Energy Choice Matters
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Conn. DPUC Reviewing Supplier Solicitation, Marketing Methods

The Connecticut DPUC has sent all electric suppliers and the utilities a set of interrogatories concerning supplier solicitation and marketing practices ahead of a technical meeting on supplier marketing issues on August 17. Utilities are asked their opinion of whether any "corrective actions" are necessary with respect to supplier marketing, and forms such action may take.

The questions asked of suppliers include:

- Does your company prohibit sales staff from identifying themselves as representing, working with, or working for one of Connecticut's LDC's? If yes, explain how that prohibition is communicated to sales staff.
- How does your company enforce its telemarketing and door-to-door representatives from representing themselves as employees or representatives of a Connecticut LDC?
- Has your company ever counseled, disciplined or dismissed sales representatives in Connecticut for misrepresentation of the company they represent? If so, how many such occurrences has your company documented in each of the last three years, including 2009 to date?
- If you company utilizes door-to-door marketing, are you aware of municipal requirements in some communities to have the sales representatives registered? If so, has your company complied with all applicable municipal requirements, if not, why not?
- If your company utilizes third party sales or marketing representatives, provide the following information regarding:
  a) How is service quality ensured;
  b) Quantity of training for third party representatives;
  c) Company oversight of third party employees, and

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Dominion Retail Protests OSBA's Proposed Call Option on Met-Ed/Penelec NUG Output

A proposal from the Pennsylvania Office of Small Business Advocate to use non-utility generation (NUG) output at Met-Ed and Penelec to serve commercial default service load represents, "a bold attempt to gain additional benefit solely for commercial default service customers," and would create an unfair competitive situation by subsidizing non-shopping customers, Dominion Retail said in briefing one of two remaining contested issues in the utilities' default service plan. A settlement among all active parties has been reached in the case, though not publicly posted at this time.

Met-Ed and Penelec are parties to NUG contracts which, in some cases, last until 2020, originally executed under the Public Utility Regulatory Policies Act. Currently, such costs are recovered via the nonbypassable competitive transition charge, which is due to expire with the end of rate caps.

In their default service plan, the utilities proposed selling such output into the market, with all distribution customers either paying a charge or receiving a credit associated with the plants' output.

OSBA, however, has sought to apply NUG output to the default service supply needs of commercial customers. Even with such allocation, OSBA recommends that the proposed NUG charge rider still apply to all distribution customers as proposed, even though output will only be

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Pepco Energy Services Retention Rate Below 10%

Pepco Energy Services' customer retention rates continue to be below 10% as it includes higher collateral costs in its retail rates, CEO John Huffman said during an earnings call Friday. Full coverage of Pepco's earnings was in Friday's issue (Matters, 8/7/09).

Huffman said of the 1,500 megawatts of contracts that have been up for renewal this year, Pepco Energy Services only won about 100 megawatts of those. Pepco Energy Services' load at the end of June was just slightly below 4,000 megawatts, which is the first time load has been below 4,000 in two years, and is down about 12% since the retailer's peak late last year. Huffman expects that load will probably drop off below 3,500 megawatts by the end of the year.

Gross margins at Pepco Energy Services benefited significantly from wholesale pricing in the first half of this year, with gross margins reported in the $7/MWh range.

Pepco Holdings CEO Joseph Rigby said Pepco's review of the commodity supply portion of the Pepco Energy Services business is expected to be completed by the end of the year.

At Conectiv Energy, which saw a net loss of $14 million for the second quarter, generation output was down 44% for the quarter and 30% year-to-date.

The average spark spreads and dark spreads for Conectiv's generation fleet declined 70% for the quarter and 61% year-to-date. During the second quarter of last year, Conectiv's generation fleet experienced 185 hours where combined cycle spark spreads exceeded $20 per megawatt-hour, while in the second quarter of 2009, only 18 hours exceeded $20 per megawatt-hour. Over the past five years, the average number of hours exceeding $20 per megawatt-hour in the second quarter was a 119.

UI Says Larger GSC Adder Required

A larger adder will need to be added to United Illuminating’s default service generation service charges (GSC) to account for new expenses, such as generation-related uncollectibles, that are now included in the charges, UI said in a semi-annual reconciliation of the GSC.

As only reported by *Matters*, the DPUC in a recent rate case ordered that generation-related uncollectibles, regulatory commission expenses, and working capital revenue requirements be included in the GSC, so they may be bypassable for shopping customers (Matters, 2/5/09).

Currently, UI uses a 1 mill adder to the wholesale supply price to set the default service GSC, to account for non-supply related charges. The 1 mill adder generates $2.7 million in annual revenue, but generation expenses not related to the underlying wholesale supply now total $9.7 million.

