Energy Choice Matters

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Energy Plus Applies to Enter ERCOT Market

After about a year of establishing itself in the New York market, Energy Plus has set its sights on ERCOT, filing for a REP certificate.

It's part of the retailer's plan for a phased national rollout, as regulatory and market environments allow.

Energy Plus was founded by former credit card and merchant service executives, and has deep co-brand marketing experience. It has signed several affinity programs with professional organizations and trade associations in New York, and also has plans offering various airline miles and other loyalty points.

The marketer's CEO and co-founder Richard Vague previously co-founded and led Juniper Financial, overseeing the acquisition of 4 million customers and $4 billion in loans. Vague also founded and was CEO of First USA.

Energy Plus COO Kevin Kleinschmidt was previously Managing Director of Partnership Marketing for Juniper Bank, then Barclaycard US. During his tenure, the partnership business grew from a start up to over $3 billion in loans and 3 million customers in less than 6 years. Under his leadership, the Partnership Marketing division secured co-brand and affinity credit card relationships with over 40 major partners, including US Airways, Harvard University, Barnes and Noble, Carnival Cruise Lines, Apple, and DirecTV.

Energy Plus would meet PUCT financial requirements via unused cash resources of at least $100,000.

Among its offerings in New York have been plans that include frequent flyer miles on American

... Continued Page 5

ESCO Coalition Wants Customers Transferred to ESCO Call Centers as Part of PowerMove

Under their current design, utility ESCO referral programs in New York, "create an artificial shopping experience for customers," except in the instance where a customer self-selects an ESCO, the New York State Energy Marketers Coalition contended in reply comments on the expansion of Consolidated Edison's PowerMove program to include new service initiation (07-E-0523, Matters, 8/25/08).

NYSEMC wants ConEd to use a "warm transfer" to transfer customers enrolling through PowerMove directly to the selected ESCO's call center, to facilitate consumer understanding and shopping.

ConEd, however, believes the point of ESCO Referral is to save customers from engaging in a two-step process, and wants to keep things simple for customers. Warm transfers would not measurably reduce the time spent on ESCO Referral calls for ConEd customer service reps, ConEd added.

But NYSEMC countered that warm transfers would allow ESCOs to provide the new customer firsthand with detailed information on the ESCO's product offerings, "while increasing the consumer's understanding of the company's philosophy and commitment to consumer protection."

"[A]t a time when more focus is being given to ensuring adequate consumer protections during every transaction with a customer, it would seem that an inbound call to an ESCO customer service center would be an exemplary way to help ensure a customer is making an affirmative choice, and to solidify the customer's establishment of a new relationship with a supplier, rather than a

... Continued Page 5

Delaware PSC Adopts Broader Net Metering Rule Applicable to Suppliers

The Delaware PSC adopted net metering provisions applicable to all electric suppliers which greatly expand suppliers' responsibility compared with the original rules (Order No. 7435, Reg. Docket 49).

Per the new rules, "Each Electric Supplier providing Electric Supply Service to Residential and Non Residential Customers shall offer these Retail Electric Customers the option of net energy metering if a Retail Electric Customer generates electricity at the Customer's premises."

Previously, only residential, small commercial and medium commercial customers were eligible for net metering from suppliers, with a 25 kW size limit on net metering facilities. Under the new rules, the 25 kW limit is retained for residential distributed generation, but non-residential customers can utilize net metering for facilities up to 2 MW in size.

While the old rules limited net metering to "renewable" distributed generation, the new rules clarify net metering shall be available for generation which, "uses as its primary source of fuel solar, wind, hydro, a fuel cell powered by renewable fuels, or gas from the anaerobic digestion of organic material."

The old rules only permitted net metering through a single meter which ran forwards and backwards. Net metering can now be accomplished through multiple meters that monitor the flow of electricity in each direction, but can only be done so at the supplier's expense with the consent of the customer. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter.

The new rules also specify how crediting is to be accomplished, which was not included in the old rules.

For excess generation, the electric supplier must credit the customer in kilowatt-hours (kWh), valued at an amount per kilowatt-hour: (1) equal to the sum of delivery service charges and supply service charges for residential customers but not to include the monthly customer charge; and (2) the sum of the volumetric energy (kWh) components of the delivery service charges and supply service charges for non-residential customers.

