Energy Choice Matters

April 29, 2009

Pa. Not Retreating from Market-Based Rates, But "Silence" When Caps End Would Be Damaging

Pennsylvania is "not backing off" from the move to market-based electric rates for utilities with remaining rate caps in 2010 and 2011, PUC Chairman James Cawley said yesterday, but he also warned that competitive electric markets will be in jeopardy if PPL's move to market-based rates on Jan. 1, 2010 is met with "silence" from retail suppliers, especially regarding choices offered to the mass market classes. Cawley was addressing a National Energy Marketers Association forum.

Cawley cautioned that the experiment with competitive markets will fold if mass market shopping is not vigorous, as industrials in the state are eager to implement a state power authority, Pennsylvania-only RTO, or similar regulated or administratively run industry structure. Without small customers pressing to maintain choice, industrials will likely prevail.

Still, Cawley noted that the state legislature had an opportunity to severely damage retail access last year, but in Act 129 chose to adopt provisions which the PUC had generally already prescribed, such as a portfolio mix of contract lengths for default service. Although certain legislators are making noise about an indefinite extension of rate caps, no one is taking it seriously, Cawley said.

Even the "fairly reasonable" HB 20, supported by the Democratic House Speaker and Majority

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Gexa Results Tick Higher, NextEra Earnings Fueled by New Wind Investment

An incremental improvement in Gexa Energy's results in the first quarter of 2009 was one of the few bright spots in the performance of NextEra Energy Resources' existing assets, but new wind farms pushed NextEra adjusted quarterly earnings nearly 15% higher year-over-year to $252 million, parent FPL Group said yesterday.

On a consolidated basis, NextEra reported GAAP earnings of $252 million versus $164 million a year ago. On an adjusted basis, excluding certain hedging impacts, 2009 quarterly earnings were still $252 million, but the year-ago comparison is $220 million.

The growth came mainly from new asset additions, as the performance of existing assets declined about $32 million (8¢/share) versus a very strong first quarter in 2008. However, competitive retailer Gexa recorded a stronger first quarter this year, improving contribution by about $4.1 million (1¢/share), FPL said. Another bright spot in the contribution from existing assets was NextEra's NEPOOL fleet, which was up about $12 million (3¢/share) versus the 2008 first quarter, mainly due an unplanned outage at Seabrook in 2008.

However, merchant assets in ERCOT were down $12 million due to softer market conditions, while NextEra's contracted segment was down about $16 million (4¢/share) due to a refueling outage at the Duane Arnold nuclear plant this year, and certain favorable contractual provisions seen last year in one of its contracted natural gas facilities in the Northeast. NextEra's existing wind portfolio was down $12 million from the year-ago period, due to strong wind results in last

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Key Md. Senator Sees Residential Migration Rates of 20% Needed to Stem Re-regulation Tide

Maryland residential migration rates will likely need to reach 20% to push back a renewed re-regulation effort which is certain to return in the 2010 legislative session, Sen. Catherine Pugh, Baltimore City Democrat, told a National Energy Marketers Association forum. Pugh was one of the fiercest critics of the Senate's re-regulation proposal.

Noting that competitive suppliers have a big job ahead of them, Pugh said one of the main reasons customers have not embraced choice in electricity like they have with telecom and other services is because they can't see, hold, or touch their electric service. Meanwhile, customers can customize their ringtones or mobile applications, and accordingly would be upset if an effort to take such choices away from them was started.

Competitive retailers must educate the public about choice, which Pugh admitted will be expensive. Suppliers must ask themselves if the investment is worth the gains, she said.

Speaking on a separate panel, New York PSC Chairman Garry Brown said ESCOs must create more value-added services, which would make re-regulation more difficult.

NEM President Craig Goodman noted that as utilities lose their commodity supply monopolies, they will want to exert a monopoly over demand-side resources and products. Competitive retailers must provide such "negawatts" to foster innovation, Goodman said.

