Energy Choice Matters

November 9, 2009

# Just Energy to Expand by Year-End, Net Income Lower on Universal Amortization Charges

Just Energy Income Fund reported an adjusted net loss of Canadian $9.7 million for the third quarter of 2009 on amortization of customer contracts acquired from Universal Energy and increased general and administrative costs incurred for Universal. Year-ago adjusted net income was $6.9 million (all figures Canadian). When including unrealized hedging impacts, net income was $110.7 million, versus a net loss of $924.0 million a year ago.

With the Universal acquisition, which closed July 1, 2009, Just Energy reported 2.267 million Residential Customer Equivalents (RCEs) as of September 30, 2009. It actually had 2.412 million total customers but 145,000 of the 575,000 acquired Universal customers are on short-term contracts, mostly in markets Just Energy does not see as attractive. Just Energy expects to lose the customers and is not including them in its long-term customer base totals.

In particular, the 145,000 customers are former Commerce Energy customers in markets such as Georgia, Nevada and New Jersey which Just Energy will not pursue. The 145,000 total also includes some Pennsylvania gas customers, which Just Energy will try and maintain, but does not expect to retain due to target margins that are higher than the current legacy pricing.

Excluding the Universal addition, Just Energy saw gross organic acquisitions of 140,000 for the quarter, while recording attrition of 77,000, with another 27,000 customers who failed to renew. Customers as of June 30, 2009, were 1.801 million (see chart for breakdown of customers by country, commodity). All organic customer growth was in the United States with Canada lagging due

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# Pa. PUC Denies Use of NUG Contracts for Met-Ed/Penelec Default Service

The Pennsylvania PUC denied all exceptions and approved a settlement agreement to establish the default service procurement plan for Met-Ed and Penelec for the period starting January 1, 2011 that will use full requirements contracts exclusively for non-residential customers, a mix of block and load following contracts for residential customers, and establishes a requirement to file for approval of a Purchase of Receivables program (Only in Matters, 8/19/09).

As only reported by *Matters*, two issues were left to litigation after the settlement was filed -- the disposition of legacy non-utility generation (QF) contracts, and the load cap threshold for the default service procurements. In each case, the PUC adopted the ALJ's recommended decision (which adopted Met-Ed and Penelec's original proposals), and denied exceptions.

Under the Commission's order, the output of the non-utility generation contracts will be sold into the market, with all distribution customers receiving a credit or debit based on the sale price. The Office of Small Business Advocate had argued that the non-utility generation contracts should be dedicated to serve the load of small commercial customers under default service, rather than sold into the market.

The ALJ had recommended denying OSBA's petition because the Choice Act requires any bilateral supply to be sourced from a competitive procurement, which the non-utility generation

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# United Illuminating Reports October Switching Data

| Supplier Accounts as of 10/31/09 | Oct. '09 Residential | Oct. '09 Business | Oct. '09 Total | % of Migrated Customers | Change vs. Sept. '09 Total |
|---|---|---|---|---|---|
| Clearview Electric, Inc. | 670 | 70 | 740 | 1.2% | 268 |
| Consolidated Edison Solutions | 4,843 | 1,216 | 6,059 | 9.6% | 223 |
| Constellation New Energy | 428 | 3,127 | 3,555 | 5.6% | (2) |
| Direct Energy Business | 9 | 757 | 766 | 1.2% | 12 |
| Direct Energy Services | 16,923 | 2,574 | 19,497 | 30.7% | 1,057 |
| Dominion Retail, Inc. | 15,495 | 1,297 | 16,792 | 26.5% | (115) |
| Energy Plus | 991 | 41 | 1,032 | 1.6% | 412 |
| Gexa Energy Connecticut | 3 | 209 | 212 | 0.3% | 7 |
| Glacial Energy of New England | 25 | 373 | 398 | 0.6% | 33 |
| Hess Corporation | 53 | 480 | 533 | 0.8% | (1) |
| Integrys Energy Services, Inc. | 3 | 1,733 | 1,736 | 2.7% | -- |
| Liberty Power Holdings, LLC | 0 | 43 | 43 | 0.1% | 21 |
| MX Energy | 2,748 | 596 | 3,344 | 5.3% | 1,599 |
| Public Power & Utility, Inc. | 4,884 | 1,276 | 6,160 | 9.7% | 206 |
| Sempra Energy Solutions | 31 | 687 | 718 | 1.1% | (2) |
| Suez Energy Resources NA | 2 | 200 | 202 | 0.3% | 2 |
| TransCanada | 8 | 461 | 469 | 0.7% | 7 |
| Viridian Energy | 1,122 | 60 | 1,182 | 1.9% | 644 |
| **Total All Suppliers** | **48,238** | **15,200** | **63,438** | 100.0% | 4,371 |