Excess kWh credits shall be credited to subsequent billing periods to offset a customer's consumption in those billing periods until all credits are used, or until the end of the annualized billing period.

Any unused credits at the end of the 12-month period shall be forfeited to the electric supplier at the electric supplier's avoided cost of wholesale power for use solely to augment existing funding for the green energy fund. If a customer switches suppliers, the electric provider shall treat the end of the service period as if it were the end of the annualized period for any excess kWh credits.

Customers retain RECs from distributed generation used to power their home or facilities. Electric suppliers receive RECs from excess generation purchased from customers.

The new rules explicitly require electric suppliers to provide net-metered customers electric service at non-discriminatory rates that are identical, with respect to rate structure and monthly charges, to the rates that a customer who is not net-metering would be charged. Electric suppliers shall not charge a net-metering customer any stand-by fees or similar charges.

Electric suppliers shall submit an annual net-metering report to the Commission 90 days after each annualized billing period, detailing the number of customers with net metering facilities, the capacity of such facilities, and energy purchased from such facilities.

Compromises Emerging on Michigan Electricity Bill

Michigan lawmakers are expected to vote on a reconciled electric re-monopolization bill on Tuesday, with compromise measures emerging from negotiations among select legislators.

According to a document circulated among several legislators Friday, and obtained by the Customer Choice Coalition, an amendment would be added to specifically address the ability of mining conglomerate Cleveland-Cliffs to shop for competitive supply regardless of whether the 10% cap on shopping has been hit.

Specifically, the amendment, as drafted, would provide that any customer operating an iron ore mining facility, iron ore processing facility, or both, located in Michigan's Upper Peninsula, shall be permitted to purchase all or any portion of its electricity from an alternative electric supplier, regardless of whether the sales exceed 10% of the serving electric utility's average weather-adjusted retail sales.

The compromise would also include the Senate's provision that customers currently shopping could shop for new, similar, and commonly owned load, even if at a new site. The choice customer would have to own over 50% of the facility.

Other provisions emerging include presuming utility cost overruns for building new generation to be prudent up to 17.5%. The House version of the bill calls for that cutoff to be 25%; it's 10% in the Senate bill. According to the Customer Choice Coalition, that would amount to $1.36 billion in cost overruns on Detroit Edison's proposed new nuclear plant.

The draft also includes an amendment directed at merchant generator Tondu Corp. that would allow a merchant generator with a 20-year or longer PPA with a large IOU to recover the amount by which the merchant plant's reasonably and prudently incurred actual fuel and variable operation and maintenance costs exceed the amount that the merchant plant is paid under contract for those costs -- if the plant uses wood or solid wood wastes, in whole or in part, for fuel. The provision would not apply to landfill gas plants, hydro plants, or municipal solid waste plants.

Krescent Wants PUCT to Deny SAB Power a REP Certificate Over Non-compete Clause

Krescent Energy Partners I urged the PUCT to deny granting start-up SAB Power a REP certificate because Krescent says it has a valid and enforceable non-compete agreement with SAB's founder, Tejbir Singh. Singh is also CEO and part owner of retailer AmeriPower, in which Krescent has an interest (36006, Matters, 8/18/08).

Krescent reported owning 750 Equity Units in AmeriPower with Singh owning 250 Equity Units. Under various agreements between Singh and Krescent, Krescent says it has a right to receive 50% of AmeriPower's net cash flow, and a right to receive 49% of the remaining 50% of AmeriPower's net cash flow. In other words, Krescent claimed a right to 74.5% of AmeriPower's net cash flow.

However, Krescent initiated arbitration against Singh on December 14, 2007 to determine the extent of its ownership interest in AmeriPower and also due to concerns with Singh's actions as an officer of AmeriPower.

Krescent's interest in AmeriPower would be adversely affected if the Commission grants SAB's application for REP certification, since SAB Power would be licensed to serve the same markets as AmeriPower and would operate out of the same location (Singh's home office, according to Krescent).

The non-compete agreement precludes Singh from engaging or participating, either directly or indirectly, in the REP business, and would thus be breached by operating SAB Power, Krescent said.

Krescent also claimed to have, "significant information that the Public Utility Commission should be made aware of regarding Singh's actions with respect to AmeriPower before the Commission grants SAB's REP certification."

In arbitration, "Krescent has alleged claims related to breaches of various agreements with AmeriPower and breaches of fiduciary obligations owed to Krescent," it told the PUCT.

