Energy Choice Matters

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Energy Savings Adjusted Earnings Up 8%, Plans Name Change to Just Energy

Also Settles Illinois Suit

Adjusted net income at Energy Savings Income Fund was up 8% for fiscal year 2009 (ending March 31, 2009), at $170 million versus $157 million for fiscal 2008 (all figures Canadian). Due to unrealized hedging losses, the reported GAAP net loss for fiscal 2009 was $1.1 billion, versus net income of $153 million for fiscal 2008 (the 2008 figure is based on hedge accounting and does not reflect unrealized valuations).

Seasonally adjusted gross margin was up 16% year-over-year, at $315 million for fiscal 2009 versus $272 million a year ago. Margin growth was driven by net customer additions, increased consumption due to the cold winter weather, lower supply costs to meet winter demand, and favorable U.S. exchange rates.

Offsetting the gains were increased general and administrative costs and bad debt expenses. General and administrative costs rose 15% year-over-year to nearly $60 million, primarily from staffing to support current and future growth, the U.S. exchange rate impact, an increase in collection costs, a new call center, and U.S. legal fees. Bad debt expense doubled to $13.9 million in fiscal 2009 from $7.0 million a year ago, due to a 20% increase in revenue in markets where Energy Savings assumes the credit risk, and higher customer default rates in U.S. markets. For the twelve months ended March 31, 2009, bad debt expense represented 2.6% of the $543.5 million in revenues subject to credit risk, near the midpoint of the 2-3% target range.

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Cawley Says Retail Experiment Will Fail Absent Vigorous Competition at PPL, as PUC Issues Draft to Remove Market Barriers

The Pennsylvania PUC has drafted a Tentative Order designed to remove barriers to a competitive retail electric market in the PPL service territory, including a requirement for Purchase of Receivables and supplier access to customer information, in an effort to ensure that customers have alternatives when rate caps expire January 1, 2010. The Tentative Order will become final without further action of the Commission absent the filing of adverse comments.

The Commission said it was undertaking the measures exclusive to PPL initially because of the short-time frame before rate caps end for the 1.4 million customers in its service area. The PUC said it will pursue similar policies at PECO, Met-Ed/Penelec, and West Penn Power as well, but has more time to undertake such measures since those utilities do not move to market-based rates until 2011. Commissioner Robert Powelson told the remaining utilities with rate caps to be prepared to address barriers in their own service territories before the expiration of those caps.

PUC Chairman James Cawley stressed that residential customers must have viable alternatives to default service immediately when rate caps expire at PPL.

If the PUC's policies to remove barriers at PPL don't work, and competition is not vigorous, "then

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Adjusted Income at Universal Energy Nearly Quadruples

Universal Energy Group's commodity marketing subsidiary saw operational income after customer acquisition costs for the quarter ending March 31, 2009, nearly quadruple to $24.1 million from $6.4 million a year ago (all figures Canadian). The operational metric adjusts for differences between revenue recognition and delivery-payment that exist in its natural gas business and for the effect of the financial swaps used in its electricity business.

The Commerce Energy acquisition added $20.0 million to the 2009 quarter's operational margin and $13.0 million to operational income

GAAP net income was $381,000 for the quarter, versus earnings of $26.6 million a year ago, due to nearly $31 million in unrealized losses on hedged supply contracts. Excluding the hedging impact, and $16 million in swap contract settlement payments, plus other ancillary expenses, income from the marketing subsidiary was $49 million.

Gross margin for the quarter was up substantially at $66.2 million from $36.5 million for the 2008 quarter. Operational margin was up 138% to $41.9 million from $17.6 million a year ago.