## Aggregate Data

**Customer Load - Suppliers and UI (MWh)**

| | Residential - SS | | Business - SS | | Business - LRS | | Total UI Territory | |
|---|---|---|---|---|---|---|---|---|
| | MWh | % of Class | MWh | % of Class | MWh | % of Class | MWh | % of Total |
| Suppliers | 27,809 | 18.0% | 121,070 | 68.4% | 108,984 | 94.4% | 257,863 | 57.6% |
| UI | 127,019 | 82.0% | 55,992 | 31.6% | 6,417 | 5.6% | 189,428 | 42.4% |
| Total | 154,828 | | 177,062 | | 115,401 | | 447,291 | |

**Customer Count - Suppliers and UI**

| | Residential - SS | | Business - SS | | Business - LRS | | Total UI Territory | |
|---|---|---|---|---|---|---|---|---|
| | Customers | % of Class | Customers | % of Class | Customers | % of Class | Customers | % of Total |
| Suppliers | 48,238 | 16.7% | 14,956 | 40% | 244 | 89.1% | 63,438 | 19.4% |
| UI | 240,437 | 83.3% | 22,746 | 60% | 30 | 10.9% | 263,213 | 80.6% |
| Total | 288,675 | | 37,702 | | 274 | | 326,651 | |

**SS = Standard Service**
**LRS = Last Resort Service**

***Data as reported by UI***

## PUCT to Consider Emergency Meter Tampering Rule

PUCT Chairman Barry Smitherman directed Staff to bring an interim solution regarding meter tampering and service diversion before the Commission at its next open meeting (Nov. 20), so that the Commission can consider adopting a policy on an emergency, interim basis while developing a more comprehensive solution.

In directing Staff to develop an interim policy, Smitherman called the current situation intolerable and said that the market requires a solution.

During an open meeting Friday which functioned as a workshop, various REPs proposed a solution whereby they would be reimbursed for any shortfall created by meter tampering, rebilling, and any inability to collect the rebilled amounts from the customer (due to time limits, lack of evidence, etc.)

Commissioner Donna Nelson was unsympathetic to a reimbursement mechanism especially if REPs will not accept the development of a hard disconnect policy for customers who engage in meter tampering or service diversion. TXU Energy and Reliant Energy are both opposed to a hard disconnect policy, citing logistical hurdles in implementing the policy from an EDI perspective. The Alliance for Retail Markets has no position on a hard disconnect, reflecting various differences among member REPs.

Although Commissioner Kenneth Anderson raised the potential of negative media attention from hard disconnects for customers engaged in service diversion, Nelson and Smitherman noted that non-jurisdictional providers such as Austin Energy routinely apply a hard disconnect for meter tampering.

Gexa Energy reported that it has been working with several REPs and the TDUs to develop some sort of flag for customers subject to a hard disconnect that would be able to be implemented by the TDUs without placing a burden on TDUs, ERCOT and REPs, as feared by TXU and Reliant.

## National Fuel Gas Distribution Updates Allocation Of Receipt Points in N.Y. GTOP

National Fuel Gas Distribution Corporation filed with the New York PSC a revised Gas Transportation Operating Procedures (GTOP) Manual reflecting updated procedures, timelines and details pertaining to the company's capacity release program for ESCOs, and in particular, the demonstration of ESCO capacity and allocation of receipt points (97-G-1380). The changes are to be effective in 30 days.

Among the revisions is that the GTOP explicitly states that, for planning purposes, Distribution will not unreasonably reject any receipt point request that can reasonably be supported by load growth projected between the request submission date and November 1; however, priority will be given to suppliers with actual load requirements over those with projected load requirements.

In any month prior to November, suppliers may request capacity at the point(s) to be allocated on November 1 to the extent it is available. Such requests will be allocated each month on a first-come, first-served basis based upon the Design Peak Requirement (DPR) calculated the month of the request. To the extent a supplier places a higher priority on other requested receipt points, the DPR applicable to the point will be reduced accordingly. So long as the supplier requests the same point and has sufficient customer requirements, the point allocation will roll from month-to-month except for November.

Additionally, incremental capacity at a receipt point will be allocated each month on a first-come, first-served basis based upon actual customer requirements.

Per the revisions, marketers "must" (replacing "have the opportunity to") align intermediate capacity primary receipt points with their Grandfathered Upstream Transmission Capacity (GUTC) primary delivery points.

To the extent suppliers demonstrate GUTC with primary delivery point capacity in excess of corresponding available intermediate receipt point capacity, the following tie-breakers will guide the allocation of such capacity:

- First to suppliers allocated the same receipt capacity at the conclusion of the previous five winter months adjusted to the lesser of the July DPR or the requested amount of capacity.