Georgia PSC Commissioner Stan Wise told the NEM forum that customers in areas of Georgia with municipally owned LDCs, which do not offer retail gas choice, complain to the Commission that they can't choose their provider like customers in other areas.

Mich. PSC Staff Opposes Plan to Make Shoppers Pay Residential Subsidy

Consumers Energy's petition to require retail access customers to pay a share of the current residential rate subsidy by skewing retail access delivery rates should be rejected, Michigan PSC Staff said in testimony in Consumers' rate case.

Consumers applied to allocate to shopping customers portions of the subsidy currently paid by full service customers to mitigate the cost of residential rates, in order to address the "artificial competitive advantage" created by cost-based retail access delivery rates, and full service delivery rates that include interclass cross-subsidization (Matters, 11/18/09).

But Staff noted that the Commission, in Consumers' last rate case decided in 2008 and a past Detroit Edison rate case, rejected skewing the currently cost-based retail access distribution rates. Moving retail access delivery rates away from cost-of-service would run counter to the Commission's goal of cost-based rates, the PSC said in previous cases. Energy Michigan and Constellation NewEnergy similarly opposed Consumers' petition.

Constellation NewEnergy also urged the PSC to reject the current advance notification timelines for customers returning to bundled utility service, as recent amendments to the Customer Choice Act remove the need for a fixed time deadline for customers to make such a notification, CNE said.

The Commission's approval of seasonal rates for Consumers in its last rate case also provides Consumers with adequate assurance that it will recover any costs to serve returning customers, CNE added.

Furthermore, Constellation sought to correct a provision in Consumers' tariff which holds that, "Only the [Retail Open Access] Customer may initiate the return to Company Full Service by contacting the Company."

Consumers, CNE said, has interpreted that provision to mean that competitive suppliers cannot return customers to bundled service without written customer authorization, even at the end of a contract term. Consumers Energy rejects drop transactions without such written customer authorization, CNE reported.

"Such an interpretation is illogical and inappropriate ... Consumers' tariff language and associated policies potentially impose an unlawful obligation on an [Alternative Electric Supplier] to serve a customer with whom it has no contractual relationship," CNE noted.

Constellation also asked the Commission to direct Consumers to fix its competitive supplier website and reinstate the exchange of customer information with suppliers online. Historically, a supplier was able to obtain required customer-specific information through Consumers' retail access website, but the website has not been functional for months, and CNE said there are apparently no plans either to get the site up and running again, or provide an effective alternative means to get required information. Instead, Consumers is reverting to manual processing of supplier requests, "to the potential disadvantage of customers and the frustration of customer choice and competition."

CNE reported that after presenting Consumers with a Letter of Authorization from the customer to access the customer's prior usage, suppliers can expect to wait up to five weeks before receiving the requested information from Consumers. Such delays can harm the customer, because the delay could prevent the customer and supplier from agreeing to lock-in a favorable price. Constellation similarly reported problems in obtaining interval data.

Consumers Energy should be required to provide customer and interval data within two business days, CNE said.

Similar to a recent decision in Detroit Edison's rate case (Matters, 12/24/08), Staff recommended that the rescission period for residential electric contracts be extended to 14 days from the current three. Consumers had proposed providing customers with a 30-day cancellation window, but its proposal was filed before the Commission set the 14-day period at Edison, and Consumers said it now supports a 14-day proposal.

However, Energy Michigan noted that a longer rescission period will create excessive lead times for servicing customers, due to Midwest ISO resource adequacy requirements. Energy Michigan noted that starting June 1 each supplier must provide a forecast of its load and demonstrate that it has purchased capacity to cover its load plus reserves by the first day of the month prior to the month of the forecast -- for example, the forecast for September load and the capacity purchased to meet the load plus reserves must be in place no later than August 1. If a customer is given 30 days to decide whether or not to cancel, then any contracts signed after June will not be final until August. In effect, if a customer wants service to begin in September, the customer must sign in June, so that the supplier will have an accurate assessment of its September load and the capacity resources to meet the resulting MISO reliability requirements by August 1. Energy Michigan suggested a five business day rescission period.

