

Energy Choice Matters

February 13, 2009

N.Y. PSC Approves O&R Hourly Pricing Implementation Plan, Cutoff Falling to 500 kW

Mandatory Hourly Pricing will be extended down to customers 500 kW and above at Orange & Rockland, starting May 1, 2010, after the PSC approved O&R's implementation plan, consistent with an order in O&R's rate case (Matters, 7/25/08). The expansion will add about 90 customers and 60 MW of load to hourly pricing, which currently has a cutoff of 1 MW.

A transition period will give customers at least 12 months of hourly interval data to make them aware of their hourly load patterns and the effect hourly pricing will have on their electric supply bill, similar to the expansion of the cutoff at Consolidated Edison.

O&R will conduct an outreach and education program for customers moving to hourly pricing, consisting of customer-by-customer notification, seminars, and a cost analysis tool made available to customers. The seminars will educate customers about alternative ESCO offers, in addition to the details of O&R's pricing program, the day-ahead pricing information available through the New York ISO, and efficiency and peak load reduction programs offered by O&R and the New York State Energy Research and Development Authority.

O&R estimated that the costs associated with upgrading and operating the metering equipment necessary for hourly pricing will be approximately \$1,300 per installation. Costs for outreach and education software licensing, computer software/hardware upgrades, and employee labor and training related to expanded hourly pricing are projected to be approximately \$230,000 in 2009 and approximately \$150,000 annually thereafter.

Universal Energy Eyeing Growth in New York, Ohio, California

Net income for Canadian-based marketer Universal Energy rose to \$8.1 million for the quarter ending December 31, 2008, up from \$5.9 million a year ago, on gross margin growth and continued customer additions. All dollar figures are Canadian.

Its acquisition of Commerce Energy in mid-December buoyed revenue and customer count, but impacted less than a month of earnings for the quarter. Total gross margin rose to \$38.4 million from the year-ago total of \$24.8 million.

Gross margin for U.S. gas sales was \$8.0 million, up from \$4.7 million a year ago. With the Commerce acquisition, Universal retailed electricity in the U.S. for the first time during the quarter, posting U.S. electric gross margin of \$2.2 million. For 2009, Universal is banking on growth in New York, Ohio and California to further increase gross margins. Universal expects to focus on such growth by the end of the second quarter, after completing its Commerce integration.

Canadian gas gross margin grew to \$4.4 million from \$2.3 million in the year-ago quarter, while Canadian electric margin was \$23.8 million, up from \$17.8 million a year ago.

Universal expects to maintain most of its current operational per-unit margins in 2009 (see chart), but said it expects U.S. electric margin to drop from 3¢/kWh to around 2.2¢/kWh. U.S. gas and Ontario gas margins should be steady.

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N.Y. PSC Adopts Policy Statement on Regulated Backstop Projects

The New York PSC adopted a policy statement which sets guidelines for reviewing and approving rate regulated backstop projects needed for reliability, should the need ever arise (07-E-1507).

The PSC undertook the proceeding originally as a rulemaking, during a time when reliability shortfalls were projected for New York City as early as 2011. However, the latest New York ISO Reliability Needs Assessment forecasts sufficient electric power resources through 2018 (Matters, 1/13/09).

Accordingly, ALJ Jeffrey Stockholm recommended that the Commission adopt guidelines as a policy statement, rather than a rulemaking, since market forces are projected to meet the state's reliability needs for the next decade, and he did not see the need to chisel the procedures in stone at this time. Still, the PSC has the ultimate responsibility to ensure adequate supplies, and the policy statement will enable it to act quickly should an unexpected shortfall arise.

The market has done a good job of maintaining reliability, Stockholm added in presenting the policy statement to the PSC.

Final guidelines were not issued as of late Thursday, but the PSC generally adopted a Staff report containing all-party recommendations for a review process for backstop projects (Matters, 7/10/08), though there was some dissent on certain issues. Generally, however, the process would allow responsible transmission owners for the area in which the shortfall is projected to propose a solution, while merchant developers could concurrently offer the PSC alternative solutions, to be built under rate regulation. The process would be open to all sources – generation, transmission and demand response – but developers would have to meet certain eligibility criteria to ensure their projects would be ready to meet the forecast shortfall. The guidelines also establish various milestones and penalty provisions for developers of backstop projects.

The Commission continues to hold its review of a long-term resource planning process for non-reliability factors (e.g. public policy goals such as renewable energy) in abeyance pending completion of a similar state process to develop a long-term energy plan.

