

Energy Choice Matters

April 3, 2008

Direct Energy Bolsters Large C&I Position by Buying Strategic

Direct Energy vaulted to among the top three suppliers of electricity and natural gas to C&Is yesterday by acquiring Strategic Energy from Great Plains Energy for \$300 million.

Direct, whose bread and butter in the past has been mass market sales (particularly to incumbent ERCOT customers at CPL and WTU), has steadily been growing a large C&I book, with its large C&I unit posting its first full-year operating profit last year.

Still, Direct's C&I electricity volumes made it perennially just either inside or outside of the top 10 North American retailers, with much smaller sales than the top players such as Constellation NewEnergy, Reliant Energy, Suez Energy Resources NA and Pepco Energy Services.

That's all about to change.

Buying Strategic's book, which is heavily weighted with larger customers, will make Direct Energy a top-three energy supplier when accounting for both electric and natural gas volumes. The deal gives Direct a total of 55 TWh of electricity and gas C&I sales, with 21 TWh coming from Strategic. Direct couldn't say with certainty whether the acquisition would place it second, ahead of Reliant, or third.

Either way, the deal shows Direct's commitment to the large C&I market, which it had previously touted as one of its key areas of growth for this year (Matters, 2/22/08).

Strategic's book, with 26,000 customers in 11 states, is a particularly good fit for Direct. Strategic has significant market share in the California large C&I space, a market Direct currently isn't in but had been eyeing.

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ERCOT Submits Wind, CREZ Reports to PUCT

ERCOT may need to introduce a 15-minute Non-Spin market in order to mitigate this risk of large drops in wind production as more wind resources are built, a study by GE suggested (PUCT docket 33672).

GE analyzed the probability of large drops in wind production under the scenario of 15,000 MW of installed wind capacity being built in Texas.

GE found that under that scenario, there is an expectation that a drop of 2,400 MW in less than 30 minutes will occur once per year.

A drop of 2,836 MW in less than 30 minutes will occur once every 3 to 5 years, GE reported.

GE suggested introducing a 15-minute Non-Spin market in order to mitigate those risks and also found that there will be some increase in Regulation up and down requirements.

ERCOT's unit commitment may need to be altered to provide ancillary services, GE added.

However, the cost of the additional ancillary services will be small relative to the cost savings from the additional wind generation, GE concluded.

"Because induction generation (wind) does not contribute to system inertia in the way that synchronous generation does, it may not be possible to maintain adequate primary frequency response during high wind penetration and low load periods unless ancillary service requirements are increased, to allow sufficient thermal generation to be brought on-line to provide inertial damping and governor response," ERCOT explained.

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PUCT Staff, Luminant Can't Work Out Differences Over Documents

The PUCT staff urged the Commission to open a formal investigation into an inaccurate resource plan submitted by Luminant to ERCOT in 2006 because Luminant is still claiming privilege for documents staff wants to review, and informal talks haven't produced a compromise (34996).

Without a formal investigation, there is no procedural mechanism to provide for resolution of the discovery dispute, staff observed.

The Commission at its last open meeting confirmed that rules require it, and not the staff, to open a formal investigation, but held off on such a vote to give the parties a chance to work things out (Matters, 3/27/08).

The documents include notes taken during the discharge interviews of fired employees and the initial drafts of the Luminant's internal investigation report, compiled by the Luminant's non-legal employees, including human resource employees, staff explained.

Staff believes the documents are "critical" to its investigation because they contain information gathered within days of the reported incident. The documents would allow staff to determine whether the alleged violations occurred at times outside of the self-reported period, and to determine the appropriate penalty to recommend.

"Employees terminated by Luminant in connection with the false resource plan have alleged that that the Company supported a common, approved practice to provide such inaccurate information and that employees did so on multiple occasions. The determination of whether the terminated employees' claims are accurate statements regarding a policy conducted by Luminant in violation of the Public Utility Regulatory Act (PURA) and the ERCOT Protocols or merely specious allegations made in litigation by disgruntled former employees is critical to Staff's determination of factors it must consider," staff reported.