- Second to suppliers in proportion to the lesser of each supplier's July DPR or the requested amount of capacity.

In either case, to the extent a supplier places a higher priority on other requested receipt points, the DPR applicable to the contested point will be reduced accordingly.

## Proposed Pa. Policy Statement Encourages Utility Bilateral Contracting for Solar RECs

Pennsylvania electric distribution companies would be "encouraged" to procure solar RECs (SRECs) from small-scale solar projects through bilateral contracts in addition to using competitive RFPs, under a proposed PUC policy statement issued Friday.

The proposed statement finds that Pennsylvania distribution companies, their customers, and those interested in developing solar projects of any size, "are impeded in their economic analysis of such projects by the uncertainty of a price to assign the SRECs that would be generated by small or large-scale solar projects."

For small scale solar projects, defined as photovoltaic projects with a nameplate capacity of less than 200 kW, distribution companies would be encouraged to procure solar RECs through competitively bid RFP processes and bilateral contracts.

Under the proposed statement, utilities would be permitted to enter into bilateral contracts for solar RECs from small solar projects subject to the following conditions:

- The price negotiated for solar RECs may not exceed the Commission-approved average winning bid price in the utility's most recent RFP for large-scale (200 kW or larger) solar projects. If the utility has not conducted an RFP for a large-scale project, the price under the bilateral contract may not exceed the Commission-approved average winning bid price from the most recent large-scale solar RFP by another Pennsylvania utility.
- The amount of small-scale solar RECs procured through bilateral contracts during a single compliance year "should" not exceed the number of solar RECs procured by the utility in its last large-scale solar project procurement.
- The bilateral contract approach "should" be used to support the development of small-scale solar projects located in Pennsylvania.

For large-scale solar projects, only a competitive RFP could be used to procure solar RECs.

Standardized contracts for the long-term procurement of solar RECs from both sizes of projects should be from five to twenty years in length, the proposal finds.

The proposed statement would encourage distribution companies to execute a master agreement with a solar aggregator for the purchase of solar RECs from various sources that establishes a prevailing solar REC market price at a particular point in time through letter agreements that incorporate the terms of the master agreement.

## Mirant Hedging, Trading Lift Adjusted Earnings

Mirant reported higher adjusted EBITDA of $311 million for the quarter ending September 30, 2009, versus $278 million a year ago, on higher realized value of hedges and higher realized results from proprietary trading activities, partially offset by lower energy gross margins from generation.

Net income from continuing operations was $55 million versus $1.6 billion a year ago, reflecting unrealized losses in 2009 and unrealized gains in 2008 on hedging activity.

Total gross margin was up at $466 million, from $417 million a year ago, on higher realized value from hedges of $247 million versus $72 million a year ago. Partially offsetting these gains, realized gross margin from energy was down at $72 million from $195 million a year ago. Contracted and capacity gross margin was relatively flat at $147 million versus $150 million a year ago.

During an earnings call, CEO Edward Muller said reserve margins in New York East and PJM East could fall below adequate levels as soon as

2012-13, based on ISO data and Mirant's internal projections. Mirant's forecast includes current demand response activity and anticipated transmission upgrades.

With respect to New York, Muller attributed the new findings, which show an accelerated reliability violation versus what Mirant reported in the second quarter, to "substantially" lower imports into New York from PJM and New England. Muller suggested that the difference between the forward capacity market in NEPOOL and PJM, versus New York's capacity market which lacks a forward reserve requirement, is driving the change.

## Edison Mission Earnings Fall on Weak Prices

Edison Mission Group earnings fell to $61 million for the quarter, from $208 million a year ago, from lower income at its coal- and gas-fired assets driven by lower energy prices and from lower trading income.

Midwest Generation's average realized gross margin fell to $25.04/MWh from $43.38/MWh a year ago. Its all-in average realized price fell to $44.61/MWh from $60.28/MWh a year ago. Aside from lower prices, lower generation and higher fuel costs contributed to the lower margins.

Its Edison Mission Energy subsidiary reported operating income of $196 million, versus $448 million a year ago. Below is a breakdown of key operating segments:

**Edison Mission Energy Operating Income**
*(in millions)*

| Segment | Q3 '09 | Q3 '08 |
|---|---|---|
| Illinois Plants | $69 | $211 |
| Homer City | 52 | 109 |
| Renewable energy projects | — | 5 |
| Energy trading | 13 | 45 |
| Big 4 projects | 27 | 47 |

Edison Mission's Illinois plants saw the average realized price for energy-only contracts fall to $38.74/MWh from $54.25/MWh a year ago. Capacity revenue was higher at $49 million from $41 million a year ago.

