Energy Choice Matters

April 30, 2009

# Conn. House Passes Mass Market Re-regulation Bill, Future Dim in Senate

The Connecticut House of Representatives passed 103-39 an amendment which would end mass market customer choice, offered by frequent deregulation opponent Vickie Nardello. The amendment incorporates parts of various proposals from Nardello offered at a February hearing in the joint Energy and Technology Committee (Matters, 2/25/09), where the bills have not advanced.

Committee co-chair Sen. John Fonfara said he would continue to block the proposal in committee, and doubted it would ever see a floor vote in the Senate.

The amendment approved by the House would require all customers under 100 kW to receive Standard Service from the utility. Removing these customers' ability to shop will lower default service prices by 5%, Nardello claimed, by eliminating the migration premium incorporated into the current full requirements bids to serve load. The cutoff, originally proposed at 500 kW, was lowered in response to comments from the Manufacturing Alliance of Connecticut, which supports the re-regulation measure.

Customers under 100 kW on existing retail supply contracts would retain the right to shop, and such customers would be able to switch to another retail supplier or return to utility Standard Service as well.

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# Dominion Retail Seeks Conn. Ruling that Exit Fees Cannot be Imposed on Customers <500 kW

Dominion Retail petitioned the Connecticut DPUC for a declaratory ruling finding that competitive suppliers are prohibited from imposing an early termination fee, or other charge for switching, on any customer eligible for Standard Service (09-04-40).

Confusion has arisen in the market, Dominion Retail said, because of statutory language regarding a prohibition on termination fees, and the creation of a competitive supplier referral program offered by utilities. Dominion Retail asked for the declaratory ruling to ensure that no retail supplier is put at an unfair competitive advantage as a result of a contrary interpretation of the statutory provision.

Specially, Connecticut General Statute § 16-244c(k)5 holds that, "Any customer that receives electric generation service from a participating electric supplier may return to standard service or may choose another participating electric supplier at any time, including during the qualifying electric offer, without the imposition of any additional charges." Section 16-244c(k) establishes parameters of the supplier referral programs.

"Participating electric supplier" means, "an electric supplier that is licensed by the department to provide electric service, pursuant to this subsection, to residential or small commercial customers," while the qualifying electric offer means the offer made through the supplier referral program.

Dominion Retail argued that statutory construction holds that the prohibition on termination

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## WGES Reports Solid Customer Growth, Flat Adjusted Earnings

Washington Gas Energy Services posted non-GAAP operating earnings of $3.4 million for the second fiscal quarter of 2009, compared to non-GAAP operating earnings of $3.6 million in the year-ago quarter, parent WGL Holdings reported ahead of an analyst call today. Higher operating expenses offset higher realized electric margins from increased sales volumes, WGES said. On a GAAP basis, when including the impacts of hedges, WGES posted a net loss of $667,000 for the quarter, compared to net income of $3.6 million in the year-ago quarter.

As tipped in February (Matters, 2/6/09), WGES grew its customer count in both commodities, taking advantage of more favorable market pricing versus default service rates based on higher-cost supply. WGES' natural gas customer count grew to 141,500 by quarter's end, versus 135,800 as of December 31, 2008. Electricity customer count increased to 70,600 from 63,900 as of December 31, 2008.

Gas sales in the quarter were 272.7 million therms versus 254.4 million a year ago. Electric sales were 1.0 billion kWh versus 872 million kWh a year ago.

Washington Gas Energy Systems reported quarterly net income of $1.2 million, versus net income of $251,000 a year ago, reflecting higher revenues and lower cost of sales associated with design-build projects.

## SouthStar Ohio, Florida Growth Offsetting Georgia Churn

AGL Resources' retailer SouthStar Energy Services posted Earnings Before Interest & Tax of $63 million for the first quarter of 2009, slightly edging EBIT of $62 million for the year-ago quarter.

