Energy Choice Matters

June 5, 2008

BlueStar, Citing Last Year's ABC Law, Files Complaint Against Brokers at ICC

BlueStar Energy Services filed a complaint at the Illinois Commerce Commission against three Illinois brokers, alleging (or in one case merely suggesting) the brokers have violated the state's new "ABC law" (220 ILCS 5/16-115C).

The companies cited by BlueStar are American Energy Solutions, Affiliate Power Purchasers International (APPI) and Lower Electric (docket 08-0364).

BlueStar expressly disclaimed personal knowledge as to whether such violations actually have occurred, but filed the complaint at the request of certain individuals at the ICC in order to move the process forward, the competitive supplier stated in its complaint filing.

The ICC hasn't issued final rules for the licensing of agents, brokers and consultants pursuant to the ABC law, and therefore no entity required to be licensed under the ABC law has yet to receive such a license.

However, BlueStar pointed out that the act contains "code of conduct" language applicable to "[a]ny person ... required to be licensed," not just those having actually received a license. The plain language of the ABC law required adherence to the code of conduct section beginning on October 11, 2007, BlueStar argued.

BlueStar, from its dealings with retail customers, has obtained documents that, "on their face, appear to demonstrate violations of the ABC law," it told the ICC. Specifically, the code of conduct provisions require disclosure by the agent, broker, or consultant, "in plain language in writing to [prospective customers] the total anticipated remuneration to be paid to it by any third party over the period of the proposed underlying customer contract."

Proposals from American Energy Solutions and APPI obtained by BlueStar appear to violate the ABC law by failing to disclose, in plain language and in writing, total anticipated remuneration that each expected to receive from suppliers, BlueStar alleged.

BlueStar also questioned APPI's claim of independence in customer materials, as under the ABC

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IDT Energy Income Falls as Customers Grow

Despite a 21% increase in meters served year over year, IDT Energy operating income fell in the third quarter of 2008 to $900,000 from $2.5 million a year ago.

Revenue rose 16% to $66 million from $57 million in the year-ago quarter, driven by an 18.6% increase in gas meters, a 22.1% increase in electric meters, and increases in average quarterly pricing of about 11% for gas and 2% for electricity.

IDT ended the quarter with 343,000 meters, compared with 284,000 a year ago. Gross customer additions were almost double those of the year-ago period, and IDT added a net of 25,000 customers versus the second quarter of 2008.

That growth, however, fueled higher selling, general and administrative expenses (including bad debt) of $5.5 million versus $4 million in the year-ago quarter.

IDT reiterated its growth strategy of focusing on "low-risk markets," regions where receivables are guaranteed under purchase of receivables programs, billing is handled by the utility, and commodity procurement can be effectuated on a real-time market basis.

Gross margins for the quarter were 9.7%, compared with 11.2% a year ago.

Parent IDT Corp. reported a sharply higher quarterly loss of $82 million versus a $16 million loss a year ago.

ERCOT Drops eTricity Customers to POLRs

ERCOT started dropping customers of eTricity (a trade name of Hwy 3 MPH) to POLRs yesterday after eTricity defaulted under its ERCOT agreement June 3. It's the third mass transition in as many weeks. eTricity, which offered prepaid service, had 12,222 ESI IDs, including 12,193 residential, 28 small non-residential, and one medium non-residential customers. The associated load is about 429 MWhs per day.

Residential customers by transmission provider are:

CenterPoint	7,080
Oncor	4,950
AEP Central	28
Texas New Mexico Power	134
AEP North	1

Md. PSC Staff Files Revised Supplier Default-Consolidated Billing Language

The Maryland PSC Staff filed its proposed COMAR 20.53.05.03B, concerning utility consolidated billing in case of supplier default (RM17).

The language, supported by Baltimore Gas and Electric and the Office of People's Counsel, more fully protects customers of the defaulting supplier while providing specific guidance to the utility, Staff argued.

Staff language:

20.53.05.03B

Utility Consolidated Billing in Case of Supplier Default

(1) A supplier that is unable to deliver electricity because the Commission revokes or suspends the supplier's retail electricity license or the supplier is unable to transact sales through the regional transmission organization designated for Maryland by the Federal Energy Regulatory Commission is considered a defaulted supplier.

(2) A defaulted supplier using utility consolidated billing services remains obligated to provide the utility with information necessary to allow the utility to continue consolidated billing through the conclusion of the billing cycle in which the default occurred.

(3) The defaulted supplier using utility consolidated billing services is prohibited from issuing bills to persons who were customers at the time of the default unless specifically authorized by the Commission.

(4) In order that supplier charges may be included in utility consolidated billing services, a defaulted supplier and the utility shall abide by the Maryland Supplier Coordination Agreement.