Despite two more conference calls, parties were not able to resolve the discovery dispute.

Luminant has offered to submit informal responses to staff's RFIs, allow employees to be informally interviewed under oath (but without transcription), and allow employees to be interviewed by written questions with written answers provided under oath. Those proposals were "summarily rejected" by staff without offering alternatives for informally resolving the matter, Luminant told the Commission.

Staff responded that the offers were insufficient because Luminant indicated it would only answer written questions if it could help edit those questions based on its privilege claims.

"Staff cannot agree to allow market participants to unilaterally choose what questions they will or will not answer as part of an investigation."

But Luminant insists the documents, "fall squarely within the attorney work product and/or attorney-client communication privilege," and thus it cannot agree to waive those privileges.

Since staff requests for sworn and transcribed interviews of Luminant employees have been rebuffed, subpoenas may be needed, which can only occur under a formal investigation, staff noted.

Luminant argued a formal investigation isn't needed since the facts in the case are not in dispute and have not changed since Luminant self-reported them on November 1, 2006.

CAISO, CPUC Oppose Calpine Attempt to Broaden FERC Review of ICPM

"FERC is not the proper forum to determine whether or when California will embark upon implementation of a [centralized capacity market]," the California PUC told FERC in objecting to a motion to lodge from Calpine in FERC's review of the California ISO's Interim Capacity Procurement Mechanism (ICPM) (ER08-556 et. al.).

Calpine wants to lodge comments the ISO submitted in a PUC rulemaking regarding resource adequacy (Matters, 3/19/08), but both the PUC and ISO think the comments are

irrelevant since the rulemaking focuses on long-term resource adequacy while the ICPM is explicitly designed to be a short-term solution needed when the Market Redesign and Technology Upgrade starts.

Calpine supports a centralized capacity market to create better price signals for capacity.

But the PUC reminded FERC that the CAISO's Market Surveillance Committee recommended against development of a centralized capacity market at this time, given the current transitional state of California's wholesale energy markets and the lack of evidence that eastern capacity markets have provided the desired results.

"While the CAISO has a legitimate interest in short term grid reliability, Congress and California law have continued to maintain CPUC control over long-term reliability levels and means of achieving resource adequacy," the PUC asserted.

Thus, "FERC does not have the authority to either directly or indirectly require the CPUC to develop particular [resource adequacy] program features in the absence of evidence that the CPUC's long-term energy supply procurement process has failed to meet CAISO's short-term operational needs," the PUC explained.

The comments Calpine wants to lodge are irrelevant to the justness and reasonableness of the backstop ICPM, the PUC added.

"The CAISO's comments are directed towards design of an end-state retail energy market. The instant proceeding is regarding a transitional mechanism to provide appropriate compensation for generators providing capacity services while an end-state retail energy market is developed," the PUC noted.

It's not clear a centralized capacity market could even be developed by the ICPM's sunset date of 2010, the PUC added.

CAISO also considers Calpine's request an, "impermissible collateral attack on the Commission's prior determination to defer to state authorities' determination of long-term resource adequacy requirements."

FERC has already determined MRTU will be just and reasonable even without a centralized capacity market, CAISO reminded,

Calpine's motion to lodge is a "backdoor" attempt to have FERC reverse those prior determinations, CAISO argued.

The ICPM is intended to be used as a "bridge" until the CAISO develops and implements a more permanent capacity procurement mechanism that comports with the long-term need for capacity and can complement the long-term resource adequacy design, the ISO reported.

California Retailers Urge Greater Protection For Sensitive Data

The Alliance for Retail Energy Markets and several individual energy service providers (ESPs) urged the California PUC to modify a proposed decision on the confidentiality of reports to the PUC regarding resource adequacy and RPS obligations in order to grant ESPs more protection from the exercise of wholesale supplier market power (R. 05-06-040).