Homer City recorded an average realized price for energy-only contracts of $44.83/MWh versus $61.95/MWh a year ago. Capacity revenue was higher at $30 million from $14 million a year ago.

Since June 30, 2009, Edison said it has added nearly 14,300 GWh of new hedges: 13,000 GWh for Midwest Generation and 1,000 GWh for Homer City in 2010, and 200 GWh for Midwest Generation in 2011. Midwest Generation executed the hedges to protect against the potential for negative margins which it has experienced this year. The off-peak hedge volumes should enable it to operate at minimum loads and avoid placing units in reserve shut-down as was done this year to mitigate the impact of negative margins.

The 2009 decreases in earnings from energy trading activities listed above were primarily attributable to lower congestion in the eastern power grid resulting primarily from lower electrical load, Edison said.

## *Briefly:*

**DTE Energy Trading Seeks Pa. Electric License**

DTE Energy Trading applied for a Pennsylvania electric license as a supplier of electric power and broker/marketer. DTE Energy Trading applied to serve commercial customers above 25 kW, industrial customers, and governmental customers in all service areas.

**BlueStar Energy Services Receives Pa. Electric License**

The Pennsylvania PUC granted BlueStar Energy Services an electric supplier license to serve commercial customers over 25 kW, industrial customers, and governmental customers in all service areas (Only in Matters, 9/29/09).

**Employers' Energy Alliance of Pa. Receives Gas License**

Employers' Energy Alliance of Pennsylvania Inc. received a Pennsylvania natural gas broker/marketer license to serve non-residential customers in all utility territories (Only in Matters, 7/29/09). Employers' Energy Alliance of Pennsylvania was recently awarded an electric broker license as well.

**CenterPoint Updates REPs on Expedited Switching Process**

CenterPoint Energy issued a market notice

Friday reporting that since the implementation of the expedited switch rule in August 2009, CenterPoint has not used monthly cycle reads to complete Standard Switches if the monthly cycle read falls within the seven-day window for completing Standard Switches. Instead, CenterPoint Energy has used actual field reads obtained separately from monthly cycle reads. CenterPoint said it plans to implement system and process changes to enable the use of monthly cycle reads to complete Standard Switches on or about December 1, 2009. CenterPoint will communicate more information concerning the process, including how it will treat requested dates, cycle dates, and scheduled dates in the future.

**TNMP Schedules Annual REP Workshop**

Texas-New Mexico Power announced it will hold its 2009 annual REP workshop in Texas City on December 2, 2009. The main focus of this year's workshop is to share the plan and progress of TNMP's advanced metering implementation.

**Gateway Energy Services Offering Military Discount**

Gateway Energy Services is offering a 5% discount on its monthly variable rate for natural gas and electricity to new and current customers who are active U.S. military and reserve personnel, honorably discharged U.S. veterans, and surviving spouses or parents of U.S. military personnel. Current customers on a fixed-rate plan can switch to a variable plan once their term expires in order to receive the military benefit. Customers new to Gateway are eligible for special sign-up incentives, including a Visa prepaid card worth up to $75. Current customers are also eligible for the incentive if they are currently only buying a single commodity and elect to buy both commodities from Gateway. "Our research shows that we are the only energy marketer who offers an across-the-board benefit plan to all military," said Bill Cateno, Gateway Senior Vice President of Sales & Marketing. Gateway Energy will roll out the military discount in all of its service territories on November 11 utilizing grocery receipt coupons, door-to-door teams, its website and PR efforts.

**ConEd Files Revised EDI Documents Reflecting Contest Period**

Consolidated Edison has filed updated EDI documents to implement the ESCO contest period as approved by the New York PSC in September (Only in Matters, 9/23/09). As only reported in *Matters*, the PSC adopted a contest period, modified from Just Energy's original design, that allows an incumbent ESCO, having obtained authorization from its customer to cancel a pending enrollment to another ESCO, to transmit to the distribution utility a specially coded EDI Drop request that cancels the pending enrollment. ConEd filed the updated EDI documents (TS 814 Drop Request & Response Implementation Guide, TS 814 Drop Business Processes, and Reinstatement Business Processes), as well as examples of how the contest period works, in Case 98-M-0667.

**EnerNOC Records First Profit as Public Company**

EnerNOC reported its first profitable quarter as a public company, posting net income of $26.6 million, reversing the year-ago loss of $3.1 million. Gross profit for the third quarter of 2009 was $51.7 million, compared to $18.4 million for the same period in 2008. Gross margin was 50.1% for the third quarter of 2009 compared to 41.6% for the same period in 2008. Revenues for the third quarter grew to $103.1 million, up from $44.2 million a year ago. EnerNOC reported that it has over 3,250 demand response megawatts under management as of September 30, 2009. Its demand response customer base is 2,500 as of September 30, 2009, covering 5,600 sites.

