Energy Choice Matters

February 8, 2010

CenterPoint Says Texas Utility Solutions' Request Inconsistent with ERCOT Market

The proposed business model of Texas Utility Solutions (TUS), "is inconsistent with the Public Utility Regulatory Act ('PURA'), the Substantive Rules of the Public Utility Commission of Texas ('PUCT' or 'Commission'), the Electric Reliability Council of Texas ('ERCOT') Market Design, and CenterPoint Energy's Wholesale Transmission Tariff and Tariff for Retail Delivery Service," CenterPoint Energy said in testimony requesting that the PUCT deny TUS' request for a declaratory order certifying its eligibility for Wholesale Transmission Service (36701).

As only reported by *Matters*, TUS, 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 nondiscriminatory 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 (Only in Matters, 8/10/09).

Nearly all of TUS' original testimony supporting its request was marked confidential. Though confidential protection was recently denied for basic information regarding its business model and proposal, non-redacted information has not yet been filed.

According to CenterPoint's testimony, however, TUS "intends to have CenterPoint Energy bill TUS the Wholesale Transmission Rate so that Retail Electric Providers ('REPs') that do business with TUS will not need to be charged Retail Delivery Rates by CenterPoint Energy."

"In effect, this is an attempt to bypass the PURA mandated and Commission-approved nonbypassable charges for Retail Delivery Service, based upon a flawed interpretation and lack of understanding of the ERCOT Market Design on a level as basic as the ERCOT Postage Stamp Rate

Continued P. 5

Allegheny Energy Starting a "Small Retail Effort"

Allegheny Energy is, "starting up a small retail effort," CFO Kirk Oliver said during an earnings call.

Allegheny Energy Supply Company is currently licensed as a retail supplier in Maryland, Pennsylvania and Washington, D.C., and is known to be serving load in at least Maryland, where it served about 22,000 MWh of load in 2008. On its website, Allegheny Energy Supply Co. says it is currently only offering retail supply service to large industrial and institutional customers in Pennsylvania and Maryland.

The disclosure came in response to an analyst's question about the realized energy price Allegheny's competitive supply unit realized in the recent West Penn Power default service auction, which it did not provide, although it has supplied such information in the past.

Oliver explained that Allegheny Supply will no longer provide such realized pricing information, "because we're starting up a small retail effort and its fairly competitively sensitive information so we're going to pretty much stick to the disclosure we're doing here when we give you the hedge book on kind of an aggregate basis."

Allegheny Supply did disclose that in the January West Penn Power auction it won three of the

Continued P. 5

PPL Migration Grows to 288,000 Customers; PPL Supply Earnings Higher

Migration to competitive supply at PPL Electric has increased to more than 288,000 customers, executives reported during an earnings call Friday.

Some 41% of retail load at PPL is now competitively served. While executives did not wish to predict future growth in migration, CFO Paul Farr said that he would not be surprised to see migration reach 30% of accounts.

PPL reported that its wholesale supply segment is not materially affected by the load migration since it sold only 3% of its 2010 expected generation in load following transactions.

PPL said that there are about 27 retail suppliers serving customers in its service territory, seven of which are "focused" on residential customers.

Fourth quarter ongoing operational earnings from PPL's Supply segment, consisting of competitive generation and marketing and trading were up at $94.3 million from $79.2 million a year ago. Results were driven by the absence of one-time trading losses experienced in the year-ago quarter, and higher wholesale energy margins in both its east and west U.S. fleets, partially offset by lower net margins from load-following contracts due to lower customer demand. Reported earnings from the Supply segment were down at $52.8 million versus $184.7 million a year ago.

Operating revenues from unregulated retail electric and gas sales in the fourth quarter were $44 million, up from $41 million a year ago.

PPL has not yet filed a 10-K.

Marin Energy Authority Signs Deal with Shell, Aggregation Could Start in May

The Marin Energy Authority board has unanimously approved a five-year contract with Shell Energy North America to supply its community choice aggregation, and will begin sending opt-out notices to customers within a week.

