Energy Choice Matters

April 14, 2009

Energy Savings Income Fund, Universal Energy Group in Non-Binding Acquisition Talks

Canadian marketers Energy Savings Income Fund and Universal Energy Group have entered into a non-binding letter of intent to explore a potential acquisition of Universal by ESIF for $266 million (all figures Canadian).

A 30-day exclusivity period for negotiations under the letter of intent expires April 19.

The potential all-stock transaction would exchange each Universal share for 0.58 of an ESIF trust unit, effectively valuing Universal at $7.05, based on the $12.16 closing price of ESIF trust units on April 9, 2009.

Ken Hartwick, CEO of Energy Savings, stated, "The merger of two independent contractor sales forces in Canada as well as United States customer bases which do not overlap should be positive for growth going forward."

In the U.S., Energy Savings primarily sells in New York (dual fuel), Illinois (gas), Indiana (gas) and Texas (electric). It recently applied for a Pennsylvania gas license (Only in Matters, 3/30/09).

Until its acquisition of Commerce Energy last fall, Universal had confined its U.S. marketing to Michigan gas, and had just started test marketing in the New York mass market, where Energy Savings is an established player. Universal picked up electric books in California, Pennsylvania, New Jersey, Maryland and Michigan in addition to gas books in California, Ohio and several

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Former Commerce COO Fallquist Launches New Retailer

Former Commerce Energy COO Michael Fallquist has filed to license a start-up electric retailer in Connecticut, named New England Gas & Electric.

The start-up is seeking a license for all customer classes, but initially will only market to residential customers. It expects to sign up 18,000 residential customers in the first 12 months of operations.

Furthermore, New England Gas & Electric said its investors have expressed a strong desire to contribute additional capital to acquire books of business from competitors. "Management believes that there will be opportunities over the next 24 months to acquire customer books from competitors that are capital constrained," the start-up said in its application.

The retailer expects to serve 102.4 MW of load and 74,349 MWh of sales in its first year.

New England Gas & Electric received a $1 million equity capital contribution to commence operations in Connecticut. In addition, New England Gas & Electric has secured a $25 million credit facility to finance customer growth and procure power.

While New England Gas & Electric will begin discussions with key suppliers in the next several weeks, it said it has relationships with Shell, Macquarie, Constellation, and Sempra. Prior to joining Commerce in 2008, Fallquist spent three years in Macquarie Bank's commodity markets division, in trading, structuring and marketing roles related to electricity, natural gas and coal wholesale markets.

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ERCOT Concerned About Drop in EILS Offers

ERCOT's Emergency Interruptible Load Service (EILS) program cost $16.9 million for the 2008 program year, ERCOT said in a report to the PUCT (27706).

EILS, which is deployed only in Step 3 or Step 4 of ERCOT's Emergency Electric Curtailment Plan, has never been used since ERCOT has not had any emergency events reach Step 3 since the initial procurement of EILS. Accordingly, ERCOT cannot determine whether the Qualified Scheduling Entities and EILS Resources providing EILS would have performed according to their requirements, or whether an EILS deployment would have served its intended purpose of providing a tool for ERCOT Operations to avoid shedding firm load.

ERCOT expressed concern about the decline in capacity offered into EILS for the February-May 2009 bid cycle, as compared to prior cycles. Capacity offers in the February-May 2009 bid cycle averaged about 160 MW for most hours, compared with 360 MW offered in most hours in the Oct. 2008–Jan. 2009 cycle. ERCOT Staff has consistently said that less than 500 MW of EILS capacity would have limited operational value during a grid emergency.

Numerous market participants have cited the economic downturn as the primary cause of the decline in offered EILS capacity. ERCOT said it is committed to continuing to improve accessibility to EILS, and to reaching the eventual goal of 1,000 MW of interruptible capacity.

National Grid Files to Accelerate Procurement of R.I. Small Customer 2010 Supplies

National Grid has petitioned the Rhode Island PUC to obtain fixed price financial swap contracts for the majority of the 2010 energy needs of small customers in order to take advantage of currently low wholesale prices (Docket No. 4041).

Under Grid's accelerated Standard Offer Supply procurement plan, the utility would enter swaps for 95% of the energy portion of the estimated wholesale load requirements for the small customer group, for January 1, 2010 through September 30, 2010. Grid would also procure a fixed price financial swap contract for 50% of the energy portion of the estimated wholesale load requirements for the small customer group, for October 1, 2010 through March 31, 2011.

The small customer group is defined as customers receiving service on Basic Residential Rate A-16, Low Income Rate A-60, Small C&I Rate C-06, Limited Private Lighting Rate S-10 and General Streetlighting Rate S-14. The procurement would be limited to 95% of needs since about 4.5% of supplies will be covered by Grid's required renewable energy solicitation.

Grid asked for the advanced purchases in order to lock-in prices for the small customer class, which Grid noted is the segment of its Standard Offer customers that will most likely be dependent on receiving Standard Offer supply during 2010. Current wholesale market prices have not been this low since late 2003, Grid said, adding that forward electric prices do steadily increase in 2010 and 2011.