## *Just Energy ...* *from 1*

to high relative five-year prices in Ontario.

During an earnings call, CEO Ken Hartwick said that Just Energy continues to review opportunistic acquisitions in the U. S. as smaller suppliers encounter credit difficulty, though only acquisitions which are immediately accretive will be pursued.

Hartwick reported that Just Energy plans to be in new geographic territories by year-end, including Pennsylvania gas and electric, Massachusetts, and California non-residential

## Just Energy Long-term Customers (RCEs)

| | June 30, 2009 | Acquired | Additions | Attrition | Failed to renew | September 30, 2009 | % Change |
|---|---|---|---|---|---|---|---|
| ***Natural gas*** | | | | | | | |
| *Canada* | 727,000 | 93,000 | 12,000 | (22,000) | (19,000) | 791,000 | 9% |
| *United States* | 238,000 | 120,000 | 52,000 | (21,000) | (4,000) | 385,000 | 62% |
| *Total gas* | 965,000 | 213,000 | 64,000 | (43,000) | (23,000) | 1,176,000 | 22% |
| ***Electricity*** | | | | | | | |
| *Canada* | 574,000 | 215,000 | 23,000 | (24,000) | (3,000) | 785,000 | 37% |
| *United States* | 262,000 | 2,000 | 53,000 | (10,000) | (1,000) | 306,000 | 17% |
| *Total electricity* | 836,000 | 217,000 | 76,000 | (34,000) | (4,000) | 1,091,000 | 31% |
| **Combined** | **1,801,000** | **430,000*** | **140,000** | **(77,000)** | **(27,000)** | **2,267,000*** | **26%** |

***Excludes 145,000 Universal customers not expected to be retained***

electric. The Pennsylvania PUC on Friday denied Just Energy's new electric and gas license applications, though no order was available, and Just Energy is currently operating under the former Commerce licenses. Hartwick said that Just Energy is also looking to add sales offices in New York, Ohio, and Texas to support its three strongest markets for growth.

The trailing 12-month natural gas attrition rate in Canada was 9% for the quarter, below management's target of 10%. In the U.S., gas attrition for the trailing 12 months was 28%, above management's annual target of 20% but decreased from the 31% seen in the first quarter of fiscal 2010. The trailing 12-month electricity attrition rate in Canada for the year was 11%, slightly above management's target of 10%. Electricity attrition in the United States was 17% over the last twelve months, below management's target of 20%.

The trailing 12-month renewal rate for all Canadian gas customers was 70%. Electricity renewals for Canadian customers in Ontario and Alberta were 73%.

In the U. S. markets, Just Energy currently only has Illinois gas and Texas electricity customers up for renewal. Gas renewals for the U.S. were 35% (based on 6,500 customers up for renewal), below the target of 50%. The Texas electricity renewal rate was 78%, better than the target rate of 60% based on over 43,000 customers.

Overall, average gross margin per RCE increased by 7% quarter over quarter primarily due to the impact of strong renewable energy sales, partially offset by lower margin customers acquired from Universal and CEG.

In the U. S., gross margin was $30.3 million, up from $6.5 million a year ago. The gross margin increase reflected a 73% growth in customers versus the year-ago, and very high margins per customer in Texas due to weather-related consumption. Universal contributed only 2,000 to the 127,000 net RCE growth in U. S. electric RCEs versus the year-ago period. New York profitability rose due to improved supply management. Average gross margin per U. S. electric customer was $282/RCE compared to $126/RCE a year ago.

U. S. natural gas gross margin grew to $11.1 million from $3.2 million a year ago, from customer additions and higher per-customer margins. Just Energy also benefited from changes in utility storage capacity in the Midwest markets, which allowed improved supply management by reducing the need for daily settlements with current depressed commodity prices. Average gross margin after all balancing costs for the three months ended September 30, 2009 was $267/RCE, up from $180/RCE a year ago.

Total gross margin was $103 million for the quarter, up from $62 million a year ago (see chart for Canadian gross margin detail and sales).