The contract with Shell, which includes rates identical to Pacific Gas & Electric, includes 25% renewable energy and, in a late change, provides that Shell's portfolio shall not exceed the carbon emissions of PG&E's portfolio, to ward off potential legal challenges. Among other things, PG&E has threatened to sue the Marin Energy Authority because PG&E contends an environmental impact study is required before service may commence.

Aggregation customers can opt for 100% renewable supply for an additional $3-6 per month. The opt-out period lasts 120 days, and the Marin Energy Authority could begin serving load as early as May.

The final piece of financing for the aggregation is still being finalized, though Marin County supervisors have voted to co-sign the remaining needed loan.

Should it begin flowing supplies to customers, Marin Energy Authority will be California's first community choice aggregator. The San Joaquin Valley Power Authority had previously received approval for a community choice aggregation, but did not pursue its original plans.

Md. PSC Staff Defends Mandatory Residential TOU SOS Rates at BGE

Evidence supports the introduction of mandatory Time of Use (TOU) generation rates for residential customers at Baltimore Gas & Electric as part of its proposed advanced metering deployment, Maryland PSC Staff said in a reply post-hearing brief, dismissing concerns raised by various consumer advocates (Case 9208).

As only reported in *Matters*, BGE has proposed a two-tier TOU rate applicable during June through September as the default (and only bundled) generation rate available for residential customers, once smart meter installation is complete (Only in Matters, 7/14/09). The peak rate would apply on summer non-holiday weekdays from 2-7 PM, with all other hours priced at an off peak rate. Non-summer months would only have one rate.

While the Office of People's Counsel and AARP have opposed the mandatory TOU pricing, with OPC arguing that the rate design will burden customers who can not move usage off of peak periods, including low-use customers of all incomes, Staff said that such arguments, "are based upon an assumption, which is not supported by evidence, that residential customers do not react to prices and cannot shift electric usage patterns."

Staff stressed that during BGE's smart energy pricing pilot, "it was demonstrated that customers from all demographic groups, including elderly and low income customers, were able to benefit from TOU rates and responded to price signals."

BGE noted that in its 2008 smart energy pricing pilot, low income customers saved on average $98, elderly customers saved on average $98, and elderly customers who were low income saved $88.

OPC countered that these savings failed to take into account the incremental cost of metering. Based on BGE data, AARP argued that as many as 40% of low income customers would have higher summer bills under TOU rates and 15% would have higher annual bills.

"The OPC argument concerning the supposed inability of some customers to shift electric usage patterns is essentially an argument that the Commission continue to ignore the economic subsidy currently embodied in the rate structure that customers with lower cost (less 'peaky') electricity demand curves, a group that would include low and moderate income customers without central air conditioning, continue to provide to those customers with higher cost (more 'peaky') demand curves, such as those with large houses and central air conditioning. TOU rates will eliminate this implicit subsidy by allowing customers with flat demand curves to benefit through lower overall bills and by charging those high cost customers a corresponding higher on-peak rate," Staff said.

BGE similarly argued that many of the customer subgroups which AARP and OPC claim are most vulnerable (low-use customers, seniors, and individuals utilizing 24/7 medical devices) may very well benefit from BGE's proposed TOU rate structure since low-use customers, or customers with 24/7 medical devices, likely have higher load factors and will benefit from TOU rates, even before any behavioral changes.

The TOU rates, BGE said, provide an opportunity for these customers to save money on approximately 95% of the hours in a given year, as the off-peak period includes all non-summer hours, all summer weekend and holiday hours, and all summer weekday hours outside of the 2 - 7 PM time period.

Both OPC and the Maryland Energy Administration warned against customer backlash from mandatory TOU rates. "[I]n addition to consumer resentment over the first few years of higher payments with little recompense, requiring residential customers to switch to TOU rates will provide an additional basis for vocal anger," OPC said. "Forcing these consumers to adopt and adapt to TOU rates would be a public relations disaster and could significantly undermine the Company's efforts to encourage most customers to remain with dynamic pricing," MEA added.

OPC further noted that under BGE's proposal, "consumers will not receive any 'price signals' at all but, rather ‘emails, faxes, newsletters and phone calls’ telling them, on an informational rather than on a price basis, to cut usage or refrain from using additional amounts of electricity or, in other words, how to behave."