"Singh's actions with respect to Krescent and AmeriPower cast serious doubt on Singh's ability to own and operate a REP in Texas," Krescent claimed.

At a minimum, Krescent wants the Commission to halt the certification process for SAB Power until arbitration is resolved.

Meanwhile, the PUCT Staff found SAB Power's application to be deficient because it lacked the complaint history of its affiliate AmeriPower.

PJM Suggests Changes to TPS Test

FERC should evaluate the economic screen in the three pivotal supplier (TPS) structural market power test since the economic screen may not reflect the market realities reflected in dispatcher actions, and thus may be unduly limiting, PJM suggested in the results from a stakeholder review of the test (EL08-34, Matters, 5/16/08).

While stakeholders have not reached consensus on retaining or replacing the TPS test, PJM noted that it may be more productive to narrow the Commission's focus and revisit the definition of available supply in the test, and the associated 150% supply screen.

As currently applied in PJM's energy market, the available supply for the TPS test is not all units that could be dispatched to resolve a constraint. Rather, eligible supply for the TPS test is a subset of the physically available supply, taking into account the supply offers from the available units. Specifically, eligible supply is defined to include only those offers at a price that is less than or equal to 150% of the shadow price for the constraint at issue. The shadow price is the cost of controlling a constraint, expressed in dollars per MW of relief provided, that would result from a supply stack consisting of all units physically available to solve the constraint, based on the least-cost schedules from those units.

In other words, offers from units that could resolve the constraint are ignored if the cost of using those units to control the constraint based on the 150% threshold is too high. Excluding those offers means that the remaining offers could more likely be found to be pivotal, thus potentially making mitigation more likely to be triggered.

PJM noted that the eligible supply in this context is already rigorously limited by physical location and electrical capability. "[I]n practice, a system operator will dispatch any unit that is physically available within the time needed," PJM noted.

Thus, the TPS test may arguably be unduly limiting, PJM said. If an economic screen is retained, now is an opportune time to revisit whether 150% is the proper test for when a unit has priced itself out of the market, PJM added.

If a supplier fails the TPS test, all of the supplier's units are offer-capped down to a level equal to each unit's marginal costs plus ten percent. The market rules currently in the PJM Tariff and manuals elaborate on these costs, but currently do not fully account for opportunity costs related to suppliers that may be energy-limited due to emissions limitations or other limits associated with environmental permits or settlements with environmental regulators that are beyond the control of management.

If the TPS test is retained, "it is important to further clarify the definition of opportunity costs in the PJM Tariff to get the costs right in the cost-based offers," PJM recommended.

PJM also sees a "heightened" need to better distinguish between market power conditions and scarcity conditions on both a regional and localized basis if the Commission retains the TPS test, since FERC's order ending certain offer-capping exemptions brings an increased risk that mitigation will be triggered inappropriately when the underlying fundamentals reflect scarcity and not market power.

Midwest TDUs Recommend Settlement on Bringing MidAmerican into MISO

Rather than continue a "polarizing" debate over needlessly broad tariff terms associated with the Midwest ISO's Western Market Service proposal, FERC should set the matter for settlement negotiations to seek widely acceptable terms under which the MidAmerican Energy area could be brought into the geographic scope of both the Midwest ISO energy markets, and the Midwest ISO transmission system, the Midwest TDUs suggested (ER08-637, Matters, 8/13/08).

Such an arrangement could be a relationship in which either MidAmerican would sign the MISO TO Agreement, or its transmission facilities would be brought under an Appendix I relationship that would reasonably address the concerns now leading MidAmerican to resist joining MISO on the standard terms.

The Midwest TDUs noted that of all the MAPP transmission owners that the Market Service plan is ostensibly designed to entice into the Midwest ISO market scope, and perhaps eventual MISO Transmission Owner membership, only one (MidAmerican) came forward to express an interest in becoming a Market Service TO. Other border-area TOs such as Basin Electric Cooperative, the Western Area Power Administration, Nebraska Public Power District, Omaha Public Power District, and Lincoln Electric System did not express interest, and the latter three have announced that they plan to participate in SPP rather than take MISO's Market Service offering, TDUs reported.

"We are left, then, with a proposal framed as a tariff service open to all transmission owners - problematically including existing ones - but in practice currently aimed at a single border-area utility, namely MidAmerican," TDUs contended.