Annual margin on new customers added in the second quarter, including margin from renewable energy products, was $204/RCE. Margin earned on renewing customers was $154/RCE (see chart for margin of customer addition/attrition). Of all customers who contracted with Just Energy in the last twelve months, 41% took its higher-margin green

## Just Energy Sales and Gross Margin – Seasonally adjusted

**For the three months ended September 30:**

*(thousands of Canadian dollars)*

| Sales | Fiscal 2010 Canada | Fiscal 2010 United States | Fiscal 2010 Total | Fiscal 2009 Canada | Fiscal 2009 United States | Fiscal 2009 Total |
|---|---|---|---|---|---|---|
| Gas | **$91,636** | **$37,724** | **$129,360** | $87,052 | $23,347 | $110,399 |
| Adjustments[1] | **103,686** | **23,788** | **127,474** | 92,036 | - | 92,036 |
| | **$195,322** | **$61,512** | **$256,834** | $179,088 | $23,347 | $202,435 |
| Electricity | **174,457** | **111,919** | **286,376** | 128,197 | 55,526 | 183,723 |
| | **$369,779** | **$173,431** | **$543,210** | $307,285 | $78,873 | $386,158 |

| Gross Margin | Fiscal 2010 Canada | Fiscal 2010 United States | Fiscal 2010 Total | Fiscal 2009 Canada | Fiscal 2009 United States | Fiscal 2009 Total |
|---|---|---|---|---|---|---|
| Gas | **$6,496** | **$8,795** | **$15,291** | $14,816 | $3,174 | $17,990 |
| Adjustments[1] | **23,760** | **2,263** | **26,023** | 17,667 | - | 17,667 |
| | **$30,256** | **$11,058** | **$41,314** | $32,483 | $3,174 | $35,657 |
| Electricity | **31,741** | **30,283** | **62,024** | 19,646 | 6,490 | 26,136 |
| | **$61,997** | **$41,341** | **$103,338** | $52,129 | $9,664 | $61,793 |

[1] *For Ontario, Manitoba, Quebec and Michigan gas markets.*

## Annual Gross Margin Per Customer*

| | Fiscal 2010 | Annual Target Fiscal 2010 |
|---|---|---|
| **Customers added in the quarter** | | |
| Canada - gas | $162 | $170 |
| Canada - electricity | $146 | $143 |
| United States - gas | $201 | $170 |
| United States – electricity | $241 | $143 |
| **Customers lost in the quarter** | | |
| Canada - gas | $210 | |
| Canada – electricity | $131 | |
| United States - gas | $259 | |
| United States – electricity | $133 | |

**Customer sales price less cost of associated supply and allowance for bad debt and U.S. working capital. This table excludes the margin impact of the sale of renewable products.*

## Aggregation Costs

| | Six months ended September 30, 2009 | Six months ended September 30, 2008 |
|---|---|---|
| ***Natural gas*** | | |
| *Canada* | **$197/RCE** | |
| *United States* | **$180/RCE** | |
| *Total gas* | **$183/RCE** | $215/RCE |
| ***Electricity*** | | |
| *Canada* | **$161/RCE** | |
| *United States* | **$169/RCE** | |
| *Total electricity* | **$167/RCE** | $177/RCE |

energy option for some or all of their energy needs. On average, these customers elected to purchase 78% renewable supply.

Bad debt expense for the second quarter of fiscal 2010 was $3.9 million, up from $2.5 million expensed in the same quarter of last year. The bad debt expense increase was mainly due to the 48% increase in total revenues in markets where Just Energy assumes the risk for accounts receivable collections, and higher percentage losses in the Texas market. For the six months ended September 30, 2009, bad debt expense was $7.7 million, representing approximately 3.5% of $217.0 million in revenues in markets with bad debt risk. In the comparable fiscal 2009 period, total bad debt expense was $3.5 million or 2% of $172.9 million in revenue. Just Energy has recorded a "substantial" increase in margins in the Texas electricity market due to warm weather and large growth in its residential book. As a result of the growth and propensity of customers to default on larger billing months, Just Energy has increased its bad debt expense forecast for Texas to 4% to 5% for the year.

Marketing expenses, which consist of commissions paid to independent sales contractors for signing new customers as well as an allocation of corporate marketing costs, were $27.1 million for the quarter, versus $17.3 million a year ago. Marketing expenses to maintain gross margin increased by 48% to $16.1 million, compared to $10.9 million in the second quarter of fiscal 2009, resulting from higher customer attrition and renewal costs versus the comparable quarter. Marketing expenses to add new gross margin in the second quarter totaled $11.0 million, an increase of 72% from $6.4 million a year ago, reflecting the increase in net customer additions.

Actual total aggregation costs for gas and electricity customers to date for fiscal 2010 were $183 per customer for gas and $167 per customer for electricity (see chart prior page).

Just Energy's National Home Services water heater business grew its customer base to 55,000 from 38,000 as of June 30, 2009. For the three months ended September 30, 2009 NHS had sales of $2.5 million and incurred a net loss of $1.5 million.