The Pepco utilities, Allegheny Power, Retail Energy Supply Association, Washington Gas Energy Services and Pepco Energy Services support a less prescriptive proposal that would instruct utilities to rely solely on the Supplier Tariff and Supplier Coordination Agreement to handle defaults, because that approach would allow more flexibility in handling an unpredictable situation that is a rare occurrence.

Pepco et. al.'s alternate language:

20.53.05.03B:

In the event that a supplier using utility consolidated billing has one of the following occurrences:

(1) The Commission revokes the supplier's retail electricity license;

(2) The Commission suspends the supplier's retail electricity license; or

(3) The utility receives notice from the regional transmission organization designated for Maryland by the Federal Regulatory Commission that the supplier is unable to transact sales,

The utility shall exercise its rights under the Supplier Tariff and Supplier Coordination Agreement to ensure that customers are billed appropriately.

OPC suggested adding the following sentence to the end of the alternate proposal: "The supplier shall be prohibited from billing customers during the applicable period of the default provisions of the Supplier Coordination Agreement."

The Pepco utilities have enabled orderly supplier exits from the market under the Maryland Supplier Coordination Agreement and are reluctant to surrender the flexibility the Agreement offers to deal quickly with emergency situations. Pepco noted that in many instances, including voluntary departures from the market, suppliers no longer have the EDI capability necessary to process utility consolidated billing.

All stakeholders in a working group concerning the language agree that a proposal mandating that the utility render a final meter reading within three days of the termination of utility consolidated billing was unnecessary given the current drop process and Maryland Supplier Coordination Tariff.

Members of a working group also agreed that the combination of utility consolidated billing continuing until the end of the month of supplier default, the prohibition against supplier dual billing for that period, and the use of the remedies in the Maryland Supplier Coordination Agreement make a proposal directing utilities to place disputed amounts under consolidated billing in escrow until the dispute is resolved unnecessary.

Although the Staff intended such language to protect customers from being considered in arrears for SOS if they had paid a defaulted supplier prior to a drop to SOS, the language was not specific to defaulting suppliers and interjected utilities into routine supplier-customer disputes, and could have possibly held up payment to suppliers for disputes concerning the distribution side of the bill.

Maryland PSC Seeking Comment on Utility Demand Response, Efficiency Incentives

The Maryland PSC opened a forum (PC15) to determine whether utilities should be given new or additional incentives to implement demand reduction and cost-effective energy efficiency and conservation measures. The forum is a prelude to a contested proceeding or rulemaking to allow stakeholders to share views that are to help the PSC determine what type of proceeding is needed, if any.

Comments on a series of questions issued by the Commission are due July 2, with a legislative-type hearing set for July 9. Among the questions issued are whether efficiency programs need to be made as profitable as capital expenditures, carrying the same return on equity, or whether a premium ROE should be added for such efficiency projects. The Commission also asked how incentives should be structured and what performance levels should be included.

Standard RA Product Top Desire of CAISO Stakeholders

A standard resource adequacy capacity product received the highest ranking among initiatives in the California ISO's latest report on the Market Initiatives Roadmap Process.

The CAISO recognizes the need to begin to address a standard RA product as soon as possible, and therefore is aiming to provide an Issue Paper to stakeholders in July and hold an initial stakeholder meeting near the beginning of August.

Also receiving a high-priority ranking after the second round of the process were a long term congestion revenue right auction including a multi-period algorithm and flexible term lengths; ancillary services substitution; 30-minute operating reserves; ability to designate ancillary services contingency hourly; market power mitigation of start-up and minimum load bids; sale of CRRs in the CRR auction; model constraints of combined cycle units; and multi-settlement system for ancillary services.

Simultaneous Residual Unit Commitment and Integrated Forward Market, improving tagging procedures, and import and export of ancillary services were among the projects formerly ranked high but relegated to medium priority after a round of stakeholder comments.

CAISO staff are to now develop a work plan and timetable for addressing the high priority initiatives. A conference call is set for June 11. The CAISO expects to post a draft proposed work plan for stakeholder discussion by the fall of this year.

LADWP Sees No Emissions Benefit from GHG Cap-and-Trade

Utility rates will increase, not decrease, under greenhouse gas cap-and-trade irrespective of the allocation methodology, with no environmental benefit over existing policies and programs, LADWP told the California PUC in opposing a cap-and-trade program (R. 06-04-009).

Citing E3's analysis performed for the PUC, LADWP noted that that cumulative cost (2012 to 2020) of a California-only cap-and-trade program for the electricity sector ranges from $4.8 billion to $34 billion with no additional emission benefits beyond what is already accomplished with existing policies (a reference case of 20% RPS and existing energy efficiency goals).

E3 staff presented results to stakeholders showing that California will pay approximately $700 million per year to clean generators due to the higher market clearing price for power when the cost of CO2 is embedded in the cost of wholesale electricity, LADWP reported.

"These results alone refute the claim that a cap-and-trade program would be more cost effective than additional direct policies beyond 20% RPS and EE [energy efficiency]," LADWP insisted.