N.Y. PSC Sets AMI Standards

The New York PSC, in a move partially timed to take advantage of potential federal “stimulus” dollars, yesterday established minimum functional requirements for advanced metering infrastructure (AMI) and created a process for the development of a generic approach to the benefit/cost analysis of advanced metering proposals (09-M-0074).

Among the requirements of the order, which had not been released in written form late Thursday, is that AMI systems must provide customers with direct, real-time access to electric meter data, and must have the ability to connect with a home area network to provide direct or customer-activated load control. AMI would also be required to use an open standards-based communication protocol.

Additionally, AMI systems must: meet American National Standards Institute (ANSI) standards; support net metering; provide for the ability of a visual read; provide time-interval data; have sufficient memory storage; be capable of being read remotely on-demand; have a two-way communications capability; send signals to customer equipment to trigger demand-response functions; identify, locate and determine the extent of an outage; be up-gradable; and provide safe and secure transfer of data.

The decision clears the path for utilities to file AMI proposals. Utilities that had previously filed AMI pilot proposals -- Consolidated Edison, Orange & Rockland, and Central Hudson Gas and Electric -- must file updated pilot AMI projects within 60 days. The PSC did not set a filing deadline for utilities which have not yet filed AMI pilots.

Chairman Garry Brown characterized AMI standards as something in which the Commission could always benefit from

additional years of review, due to AMI's evolving nature, but said that eventually the Commission has to get practical experience with AMI to make a decision. Funding in the federal stimulus which could soon be available prompted Commission action.

Commissioner Maureen Harris urged the PSC to also examine smart grid solutions to line losses, and Brown said the PSC will hold a technical conference on broader smart grid applications in the spring.

NRG Earnings Up on Hedging Gains

Refusing to let Exelon "steal" NRG Energy from its shell-shocked shareholders, NRG CEO David Crane pleaded for shareholders to reject a second tender offer from Exelon, during an earnings call where NRG reported yearly net income of \$1.2 billion, up from \$586 million in 2007.

Crane said Exelon's "lowball" bid was designed to take advantage of a marketplace that had just been "carpet bombed" by the Lehman Brothers bankruptcy, the total paralysis of the credit markets, and the near-collapse of the global banking system. Envy of MidAmerican Energy's bargain-basement deal for Constellation Energy also drove Exelon's offer, Crane told investors. Based on NRG's earnings projections, NRG shareholders approving the merger would give up \$4.36/share as a standalone company for the opportunity to make \$2.05/share as part of Exelon, Crane said.

NRG reported fourth quarter income from continuing operations of \$273 million, compared to income of \$100 million a year ago, on an after tax benefit of \$200 million in unrealized mark-to-market gains. Adjusted EBITDA, excluding unrealized hedging impacts, was down at \$403 million from \$507 million a year ago, mainly due to weaker performance in Texas and the Northeast.

Fourth-quarter adjusted EBITDA from continuing operations, excluding mark-to-market impacts, for NRG's Texas segment was \$270 million, versus \$347 million a year ago. Net energy margins declined by \$33 million due to a 31-day refueling outage at the

South Texas Project nuclear power plant, and lower power prices year-over-year.

The Northeast segment's fourth quarter adjusted EBITDA was \$92 million, down from \$113 million a year ago. Net energy margins were down \$9 million mainly due to declining power prices and market heat rates. Capacity revenues also declined by \$13 million as New York in-city capacity prices fell year-over-year and capacity payments were lower at NRG's Norwalk Harbor plant under its reliability must-run (RMR) agreement.

NRG also announced it was seeking equity investors for 10% of the two-unit, 2,700 MW expansion at the STP nuclear facility.

N.Y. PSC Opens Proceeding on Demand Response, Focus is Zone J

The New York PSC opened a new investigation into demand response, including the possibility of enhancing existing utility-administered programs or initiating new peak load reduction programs (09-E-0115).

The potential use of competitive providers within the context of utility-administered programs will also be examined.

Initially, the review will focus on New York ISO Zone J (New York City) where demand response is expected to be most cost effective, due the reliance on several peakers to cure load pockets within the zone.

To the extent that it is cost-effective, demand response programs should be designed to integrate the program delivery functions with the program delivery functions of energy efficiency programs, the PSC said.

Likewise, a cooperative approach with New York Power Authority programs may enable a utility or NYPA to take advantage of more cost-effective demand response measures, the Commission added.