**Iberdrola REC Contract, Financial Swap**

Just Energy announced that it will purchase RECs from Iberdrola Renewables' various New York wind farms under a five-year contract. Just Energy also confirmed a financial swap arrangement with Iberdrola Renewables which will further enable Just Energy to provide fixed price electricity programs to customers for terms of up to five years. The transaction locks in price stability for Just Energy's power offerings through a financial swap for energy with Iberdrola Renewables. The New York wind RECs and the transaction are exclusive of the physical energy from the wind facilities.

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

contracts were not. Furthermore, the ALJ had noted that OSBA provided no evidence that the non-utility generation contracts would produce a price no greater than the expected market price, another requirement under the Choice Act. Finally, the ALJ found that using the non-utility generation contracts for default service would be inconsistent with the "least cost" requirement of default service, since use of the contracts would hinder competition, which the Commission has found to ensure least cost over time.

Of these findings, the Commission only addressed the issue of whether the non-utility generation contracts would produce a lower price for small commercial customers. The Commission found that OSBA provided no evidence supporting that conclusion, and dismissed the exception on such grounds. With that decision, the Commission said it need not address other arguments against the OSBA proposal, including the ALJ's finding that application of the non-utility generation contracts to default service would harm competition.

The Commission also adopted the ALJ's default service procurement load cap of 75%, as originally proposed by Met-Ed and Penelec. The Retail Energy Supply Association, Direct Energy, and OSBA had favored a 50% load cap to ensure a greater diversity of wholesale suppliers (thereby reducing default risk), but the Commission agreed with the ALJ that the Supplier Master Agreement adequately address protection against defaults.

"We are sensitive to Direct Energy and RESA's arguments regarding competition for default service supply," the Commission said, but said in balancing those concerns with the least cost standard of default service, a 75% load cap is appropriate.

**Customer Lists**

Although it approved the settlement without modification, the Commission did direct stakeholders to address two issues related to the sharing of customer information. Under the settlement, Met-Ed and Penelec will post updated lists of shopping and non-shopping customers on the secure portion of the their supplier support website. Customers will be provided a notice to opt-out of the lists, and the first updated customer list shall be available no later than August 31, 2010. Per the settlement, no later than August 31, 2010, the utilities will also provide both interval and non-interval consumption information via EDI 867 transactions after receiving written customer authorization from the requesting supplier, or written certification by the supplier that it has such authorization.

First, the PUC noted that the settlement does not address the specific issue of sharing customer telephone numbers, as was recently addressed at PPL. The Commission directed stakeholders to work with the Commission's Chief Counsel to develop proper protocols relating to customer telephone numbers.

Furthermore, regarding the dissemination of consumption history, the Commission said that the settlement does not appear to follow either its Regulations at Section 54.8 or its recent PPL order, to the extent that it appears that written authorization must be presented before an 867 request will be answered at Met-Ed/Penelec. In its PPL order, the Commission held that, "Should a customer give such permission to an EGS [electric generation supplier] to receive historical data by any of these means [oral, written, electronic], it is incumbent upon the EDC [electric distribution company] to respond to the EGS 867 HU request for this information."

Accordingly, the Commission directed stakeholders to review the customer authorization provisions regarding historical usage with a view to streamlining the authorization process. "One possibility is to require any [supplier] which makes an 867 request to have customer authorization before making the request if a customer previously has limited access to its historical usage data by opting out through the eligible customer list process. The actual 867 request serves as certification by the [supplier] that it has the required authorization," the Commission said. Met-Ed/Penelec are required to report within 45 days on status of such stakeholder efforts.

PUC Vice Chairman Tyrone Christy dissented from approval of the settlement, stating that the full requirements approach used to satisfy the majority of load does not comply with Act 129 of 2008. Christy said that the "prudent mix" required by Act 129 includes spot market purchases, short-term contracts, and long-term contracts, but noted that the default service procurement plan does not include any long-term contracts.

"In lieu of the [default service program's] full requirements approach, which adds unnecessary risk premium to supply acquisition, a managed portfolio plan would have provided a better opportunity to obtain the lowest cost supply for Met Ed's and Penelec's customers," Christy said.

**Settlement Provisions**

As more fully discussed in our 8/19/09 story, the settlement calls for residential customers to be served on 100% full requirements contracts for a five-month interim period from January 1 to May 31, 2011, procured through a descending clock auction. Starting June 1, 2011, residential supply will be split between full requirements contracts and a portfolio of term block purchases and spot adjustments. After June 1, 2011, 75% of residential supplies will be served on full requirements contracts procured through 10 separate descending clock auctions for 12- or 24-month terms, anywhere from 3 to 13 months before delivery.