Certain MISO TOs, TDUs, and market participants have expressed varying concerns about the Market Service offering, worrying that it will allow non-TOs to benefit from LMP markets without having to share in Regional Expansion Criteria and Benefits transmission costs and other expenses.

"Somewhere in these disparate interests there may lie a compromise solution that would yield a non-zero-sum benefit to the public interest, but it is not likely to be identified by the present process," TDUs reasoned.

"The use of a tariff form, instead of an openly negotiated participation agreement specific to MidAmerican, compels affected stakeholders to litigate terms that have relatively little consequence when applied to MidAmerican, but would have larger implications if made available to other border-area TOs or even to existing MISO TOs," TDUs observed.

Accordingly, a focused settlement on MidAmerican's participation would be more productive, TDUs suggested.

Briefly:

Progressive Energy Group Opposes Nicor Intervention in License Case

Section 19-110 of Illinois' Public Utilities Act contemplates certification of an alternative gas supplier upon the marketer's, "verified application and such other information as the applicant may submit," Progressive Energy Group said in arguing that Nicor Gas should not be permitted to intervene in its licensing proceeding at the Illinois Commerce Commission (08-0478, Matters, 9/2/08). The ICC's decision, PEG contended, cannot be made based upon information provided by Nicor, and thus Nicor should not be permitted to intervene. Nicor had raised questions about PEG's qualifications and other matters.

Delaware PSC OKs Bluewater Contract

The Delaware PSC approved the 200-MW PPA between Bluewater Wind and Delmarva (Matters, 6/24/08), which is to be recovered from all distribution customers through a nonbypassable surcharge. The Commission also opted to continue consideration of potential backup power needs as part of its integrated resource plan process (Docket 07-20) instead of reviewing plans in the RFP docket.

Pulse Refiles REP Application, Names Vendors

Pulse Electric has refiled its REP application in Texas (Matters, 7/29/08, 8/28/08) and reported that it has selected EC Infosystems for EDI functionality, and CVOSS as its billing provider. Pulse is led by Francis McGovern, also CEO of Clearview Electric since 2006.

Energy Plus ... from 1

Airlines, Continental, Delta, JetBlue, Northwest Airlines, and US Airways, as well as plans with Amtrak Guest Rewards or Marriott Rewards points.

The retailer has entered into affinity deals with the Support Services Alliance (a small business association), Pharmacists Society of the State of New York, New York State Health Facilities Association, New York State Veterinary Medical Society, New York Physical Therapy Association, New York State Dental Association, and New York State Car Wash Association.

PowerMove ... from 1

predetermined temporary utility discount," NYSEMC said

NYSEMC also recommended that single-fuel ESCOs be allowed to serve part of a dual-fuel customer's account when the customer enrolls through PowerMove. Currently, customers seeking dual-fuel service are only enrolled with dual-fuel ESCOs. NYSEMC believes that every ESCO that has the capability to provide a given fuel - natural gas, electricity, or both - should be included on a rotating basis for assignment of customers.

"To assert that a dual use customer must be matched only with a dual use ESCO is arbitrary and without merit," NYSEMC said.

NYSEMC disagrees that customers would find it too confusing, as ConEd suggested, to be assigned to one ESCO for electricity and another ESCO for gas.

The Retail Energy Supply Association countered suggestions from Consumer Power Advocates that ESCOs should be forced to present ConEd with a customer agreement including either a signature or verifiable electronic signature at the time of enrollment. RESA pointed to extensive customer protections in the current Uniform Business Practices, and also noted that the suggestions were outside the scope of the proceeding, which was narrowly limited to expansion of ConEd's PowerMove program to include initiation of new service. The Small Customer Marketer Coalition made similar arguments against the CPA proposal.

ConEd, responding to cost issues raised by marketers, explained that it suggested recovering the costs of expanding PowerMove from participating ESCOs because of the PSC's statements on retail access in its April 2007 order in 07-M-0458, which instituted a proceeding to evaluate whether certain retail access provisions remained necessary or should continue to be funded by ratepayers. ConEd would consider alternative funding proposals that allow it full recovery aside from ESCO funding.

ESCOs will also be able to review and comment on ConEd's script to be used for new service customers. The script will inform new gas customers that even though they enroll with an ESCO through PowerMove, gas switches always occur on the first day of the month, meaning they will likely be supplied from ConEd for a short period after service initiation.