Energy Choice Matters

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Reliant Lowers Outlook on Hurricane Impacts

Reliant Energy was forced to lower its 2008 outlook on the combined impacts of the loss of sales and long positions due to Hurricane Ike, and lower commodity prices in its wholesale business, coming on the heels of a disappointing second quarter.

The dominant mass market REP in the CenterPoint area, which was ravaged by Hurricane Ike, has lowered its retail contribution margin outlook for 2008 by $300 million to $350 million due to the storm's impact, including reduced sales volumes, the resulting sale of excess supply, updates to retail pricing assumptions and increased storm-related operating costs. Though not cited by Reliant, bad debt is expected to be higher from both summer and now hurricane-related customer assistance plans, as well as suspension of disconnects for certain customers impacted by the storm.

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Industrials Recommend New REP Disclosure Rules Apply Only to Customers Under 1 MW

Texas Industrial Energy Consumers and ConocoPhillips urged the PUCT to clarify that proposed new REP disclosure and product rules would not apply to customers with a capacity of 1 MW and higher for Option 1 REPs, and would not apply to Option 2 REPs which only serve specific customers. Applying the proposed new rules (Subst. R. 25.475), which include strict product definitions and other contracting parameters, would create unwarranted contracting impediments, TIEC said (35768, Matters, 8/8/08).

Current Subst. R. 25.475 only extends protections to residential and small commercial customers, TIEC pointed out. But due to the unique customization required in serving large loads, requirements and restrictions that might protect residential and small commercial customers will unnecessarily limit the requisite flexibility and discretion in contracting for industrial customers and their REPs, TIEC observed.

As written, the proposed rule would, "increase the contracting costs and administrative burdens for Option 2 REPs and for Option 1 REPs when contracting with industrial customers, but without providing any additional protections or benefits." TIEC told the Commission. Large industrial customers have developed expertise and sophistication in power contracting that does not require a

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End Users Oppose Dispatch Priority for ERCOT Wind

Most wind developers doubt Congestion Revenue Rights could be used to appropriately dispatch wind resources in Competitive Renewable Energy Zones, while end users cautioned the PUCT against disrupting market-driven outcomes of the nodal market, in comments on Staff's questions regarding CREZ dispatch priority (34577, Matters, 8/18/08).

While some wind generators believed allocating CRRs to CREZ wind developers could be used to assign dispatch priority, most wind developers argued the proposal would not work.

Iberdrola Renewables, for example, argued that a CRR auction would inevitably suffer one of two problems. If the auction were truly open, it would not protect "first-movers" in the CREZ process who took on risk before a PUCT policy was decided. On the other hand, if the auction process is modified

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Ohio Suppliers Oppose Duke Proposal for Nonbypassable Portfolio Charges

A group of competitive suppliers strongly objected to Duke Energy Ohio's attempt to make certain charges related to compliance with alternative energy portfolio standards nonbypassable, in reply comments concerning proposed energy portfolio and efficiency rules at PUCO (08-888-EL-ORD).

As exclusively reported here (Matters, 9/10/08), Duke urged PUCO to allow distribution utilities to make capacity charges related to new green generation (or new PPAs with renewable generation) unavoidable.

But Constellation NewEnergy, Direct Energy Services, and Integrys Energy Services countered that Duke's proposal conflicts with the plain language of SB 221 which says all alternative energy portfolio costs are to be bypassable.

Industrial Energy Users-Ohio agreed, warning that Duke's proposed rule change would require shopping customers to subsidize a utility's compliance with SB 221's portfolio standards. Competitive suppliers are required to comply with the portfolio standards just like utilities, and thus costs associated with a supplier's portfolio compliance may be reflected in its generation offer price, IEU noted. "Duke's proposed rule change would require shopping customers to subsidize Duke's supply of generation service, in contradiction to the state's policies embodied in Section 2928.02, Revised Code," industrials said.

The trio of competitive suppliers also supported comments from EnerNOC who suggested that retail customers be permitted to participate in wholesale demand response programs, not just those offered by the utility. "Failure to allow Ohio sited industrial and commercial customers to utilize the most favorable demand response or interruptible programs places Ohio businesses at a competitive disadvantage with industrial and commercial customers sited in adjoining states," marketers said.

Suppliers favored a recommendation from small businesses that would let small businesses aggregate their load to qualify as a mercantile customer for purposes of being able to commit their demand reductions to the utility, thereby qualifying them for certain exemptions under cost allocation.