Gross margin detail is below:

	Three months ended March 31	
	2009	**2008**
Gross Margin (thousands of $)		
Canada		
Gas	8,185	4,691
Electricity	27,560	19,931
Total Canada	35,745	24,622
United States		
Gas	22,625	11,845
Electricity	7,780	-
Total United States	30,405	11,845
Total Gross Margin	66,150	36,467
Operational margin per unit		
Canada - Gas (Cdn$/m3)	0.0709	0.0540
Canada - Electricity (Cdn$/kWh)	0.0222	0.0171
United States - Gas (Cdn$/Mcf)	2.7552	1.7055
United States - Electricity (Cdn$/kWh)	0.0351	-

Customer count was essentially flat at 584,000 versus the quarter ending December 31, 2008, with a net loss of 65 Residential Customer Equivalents (RCEs). The net attrition was mostly due to termination of a large commercial contract of approximately 12,500 RCEs due to inadequate margin levels.

Customer count by market is:

RCEs	**Dec. 31-08**	**March 31-09**
Canada - Gas	116,010	118,892
Canada - Electric	218,065	223,287
U.S. - Gas	176,897	184,447
U.S. - Electric	72,890	57,171
Total	**583,862**	**583,797**

Aside from U.S. electricity, Universal saw net gains in all of its product lines. Although gross additions were smaller than those in the quarter ending December 31, organic growth (excluding RCEs acquired from Commerce) was higher in the quarter ending March 31, with a gross of 35,000 RCEs versus a gross of 28,000 in the quarter ending December 31.

Canadian attrition continues to be close to the target level of 12% and United States attrition is within the target level of 25%.

Universal also said it began marketing in the Ohio gas market earlier in May.

Geographically, Canada accounts for 59% of total RCEs and the United States accounts for 41% of total RCEs. In Canada, residential customers account for 72% of RCEs and commercial customers account for 28% of RCEs. In the United States, residential customers account for 55% of RCEs and commercial customers account for 45% of RCEs. On a product distribution basis, gas customers account for 52% of total RCEs and electricity customers account for 48% of total RCEs.

Operational Expenses (thousands of $)

	Three months ended March 31	
	2009	**2008**
Customer acquisition costs	4,661	4,804
General and administrative	13,138	6,398
Total	17,799	11,202

Universal's water heater unit, National Home Services, reported a net loss of $1 million for the quarter. NHS installed 7,900 water heaters during the quarter, ending with an installed base of 20,000 water heaters.

Pa. PUC Approves Second Acceleration of Allegheny Procurement

The Pennsylvania PUC approved West Penn Power's (Allegheny) application for a second acceleration of residential default service supply procurement, to take advantage of lower wholesale market prices (Matters, 4/27/09).

Specifically, the PUC approved Allegheny's request to move forward the procurement date for six residential (Service Type 10) blocks to June 2009, rather than their scheduled dates of either October 2009 or January, June or October 2010. The advancement of five 17-month blocks and one 29-month block will add 300 MW to the June procurement, for a total of 550 MW for residential service.

Under the modified schedule, only two blocks will be bought in the October 2009, January 2010, June 2010 and October 2010 procurements. As a result, two-thirds of Allegheny's forward residential power needs (excluding spot purchases) for the year 2011 will be procured a year-and-a-half in advance of the January 1, 2011 delivery date, or 53% of total load requirements when including spot purchases.

The PUC justified its decision based on a $30/MWh decline in market prices since its original approval of Allegheny's procurement schedule last summer, with March prices in the $54/MWh range. The PUC had previously approved an earlier accelerated proposal, which resulted in five supply tranches being bought in April (Matters, 3/13/09).

In the lone dissent, Chairman James Cawley said the acceleration amounts to, "essentially placing a bet that current forward market prices, with embedded market risk premiums, will be less than procurements later in time that will have lesser embedded risk premiums, because they would have been acquired closer to delivery."

Cawley does not believe there is record evidence to support a departure from the Commission's original decision, noting that an examination of current forward prices of wholesale power and natural gas reveals that future prices are already well above the current spot levels, suggesting an accelerated procurement may not produce anticipated savings. Future prices for power at PJM's Western Hub in 2011 relative to 2010 are trading approximately 8-10% higher for on-peak energy, and 12-15% higher for off-peak energy, Cawley noted, with premiums even greater for 2012. Maintaining the current schedule, which includes procurement closer to delivery, may eliminate such premiums.