Although the proposed decision adopted several confidentiality protections for certain ESP data regarding supply information, demand forecasts and RPS compliance, the draft still leaves ESPs vulnerable to gaming, ESPs cautioned.

For example, ESPs urged that data submitted for RPS compliance be made confidential where the data would reveal an ESP's actual and forecast RPS requirements. Such protection is needed due to the constrained supply of RPS-eligible resources which creates even greater potential for the exercise of market power by suppliers of such resources, ESPs cautioned. The draft rule would only protect ESP data where the data would reveal an ESP's total energy requirements.

Disclosing RPS compliance data is "particularly problematic" for the customers of some of the smaller ESPs since those ESPs may serve only one or a few customers. Releasing these ESPs' data publicly could thus result in a de facto release of their customer-specific information, ESPs warned.

"In such cases, the Commission should continue its longstanding policy of protecting customer-specific data from release to the

public and modify the [proposed decision] to provide such customer-data protections by allowing ESPs to assert this need in confidential, verified declarations,” ESPs argued.

ESPs also noted that while IOUs’ monthly customer counts are not granted confidential protection, the unique and competitive nature of the direct access market makes confidential treatment of such ESP information necessary.

While an IOU’s monthly customer counts would potentially reflect estimates on customer migration (if applicable), an ESP’s monthly customer counts would reflect actual commercial relationships, ESPs pointed out

“In the direct access market, competition for customers between ESPs can be intense, particularly given the essentially fixed pool of customers that now exists,” ESPs reminded.

“Disclosure of current, recent and forecast customer counts, particularly when broken out by geographic area as well as by month, discloses both individual ESP market share data and indicates in great particularity when customers’ contract terms end. Information concerning the exact timing of when customers may be shopping for new suppliers is information that ESP’s competitors may not otherwise know with any particularity. Moreover, customer count data can also convey that data in certain locations is customer-specific, signaling to customers’ competitors the access to customer consumption or load information that would not otherwise be knowable and risking public disclosure of their confidential data or trade secrets,” ESPs explained.

PJM Urges FERC to Allow Internal RPM Review to Proceed Before Setting Conference

FERC should wait for the outcome of a broad review of RPM by PJM and its stakeholders before convening a technical conference, the RTO told FERC (ER05-1410).

RPM Buyers (load representatives and regulators) had pressed FERC to set a technical conference for May in time to make substantive changes for the June 1 delivery date (Matters, 3/21/08).

That schedule does not seem practical,

PJM argued, noting the initial RPM settlement took months, and proposed changes, which would undoubtedly be highly contested, cannot be comprehensively vetted in a mere two months.

PJM already has secured resource commitments for the 2008-2009 delivery year, through an RPM auction held last year, and market participants have already taken actions in reliance on those commitments, PJM noted.

“It is not at all clear how the Commission could change the payments to capacity resources or other material terms of these existing commitments now, without raising serious equity concerns, without damaging the credibility of Commission decisions regarding market rules, and without adversely affecting long-term reliability,” PJM cautioned.

PJM’s evaluation of RPM will include an analysis by an outside consultant that will review the shape of the Variable Resource Requirement Curve and the Cost of New Entry reference price; the Net Energy and Ancillary Services offset methodology; Locational Deliverability Area definitions; the three year forward commitment; the ability of RPM to sustain infrastructure investment; capital expenditure and project investment provisions for upgrades to existing generation resources; demand response participation rules; and incentives for existing resources to participate in the RPM auctions.

A report is due June 30 and PJM has committed to holding two workshops, both within four weeks of the report’s release.

PJM will be consulting stakeholders not just on the merits of the report but on their proposals as to how best to structure stakeholder consideration of RPM-related issues.

PJM would not necessarily object to a FERC technical conference after this stakeholder process if the Commission decides one is needed.

Briefly:

TXU Supplying Dell with Wind

TXU Energy inked a deal to supply 60% of Dell’s Round Rock headquarters’ power needs with wind generation. Dell is using landfill gas

energy from Waste Management for its remaining power needs.

