enjoy the protection.

"This would assist the customer in realizing that some payment, however small, is required for the services received," WMECO explained.

Although disconnect is the last means for collecting delinquent balances, "some customers will not respond to their obligation of payment for utility service until they lose the service," WMECO reported.

"Therefore, as stated before, service terminations, although undesired, are an essential tool toward the collection of arrearages," WMECO argued.

Utilities' bad debt will increase significantly should the DPU boost termination protections, utilities cautioned, and that will only raise other customers' rates.

Bad debt will also rise if the DPU eases requirements for disconnected customers to restore service, utilities added.

Nstar's writeoff increased by $5.7 million during last year when it voluntarily relaxed requirements for customers whose service had been terminated to return to utility service by capping the amount of arrears that had to be paid to 25% of the total arrears.

Should the DPU adopt greater disconnect protections, utilities argued for tools to mitigate the expected rise in bad debt.

Bay State Gas asked that utilities be allowed to recover bad debt writeoffs, charge interest on late payments, and collect security deposits. Those polices would provide some incentive for customers to pay bills in a timely manner in the absence of the threat of termination.

Nstar favored those three polices plus allowing utilities to perform full credit reporting.

"Today, there is virtually no incentive for low-income customers to pay their utility bills on time," Nstar explained.

"If utilities were to perform full credit reporting and report all on time payments to the Credit Bureau (today most utilities report accounts after write-off), low-income customers that consistently paid on time would have a benefit on their credit report. This added incentive to pay on time would allow low-income customers to build up a credit rating without taking on the debt of a credit card and reward them for good payment behavior," Nstar argued.

National Grid reported total electric company net writeoffs increased from $14.9 million in 2004 to $35 million in 2007, but noted it has no provision to recover actual electric commodity related bad debt in excess of the amount currently built into electric distribution rates. It recommended allowing utilities to recover commodity-related bad debt to address the problem.

"The Department should recognize that the level of bad debt is largely beyond the utilities' control. The provision of commodity by the electric utility is required by the restructuring legislation for those customers who have not gone to the competitive market," Grid explained.

Allowing reconciliation of commodity bad debt would provide customers with price signals that reflect the true cost of the commodity, Grid added.

WMECO urged the DPU to "tread very carefully," in any increase to the discount low-income customers may receive.

"These discounts are paid for by other customers and even at present levels the dollar amounts shifted are far from trivial. An expansion of benefits could mean a transfer of significant additional costs to non-discount customers, and this, added to what are already historically high electric bills, would be an unwelcome development," WMECO said.

The Associated Industries of Massachusetts agreed, noting, "electric rates are too high for everyone, not just low-income consumers."

"By focusing on one class of consumer, the Department is doing a disservice to all other consumers," AIM claimed.

"If industrial and commercial businesses are not expanding or leaving Massachusetts due to high costs, the costs for the low income discount will obviously be spread out over a smaller kilowatt load, further increasing costs. This 'death spiral' will make things worse in the long run," AIM observed.

The Massachusetts Energy Directors Association and Low-Income Weatherization and Fuel Assistance Network urged the DPU to make utilities offer so-called "Cromwell waivers" to customers seeking service at a new address who owe money from a prior address, with payment plans that generally do not require customers to pay more than 10% to 25% of the overdue bill to get service restored.

Under Cromwell waivers, customers consent to having bills from the prior address added to the current bill in order to get service restored.

Briefly:

Duquesne Pushes Back MISO Integration Date

Duquesne Light intends to integrate with the Midwest ISO on Oct. 1 rather than on June 1, due to the delay in the start in MISO's Ancillary Services Market, the utility told FERC (ER08-194). The MISO ancillary market has been delayed until Sept. 9 and joining MISO in the middle of the month would create billing and accounting issues among Duquesne, PJM, MISO and customers, Duquesne explained. Duquesne also told FERC it does not intend to submit a section 205 filing regarding MISO integration until 60 to 90 days prior to Oct. 1.

DC OPC Warns Pepco Still Has Incentive to Sell More kWh Under SOS

The District of Columbia PSC should reject Pepco's proposed Bill Stabilization Adjustment – an approach to decoupling – because the adjustment would burden customers with higher risks while not removing all disincentives to Pepco's provision of energy efficiency programs, the Office of People's Counsel told the Commission in an initial brief (FC 1053). While the BSA would decouple distribution revenues from sales, Pepco would still have an incentive as an SOS provider to sell as much electricity as possible, since an SOS provider's compensation is "directly proportional to its sales," OPC explained.

Green Enrollment at Detroit Ed Meager

At the end 2007, Detroit Edison had 6,822 enrolled participants in its GreenCurrents program, less than 1% of its total customer base, it reported to the Michigan PSC (U-14569). Of that total, 6,393 were billed, with the vast majority (6,355) being residential customers, with 34 commercial customers and 4 industrial customers. Detroit Ed sold 10,295 MWh of RECs through the program, but only bought 6,064 RECs and will have to make up the balance this year. Last year, Detroit Ed bought RECs from Michigan landfill gas and wind sources for a weighted average price of $14.55/MWh.

PG&E Looking for Suppliers

Pacific Gas and Electric issued an all-sources RFO for 800-1,200 MW by 2015 (http://www.pge.com/rfo).