Energy Choice Matters

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Tara Argues Aggregators are REP Competitors in Discovery Dispute

In order to prevent, "severe injustice," Tara Energy asked an ALJ to reverse a ruling which denied Tara's request to limit discovery of highly sensitive protected materials to only outside counsel and outside consultants if they are not employees of a market participant, in the complaint of the Greater Houston Retailers Association against Tara (33967).

An ALJ had earlier ruled the highly sensitive materials could be reviewed by outside counsel and outside consultants, but Tara argued if such outside consultants were employees of a competitor, it would be unfairly handicapped when competing for customers against that competitor (Matters, 4/29/08).

GHRA replied that the two consultants in question -- Mark Goodson of Public Utility Brokers and Marilyn Fox of Fox, Smolen & Associates -- are aggregators and, by definition, are not competitors to REPs. Aggregators are no more competitors of REPs than an individual customer is a competitor of a REP, GHRA reasoned.

An ALJ agreed and denied Tara's original motion.

Tara moved for reconsideration, arguing that GHRA's "syllogism" is without merit and that aggregators are, in fact, competitors of REPs.

"To ascertain whether or not Tara competes with aggregators, it is insufficient to point out that they do not fulfill identical functions in the competitive market. The two functions are very much interrelated and both compete for the same customers," Tara explained.

"The entire concept of aggregators is that they 'aggregate' or group-together individual customers to gain leverage and negotiate more favorable rates. As part of this transaction, they receive a fee. It is

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DOE: Organized Markets Key to 20% Wind by 2030

The U.S. could be powered by 20% wind energy by 2030 at the annual cost of $6 more for the average ratepayer if significant barriers can be removed, a Dept. of Energy study concluded.

Wind capacity would need to reach 300,000 MW under the scenario. Last year, wind capacity totaled 11,600 MW.

Significant transmission growth to reach renewable sites and relieve congestion, and large expanded markets, would be needed to add the 293 GW of capacity, DOE reported.

DOE noted that studies have demonstrated, "the beneficial effect of regional energy markets, namely that large operational structures reduce variability, contain more load-following resources, and offer more useful financial mechanisms for managing the costs of wind integration."

"Experience has shown that using well-functioning hour-ahead and day-ahead markets and expanding access to those markets are effective tools for dealing with wind's variability. A deep, liquid real-time market is the most economical approach to providing the balancing energy required by wind plants with variable outputs," DOE added.

Thus, the 20% wind scenario, "would be aided by the development of or access to energy spot markets where participants who have an excess or shortfall of power could trade at competitive prices that reflect the marginal cost of balancing load." DOE noted opposition to such markets in certain areas of the country.

DOE estimated the 20% scenario would require $43 billion in investment, equaling 50¢/month on the typical customer's bill versus a base case.

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WPTF Raises Flags on SCE Renewable Integration Study

Direct access customers should not have to pay for Southern California Edison's proposed Renewable Integration and Advancement (RIA) program to avoid competitive imbalance, the Western Power Trading Forum told the California PUC (A-0803014). SCE should also be prohibited from using RIA to subsidize utility-owned renewable generation projects, WPTF added.

SCE's RIA program would cost $30 million over two years to study improvements in technology and infrastructure that will make renewables more compatible with California's electric systems and markets.

WPTF noted RIA would study and deploy, or "field test" as WPTF called it, viable renewable energy generation products, systems, and technologies that have the potential for near-term commercialization.

"It is this last program element that is troubling to WPTF," the marketer group explained.

A program with field tests of technologies, "significantly raises the likelihood that SCE is seeking ratepayer funding to investigate the means to develop, own and operate utility-owned renewable generation," WPTF cautioned.

"If this application is a smokescreen for such a renewable project development effort, then it raises serious competitive implications," WPTF charged.

The PUC cannot permit utility project development to be subsidized with ratepayer dollars if it is to foster its policy goals of an, "open, transparent and competitive bidding process," and, "greater head-to-head competition," between utilities and IPPs, WPTF argued.

Accordingly, "it is also highly questionable whether it is appropriate for the costs associated with the RIA Program to be borne by both bundled and DA [direct access] customers," WPTF added.

Direct access customers are served by retailers who have their own RPS compliance obligations, WPTF observed, and thus migrated customers already pay for the efforts of their competitive suppliers to comply with RPS mandates.

"Asking DA customers to fund SCE efforts to facilitate the development of its own renewable technology strategies is tantamount to asking for a subsidy of utility RPS compliance efforts," WPTF reasoned.