SouthStar's operating margin increased $2 million year-over-year to $84 million, mostly from higher contributions from the management of storage and transportation assets largely due to declining commodity prices in 2009, which increased operating margin by $13 million. Another $3 million improvement was recorded because last year's quarter included impacts of a pricing settlement with the Georgia PSC over how SouthStar's Georgia Natural Gas retailer communicated different variable rate plans to customers.

SouthStar's growth markets of Ohio and Florida also contributed $3 million to the operating margin growth, while higher customer usage contributed $1 million. Operations in Ohio and Florida are growing more rapidly than anticipated, SouthStar said.

Such operating margin growth was offset by a $12 million reduction in operating margin due to a 3% decline in Georgia customer count, as well as the movement of customers onto lower margin fixed price plans. The Georgia market continues to see increased competition and more active price shopping by customers, AGL Resources CEO John Somerhalder said.

A $6 million lower-of-cost-or-market natural gas inventory valuation adjustment also decreased operating margin.

Average customers count in Georgia for the first quarter of 2009 was 518,000, versus 536,000 a year ago. SouthStar's Georgia market share dipped to 34% from 35% a year ago, but it said it maintains its market-leading status.

Georgia firm volumes decreased to 18 Bcf from 19 Bcf a year ago. Ohio and Florida combined volumes were up at 5 Bcf versus 2 Bcf in the year-ago quarter.

## Ameren, Suppliers Reach MOU on All-In/All-Out Rule, Purchased Receivables

The Ameren Illinois utilities, Illinois Competitive Energy Association, Retail Energy Supply Association, and Dominion Retail have reached a memorandum of understanding regarding several issues in Ameren's proposed Purchase of Receivables program which would expand the receivables included under POR, and would limit Ameren's all-in/all-out requirement to residential customers (08-0619 et. al.).

Under Ameren's POR proposal (Matters, 3/25/09), receivables purchased under the program would be limited to receivables for "power and energy service." Retail suppliers were concerned the original definition excluded some costs to serve load, including various costs of RPS compliance or other green energy products.

The MOU among Ameren and the suppliers specifies that purchased receivables include charges for power and energy service that the supplier is obligated to procure to meet its customers' instantaneous electric power and energy requirements, including charges for Transmission Services, related Ancillary Transmission Services, supply products that utilize renewable energy credits, or that represent alternative compliance payments or other appropriate means of establishing compliance with the renewable portfolio standards as set forth in Public Act 95-1027, the Public Utilities Act, and/or Administrative Rules of the Illinois Commerce Commission.

RESA and ICEA noted that the expanded definition for power and energy services will remove a potential obstacle to suppliers' ability to comply with the Illinois RPS law. The retail groups noted Senate Bill 2150, which was unanimously passed by Senate and now pending before the House, makes a number of changes to the RPS contained in Public Act 95-1027, including the requirement that suppliers meet 50% of their RPS requirements through making an alternative compliance payment. While SB 2150 has not yet been enacted into law, the Commission needs to ensure that Ameren's POR program does not act in a manner that would frustrate the ability of suppliers to meet their RPS compliance requirements, ICEA and RESA said.

However, Attorney General Lisa Madigan, who did not offer pre-filed testimony in the case, opposed any expansion of the definition of power and energy services.

Although Madigan was responding to a proposal to include all costs incurred by retailers to serve customers, and not the specific MOU language, the A.G. generally said, "[t]o adopt a broad definition of power and energy services that includes any charges or costs besides those associated with procuring electricity supply will result in customer confusion and obfuscation of actual prices," stating Ameren's original proposal which excluded RECs and related charges was, "perfectly acceptable."

Madigan urged the Commission to go one step further, "to ensure customers have the tools they need to enter this new market," by requiring that power and energy services, as defined in the Ameren tariffs, be expressed on a per kilowatt-hour charge basis. It's not clear how demand charges for larger customers would be addressed.