Interstate Gas Supply recommended that utilities open up their efficiency programs to third-party energy service companies, and to allow residential customers to use ESCOs for efficiency measures while receiving appropriate credit from the utility.

Latest BGE Objection to RM17 Already a Rule, RESA Says

The Maryland PSC, "should not fall for BGE's delay tactics," the Retail Energy Supply Association said in another round of comments on RM17 (Matters, 9/10/08).

Among Baltimore Gas and Electric's latest objections to the revised consolidated billing rules, is that the rules, by allowing suppliers to view the utility consolidated bills of their customers, could expose commercially sensitive information for dual fuel customers. BGE cited the example of a customer served on competitive electric supply with Marketer #1 and competitive gas supply with Marketer #2. Marketer #1, under RM17, could view Marketer #2's supply charges since they will be reflected on BGE's consolidated bill, and the two companies could potentially be competitors in the gas market, BGE said.

However, RESA reminded the Commission that the provision BGE cited is not a "new" rule at all; it wad adopted in RM-2 in 2005. "These are regulations that have been in place and there is no record of any adverse effects of which RESA is aware," RESA said.

To the extent BGE is concerned about the scenario it described, BGE should be required to upgrade its system so that an electric supplier would not be able to view a gas supplier's rates, RESA suggested.

FERC OKs MEPCO Roll-In Settlement

FERC accepted a settlement allowing ISO New England to remove the existing administrative constraint on the total transfer capability of the New England/New Brunswick External Interface so that transmission customers can obtain and utilize the full benefit of the new Northeast

Reliability Interconnection (ER07-1289, Matters, 8/12/08).

The settlement implements the roll-in of the Maine Electric Power Company line into pooled transmission facilities, thereby allowing the ISO to provide Regional Transmission Service over those facilities, instead of the current Point-To-Point service. As part of the settlement, Casco Bay Energy's existing Point-To-Point transmission service agreements will be grandfathered as modified Regional Transmission Service rights.

The roll-in is to take effect December 1, 2008, at which time the ISO will lift the temporary administrative limits (i.e., a maximum of 700 MW for imports from New Brunswick and 280 MW for exports to New Brunswick) on the New England/New Brunswick External Interface.

Briefly:

PUCT Staff Recommends Certificate for SAB Power

PUCT Staff recommended granting SAB Power a REP certificate (Matters, 9/17/08), finding that a dispute over a non-compete clause between SAB principal Tejbir Singh and Krescent Energy Partners I, which shares an interest in retailer AmeriPower with Singh, "does not appear to be a regulatory issue concerning the granting of a REP certification." SAB is posting unused cash resources of at least $100,000 to meet Commission financial requirements.

PUCT Opens Docket on System Hardening

PUCT Docket Management assigned control number 36209 for RFPs for a cost-benefit analysis of the deployment of utility infrastructure upgrades and storm hardening programs. Some local reports have criticized the PUCT for not "hardening" the electric delivery system due to two weeks of significant outages after Hurricane Ike, though Commissioners noted the enormous costs of such action at their last Open Meeting.

Commerce Serving Md. Residential Customers a Month Longer due to Notice Timing

The Maryland PSC took notice of MXenergy's acquisition of Commerce Energy's gas book at Baltimore Gas & Electric (Matters, 8/6/08), which will now occur in a two-step process because of when the marketers sent out letters notifying the 500 residential customers involved of the change. Only 270 customers will be transferred as originally planned on October 1, because the remaining 230 customers did not receive their notice of the transfer 35 days ahead of time as required. Commerce will serve those customers through November 8. Commerce told the PSC that serving the BGE residential class of gas customers is not sufficiently profitable and growth oriented to justify the resources required to serve the customers. Commerce will remain in the BGE C&I gas market.

FERC Denies Complaint from DC Energy Against H.Q. Energy Services

FERC denied a 2007 complaint from DC Energy alleging market manipulation by H.Q. Energy Services (U.S.), after an investigation from FERC's Office of Enforcement found no evidence to substantiate allegations of the exercise of market power to unlawfully affect congestion and energy pricing in the New York ISO. DC Energy did not provide, and FERC's enforcement office did not find, any evidence that H.Q. Energy's NYISO energy and Transmission Congestion Credit market transactions constituted a scheme or artifice to defraud made with the requisite scienter (EL07-67).