EnerNOC Enters Ontario

EnerNOC signed a five-year contract with the Ontario Power Authority to initially provide 25 MW demand response capacity in the Greater Toronto Area, Waterloo Region and City of Hamilton.

Texas Again Leads Wind Rankings

Texas is “firmly established” as the national leader in wind power, the American Wind Energy Association’s annual rankings confirmed, as the Lone Star state boosted its installed capacity 60% last year. Texas now has 4,446 MW of wind power versus of 2,768 MW at the end of 2006. The U.S. installed over 5,000 MW last year to bring total wind capacity to 16,800 MW.

AWEA Wind Rankings (End 2007)

Top States by Installed Capacity (MW)

Texas	4,446
California	2,439
Minnesota	1,299
Iowa	1,271
Washington	1,163

Top States In 2007 Capacity Additions (MW)

Texas	1,618
Colorado	776
Illinois	592
Oregon	447
Minnesota	405

Top “Managing Owners” of Wind Projects (MW)

FPL Energy	5,077
Iberdrola	1,645
(including PPM Energy)	
Horizon-EdP	1,132
Babcock & Brown	1,120
MidAmerican	933
(including PacifiCorp)	

MEPCO Talks to Continue

Settlement talks over rolling Maine Electric Power Company’s (MEPCO) U.S.-Canada tie into ISO New England Regional Transmission Service will continue, FERC’s chief judge ruled yesterday, citing progress in talks. No action

will be taken on Casco Bay Energy’s request to restart the settlement process (ER07-1289, Matters, 4/1/2008).

Latest Western Crisis Settlement

FERC approved an \$85.7 million settlement stemming from the Western energy crisis in which Midway Sunset Cogeneration will pay the sum to California Parties, including the state’s IOUs, PUC, AG and DWR, to resolve claims over sales from Jan. 1, 2000 through June 20, 2001.

Direct-Strategic ... From 1

The deal also gives Direct all-important scale for its large C&I business, which is invaluable in a thin-margin industry. Direct estimates the acquisition will create \$15 million in synergies.

Direct also touted the potential to cross-market gas to current Strategic customers as Strategic only offered electricity.

Direct expects the deal to close in June and intends to integrate Strategic customers as quickly as possible into Direct’s portfolio. It has experience performing such large-scale integration after buying Entergy Solutions’ 100,000 customer ERCOT book in 2006.

Direct intends to keep Strategic’s Pittsburgh office but would not comment on leadership changes at this time. It hasn’t made a decision on whether to keep the Strategic brand name.

The transaction is debt free and includes an amount of working capital which will be subject to a subsequent true-up.

ERCOT Wind ... From 1

“This could require curtailment of wind generation. It is also possible that changes could be made to the requirements for wind generation so that these generators can provide inertial damping and governor response,” ERCOT added.

ERCOT also filed its Competitive Renewable Energy Zone (CREZ) Transmission Optimization study in docket 33672 which provides transmission plans for the four scenarios of wind generation

designated by the Commission.

The four scenarios contained a total of 12,053, 18,456, 24,859 and 24,419 MW of installed wind generation distributed among five CREZs in West Texas and the Texas Panhandle.

Criteria for evaluating the study were system reliability, sufficient transfer capacity, and how “beneficial and cost-effective to consumers” each plan would be.

For Scenario 1, the estimated cost of the transmission proposal that best meets those criteria is \$2.95 billion, excluding collection costs.

For Scenario 1, ERCOT included an alternate, more scalable transmission proposal, with an estimated cost of \$3.68 billion, excluding collection costs.

For Scenario 2, the estimated cost of transmission is \$4.83 billion, excluding collection costs.

For Scenario 3, the estimated cost is \$6.22 billion, excluding collection costs, while the cost is \$5.46 billion for transmission needed for Scenario 4, excluding collection costs.