The Ameren-supplier MOU also truncates Ameren's earlier proposal to require suppliers to either place all customers in a customer group on POR with utility consolidated billing, or to not include any customers on POR/UCB. This all-in/all-out requirement would instead be applied only to the residential customer class under the MOU, and suppliers could elect to place some non-residential customers on POR, while billing others through dual billing or supplier consolidated billing.

The MOU also holds that stakeholders will work with the ICC Office of Retail Market Development to address potential further limits or exceptions to the all-in/all-out rule. Ameren will also study the impact on bad debt from the lack of an all-in/all-out rule for non-residential customers. Ameren's original justification for the all-in/all-out requirement was to prevent cherry-picking of good credit customers by suppliers, which would inflate Ameren bad debt and the POR discount rate.

Ameren and the suppliers also agreed that the POR discount level should be set at 1.2%. Staff continues to favor a 1.5% level which includes its proposed "balance factor," which would set the rate higher initially so that future increases in bad debt or implementation costs would not necessitate a change in the rate, providing suppliers with rate certainty. The Citizens Utility Board is still pushing for its Fair Cost Allocation Adjustment, which would essentially assign all POR implementation costs to participating suppliers. Ameren said such a proposal would create a discount rate of 1.63%, though CUB said the rate would be

lower if Ameren's cost of capital were reduced.

An issue resolved by all parties during hearings was Staff's bill insert proposal. No party now contests Staff's recommendation that for utility consolidated bills, Ameren shall include any bill insert required by the ICC or other regulatory body and provided to Ameren by the retail supplier. Ameren would bill the supplier for additional costs actually incurred to perform mailing of such bill inserts.

## Monitoring Analytics Says Incremental Auction Avoidable Cost Rates Too High

PJM market monitor Monitoring Analytics requested that FERC take immediate action to ensure that the default Avoidable Cost Rates for the First Incremental Auction of the Reliability Pricing Model are not higher than appropriate for that auction, due to an oversight in submitting the rates.

The Avoidable Cost Rates in the tariff were developed using an annual escalation factor to adjust historical data to the appropriate levels for the 2012/2013 operating year, which will be the year coinciding with the Third Incremental Auction. The first two auctions will procure capacity for the 2010/2011 and 2011/2012 delivery years, but the data provided by Monitoring Analytics to be included in the tariff, due to an oversight, only listed the Avoidable Cost Rates for 2012/2013. The 2012/2013 rates are, by definition, too high for the earlier auctions, Monitoring Analytics said, because they include more years of escalation than what will actually be experienced.

"[T]he use of excess [Avoidable Cost Rate] levels could result in prices greater than a competitive level," in the first two Incremental Auctions, the market monitor added.

For the 2010/2011 delivery year, Monitoring Analytics said the rates currently in the tariff are 4.55% higher than they should be, and 9.31% higher than they should be for 2011/2012.

While the market monitor said the results were clearly erroneous, PJM argued that the current Avoidable Cost Rates approved by FERC are within the zone of reasonableness for use in the First Incremental Auction in June 2009 for the 2011/2012 Delivery Year, and PJM does not believe a change is warranted. PJM noted fixed Avoidable Cost Rates, set in the tariff, were approved by FERC to avoid excessive discretion by the market monitor in setting new Avoidable Cost Rates every year. Changing a fundamental piece of the RPM market should be considered through a full stakeholder process, not an emergency review, PJM said.

## Migration from High Default Rates Provides Opportunity to Soothe Political Storms

Across many markets, retail suppliers currently have an excellent opportunity to win load away from default service providers, National Energy Marketers Association President Craig Goodman said yesterday.

Low wholesale prices coupled with lagging default service rates which reflect higher-priced supply from last year means marketers can come in and handily beat the utility rate.

The potential for increased migration provides hope against constant threats to re-regulate markets, Goodman noted. But he added that only when customers are actively choosing competitive products will politicians back away from efforts to re-regulate.

Chris Hendrix, general manager of competitive energy for Wal-Mart, said his fear is that re-regulation has moved away from Public Utility Commissions to state legislatures, who lack regulators' policy expertise. Hendrix, however, did single out California as one area of "hope," citing SB 695 which would gradually allow new non-residential customer choice up to a cap (approximately 16% of load, Matters, 4/27/09).