Md. OPC Says BGE Transmission Rates Not Justified

The Maryland Office of People's Counsel urged the PSC to reject a proposed increase in transmission rates at Baltimore Gas and Electric because the increase has not been sufficiently justified. While the new rates are meant to reflect BGE's updated wholesale transmission rate, OPC argued the most recent update resulted in only a very small change in the rate. But BGE has requested that the retail transmission rate for residential customers increase by about 6% based on its projection for 2008 residential customer usage, which is lower than the projection used to set the rate for 2007, OPC said. BGE's lower forecast results from its assumption that the current high prices for electricity will result in about a 5% decrease in usage by residential customers. "While OPC understands that this rate is subject to a true-up and residential customers will ultimately pay for transmission service based on the actual usage of the class, OPC believes that the rate should be set on a reasonable usage forecast," the advocate said. BGE has failed to present any information justifying its reduced sales forecast, OPC said, and the lack of such information, "leads OPC to conclude that the BGE's forecast unreasonably understates the residential usage for 2008."

FERC Accepts ISO-NE Bid Mitigation Agreement Pact

FERC approved a settlement among NEPOOL, ISO New England, generators and transmission owners regarding Bid Mitigation Agreement charges that pre-dated the ISO's standard market design in 2003 (Matters, 6/2/08). Under the pact, generators and power marketers are to pay about $2 million to those transmission and distribution providers who had passed the bid mitigation agreement charges onto retail customers, with refunds flowing to retail customers. Distribution of funds would not go to suppliers of power procured for the benefit of retail customers. NSTAR's utilities would receive about $500,000 combined, National Grid $400,000 and Northeast Utilities $134,000, with smaller amounts to other New England transmission owners. The pact would resolve all claims under docket EL01-93 and associated cases. The Bid Mitigation Agreements paid certain generators above-market costs for reliability reasons.

ELCON, APPA Say GAO RTO Report Incomplete

ELCON and APPA seized on a recent Government Accountability Office report concerning organized wholesale electric markets as not addressing several critical issues in the industry. The study, "simply ignored the elephant in the middle of the living room," ELCON President John Anderson said. While the study recommends further empirical analysis by FERC, the study did not recognize that, as the creator of RTOs, FERC, "may not be able to perform the unbiased analysis that is needed," Anderson said, who also faulted the report for a lack of end-user views. APPA believes that the report is inconclusive in that it does not answer the fundamental question of whether consumers are better off as a result of RTO operation of electricity markets. APPA, "shares the concern raised by the GAO finding that FERC assumes RTO markets are competitive and consumers are benefiting without providing the necessary data to support that assumption."

Anne George Named VP at ISO-NE

ISO New England named former DPUC Commissioner Anne George as Vice President of External Affairs and Communications.

PSNH Agrees on Material Terms of Long-Term PPA

Public Service Company of New Hampshire has reached an agreement on material terms for a 20-year PPA with Laidlaw Berlin BioPower, a 66 MW biomass facility. The PPA covers 100% of Laidlaw Berlin's energy, capacity and RECs. A definitive PPA must still be signed, subject to regulatory approval.

Reliant ... from 1

As with most REPs, Reliant's second quarter retail margins were hurt by ERCOT congestion and volatility. With prolonged outages impacting customers in Southeast Texas, expect more REPs to turn in sour third quarter numbers as well, as the analyst calls start in the next month or so.

In addition, Reliant's third quarter results were impacted by mild weather and reduced off-peak prices. Reliant estimates that its outlook for 2008 open wholesale contribution margin will be approximately $480 million lower than its previous outlook.

Reliant also reported that it and Merrill Lynch have agreed to take steps to end their credit-enhanced retail structure, given the current operating environment and Reliant's decision to develop a new retail strategy aimed at lowering collateral requirements and providing more consistent earnings. Reliant said it has obtained commitments for $1 billion in new capital to support its business to facilitate the transition.

"Combined with current liquidity of $1.2 billion, we will have adequate liquidity to facilitate the termination of the credit-enhanced retail structure," CEO Mark Jacobs told investors.

Reliant has arranged, contingent on certain conditions, for $1 billion in additional capital consisting of a commitment for a $650 million term loan from GS Loan Partners and an agreement to issue $350 million of convertible preferred stock to the energy private equity firm of First Reserve Corporation.

Reliant is holding an investors call this morning at 8:30 a.m. eastern on its update.

REP Disclosures... from 1

strict set of consumer protections, TIEC added.

TIEC also pointed to specific rules that would harm industrials. For example, the proposed changes would require REPs to post all contract documents online, which could chill REPs' from offering unique concessions to certain customers, since other large customers would demand similar treatment upon viewing such public contracts. The proposed product definitions also limit customization, TIEC said. Many of the terms in the proposed rule are unduly burdensome or nonsensical when applied to Option 2 REPs, especially when those REPs are providing service to themselves or an affiliate, industrials noted.