According to E3, if California adopted a 33% RPS and an aggressive energy efficiency program, then the cumulative cost from 2012 to 2020, above and beyond the reference case, would be $6.9 billion less than the reference case with a greater reduction in emissions down to 78.6 MMT from the reference case of 108.2 MMT, LADWP claimed.

Western Power Trading Forum rejected such assertions in its comments (Matters, 6/4/08), arguing that such an approach presumes that renewable resource development is more cost effective than other emission reduction opportunities that are achievable elsewhere or through different technologies.

LADWP pointed out the E3 model is using fuel costs with a gas burner tip at $7.85 and coal at $1.01 in 2020, while LADWP is today paying $10.87 for gas and $1.54 for coal.

"As such, it is very likely that the E3 model is significantly underestimating the future cost of fossil generation," LADWP reasoned.

Assuming "more realistic" prices of $12 for natural gas and $1.90 for coal in 2020, fossil generation costs could run to $46 billion for the reference case (20% RPS and EE), thereby making the 33% RPS and aggressive energy efficiency very cost effective on their own merit, even with a conservative allowance price of $30/ton, LADWP argued.

Briefly:

PUCT Staff Moves to Revoke Pre-Buy Electric's Certificate

The PUCT staff filed a petition to revoke the REP certificate of Pre-Buy Electric, which defaulted on its ERCOT agreement May 16 and had customers dropped to POLRs (35748). In doing so, Pre-Buy violated several Commission rules and ERCOT protocols and no longer has the capability to provide continuous and reliable electric service, staff reported. Staff has received no indication that customers who had pre-paid for electric service have been reimbursed by the company for services ultimately not provided, and seeks an order that will require Pre-Buy to refund any amounts owed to its previous customers.

Calpine Suing Reliant Over Contract

Calpine is suing a Reliant Energy subsidiary for over $10 million that Calpine claims it is owed from a 2003 energy contract between the two. Calpine, in a suit filed with the U.S. Bankruptcy Court in Manhattan, claimed Reliant "grossly inflated" its losses under the contract, thereby giving Reliant a $2 million claim in Calpine's bankruptcy. Reliant, as allowed under the contract, terminated the pact after Calpine's bankruptcy, but Calpine alleged Reliant did not estimate the contract's value in a "commercially reasonable manner," and instead used "stale" energy prices that benefited Reliant.

CAISO Plans to Accelerate Payments to Lower Credit Risks

Recognizing that the current payment calendar takes too long between trade date and market clearing, presenting undue credit risk to market participation, the California ISO plans to implement payment acceleration approximately six months after the Settlements and Market Clearing System (SaMC) goes live. Payment acceleration would provide market clearing on an average of 30 days. That should alleviate increased risk which may hinder resource availability from out-of-state resources, challenges credit management, and exposes market participants to additional risk in the event of defaults or bankruptcies. Payment acceleration also opens the possibility of other significant settlement improvements, such as providing participants an increased dispute window, and implementing a sunset provision. CAISO included a description of proposed statement and invoice cycles in a whitepaper on payment acceleration.

NYISO Goes to ISO-NE for New Chief Exec.

The New York ISO Board selected ISO New England COO Stephen Whitley as its new CEO. Whitley it a 38-year industry veteran, spending seven years as ISO-NE COO and 30 years at TVA.

Group to Study Illinois Smart Grid

The Illinois Smart Grid Initiative, a new public-private partnership, has been formed to explore smart grid technology in Illinois. The collaborative is funded by the Galvin Electricity Initiative and led by the Center for Neighborhood Technology (http://www.ilsmartgrid.org).

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law such a claim can only be made when an agent, "has no contractual relationship with any retail electricity supplier ... regarding retail electricity service in Illinois." BlueStar suggested that if APPI has such a relationship, it would be in violation, though BlueStar offered nothing more than speculation as to whether APPI had such a relationship.

Lower Electric is actually a licensed alternative retail electric supplier, but BlueStar alleged an apparent violation arising out of activities in which Lower Electric is not offering service on its own behalf. BlueStar submitted a proposal from Lower Electric which, "appears to violate the ABC law by failing to disclose, in plain language and in writing, total anticipated remuneration that Lower Electric expected to receive from the supplier listed in the proposal, Strategic Energy," alleged BlueStar.

"Alternatively, even if Lower Electric was acting as an 'exclusive agent' on behalf of Strategic Energy, it appears to have failed to disclose that relationship to the customer, and therefore cannot invoke the carve-out provision of 220 ILCS 5/16-115C(b)," BlueStar claimed.

"The failure to adhere to the legally enforceable code of conduct contained in the ABC law is contrary to the express intent of the Legislature, and a clear message should be sent by the Commission so that all Illinois consumers are provided all protections that the law provides," BlueStar opined.