As he did in voting for Allegheny's initial acceleration, Commissioner Robert Powelson strongly encouraged other utilities to advance their default service procurements.

Auction Prices FirstEnergy Ohio Load at $61.50/MWh

The FirstEnergy Ohio utilities' auction for Standard Service Offer supplies for the period from June 1, 2009, through May 31, 2011 produced a load-weighted average winning price of $61.50/MWh, PUCO said in approving the auction results. FirstEnergy must file retail rates within seven days.

PUCO said on an annual total bill basis, retail rates for a standard residential customer using 1,000 kWh per month will decrease by 16% at Ohio Edison, 12.6% at Toledo Edison, and 7.4% at Cleveland Electric Illuminating

The 25-round auction, conducted May 13-14 by CRA International, saw 12 registered bidders and 9 winning suppliers. All available tranches were procured.

The names of the winning bidders, the number of tranches won by each bidder, and the first round ratio of tranches offered compared to tranches needed will be releases in 21 days.

FirstEnergy Solutions announced it won 51% of the available load in the auction. The auction did not include a load cap, which was the subject of dissents at PUCO (Matters, 3/26/09). However, the descending-clock auction was more competitive than FirstEnergy's interim RFP for three-month's supply, which saw 11 registered bidders but only four suppliers submitting qualifying offers. That earlier RFP had a load cap of 75%. FirstEnergy Solutions had won 75% of the tranches in the interim RFP.

FirstEnergy Solutions also said it has contracts to serve nearly 385,000 customers that are part of 38 Ohio government aggregation groups, executed prior to the descending clock auction.

Hedging Will Offset Lower Wholesale Prices for N.Y. Bundled Customers

Although the general trend in New York is for lower wholesale electric market prices for the summer, customers may not see the full impact of such price decreases, due to supply hedges executed by electric utilities, New York PSC Staff said in an assessment on summer reliability and volatility.

Summer prices should be lower due to decreases in prices for natural gas, oil and coal, Staff said. Staff expects wholesale electric prices to be 45% below last summer's levels. However, due to the Commission's 2007 Supply Portfolio Order which directed electric utilities to engage in hedging practices intended to reduce price volatility for mass market customers, residential customers might not experience the full magnitude of current market price decreases. Staff noted that today's lower prices must be blended with existing hedges.

PSC Chairman Garry Brown said hedging is still the right thing to do, noting default service retail rates were lower than New York ISO market prices when market prices were rising.

Staff also said New York will have adequate electric supplies to meet the summer demands, and that the transmission system should be adequate to deliver the energy to all parts of the state.

Commissioner James Larocca questioned the New York ISO's finding that New York will have adequate supplies through 2018, and asked that the Commission review the issue further.

EPSA Presses for Easing of Forward Capacity Market Deadlines, Filing Requirements

FERC should direct ISO New England to simplify and shorten the Forward Capacity Market filing requirements and related rules, which are complex with many overlapping and rigid deadlines for filing data required for market participation, EPSA said in supporting a thus far uncontested request from several demand response providers to allow them to file, out-of-time, updated measurement and verification plans required by ISO rules (ER09-1029).

Every demand response provider in New England missed filing updated plans by the original January 20 deadline, due to collective oversight as the deadline resulted from a myriad of rule changes implemented in December 2008. Similar oversights are not uncommon, and several generators have asked to update their ratings due to missed deadlines in non-controversial filings.

The ISO does not oppose the request for the waiver of the original deadline.

EPSA argued that, "ISO-NE's willingness to extend this filing deadline ... seems to indicate that this (and possibly other) arbitrary deadlines are embedded in the market rules and should be reviewed."

"The affect of such arbitrary deadlines may result in reduced flexibility and could lessen competition in markets," EPSA added.