# EIA Says Residential Shoppers Paid More than LDC Customers in 2007

The Energy Information Administration says retail pricing data in seven states shows that residential customers on competitive natural gas supply paid more for energy than customers buying from the LDC, sharing the results at the National Energy Marketers Association forum.

Using data from Form 910, which is filled out by certain marketers, EIA tabulated the following average prices ($/mcf) of marketers versus LDCs for 2007:

| State | LDC Avg. | Marketer Avg. |
|---|---|---|
| Florida | 20.55 | 23.23 |
| Georgia | 14.64 | 18.02 |
| Maryland | 14.95 | 16.26 |
| New Jersey | 14,45 | 16.50 |
| New York | 15.50 | 15.46 |
| Ohio | 13.05 | 13.95 |
| Pennsylvania | 14.56 | 15.77 |
| Virginia | 15.33 | 16.28 |

EIA said a similar trend existed in 2006, but residential prices from marketers were lower than LDC prices from 2002-2005. Marketers continue to beat LDCs on non-residential prices, EIA said.

EIA noted the results could be erroneous for several reasons. The reporting months could not align with accounting adjustments for actual gas flows, or marketers may be estimating data and not later revising it when final data is complete. Competitive suppliers may be incorrectly including various tax or delivery revenue in their reporting even though that revenue is included in LDC sales, or they may be incorrectly classifying customers (treating apartment buildings as commercial accounts due to the meter-type even though EIA considers them residential). Additionally, not all marketers report to EIA, as EIA is often unaware of small independents and start-ups. Data reporting is federally mandated.

Suppliers were quick to point out other explanations, including the lag and reconciliations (sometimes up to annually) in LDC supply costs, the nature of marketer contracts (up to five-year products designed to protect against price spikes over the life of the contract, not one year), and the use of a single year snapshot to make judgments.

Additionally, EIA said that the data aggregates sales statewide. Such aggregation could mean that marketers were providing lower prices than an LDC in one LDC territory, but another LDC area where marketers are not active (perhaps due to an artificially low supply rate due to inclusion of procurement costs in base rates) could be skewing the LDC results to look more favorable. Since no marketers were contesting the area of the cheaper LDC, their aggregate results would only reflect their sales in the high-priced territory. While the prices may actually be below the LDC, by aggregating that LDC data with other cheaper LDC data, the LDC prices may appear lower than what marketers actually compete against.

EIA encouraged marketers to report data if they currently do not, and to ensure they report accurate data to allow for accurate comparisons.

## *Briefly:*

**DPUC Approves UI Procurement**

The Connecticut DPUC approved United Illuminating's recent procurement of Last Resort Service supplies for the three-month period beginning July 1, and a portion of Standard Service supplies for 2010 and 2011. UI had sought 20% of Standard Service requirements for each half of 2010 (which would complete the required purchases for both halves of the year), and 10% of requirements for the full year 2011. Prices for Last Resort Service must be posted by May 15.

**CenterPoint Gas Marketing Results Flat on Adjusted Basis**

CenterPoint Energy's competitive natural gas sales and services segment reported lower operating income of $2 million for the first quarter of 2009, down from $6 million for the same period of 2008. The decline resulted primarily from a $6 million inventory write-down to the lower of average cost or market in the first quarter of 2009. Excluding that

impact as well as hedging impacts, results were essentially unchanged from last year, CenterPoint said. Throughput grew 2% to 141 Bcf from 138 Bcf a year ago. Quarterly revenues were $765,000 versus $1.1 million a year ago. Customer count at the end of the quarter stood at 10,800, up from 8,700 a year ago. CenterPoint reported its Texas electric distribution unit saw a 9% decline in throughput, partially due to mild weather and partially due to conservation. About half of a 10% drop in residential volumes is conservation-related, CenterPoint estimated. Delivered residential volumes were 3.97 million MWh, while total throughput was 15.1 million MWh.