Thus, with the three new non-supply charges added to generation rates, the adder will need to be increased, UI said, stating it will propose a higher adder when filing updated retail rates for 2010.

At a minimum, UI said that generation rates will need to be increased by 0.2496¢/kWh to reconcile higher costs in 2009. However, increasing rates by that amount would only recover prior costs and not allow UI to recover higher generation expenses going forward.

CenterPoint, Staff Ask that Texas Utility Solutions' Wholesale Transmission Request be Referred to SOAH

CenterPoint Energy, along with several other intervenors, has requested that the PUCT refer to the State Office of Administrative Hearings the petition of Texas Utility Solutions for a declaratory order regarding its eligibility as a Transmission Service Customer (36701, Matters, 2/16/09). Joining CenterPoint's motion were Oncor Electric Delivery, Occidental Power Marketing, Texas Industrial Energy Consumers, and Commission Staff.

Texas Utility Solutions, which says it is a power marketer pursuant to PURA §31.002(11) and PUC Subst. R. 25.5(83), is seeking to purchase from Oncor and CenterPoint Wholesale Transmission Service on a non-discriminatory basis at rates and terms, including terms of access, that are comparable to the rates and terms of the utility's use of the system.

Texas Utility Solutions petitioned the Commission to set a briefing schedule without sending the case to SOAH. Texas Utility Solutions argued that although parties could not agree to a joint stipulation of facts, "the parties have not disagreed as to whether certain facts are 'true or untrue' but as to the degree to which certain information should be included as Findings of Fact." Additionally, Texas Utility Solutions asserted that, "there are no factual disagreements but a disagreement as to form."

CenterPoint and other intervenors disagreed with that assertion, and said that a contested case, with discovery and hearings, is needed.

Texas Utility Solutions said disagreements regarding a proposed findings of fact center on whether laws and codes should be included in the findings of fact. According to Texas Utility Solutions, the parties further disagree as to the extent that Texas Utility Solutions must reveal its business process, proposed customer list, and other transactions or agreements it may enter into if the PUCT issues a favorable ruling.

As previously reported, Texas Utility Solutions has obtained legal authorization from customers with IDR meters to install competitive meters at the customer's ESI-ID. Upon obtaining wholesale transmission service, Texas Utility Solutions says it intends to contract directly with the Retail Electric Provider (REP) by means of a wholesale EEI Agreement for sale of "Energy and/or Capacity".

Appeals Court Remands PJM New Transmission Cost Socialization Mechanism to FERC

A federal court of appeals remanded to FERC the Commission's policy requiring costs of new 500+ kV upgrades in PJM to be socialized across all loads in the RTO on a pro rata basis, finding that FERC's decision is not based on record evidence supporting the departure from cost causation. An appeal of FERC's decision had been brought by the Illinois Commerce Commission, joined by the Public Utilities Commission of Ohio, whose loads are unlikely to receive any benefit of high voltage transmission built to export power from PJM West to PJM East.

"[T]he fact that one group of utilities desires to be subsidized by another is no reason in itself for giving them their way," the United States Court of Appeals for the Seventh Circuit said in a 2-1 decision.

The justices chastised FERC for its "insouciance" regarding the basis for its socialized pricing mechanism, finding that FERC's arguments amount to 1) cost socialization is consistent with an approach taken by classic PJM some 40 years ago and 2) measuring the costs/benefits attributable to individual load zones would be difficult and rife with litigation, while FERC argued that backbone projects benefit all load zones through reliability enhancements.

However, the Court held that, "FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members."

Of key concern to the Court was that FERC failed to justify its arguments that 500 kV lines would be too litigated to allocate costs on a cost/benefit ratio. Noting FERC undertakes such a process for 345 kV lines, the Court held that the Commission did not attempt to quantify or address how much added litigation would result from using a cost/benefit test to assign 500 kV line costs.

"No doubt there will be some benefit to the midwestern utilities [from 500 kV upgrades] just because the network is a network, and there have been outages in the Midwest. But enough of a benefit to justify the costs that FERC wants shifted to those utilities? Nothing in the Commission's opinions enables an answer to that question," the Court said.

The Court stressed that the Commission does not have to calculate transmission benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars.

If FERC can produce "articulable and plausible" reason to believe that the benefits to midwestern utilities are at least roughly commensurate with those utilities' share of total electricity sales in PJM's region, then FERC's socialized cost recovery mechanism would be acceptable, the Court reasoned.

"But as far as one can tell from the Commission's opinions in this case, the likely benefit to Commonwealth Edison from new 500 kV projects is zero," the Court noted.

In a partial dissent, Judge Richard Cudahy supported socialized pricing as required to build needed new transmission infrastructure.