Grid's advance purchases would be limited to energy only, and not other components of full requirements service. Grid would procure a full requirements service contract for the small customer load at a later date.

Among many reasons, Grid said the fixed price financial swap contracts are superior to a full requirements contract because the swaps allow for a broader spectrum of bidders versus full requirements service, with potentially better credit ratings that could result in lower prices for customers. Furthermore, the swaps allow for the transition to a managed portfolio for procuring Standard Offer Service to be implemented more efficiently, Grid said.

Full requirements contracts with delivery beyond 12 months from the award date (i.e. October 2010 through March 2011) may have higher premiums than the fixed price contracts, due to the larger uncertainty in load forecasts, migration, potential ISO market rule changes, and credit requirements, Grid observed. Additionally, the swaps can be procured more expeditiously, since the ISO New England Internal Hub is a very liquid and transparent market.

Grid also said it will soon be filing its comprehensive SOS procurement plan, including procurement for large customer supplies, along with an amended renewable energy plan. The PUC earlier this year rejected Grid's proposed renewable procurement plan because it did not include long-term contracts. The Commission later clarified that while the plan must include the solicitation of long-term REC contracts, its order does not require Grid to execute any such contracts at this time. With such clarification, Grid has dropped an appeal of the ruling.

EPSA Cautions on Alternative PPA Resource Adequacy Verification in MISO

FERC must clarify that it did not intend for the Midwest ISO to create a new class of capacity resources when the Commission directed MISO to develop tariff provisions to allow PPAs written before the start of MISO's Module E resource adequacy construct to qualify as capacity resources, EPSA said in a FERC filing (ER08-394).

The Commission, in a February order, directed MISO to develop an alternative qualification and verification procedure for PPAs drafted before Module E existed, since such PPAs may lack the specific language or contents needed for verification as a capacity resource under Module E.

EPSA stressed, however, that such alternative verification procedures should not denote a new class of capacity resources that can circumvent the established Module E tariff requirements. Rather, they must simply provide an alternate way of meeting the current requirements, such as by looking at factors other than the PPA's express language.

However, EPSA argued that, "it appears that MISO may be proposing a relaxation of capacity resource requirements, not simply an alternative verification methodology to meet the existing Module E requirements."

Specifically, EPSA is concerned that MISO does not specify that, once a PPA is alternatively verified as a capacity resource under Module E, the PPA must meet all of the requirements set forth in section 69.2.1.2.e(i) through (vii) of the tariff. For example, while subsections (v) and (vi) of the tariff discuss deliverability and firm transmission, as well as a resource's ability to comply with must offer requirements, the proposed language for alternative qualification does not appear to require verification of compliance with the firm transmission requirement or the existing must offer requirement, EPSA noted.

The lack of such explicit language could be interpreted as creating a separate class of capacity resources with different requirements, EPSA cautioned. Having two sets of qualifications (and thus two classes of resources) would result in gaps in MISO's resource adequacy construct, EPSA said.

The Midwest TDUs, however, stressed that MISO's approach on PPA verification must be flexible, and should not require the use of "magic words" in contracts, such as specification of particular portions of units serving a given customer under what was intended to be a system-power purchase.

The TDUs said their concerns apply to new PPAs as well, and that the alternate verification should not be limited to historic PPAs. "Indeed, if the Commission were to allow MISO to require ... that all new or extended contracts must include magic words explicitly complying with the requirements of Section 69.2.1.2.e(ii), it would essentially be signing the death warrant for system-power purchases as we know them," the TDUs said.

WPTF: CAISO Transmission Constraint Proposal Contravenes Purpose of MRTU

A California ISO proposal to modify part of its Market Redesign and Technology Upgrade tariff so that the CAISO is not required to enforce all transmission constraints at all times contravenes the basis of the MRTU market, the Western Power Trading Forum said in a protest at FERC (ER09-240-002).

In its filing, CAISO requested authority to relax constraints under two circumstances: (1) when the CAISO does not have visibility of network conditions through its energy management system; and (2) when those constraints would commit certain use-limited resources in the day-ahead market that, according to the CAISO, would typically not be required in real-time.

WPTF, however, argued that ignoring the constraints would be counter to the intentions of the MRTU markets, and will not produce the results that the MRTU markets are designed to produce.

"One of the primary reasons, if not the primary reason, for implementing MRTU was to move congestion management from real-time to the day-ahead time frame. Ironically, now that MRTU has been implemented, the CAISO is proposing just the opposite –- to move congestion management from the day-ahead time frame to real-time," WPTF said.

WPTF also contended that the CAISO has not provided sufficient detail about the conditions under which it would relax transmission constraints, leaving market participants unable to fully understand the scope and effect of what the CAISO proposes.