**Always Electric Receives Texas Retail Certificate**

The PUCT granted a REP certificate to Always Electric (Matters, 3/18/09).

**Gracey Energy Licensed as Texas Aggregator**

The PUCT awarded an aggregator certificate to broker-consultant Gracey Energy Consulting, for commercial and industrial customers (Matters, 4/9/09). Gracey said it intends to pool oil and gas service companies, as well as restaurants.

**NJR Energy Services Adjusted Earnings Fall**

NJR Energy Services, which engages in various wholesale activities as well as industrial customer supply, reported lower adjusted quarterly earnings of $31.1 million versus $43.5 million in the year-ago quarter, mainly from narrower winter storage spreads and less contracted transportation capacity in the Northeast. Adjusted earnings exclude all unrealized, and certain realized, gains and losses associated with derivative instruments. On a GAAP basis, NJR Energy Services posted a net loss of $1.0 million, versus a loss of $26.0 million a year-ago. Gross margin was $2.6 million for the quarter, versus negative gross margin of $40.0 million a year ago.

**Advantage IQ Earnings Dip**

Avista Corp. realized lower quarterly earnings of $1.2 million from its energy consulting and bill management Advantage IQ unit, versus $1.8 million a year ago, from lower interest earnings on funds held for customers, and from Avista's reduced ownership in the unit after last summer's acquisition of Cadence Network. In the first quarter of 2009, Advantage IQ managed bills totaling $4.6 billion, an increase of $1.2 billion compared to the first quarter of 2008, with the Cadence Network acquisition comprising $1.0 billion of the increase. During the quarter, Advantage IQ signed new contracts that should add over $2 million in new revenues annually, Avista said. Advantage IQ continues to see its customers experience bankruptcies or store closures, affecting its growth projections, Avista said.

**Texas Bill on Power to Choose Notice Advances**

The Texas House passed HB 1799 which would require all REP residential bills to contain a notice stating, in at least 12-point type on the front of the first page, "For more information about residential electric service please visit www.powertochoose.com." The requirement would expire September 1, 2011 (Matters, 4/15/09). The bill moves to the Senate.

## *Conn. Re-reg* *... from 1:*

According to Nardello, few residential or small business customers have been interested in retail choice.

Residential shopping at Connecticut Light and Power is 7% of accounts (9% of MWh), while small commercial shopping is 26% of accounts (52% of MWh). At United Illuminating, residential shopping is 9% of accounts (10% of MWh), while small commercial shopping is 29% of accounts (53% of MWh). From March 2008 to March 2009, some 20,000 new residential shoppers and 13,000 new small commercial shoppers were added in CL&P's territory. UI, which is about one-fourth of the size of CL&P, saw nearly 6,000 new residential shoppers and

2,000 new small commercial shoppers.

Nardello further justified the measure by stating customers "frequently" end up losing money in the long-run with retail choice, noting it can be difficult to cancel service with a retail supplier in time to avoid higher prices after a brief introductory period.

According to Nardello, the legislation also requires that large customers be offered another utility option which allows utilities to contract directly with power plants for multiyear periods, although exact language was unavailable as of press time.

Retail Energy Supply Association New England Chair Chris Kallaher said the amendment, "would be a big step backwards for Connecticut energy customers, taking away choices that can save them money right now and putting them on the hook for bad utility purchases." Kallaher noted some 138,000 customers are shopping for electricity statewide.

## *Conn. Exit Fees* ***... from 1:***

fees must apply to any customer eligible for Standard Service, not only customers purchasing electricity through the supplier referral program. To construe § 16-244c(k)5 as only prohibiting termination fees for products in the supplier referral program would render the phrase "including during the qualifying electric offer" meaningless, since such offers would be the only offers the statute applies to. Had the General Assembly wanted the termination fee prohibition to only apply to supplier referral offers, it would not have used the word "including," Dominion Retail said.