In the same order, the Court addressed an appeal regarding FERC's use of marginal cost transmission pricing raised by American Electric Power Service Corporation. AEP had objected to marginal cost pricing and favors including sunk costs in transmission rates.

However, the Court concluded that, "The company may be trying to extract a monopoly price for the use of its facilities. It stands between western sellers of electricity and their eastern customers and would like to extract a toll for giving the former passage to the latter, a toll that has no relation to its costs of rendering that service. It charged its customers for the costs of building its existing facilities and recovered those costs fully and now wants to recover them all over again from another group of consumers."

Mirant Earnings Higher on Realized Hedging Gains

Mirant reported higher second quarter adjusted income from continuing operations of $131 million, versus $66 million a year ago, from higher realized gross margins and lower operating costs, as hedging insulated Mirant from much of the impact of the economic downturn. On a GAAP basis, net income was $163 million, versus a loss of $783 million a year-ago, on an $860 million improvement in unrealized losses from hedges.

Realized gross margin in the second quarter was up at $360 million, from $315 million a year ago, mainly on the realized value of hedges with a slight increase in gross margin from capacity. Mirant's realized value from hedges reversed from negative $19 million a year ago to positive $152 million in the second quarter of 2009. Capacity and contracted gross margin increased $5 million year-over-year to $137 million. These gains were partially mitigated by lower energy gross margins, which fell to $71 million from $202 million a year ago.

Realized gross margin by segment is as follows. Other Operations includes proprietary trading and fuel oil management activities, unallocated corporate overhead, interest expense on debt at Mirant Americas Generation and Mirant North America, and interest income on invested cash balances.

(millions of dollars)

	Three Months Ended June 30, 2009				
	Mid-Atlantic	Northeast	Calif.	Other Operations	Total
Energy	$ 19	3	-	49	$ 71
Contracted and capacity	86	22	29	-	137
Realized value of hedges	152	-	-	-	152
Total realized gross margin	257	25	29	49	360

	Three Months Ended June 30, 2008				
	Mid-Atlantic	Northeast	Calif.	Other Operations	Total
Energy	$ 161	20	1	20	$ 202
Contracted and capacity	81	21	30	-	132
Realized value of hedges	(29)	10	-	-	(19)
Total realized gross margin	213	51	31	20	315

Income from continuing operations was $133 million for the Northeast, $5 million for the Mid Atlantic, $0 for California, and $25 million for Other Operations.

Operating expenses were down at $149 million from $231 million a year ago.

In the aggregate, Mirant is just over 70% hedged for 2010 and over 30% hedged for 2011. For its baseload coal fleet, Mirant is nearly 80% hedged for 2010 and just under 40% hedged for 2011.

FERC Suspends Proposed MISO RSG Exemptions for Intermittent, Other Resources

Finding that certain proposed exemptions from Revenue Sufficiency Guarantee charges filed by the Midwest ISO have not been shown to be just and reasonable, FERC accepted but suspended the proposed revisions pending a stakeholder process (ER09-411).

In December, the Midwest ISO filed to revise its tariff to clarify that resource deviations subject to Revenue Sufficiency Guarantee charges are those deviations not otherwise exempt from the charges under other provisions of the tariff. MISO said such exemptions are implied under the current tariff.

The proposed tariff revisions state that resource deviations are subject to Revenue Sufficiency Guarantee charges, except for resource deviations otherwise exempt from hourly Excessive Energy Calculations and Excessive/Deficient Energy Deployment Charges. The exemption would apply to the following resources, including intermittent resources: (1) resources following Midwest ISO directives; (2) resources in test mode, start-up or shutdown mode; (3) resources that trip and go offline; (4) resources involved in a contingency reserve deployment; (5) resources covered by the deactivation of dispatch band option; and (6) resources affected by other events or conditions beyond their control.

Epic Merchant Energy (with several financial marketers) and DC Energy protested the proposed exemptions, arguing that the tariff unambiguously applies Revenue Sufficiency Guarantee charges to "all deviations by [m]arket [p]articipants that withdraw energy."

Noting that MISO currently has a working group reviewing issues associated with allocating Revenue Sufficiency Guarantee costs to intermittent resources, FERC suspended the proposed revisions pending the stakeholder process. A further compliance filing is due within 90 days.

The Commission accepted MISO's other proposed changes to clarify and replace various tariff terms related to Revenue Sufficiency Guarantee charges. In particular, FERC held that deviations for real-time Revenue Sufficiency Guarantee charges should be based, as proposed, on the actual dispatch levels that the Midwest ISO uses, rather than the dispatch limits that market participants designate, because the actual values more accurately represent the potential impact a deviation may have had on real-time Revenue Sufficiency Guarantee charges. FERC found no basis for the claim from financial marketers that the proposed revision would exempt certain deviations from Revenue Sufficiency Guarantee charges.