Staff also recommended that competitive suppliers should be required to submit their marketing materials and contracts for residential customers for Staff review before marketing begins, again mirroring a recent change at Detroit Edison.

Constellation said Consumers' proposed Choice Incentive Mechanism was unsupported, given the new 10% cap on retail choice, as well as "suspect" retail access load projections. Consumers' filing for the Choice Incentive Mechanism anticipates an increase in retail access load to 390 MW by year-end 2009, a 17% increase from the 332 MW served in 2008. "Given the continued worsening of the Michigan economy, this projection is suspect," CNE said, noting February active retail access load is 337 MW, with another 44 MW enrolled but not yet active.

Texas Senate Passes Bill to Delay Entergy Transition to Competition

The Texas Senate passed a bill (SB 1492) which would require the PUCT to cease work on Entergy Texas' transition to competition plan, and require Entergy to withdraw the plan (Matters, 4/21/09).

Any party could petition the Commission to initiate a proceeding to certify a qualified power region for the Entergy area when the conditions supporting such a proceeding exist. If the Commission certifies a qualified power region for Entergy, the Commission could not approve a transition to competition plan until at least four years after certifying the qualified power region.

SB 1492 also requires Entergy to propose a competitive generation tariff to give eligible customers the ability to contract for competitive generation. Entergy would be compelled to provide and price retail transmission service, including necessary ancillary services, to retail customers who choose to take advantage of the competitive generation tariff at a rate that is unbundled from the utility's cost of service. Customers on the competitive generation tariff could not be considered wholesale transmission customers.

MISO Says Work Ongoing on Retail Customer Demand Response Aggregation

The Midwest ISO said stakeholders are continuing to vet procedures to allow demand response Aggregators of Retail Customers (ARCs) to participate in the ancillary services market, and said its goal is to complete such work by Aug. 31, 2009. MISO reported on the progress in a compliance filing required by FERC Order 719, in which ARC participation in RTO markets was one of several new requirements relating to demand response, market monitoring, and long-term contracting imposed by the Commission.

MISO filed for informational purposes only tariff revisions that could allow MISO to comply with the ARC requirement, but stressed that they were still subject to stakeholder discussions. Regardless of the ultimate approach, MISO said allowing ARC participation in its markets will require system changes that will likely prevent ARCs from participating in the initial implementation phase of the ancillary services market, which may extend into the first half of 2010.

Under the informational tariff language to implement ARC participation, MISO would require single aggregated offers consisting of sets of individual demand response resources from a single area, limited to within an LSE area.

ARCs would be required to certify, as part of the registration process, that, "the laws or regulations of the relevant electric retail regulatory authority(ies) do not preclude the customers aggregated in the ARC Zone from directly participating in the Transmission Provider's markets." MISO would notify the relevant retail authorities of the registration, and would accept offers from an ARC unless or until the relevant retail authority contests such certification.

Turning to other aspects of Order 719, MISO said its ancillary services market treats demand-side resources comparably with generation in the ability to serve load.

Additionally, MISO said it already meets the scarcity pricing requirements in Order 719 through use of the demand curve for Operating Reserves in the co-optimized ASM market. The curves create scarcity prices during shortages.

Regarding other RTOs, PJM asked to file its Order 719 compliance filing April 29, one day out-of-time, while FERC granted the New York ISO an extension until May 15. NYISO asked for the extension to allow for greater stakeholder review of the filing.

In comments to FERC, EnerNOC requested that the Commission direct the NYISO to use any additional time to, "meaningfully address the concerns that have been raised by EnerNOC and certain other demand response providers."

According to EnerNOC, "the NYISO has thus far been unresponsive to certain key shortcomings in its markets identified by what the NYISO has characterized as a minority of the parties."

"Indeed, this unwillingness to address the concerns of this minority is an issue that itself will likely be the subject of comments," EnerNOC said.