However, ISO-NE cautioned against setting any precedent from the instant wavier request, stating, "Strict enforcement of the FCM deadlines is critical to the orderly administration of the FCM."

Briefly:

N.Y. PSC Approves NiMo Gas Rate Plan

The New York PSC approved a new gas delivery rate plan for Niagara Mohawk yesterday. Though a written order was not available, the PSC broadly approved a joint proposal among several parties. The as-filed joint proposal called for the implementation of separate POR discount rates for the uncollectible components applicable to the S.C. 1 and non-residential service classifications (08-G-0609, Matters, 2/18/09). Additionally, the discount rate would no longer include a factor to recover collections processing costs, similar to recent rate design changes at other utilities. Instead, NiMo would implement a separate charge for collections processing costs equal to $0.00419 per therm that will be assessed on ESCOs participating in the POR program. A charge of the same magnitude would be assessed to bundled customers through the Merchant Function Charge (MFC).

RBS Receives Md. Electric License

The Maryland PSC granted The Royal Bank of Scotland an electric supplier license for commercial and industrial customers. Affiliate Sempra Energy Solutions currently serves load in the state.

LPB Energy Management Partners with Multifamily Submetering Provider

Broker and energy management consultant LPB Energy Management said it is extending its energy management services to the multifamily housing and commercial markets through a partnership with Studebaker Submetering. LPB will manage utility invoice processing and payment for Studebaker clients' utilities, including electricity, natural gas, water and wastewater.

Lieberman to Step Down from ICC

Illinois Commerce Commissioner Robert Lieberman announced that he will leave the Commission May 31 to take a position with the Regulatory Assistance Project. Among other areas, Lieberman had focused on smart grid, demand response and dynamic pricing for electricity during his ICC tenure.

Tenaska to Pay $325,000 in LaaRs Settlement

Tenaska Power Services would pay an administrative penalty of $325,000 under a settlement with PUCT Staff regarding Tenaska's failure to deploy 95% of its scheduled third-party Load acting as Resource (LaaRs) within 10 minutes of ERCOT instruction on July 2, 2007. Staff said Tenaska has met all LaaRs obligations since then. The stipulation is subject to Commission approval.

PUCT Staff Proposes Accelerated CREZ Intervention Deadline

PUCT Staff has proposed shortening the intervention deadline for transmission CCN applications under PURA § 39.203(e) from 45 days to 30 days, in order to process Competitive Renewable Energy Zone applications within the required 180 days (36987).

Energy Savings ... *from 1*

Improved U.S. gross margin primarily resulted from customer additions, mainly in Texas and New York, and improved contract prices. Energy Savings also reported strong growth in Indiana gas volumes (see gross margin chart next page).

Customer count at the end of fiscal 2009 grew to 1.79 million Residential Customer Equivalents (RCEs) versus 1.775 million at the end of the third quarter, and 1.687 million at the end of fiscal 2008. On a yearly basis, the net 103,000 additions came from gross additions of 418,000. Total net customer growth for fiscal 2009 excluding the CEG Energy Options acquisition was 57,000, versus 28,000 a year ago.

Driving the growth was a rebound in Energy Savings' sales force, which had earlier dipped to 400 agents but grew to 800 by the third quarter.

Organic growth came from the U.S., with electricity customer count growing to 234,000 from 104,000 in fiscal 2008 (and 200,000 as of 3Q09). U.S. gas customer count at fiscal year-end was up for the year at 235,000 versus 213,000 a year ago. However, U.S. gas customer count dipped slightly in the fourth quarter, from 238,000 in the third quarter ending December 31, 2008.

Overall, Energy Savings saw a net addition of 15,000 customers in the fourth quarter, all coming from the U.S. electric segment, and reversing the year-ago net attrition during the fourth quarter of 2008. Gross acquisitions were 85,000 in the fourth quarter, up from 54,000 a year ago, but net customer counts for U.S. gas (minus 3,000), Canadian gas (minus 13,000), and Canadian electric (minus 3,000) all saw declines versus the third quarter of 2009. Current customer count versus the year-ago period is on the next page.