The remaining 25% of supply will be sourced through RFPs for block energy products, balanced by spot purchases or sales. Block energy products will be purchased in twelve-month strips of on-peak and off-peak blocks twice each year, with suppliers required to deliver the purchased energy to the applicable PJM zone for each utility. Of the 25% carve-out, the utilities will target meeting 80% of the on-peak and off-peak residential monthly megawatt-hours (i.e., 20% of overall residential supply requirements) through block purchases, with the remainder procured through the PJM real-time energy market at real-time spot market prices. In January 2010, Met-Ed and Penelec will also solicit a 50 MW around-the-clock block energy product for residential customers with a term of 48 months for delivery beginning June 2011, which shall be included in the amount of energy to be served by block energy products for purposes of calculating the 80% target.

For the commercial class, the settlement adjusts Met-Ed/Penelec's original proposal by adding a 10% spot provision to procurements, which was not present in the original plan. For the initial five months of 2011, 100% of supplies will be served on five-month full requirements contracts. Starting June 1, 2011, one-year full requirements contracts will be used to meet all of the class's supply needs. However, the full requirements contracts will include a fixed price for only 90% of the supply established through a series of descending clock auctions, with a variable price for the remaining 10% of the supply, which will be priced at the hourly real-time PJM zonal price, plus an adder to cover renewable compliance costs, ancillaries, capacity, and other costs required for delivery. Procurements will follow the schedule used for residential auctions, but contracts will only be for 12 months, with no 24-month tranches. The commercial class customers, which are generally those served at secondary voltage, have monthly billing demands of less than 400 kW.

Industrial customer default service will be an Hourly Pricing Service priced to the PJM real-time hourly market and procured through three descending clock auctions held on the same day as the commercial auctions. Additionally, Met-Ed and Penelec will each offer industrials an optional one-year fixed price service for the year 2011 only. Customer participation on the fixed rate will be capped at 50 MW at each company. Industrial customers will be permitted to leave the optional fixed product for competitive supply before the 12-month term expires.

The industrial class shall include customers that either: (a) are served at secondary voltage on GS-Large and have billing demands that equal or exceed 400 kW in two consecutive months; or (b) are served at primary or transmission voltage under Rate Schedules GS Large, GP, TP (Met-Ed), and LP (Penelec).

Met-Ed and Penelec will change the basic default service rates on a quarterly basis for residential and commercial customers. Hourly priced service for large commercial and industrial customers will be billed on a monthly basis with various components of the Hourly Pricing Service Charges changing on a quarterly basis.

The Price to Compare ($PTC_{Default}$ for non-hourly customers) will include the cost of energy and capacity, transmission, and ancillaries. Met-Ed and Penelec will discontinue the current generation charges and Transmission Service Charge Rider. Retail rates will not include declining blocks, demand charges or similar elements.

Met-Ed and Penelec will provide Network Integration Transmission Service (NITS) for default service customers. The NITS charge will be bypassable, and suppliers will be responsible for NITS charges for their customers

**Retail Market Enhancements**

The settlement includes various provisions meant to facilitate retail competition -- chief among them the commitment to file a non-recourse Purchase of Receivables plan with no discount. Other mechanics of the program are subject to further discussion and potential litigation if outstanding issues are not resolved (such as accompanying customer protection measures to be included with POR).

The POR program is to be filed by March 31, 2010. POR would be mandatory for suppliers using utility consolidated billing, and would only be available for suppliers using utility consolidated billing. Utility payments to suppliers will be made based on the current amount that is billed to and owed by customers, and will be paid 40 days after invoicing the customer.

Met-Ed and Penelec will also fully unbundle the uncollectible accounts expense associated with default service for residential, commercial and industrial customers. Beginning January 2011, the unbundled uncollectible accounts expense associated with default service and competitive supply service will be removed from distribution rates and recovered through the Default Service Support Rider on a nonbypassable, non-reconcilable basis.

Met-Ed/Penelec will send letters to residential and small commercial customers, with the utility logo prominently displayed, containing specific competitive rate offers to customers. Such supplier referral letters will be sent twice annually starting in 2011, with the content developed and paid for by participating suppliers. The Office of Consumer Advocate and Office of Small Business Advocate will review and approve the letters. Participating suppliers will review and approve the letters that go to their respective customers (but will not be able to disapprove material from other suppliers). Met-Ed and Penelec will contribute a maximum of $2.25 million each for mailing the letters, with suppliers paying any additional costs.

The utilities will also offer rate ready, bill ready, and dual billing capability to suppliers. Suppliers selecting the rate ready option will be initially limited to a flat rate per kWh, and a percentage-off-of the Price to Compare pricing options. Suppliers will not submit more than 200 discrete rates for implementation during each calendar quarter, and the utilities will have no obligation with respect to rates in excess of that amount.