Briefly:

N.Y. PSC Releases Staff Recommendation on 18-a Assessment

New York utilities would recover any §18-a assessment amounts greater than the amounts found in the utilities' base delivery rates via a surcharge, the PSC Staff recommended in a formal notice seeking comments on implementing the revised assessment (Matters, 4/23/09). Though the Commission had published a notice in the state register seeking comments, it had not previously issued any proposal for implementation. The revised §18-a now includes an assessment on revenues from competitive supply, but such revenues are to be estimated by, and collected from, the utilities, rather than ESCOs. In a notice issued yesterday in Case 09-M-0311, the Commission said Staff recommended that utilities estimate ESCO revenues by multiplying the known amount of electric or gas delivered to ESCO customers by the commodity supply price charged by the utility for sales to its bundled service customers. This information is known to electric and gas corporations, provides a reasonable basis for estimating ESCO sales revenues, and is an expedient method to obtain an estimate of these revenues, the PSC said. Also, no other source of the information is readily available, due to the fact that ESCOs do not file the information with the Department or with utilities, the Commission added.

Border Energy Seeks Michigan Gas License

Border Energy, which has over 15,000 residential and small commercial customers in the Northern Indiana Public Service Company choice program, applied for an alternative gas supplier license in Michigan. Among Border's NIPSCO products is a summer monthly variable plan with a fixed winter rate.

AWEA Reports Q1 Wind Installations

The U.S. wind energy industry installed 2,836 MW of new generating capacity in the first quarter of 2009, the American Wind Energy Association reported. Total U.S. wind capacity in operation is now 28,206 MW.

PJM Creates Renewable Dashboard

PJM said it has added a "Renewable Energy Dashboard" at green.pjm.com, providing a snapshot of the amount and type of generation that currently provides power in the RTO; showing a map indicating where proposed renewable energy projects are planned, and listing a summary of how much electricity has been produced by renewable sources since 2005.

Pennsylvania *... from 1:*

Leader, faces an uncertain future in the Republican-controlled Senate, Cawley reported. HB 20 would mostly provide for policies that the PUC is already implementing, such as competitively neutral rate deferral plans, and voluntary prepay plans (Matters, 4/23/09). The real debate on the bill concerns whether utilities will be allowed to collect carrying charges on the deferral plans, Cawley added.

As noted previously, Cawley said PPL's projected residential rate increase of about 30% should provide attractive headroom for retail suppliers. Stating that no good deed goes unrewarded, Cawley noted that PPL had sought to mitigate its post-cap price increase by spreading its purchases out, and conducting them up to three years in advance. However, with the recent plunge in market prices, it means most of PPL's supply was bought at the height of the market, and it may end up with the largest increase of any of the utilities moving to market-based rates in the coming years.

Though Pennsylvania has thus far been able to avoid the "revolt" seen in other states against the end of rate caps, Cawley conceded that the landscape would have been far different had PPL's caps come off last summer.

NextEra ... from 1:

year's first quarter, with various other factors dragging existing asset contribution down by about $8 million (2¢/share).

NextEra's wholesale marketing and trading activities also decreased about $8 million (2¢/share) from last year's exceptionally strong first quarter.

But these results were more than offset by a $58 million contribution from investment in 1,325 MW of new wind projects. Of that total, $17 million reflects contributions from state investment tax credits on some of NextEra's wind projects, and $15 million reflects additional incentives granted under the federal stimulus package in the form of tax credits, including the option of receiving an investment tax credit equal to 30% of the qualified construction costs of the project in lieu of a production tax credit.

The extension of the wind production tax credit for three years, as well as the investment tax credit option, provides much needed long-term certainty for investment, FPL said.

"We have never had such long-term certainty in this market," said FPL Group CFO Armando Pimentel.

The incentives have prompted NextEra to affirm its intent to add over 1,000 MW of new wind capacity this year, with plans to add 1,000-2,000 MW in 2010. FPL Group said it intends to have roughly 9,000 MW of renewable energy capacity by the end of 2010.

Asked about the potential for consolidation in the wind industry, Pimentel said that the bid-ask spread is still a little too far apart to support a wave of asset sales.