"Indeed, the actual hourly prices will not be revealed to residential ratepayers until at least the day after a 'critical peak day' arrives ... Consequently, and put simply, the value of the proposed new meters is superfluous to achieving monetization of demand reduction, which is the primary source of funding for the proposed program. Since consumers are being told what to do rather than making economic judgments about scarcity based on price, in larger pilots BGE could gauge response to these 'emails, faxes, newsletters and phone calls,' and, extrapolating conservatively, bid demand response into the PJM RPM capacity auctions,' OPC said.

MEA has recommended that BGE be required to offer, in addition to the TOU rate, an optional real-time pricing program immediately upon the switch to TOU rates. Staff said that real-time pricing should not be introduced until one to two years after the switch to TOU rates, to allow customers to become more familiar with responding to dynamic prices under the simple TOU rate design.

PUCT Staff Adopts REP Changes on Deposits, Levelized Billing in POLR ToS Proposal

PUCT Staff posted a draft proposal for adoption concerning new terms of service documents for POLR service, accepting REPs' recommendations regarding levelized payment plans and deposit installments (37034, Only in Matters, 11/24/10).

Staff agreed with REPs that the requirement for a POLR to offer a levelized payment plan is inconsistent with the short-term nature of POLR service, and because the POLR rate for a given month is not known until the bill is rendered. Staff accepted the proposed language of the REPs stating that a levelized payment plan shall be offered to non-delinquent customers on POLR service, but that the customer may be required to leave POLR service and take a competitive product from that POLR retailer in order to receive a levelized bill.

Staff also modified its proposal so that customers who are enrolled in the Lite-Up Texas program (rather than those who have simply applied for the program) are permitted to pay POLR deposits in installments, as recommended by REPs.

Staff refused to remove the requirement that POLRs list a schedule of all fees that may be charged to the customer, which REPs said is duplicative of the Electricity Facts Label.

Briefly:

Interstate Gas Supply Seeks Maryland Gas License

Interstate Gas Supply (IGS Energy) applied for a Maryland natural gas supplier license to serve all customer classes at Baltimore Gas & Electric, Washington Gas Light, Columbia Gas and Chesapeake Utilities. In supporting purchase of receivables initiatives under review in Maryland, IGS had previously said that, "IGS Energy is fully committed to marketing natural gas in Maryland if POR programs without recourse can be successfully implemented in the State."

Palmco Energy Seeks Ohio Gas, Electric Licenses

Palmco Energy submitted applications for Ohio electric and natural gas supplier licenses, to serve all customer classes in all service areas.

Great Lakes Energy Seeks Md. Gas Broker License

Great Lakes Energy, a subsidiary of GSE Consulting, applied for a Maryland natural gas broker license to serve all customer classes at all LDCs. It also filed an electric broker application in Maryland last week (Only in Matters, 2/5/10).

Green Power Management Solutions Seeks Md. Broker Licenses

Green Power Management Solutions applied for Maryland electric and natural gas broker licenses to serve residential and commercial customers in all service areas.

Reliant Energy Protests Reliable Power's Name

Reliant Energy moved to intervene in the REP certificate application docket of Reliable Power, stating that, "[g]iven the similarity between Reliable's requested business name and Reliant's current certificate name and DBAs, granting Reliable's Application would be misleading to customers." Reliable's certificate application was filed by principals at backoffice vendor ePsolutions (Only in Matters, 1/14/10). Reliable's application has been deemed deficient by the PUCT for lack of documentation showing compliance with financial and managerial requirements for certification.

Usource Earnings Contribution Sharply Higher

Broker Usource recorded sales margin of $1.1 million for the fourth quarter of 2009, versus $900,000 a year ago, parent Unitil reported. For the fiscal year 2009, Usource contributed $1.6 million to consolidated earnings, compared to earnings of $300,000 in 2008, Unitil said.

ERCOT Says New CRE Effective

ERCOT said that the Temple Pecan Creek (3412) to Temple Switch (3414) 345 kV line was added as a Closely Related Element (CRE) effective February 5, 2010. This CRE is associated with the North to South and South to North Commercially Significant Constraints (CSCs).