RIA costs should be borne solely by bundled customers in their generation rates and not collected in distribution rates as proposed, WPTF urged.

WPTF also suggested that RIA might duplicate ongoing California ISO and PUC efforts, noting the description of SCE's effort sounds "remarkably similar" to the description of ISO efforts to integrate renewables.

"WPTF believes that SCE has made no credible case that its proposed spending here fills any gap in the CAISO efforts with respect to renewables integration."

The PUC has also engaged E3 (Energy and Environmental Economics) to model the costs and rate impacts to LSEs of AB 32 implementation, which will include studying renewable integration costs, WPTF added.

The PUC should explicitly require that the results of all technology study information under RIA be made publicly available if ratepayers are to fund the research and analysis efforts, WPTF concluded.

PUCT Staff Offers Supplemental Testimony Against SWEPCO Plant

Given the relative scale of SWEPCO's proposed Turk Plant, SWEPCO's involvement in the construction and ownership of the facility would, "inevitably result in increased strain on SWEPCO's financial condition," PUCT staff argued in supplemental testimony addressing specific questions from the Commissioners (Matters, 3/27/08).

The rating agencies have expressed "clear concerns" about a weakening of SWEPCO's financial metrics given the magnitude of SWEPCO's construction plans and related capital expenditures, explained Darryl Tietjen, Director of the Rate Regulation Division (33891).

Tietjen echoed a concern voiced by Commissioner Julie Parsley that if the plant ends up being uneconomic, Texas ratepayers will be saddled with the burden of paying for the plant irrespective of whether it is included in or excluded from SWEPCO's Texas-jurisdictional rate base, because of the higher rate of return that will need to be paid by ratepayers to maintain SWEPCO's financial integrity.

Richard Greffe, senior market economist in the Wholesale Markets Section of the PUCT's Competitive Markets Division, separately offered supplemental testimony regarding Commission policy of discouraging new rate based generation, citing open meeting statements from former Chairman Pat Wood and Commissioner Robert Gee contemplating that no new rate based generation would come before the Commission.

IPP Complete Sells Self to "SPAC"

Merchant generator Complete Energy is merging with GSC Acquisition Company, a special purpose acquisition company (SPAC), in a $1.3 billion deal designed to give Complete access to the capital markets and lay the foundation for future asset acquisitions.

Complete owns the 1,022 MW gas-fired, four-unit combined cycle La Paloma facility near Los Angeles and the 837 MW gas-fired, three-unit combined cycle Batesville facility located in northern Mississippi. The deal values the La Paloma plant at $900 million ($881 per kW) and the Batesville plant at $400 million ($478 per kW) on a cash-free, debt-free basis.

Executives touted La Paloma's position as California reserve margins decline, and reported it is geographically positioned to serve both northern and southern California.

Three of its four units are contracted through a tolling agreement with Morgan Stanley.

The entire output of the Batesville plant is sold under long-term PPAs with J. Aron and the South Mississippi Electric Power Association.

Complete intends to focus on acquiring power assets in, "regions with strong underlying market fundamentals," including WECC, the Northeast, PJM, ERCOT and SERC.

Briefly:

Always Electric Applies for REP License

Austin-based start-up Always Electric has applied for a REP license at the PUCT for the entire state (35663). Organizing Member Stephanie Grider has seven years of utility experience, mostly in telecom, with two years of electric industry experience. Back office service provider ePsolutions is listed as a member of the start-up.

Staff Favors Settlement for Oncor Rebates

PUCT Staff thinks issues among parties regarding Oncor's compliance filing in creating service quality rebates can be worked out in settlement talks, and held off on requesting a hearing in the docket (35546). No party had requested a hearing outright, although Reliant Energy requested a hearing if it does not reach an agreement with Oncor regarding use of established Texas SETs to pass service quality credits to REPs (Matters, 5/8/08). Staff directed Oncor to file a response to the comments in the docket, while Staff is to schedule settlement talks.

FERC Sets Wholesale Markets Conference

FERC set for July 1 a conference regarding the review of wholesale electricity markets under AD08-9. The Commission invited senior management and market monitors from jurisdictional RTOs to provide a review of the current and future state of regional wholesale electricity markets. Members of the Commission Staff will provide an overview of the wholesale electricity markets outside of RTOs.