In fiscal 2010, Energy Savings expects to have the following annualized attrition and renewal rates:

	Attrition	Renewals
Natural gas		
Canada	10%	70%
United States	20%	50%
Electricity		
Canada	10%	65%
United States	20%	60%

Energy Savings Gross Margin (thousands of dollars, not seasonally adjusted)

	Fiscal 2009			Fiscal 2008		
Gross Margin	**Canada**	**United States**	**Total**	**Canada**	**United States**	**Total**
Gas	$154,171	$64,118	$218,289	$140,443	$38,149	$178,592
Electricity	77,549	26,978	104,527	79,804	16,404	96,208
Total	$231,720	$91,096	$322,816	$220,247	$54,553	$274,800
Increase	5%	67%	17%			

Energy Savings Annual Customer Count Comparison (RCEs)

	April 1, 2008	Additions	Attrition	Failed to renew	March 31, 2009
Natural gas					
Canada	761,000	95,000	(77,000)	(36,000)	743,000
United States	213,000	90,000	(68,000)	-	235,000
Total gas	974,000	185,000	(145,000)	(36,000)	978,000
Electricity					
Canada	609,000	65,000	(68,000)	(28,000)	578,000
United States	104,000	168,000	(30,000)	(8,000)	234,000
Total electricity	713,000	233,000	(98,000)	(36,000)	812,000
Combined	1,687,000	418,000	(243,000)	(72,000)	1,790,000

In general, new customers were signed at higher margins than those lost through attrition as seen below:

Annual gross margin per customer	**Fiscal 2009**	**2009 Target**
Customers added in the year		
Canada - gas	$166	$170
Canada - electricity	$147	$143
U.S. - gas	$208	$170
U.S. - electricity	$206	$143
Customers lost in the year		
Canada - gas	$184	
Canada - electricity	$105	
U.S. - gas	$175	
U.S. - electricity	$102	

The actual aggregation costs per new customer added compared to the fiscal 2009 target were as follows:

Aggregation Cost	**Fiscal 2009**	**Fiscal 2009 Target**
Natural gas		
Canada	$185/RCE	
United States	$199/RCE	
Total gas	$194/RCE	$170/RCE
Electricity		
Canada	$181/RCE	
United States	$146/RCE	
Total electricity	$156/RCE	$143/RCE

Canadian acquisition costs were above target due lower than expected customer additions for the current year and the attendant higher corporate, marketing and customer service costs allocated to each unit of volume.

The higher-than-targeted acquisition costs for U.S. customers mainly reflects the exchange rate. Energy Savings said U.S. customers were signed with a less than one year margin payback period.

Energy Savings' new water heater unit, Newten Home Comfort, has installed over 1,700 water heaters in residential homes and has commenced earning revenue from its installed base of customers.

Name Change

Energy Savings announced it would change its name to Just Energy Income Fund effective June 1, 2009, taking the name from the Texas book it acquired in 2007. The rebranding will apply to all markets and commodity subsidiaries, including the books covered by its pending acquisition of Universal Energy.

Although Executive Chair Rebecca MacDonald said that the Fund has never sold its product based on savings, the marketer has grown beyond only selling price protection against volatile commodity rates, particularly with its green products.

"[A]s we enter new markets, we want to ensure that customers see both our focus and the full spectrum of our offerings," MacDonald said.

Energy Savings reiterated that it intends to "methodically" grow into new U.S. markets, although its acquisition of Universal will give it 14 U.S. state marketing licenses and customers in Michigan, California, Ohio, Pennsylvania, Maryland and New Jersey. However, while Universal has a wide footprint, its sales force is mainly concentrated in Michigan, New York, and Ohio, so any new customer acquisition efforts in the remaining markets will essentially equate to new market entry.