WGL Seeks Extension of Pilot Hedging Program in D.C.

Washington Gas Light petitioned the District of Columbia PSC for a one-year extension of its pilot gas hedging program to allow it to make physical hedging transactions for the 2010-2011 winter season (GT01-1). WGL's application for a permanent hedging program remains pending before the PSC.

TUS ... from 1

methodology. There is no PURA, Commission, or Tariff justification that would allow this flawed business model of TUS to proceed," CenterPoint argued.

CenterPoint said that, based on TUS' testimony, "[i]t appears as though TUS determined that the rates in the wholesale tariff and the retail tariff are different, and has incorrectly determined that it can be allowed under Texas statute to make money by purchasing wholesale transmission services for Retail Electric Providers ('REPs') and then marketing the distribution-related service without paying for this service."

CenterPoint reported that TUS intends to have CenterPoint Energy charge TUS only the Wholesale Transmission Rate, so that REPs do not have to pay Distribution Service Providers (DSPs) the Retail Delivery Rate. "REPs would then pay TUS half of the money that it 'saved' by avoiding the Retail Delivery Rate payment to the DSP," CenterPoint said.

While TUS has argued that the Wholesale Transmission Tariff provides the same character of service as the Retail Delivery Tariff, except for the rate paid to accomplish the same services, CenterPoint said that such a view is, "completely incorrect and again illustrates the running theme of misunderstanding in the ... proposed business model of TUS."

The "character of service" contained in the Wholesale Transmission Tariff and the Retail Delivery Tariff are not comparable and are not the same service, CenterPoint stressed, as each service recovers different costs. The Wholesale Transmission Rate only reflects the specific utility's Transmission Cost of Service (TCOS). The Retail Delivery Rate must collect the DSPs' proportionate share of the entire ERCOT TCOS, as well as the distribution costs associated with serving customers through the distribution system, CenterPoint noted.

"TUS states that it intends to make money by bypassing the utility 'markup' and providing the energy more cheaply through the Wholesale Rate. There is no utility 'markup' to avoid as the Retail Delivery Rate simply recovers the costs of the utility to provide service to end-use customers. Any attempt to bypass or avoid the Retail Delivery Rate is simply an attempt to circumvent PURA and Commission decisions that dictate how the deregulated, competitive, ERCOT Market Design operates. In effect the TUS business model depends on obtaining distribution service from the utility for free and then selling the service to its own customers. Hence, the TUS business model, not only misinterprets and misapplies the ERCOT market design and PURA, but also could be construed as bordering on implementing unethical business practices," CenterPoint alleged.

Regarding the Wholesale Transmission Service Tariff under which TUS is seeking service, CenterPoint argued that PUCT Subst. R. §25.192(a) states that the Tariff shall apply to all DSPs and any entity scheduling the export of power from the ERCOT region. Additionally, PUCT Subst. R. §25.192(b) states that DSPs shall incur transmission service charges pursuant to the Tariffs of the TSP. "Therefore, PUCT Subst. R. §25.192 makes it quite clear that DSPs are to be charged for wholesale transmission service. There is no provision in PUCT Subst. R. §25.192 to allow power marketers to be charged the Wholesale Transmission Rate as TUS has requested in its proposed business plan," CenterPoint said.

Allegheny ... from 1

seven contracts awarded for a total of about of 1.25 million megawatt-hours. At Potomac Edison's recent SOS auction, Allegheny Supply won a single contract of the six offered, for one-half million megawatt-hours

Allegheny reported fourth quarter adjusted earnings from its merchant generation segment of $77.7 million, up from $67.8 million a year ago. Results benefited from lower fuel costs, power hedges, capacity revenue, the purchase of hydro generation facilities, and a Pennsylvania tax law change. These factors were partially offset by decreased generation volume, low power prices, the elimination of an intercompany transfer payment, and higher depreciation and interest expense.

GAAP net income for the merchant generation segment was $74.3 million, versus a loss of $3.1 million a year ago.

Allegheny reported that its merchant segment has hedged about 82% of expected coal-fired output in 2010, with 33% hedged for 2011, and 6% for 2012.