While the proposal does permit customers above 50 kW to opt-out of various customer protections, "the time and expense of preparing a waiver for each specific customer protection is unjustified," TIEC contended. Instead, a general waiver should be allowed for customers between 50 kW and 1 MW, and the rule should not apply at all to contracts with customers 1 MW or above, TIEC suggested.

CREZ Dispatch... from 1

to protect CREZ developers, the auction is unlikely to produce meaningful price signals.

Iberdrola, echoing a common theme in wind generators' comments, noted that while CRRs are appropriate to manage nodal congestion, the CREZ policy has different goals from the nodal market. Nodal pricing is meant to encourage the siting of new generation and transmission to minimize transmission constraints, while the CREZ process was designed to encourage the development of wind generation where wind resources were strong, Iberdrola noted. "Simply imposing a 'nodal solution' in a context that does not follow normal nodal incentives may not be appropriate," Iberdrola said.

Many wind developers cautioned that CRRs may not be fully funded or may not be available for the entire length of a generator's transmission path, thereby reducing any potential benefits. "It is even conceivable that a CRR auction approach could encourage overdevelopment of a CREZ if the auction is designed in such a way that it encourages latecomers to move into a CREZ in the hope of being able to acquire CRRs at auction," Iberdrola said.

Iberdrola and E.ON Climate & Renewables recommended an automated offer curve (AOC) mechanism to establish dispatch priorities. The AOC would give ERCOT the ability to adjust wind energy offer curves upward to curtail wind generation on a prioritized basis when necessary to maintain the needed level of thermal generation for reliability. The mechanism is designed to work with the Security-Constrained Economic Dispatch (SCED) process, E.ON said.

Taking into consideration actual and forecasted energy output from wind generation, SCED would add a price adjustment to shift the offer curves for wind generation upward to dispatch the maximum amount of wind at the market clearing price set by the lowest-priced dispatchable thermal generator. The AOC could thereby address periods of wind "over-generation" that can occur when loads are low, thermal generation is at its minimum, and wind generation is high. In those circumstances, the AOC would shift the wind energy offer curves upward to ensure that negative offers by wind generators seeking to avoid curtailment do not reduce on-line thermal generation below the minimum required for reliability.

While wind developers that have already posted collateral in prior Commission proceedings suggested using such financial commitment as a cutoff for determining dispatch priority, newer developers opposed any such special treatment. Third Planet Windpower and Higher Power Energy cautioned against using an arbitrary time frame in setting any dispatch priority cutoff, arguing such an artificial limitation would harm market outcomes.

CPV Renewable Energy was one of the few wind developers to support a CRR auction, noting that it would be far more efficient and cost-effective than using an administrative mechanism purporting to measure and compare disparate types of financial commitments from developers in order to determine how much CREZ transmission actually is being sought. "Moreover, given that the CRR auction revenues would be used to offset congestion charges paid by load, auctioning the CRRs to the highest bidders would provide the most value to load, which, under the ERCOT market design, is responsible for paying for the CREZ transmission construction," CPV added. Edison Mission Energy also called CRR auctions the "preferred" method of prioritizing dispatch since it would not interfere with the normal operation of real-time market mechanisms.

Reliant Energy stressed that, "wind generators should not be assumed to have proprietary rights to CREZ transmission capacity, because that transmission capacity is funded by, and constructed for the benefit of, all ERCOT consumers." Wind generators appropriately bear the risk of curtailment based on their site selection and, in the nodal market, their offers to sell wind energy and be dispatched by ERCOT market systems, Reliant noted.

Reliant again questioned whether a dispatch priority is consistent with the state's open access laws. "Because transmission integration cost is a real cost that is directly associated with the addition of new generation capacity into the ERCOT system, perhaps it should be treated as part of the investment that a generation developer needs to make when it adds capacity. More efficient investment and siting decisions would result from such treatment," Reliant said. Texas Industrial Energy Consumers similarly opposed dispatch priority since giving preference to one generator over another is, "directly contrary to PURA's nondiscriminatory open access requirements."

Texas Competitive Power Advocates shared Reliant's concern and worried about the impact on security constrained economic dispatch, which it called the "centerpiece" of the nodal market.

The Steering Committee of Cities Served by Oncor questioned why the Commission was seeking to mitigate certain risks for generators (namely, possible over-development of CREZ areas) when restructuring was meant to shift risk to generators and away from ratepayers. The Cities opposed attempting to construct a policy which will assure revenue adequacy for a certain category of generators.