Md. PSC Grants Additional Broker Licenses to Unlicensed Firms

The Maryland PSC granted licenses to three additional brokers which had been operating in the state without the required license, fining each the greater of $100 or the total of their unpaid Commission assessments for the period that they had been operating in Maryland.

Energy Trust, LLC was granted an electric broker license to serve non-residential customers at the four investor-owned utilities, and a gas broker license to serve non-residential customers at Baltimore Gas and Electric, Washington Gas Light, and Columbia Gas of Maryland. Energy Trust was ordered to pay a fine of $368.31 for its electric operations, and $100 for its gas operations.

Summit Energy Services received an electric broker license to serve non-residential customers at the four investor-owned utilities plus the Southern Maryland Electric Cooperative. Summit Energy Services was directed to pay a fine of $220.50.

Good Energy LP was granted an electric broker license to serve non-residential customers at Delmarva Power & Light, Allegheny Power, Pepco, and the Southern Maryland Electric Cooperative. Good Energy was ordered to pay a fine of $100.

Edison Mission Group Reports Net Loss from Lower Prices, Trading Income

Edison Mission Group reported a net loss of $558 million for the second quarter of 2009, versus net income of $111 million a year ago, from lower income at Midwest Generation and gas-fired projects driven by lower energy and natural gas prices, lower trading income, and lower earnings at Edison Capital, partially offset by improved earnings at the Homer City plant.

Midwest Generation saw a $23 million decline in earnings year-over-year on lower power prices and higher emission costs. Midwest Generation's all-in average realized price for generation in the second quarter was down at $49.00/MWh from $57.53/MWh a year ago. Average realized gross margin was lower at $30.81/MWh from $41.97/MWh a year ago.

Edison Mission Marketing and Trading reported a $20 million fall in earnings from lower trading income driven by lower congestion due to lower loads and market prices. Through June 30, Edison Mission Group's trading revenues are $27 million pretax compared to $92 million a year ago.

Edison saw earnings fall by $10 million at its "big four" gas-fired assets, from lower natural gas prices affecting electricity and steam revenues.

These and other losses more than offset a $36 million improvement in income at the Homer City plant, which saw higher generation levels and capacity prices, and lower plant operating expenses.

Briefly:

Smart Choice Energy Services Seeks. Pa. Electric License

Smart Choice Energy Services, LLC applied at the Pennsylvania PUC for an electric broker/marketer license to serve commercial (above 25 kW), industrial and governmental customers at PPL and Duquesne Light. Smart Choice said it has a minimum threshold of 250,000 kWh annually for electric clients, and 10,000 therms for gas clients. Smart Choice said that in addition to mailings, referrals and cold calling, its marketing plan will utilize various social networking sites (Twitter, Facebook, and LinkedIn) and blogging on energy issues. As only reported in *Matters*, Smart Choice recently received broker licenses in Maryland, and its immediate plans are to focus only on the Maryland and Pennsylvania markets (Matters, 5/18/09).

AES North American Generation Income Lower

Quarterly income from continuing operations before income taxes and equity in earnings of affiliates for AES Corp.'s North American generation unit was down at $64 million from $191 million a year ago, on weaker power prices. Gross margin from North American generation was down at $122 million versus $242 million a year ago, although AES did see a $4 million increase in its New York generation gross margin due favorable contracted rates and fewer outages, which were partially offset by a reduction in the volume of electricity sold in the spot market as a result of lower spot prices.

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d) Recent (last two years) disciplinary actions taken against third party representatives, if any.

- How often are marketing scripts reviewed by your company to insure compliance with existing Connecticut statutes and regulations?

Utilities were directed to answer:

- Based on the calls, complaints or inquiries staff in your customer call center has received, identify any marketing practices (e.g., door-to-door misrepresentation of company affiliation) by suppliers or aggregators that may require corrective actions by the Department or other authorities. In your opinion, what actions are appropriate?

Met-Ed/Penelec ... *from 1*

dedicated to the commercial default service class.

Under OSBA's proposal, NUG output would be sold to commercial default service customers at the NUG contract rate. Thus, even if the NUG power was below market, there would be no source of margin to fund any credit under the NUG rider. If NUG power were above market, however, all customers, not just commercial default service customers, would be required to pay for above-market costs.

While historically above market, the NUG contracts are expected to be below market in the post-rate cap default service period.

Dominion Retail argued that since all customers paid for the NUG contracts under the competitive transition charge, all customers are entitled to the likely benefits of the NUG contracts, as would be accomplished under Met-Ed/Penelec's competitively neutral rider. Dominion Retail noted the Commission has encouraged NUG output to be sold into the market to avoid a discriminatory result.