PJM, Firm Need More Time to Set Up External Monitor

PJM and its soon-to-be external market monitor Monitoring Analytics asked FERC for an extension of time to implement an external market monitoring unit (EL07-56 et. al.). A settlement agreement calls for external market monitoring to begin June 1 but PJM asked for the date to be sometime after June 1 and before December 1, as determined by Monitoring Analytics, with 30 days notice to PJM. PJM and Monitoring Analytics did not fully appreciate all of the logistical details required to establish an external market monitor when developing the settlement late last year and need additional time to fully test and finalize Monitoring Analytics' computer systems and prepare its new office space. No terms, conditions or substantive aspects of the settlement would be changed, PJM reported.

Centrica Cites Weaker Home Services Sales in Interim Update

Overall performance through the first quarter has been "reasonably robust" at Direct Energy despite the impact of the economic downturn. Direct Energy's home services unit has been particularly weaker, Centrica reported in an interim management statement.

NYISO Upgrading Credit Policies, Systems

The New York ISO is implementing a new Credit Management System to automate and integrate credit requirements and processes for all of its wholesale electricity markets, including Transmission Congestion Contracts, Virtual Transactions, Energy, Ancillary Services and Installed Capacity. The 24-month project will give NYISO near real-time credit risk assessment in total and by individual market participant to guard against defaults, while giving market participants a "user- friendly" interface to easily monitor their positions. FERC recently accepted NYISO's credit reforms for holding TCCs (Matters, 4/29/08).

Calpine Narrows Loss

Calpine narrowed its first quarter loss to $214 million versus $459 million a year ago. Revenue rose 17% to $2 billion on an 18% increase in the IPP's average realized electric price and a 3% increase in generation. Quarterly results were hurt by an $84 million rise in mark-to-market losses on derivative electricity contracts that do not qualify for hedge accounting treatment.

Tenaska Selling Four Plants

Tenaska Capital Management is selling four power plants totaling 1,857 MW in Pennsylvania, West Virginia, Ohio and Illinois to International Power for $856 million. Private equity firm Warburg Pincus had owned shares in the Pennsylvania, West Virginia and Ohio plants.

Tara Discovery ... *from 1*

fundamental to their practice that by their participation: 1) the customers get a lower rate, 2) the Retail Electric Provider ('REP') takes the best offer it could have made to the customer and pays part of the potential savings to the aggregator, and 3) the aggregator walks away pocketing the REP'S lost profit and the customer's lost savings," Tara asserted.

"An aggregator profits at everyone else's expense," Tara charged. An aggregator, "skims off a portion of the REP'S lost profits and gets paid in the same manner as the REP, and has no duty pursuant to the Commission rules to disclose to its customers how much it skimmed off the top," Tara pointed out.

The material Tara wants to protect addresses how Tara determines its pricing, and would likely allow competitors to predict Tara's market offers and undercut those offers, Tara cautioned.

"If an aggregator had 'the keys to the kingdom' and knew exactly how a REP determined its pricing, it would have a competitive advantage when negotiating with the REP. It would enter such negotiation knowing exactly how much profit per transaction the REP ordinarily anticipated. It would know when the REP was bending the price, and when it would break. It would be able to market itself more effectively to its customers, claiming 'I and I alone know exactly how much money this REP is making per customer. I know exactly when they charge you pass-through costs and overhead costs, and when they're trying to make money. I can negotiate you a rate and promise you I didn't leave much profit on the table,'" Tara suggested.

While GHRA focuses its arguments on the difference between aggregators and REPs, Tara cautioned that nothing in the current protective order would prevent GHRA from hiring an expert from a competing REP as an outside consultant, giving that competitor access to Tara's trade information.

GHRA noted that the protective order forbids parties from acting on any trade secrets they view and prevents them from using the information in any way except in preparation for the contested case. GHRA dismissed Tara's concerns that parties could not adhere to that prohibition as paternalism.

But Tara responded it would be unreasonable to expect competitors to "blind spot" competitively sensitive information they saw during discovery in later negotiations or business planning. That isn't an attack on anyone's moral fiber, but recognition of the fact that human beings cannot pretend not to know something they have closely studied, Tara said.

20% Wind ... *from 1*

Reaching the 20% goal would displace about half of the electric industry's natural gas consumption, and 18% of its coal consumption. National natural gas demand would fall 11%.

Greater wind resources would prompt the need for more combustion turbine gas-fired capacity on an as-needed basis to backup wind farms, though the need for new coal and combined-cycle gas-fired plants would be reduced.