Consolidated Edison, which serves Zone J load, was directed to file a report within 90 days identifying potential demand response programs. The new investigation removes demand response issues from the PSC's energy efficiency portfolio standards case (07-M-0548), where load response had been previously housed.

Briefly:

Corn Belt Energy Seeks to Expand Illinois Gas Marketing

Cooperative Corn Belt Energy Corp. applied at the Illinois Commerce Commission to expand its competitive gas supply license to include all customer classes throughout the state. Currently, Corn Belt serves residential and small commercial customers at Nicor Gas.

Former Vega Resources Principal Starting New REP

Antonio Vega, former principal and vice president at Vega Resources (Amigo Energy), filed at the PUCT for a REP certificate for start-up retailer 10K Energy. 10K Energy reported it will use Intelsys (EC Infosystems) for billing systems and EDI functionality. 10K Energy also reported, in describing its customer service plan, that it believes the Texas market shows the need for a dedicated customer service agent-to-customer ratio in a range of 1:500 to 1:675 in order to provide hold times at a maximum of under 3 minutes during 97% of operating hours. 10K Energy would meet PUCT financial standards via unused cash resources of at least \$100,000. Prior to helping start Vega Resources, now owned by Fulcrum Power Services, Vega held various positions at TXU Energy Services and in the transmission operation and scheduling arm of the old regulated TXU.

Energy Services Group Seeks Hearing on REP Applications

Six subsidiaries of Energy Services Group moved for the PUCT to reopen consideration of their REP applications, after an ALJ denied the applications the same day the applicants filed supplemental information to answer Staff concerns about the applications (Matters, 1/30/09). The applicants (TexRep5 and similarly named entities) said their answer was at most one day late, and it was not clear whether Staff reviewed the supplemental information. The applicants sought hearing of the applications at the State Office of Administrative Hearings (as the deadline for

such a request is today), but suggested that referral to SOAH be delayed two weeks to give Staff additional time to review the supplemental materials. Staff had raised concerns that each new applicant, along with three Energy Services Group subsidiaries already certified, all rely on the same three individuals to meet PUCT managerial and technical qualifications, with Staff contending that the individuals would not be able to adequately support all the companies. The applicants said that the new certificates would not significantly increase the individuals' workload in either technical or managerial areas.

FreeEnergyBid.Com Receives Texas Aggregation License

The PUCT awarded FreeEnergyBid.Com an aggregators license yesterday. The website currently brokers Texas and Illinois electric customers and Illinois gas customers (Matters, 1/27/09).

Texas Energy Aggregation Protests Name of Texas Electricity Aggregation

Waco-based Texas Energy Aggregation, licensed since 2003, protested the application of Texas Electricity Aggregation for an aggregator license at the PUCT (Matters, 2/10/09), citing likely customer confusion due to the similar names. The similarity has already caused confusion for some of the REPs which do business with Texas Energy Aggregation, Texas Energy Aggregation told the PUCT.

N.Y. PSC Staff to Move to Dismiss Energy East Rate Increase Filing

New York PSC Staff intend to file a motion today to dismiss a delivery rate increase application from NYSEG and Rochester Gas & Electric, based on the grounds that such a rate application is prohibited under the PSC's order granting Iberdrola's acquisition of Energy East. In their original application, NYSEG/RG&E said testimony for non-revenue requirement matters, including further unbundling of competitive services and cost of service studies, would be filed by May 29. One of the few ESCO-related items in the

testimony filed thus far is NYSEG's application to update SmarTRAC, its web based Electronic Bulletin Board used to allow ESCOs to nominate natural gas to the LDC retail access program.

FERC Rejects Amaranth Settlement

FERC rejected a proposed settlement between its enforcement staff and Amaranth Advisors (and affiliates plus traders Brian Hunter and Matthew Donohoe) which would have resolved all claims from a 2007 show cause order in which FERC said it intended to assess civil penalties and order disgorgement of \$291 million in profits for manipulating the price of Commission-jurisdictional transactions by trading in the NYMEX Natural Gas Futures Contract in February, March and April 2006. "Having considered the gravity of the alleged violations, the potential remedies for those violations if proven to have occurred, and the remedies offered in the Settlement, the Commission concludes that the settlement is not in the public interest and hereby rejects it," FERC said. The settlement terms were filed confidentially until Commission action, and had not been made public as of yesterday.