Energy Savings also said it will sell Universal's ethanol production operations at the first practical opportunity, and has no interest in the business.

Illinois A.G. Settlement

Energy Savings also settled a suit brought last year by Illinois Attorney General Lisa Madigan, and will provide $1 million in customer restitution as part of the agreement. Madigan alleged, among other things, that Energy Savings sold fixed-rate gas contracts using misleading sales tactics that falsely promised savings and failed to properly disclose termination fees. Energy Savings makes no admission of wrongdoing under the settlement.

Under the agreement, eligible customers will be notified by Energy Savings of the opportunity for restitution, and will have until Aug. 12, 2009 to submit claims. Energy Savings will also allow current eligible customers to cancel contracts without paying an early termination fee.

Going forward, Energy Savings agreed to several consumer protections measures, many of which Energy Savings said it has practiced for more than a year. The settlement calls for Energy Savings to make "clear and conspicuous" disclosures regarding: the type of product that consumers will receive, the price for service, terms and conditions of service, the existence of any early termination fee, and that customer will be leaving the LDC for supply.

The agreement also places a $50 cap on the amount that Energy Savings may charge customers for early termination.

PPL ... from 1

the entire experiment begun in 1996 by our legislature is likely to fail," Cawley warned.

The need for immediate alternative options to market-based default service is why the Commission is admittedly "pushing the envelope" in the PPL proceeding, including its proposal to require PPL to institute Purchase of Receivables by January 1, 2010. Under a pending settlement for post-2010 default service at PPL, the utility has committed to apply for a voluntary POR program starting in 2011 (Matters, 3/13/09).

With a projected 30% increase in PPL residential rates likely to produce ample headroom (subject to future market prices), PPL's territory should attract retailers into the mass market. However, as seen in other markets with some form of market-based default service, including Maryland, Massachusetts, and (though for a shorter period of time) Illinois, market-based rates may not be enough for retailers to effectively compete for customers. In particular, bad debt has ostensibly impeded the Maryland and Massachusetts mass markets, while other operational barriers (such as customer lists, etc.) may also inhibit competition despite seemingly ample headroom.

The PUC's tentative rule was not published as of press time, but the Commission said it would address such issues, including:

- Customer information databases;
- Data access including electronic data interchange (EDI) validation, estimation, editing; historical usage; interval usage; transmission and capacity peak load contribution; meter read cycle information and multiple accounts.
- Bill ready and rate ready options;
- Timely EDI testing;
- Purchase of Receivables;
- Customer awareness and education programs;
- Commitments to a process for development of a uniform supplier tariff;
- An ombudsman for supplier issues; and
- PPL cost recovery for competition-related activities.

Vice Chairman Tyrone Christy expressed several reservations about the draft, including the proposal for mandatory POR by January 1, 2010. Christy said such a mandatory program would reject the portion of PPL's pending post-2010 default service settlement calling for POR by January 1, 2011.

Furthermore, Christy said the draft would require supplier receivables to be purchased at, "little or no discount," and questioned whether that requirement would inappropriately require PPL's customers to subsidize suppliers' business activities.

Christy also expressed concern about a requirement that would allow suppliers to access customer information unless customers opt-out of the program. Requiring an affirmative action for customers to protect their privacy runs counter to Commission precedent in similar programs, in which the Commission has required customers to affirmatively opt-in (such as rate mitigation plans).

"Historically, the Commission's policy has been to discourage or prohibit 'negative check offs' in recognition of the fact that they unnecessarily burden customers and often are overlooked," Christy said.

"It seems likely that this aspect of the Tentative Order may result in unsuspecting customers receiving unwelcome solicitations from [suppliers] and entering into agreements to purchase power that are not to the customers' advantage."

Sensitive, competitive information about commercial customers' loads could find itself into the hands of a competitor, Christy added.

Christy also thought that a self-executing Tentative Order was an inappropriate vehicle for the substantive changes, which should have been vetted in a full rulemaking.