"CAISO has failed to provide, in any detail, the scope and effect of the proposed modifications, because, by its own admission, it will not enforce some network constraints as a default, rather than as the exception. This detail is necessary because it both affects the rates in, and enables market participants' understanding of, an expensive, newly-implemented market that was justified on the previous market's failure to model and enforce all network constraints, which led to unrealistic schedules and prices both in the day-ahead and the real-time markets. Seeking the discretion to unilaterally ignore legitimate constraints should carry with it a heavy burden of justification – a burden the CAISO simply has not met," WPTF said.

Not enforcing all transmission constraints would artificially depress Day-Ahead Integrated Forward Market prices, WPTF added.

"WPTF urges the Commission to reject the CAISO's proposal to relax network constraints in the day-ahead market at its sole, nontransparent discretion when that day-ahead market produces commitment results and prices which the CAISO finds inconvenient."

Briefly:

Conn. Draft Would Grant Energy Plus License

A draft Connecticut DPUC decision would grant Energy Plus Holdings an electric supplier license to serve residential, commercial and industrial customers (Matters, 1/28/09).

DaCott Energy Seeks Texas Aggregation License

Current broker-consultant DaCott Energy Management applied at the PUCT for an aggregator certificate, to pool commercial, industrial and municipal customers. DaCott recently entered the ERCOT market (Matters, 1/23/09).

Vault Receives Aggregation License

The PUCT granted Vault Energy Solutions an aggregator certificate (Matters, 3/27/09).

Premier Energy Group Files for Pa. License

Premier Energy Group applied for an electric broker license at the Pennsylvania PUC. Premier would serve all sizes of commercial and industrial customers at PECO, PPL, Duquesne Light, and the three FirstEnergy utilities.

Luminant, PUCT Staff File LaaRs Settlement

PUCT Staff and Luminant Energy filed for approval of a settlement agreement under which Luminant would pay $17,500 for Luminant's failure to deploy 95% of its scheduled Load acting as Resource obligations within 10 minutes of ERCOT instruction in July 2007.

CAPP Presses on Opt-Out Aggregation

With little movement thus far in the Texas legislative session on bills to legalize municipal opt-out aggregation, the Cities Aggregation Power Project reiterated the need for the system that would allow local governments to select a customer's electric provider unless customers affirmatively choose not to participate. A House bill on opt-out aggregation (HB 2780) was left pending in committee after a hearing last week (Matters, 4/9/09), while its Senate companion (SB 1480) remains in committee but has not had a public hearing scheduled on it yet. Citing the lack of migration from the former incumbent in some areas, CAPP argued opt-out aggregation would bring rate relief. Port Lavaca City Manager Gary Broz, who supports the bills, said only 10% of the city's population has taken advantage of deregulation by switching electricity providers.

Accent to Relinquish Mich. Electric License

Accent Energy requested to relinquish its Michigan alternative electric supplier license, informing the Michigan PSC that it has no electric customers in the state.

ERCOT Reports Failure of QSEs to Report Financials

ERCOT reported to the PUCT that QSEs Chain Lakes Power LP and Energy Savings Income Fund have failed to meet their financial reporting obligation under ERCOT Protocols Section 16.2.8, which requires timely submission of financial statements to allow ERCOT to monitor creditworthiness. ERCOT's filing was for informational purposes only, but the ISO reminded market participants that violation of the ERCOT Protocols amounts to violation of PURA, and said additional relief may be sought in future quarterly filings regarding reporting compliance.

ESIF-Universal... from 1:

Southeastern markets through the Commerce acquisition.

As of the end of 2008, Energy Savings reported 1.775 million residential customer equivalents, while Universal reported 584,000 residential customer equivalents, with about 126,000 of the total acquired via its acquisition of Commerce Energy.

Both firms have histories of acquisition. Aside from the aforementioned Commerce deal, Universal and Energy Savings both acquired various books from failing SemCanada subsidiaries last summer, while Energy Savings acquired Just Energy in ERCOT in 2007.

For the third fiscal quarter of 2009 (ending December 31, 2008), ESIF reported adjusted earnings of $46.7 million, and a GAAP loss of $49 million due to hedging valuations. ESIF's most recently released annual results, for fiscal 2008, show GAAP net income of $153 million.

Universal's commodity supply unit reported fiscal 2008 (ending September 30, 2008) net income of $26.0 million. For the first quarter of fiscal 2009 (ending December 31, 2008), the supply unit posted net income of $8.1 million. For 2009, Universal said it was relying on growth in New York, Ohio and California to further increase gross margins.

While both marketers have historically relied mostly on five-year contracts, both have re-evaluated that strategy, and are offering or contemplating offering shorter deals.

Aside from commodity supply, both retailers entered the Ontario water heater market last year. Universal also owns an ethanol plant.

Fallquist ... from 1:

Energy Services Group will provide wholesale business process services, including forecasting, scheduling and settlement. New England Gas & Electric said Energy Services Group is currently supporting seven clients Connecticut.

Under its standard contract filed with the DPUC, New England Gas & Electric intends to only offer a monthly variable product, with no residential deposit or termination fee if the customer provides 30 days' written notice of cancellation.

New England Gas & Electric is a wholly owned subsidiary of Regional Energy Holdings, Inc.