WMECO Files to Build Utility-Owned Solar

Western Massachusetts Electric Company filed with the Massachusetts DPU a plan to build 6 MW of utility-owned solar power, with potential expansion up to 50 MW. Initially, the 6 MW would be developed at a cost of \$42 million with anticipated in-service dates of 2010. Additional sites could be added between 2010-2012 to expand total solar capacity to 15 MW, with expansion to 50 MW beyond 2012. Last year's Green Communities Act permits WMECO to install 50 MW of utility-owned solar. Costs will be partially offset by participation in the Forward Capacity Market, and from the sale of RECs and other attributes, WMECO said. WMECO projected the bill impact to be initially less than \$1 per month for an average residential customer using 500 kWh per month.

Net Metering Expanded by N.Y. PSC

The New York PSC approved tariff changes

at the six electric IOUs to expand eligibility criteria for net metering, consistent with recent changes in state law which added commercial photovoltaic and wind power customers to the list of those eligible for net metering (08-E-1305 et. al.). The new provisions increase the maximum size of residential solar generation and farm waste generation systems eligible for net metering and expand net metering to non-residential solar generation systems. Non-residential customers can now install a renewable energy system that generates up to lesser of their peak load or 2 MW at peak performance. State law also raised the limits to 25 kW from 10 kW for residential photovoltaic customers' systems, to 500 kW from 400 kW for farm waste systems, and to 500 kW from 125 kW for residential farm wind systems. The limit for residential wind systems stays unchanged at 25 kW.

Universal ... from 1:

Universal added a net of 135,000 residential customer equivalents (RCEs) during the quarter, to bring its total to just shy of 584,000. Gross additions were 153,000 RCEs, with about 126,000 acquired via the Commerce acquisition, leaving some 27,000 acquired organically. Canadian additions represented 21,000 of the gross organic growth, leaving non-Commerce U.S. gross additions at around 6,000.

As previously reported, Universal entered the New York electric and gas markets in November, with a variable rate offering for residential and small commercial customers. Sales during this test-marketing period have been "encouraging," Universal said.

Combined attrition for the quarter was 13.9% on an annualized basis. The Canadian market experienced annualized attrition of 12.3% and the U.S. market experienced annualized attrition of 20.0%. The marketer also said it is working to dispose of accounts acquired from Commerce in markets that do not fit with Universal's growth strategy.

Geographically, Canada accounts for 57% of total RCEs and the U.S. accounts for 43% of total RCEs. In the United States, residential customers account for 54% of

RCEs and commercial customers account for 46% of RCEs. On a product distribution basis across all markets, gas and electric customers each account for 50% of total RCEs.

Quarterly customer acquisition costs fell to \$4.5 million from \$8.3 million a year ago, on lower organic additions (excluding the Commerce acquisition). General and administrative expenses increased to \$8.4 million from \$5.4 million a year ago.

Universal Energy Data

Gas & Electricity Marketing

Statement of Operations Data (GAAP)

(Thousands of dollars)

	Three months ended December 31	
	2008	2007
Revenue		
Canada		
Gas	26,769	15,072
Electricity	49,714	40,065
Total Canada	76,483	55,137
United States		
Gas	46,258	24,965
Electricity	7,839	-
Total United States	54,097	24,965
Total revenue	130,580	80,102
Gross Margin		
Canada		
Gas	4,399	2,342
Electricity	23,777	17,822
Total Canada	28,176	20,164
United States		
Gas	8,043	4,678
Electricity	2,163	-
Total United States	10,206	4,678
Total Gross Margin	38,382	24,842

Selected Operational Data

Three months ended
December 31

	2008	2007
Operational margin per unit (dollars)		
Canada - Gas (Cdn\$/m3)	0.0632	0.0622
Canada - Electricity (Cdn\$/kWh)	0.0220	0.0163
United States - Gas (Cdn\$/Mcf)	2.0055	1.8118
United States - Electric (Cdn\$/kWh)	0.0322	-

Consumed Volume

Canada - Gas (m3)	66,205,260	37,239,965
Canada - Electricity (kWh)	523,546,940	447,223,772
United States - Gas (Mcf)	3,758,569	2,422,112
United States - Electric (kWh)	63,849,000	-

Customer Count

	RCEs 9/30/08	Additions Q1 2009	Attrition	RCEs 12/31/08
2008				
Canada - Gas	111,772	10,234	(5,996)	116,010
Canada - Electricity	214,411	11,374	(7,720)	218,065
Total Canada	326,183	21,608	(13,716)	334,075
United States - Gas	122,722	58,596	(4,421)	176,897
United States - Electricity	-	72,890	-	72,890
Total United States	122,722	131,486	(4,421)	249,787
Combined	448,905	153,094	(18,137)	583,862