Energy Choice Matters

April 12, 2010

Mirant, RRI Energy to Combine in "Merger of Equals"

Mirant Corporation and RRI Energy announced an all-stock definitive agreement for a "merger of equals" to create GenOn Energy, which would have 24,650 MW of merchant generation and a pro forma market capitalization of $3.1 billion.

The two IPPs said that the merger will bring together two organizations with "complementary electric generating assets and proven operational excellence, enabling GenOn to derive substantial near- and long-term benefits from significant cost savings, greater scale, geographic diversity, and increased financial strength and flexibility." GenOn will have a "strategically balanced" presence across key regions, including the Mid-Atlantic, California, the Northeast, the Southeast and the Midwest, RRI and Mirant said.

Mirant and RRI announced that the expected annual cost savings from the combination are $150 million, from reductions in corporate overhead. The savings will be realized fully starting in January 2012, the combining firms said.

RRI Energy owns and leases a total of 14,581 MW of generation assets in Southern California (3,392 MW), the Midwest ISO (1,696 MW), PJM (6,952 MW) and the Southeast (1,911 MW). Mirant owns and leases a total of 10,076 MW of generation assets in Northern California (2,347 MW), PJM (5,194 MW) and the Northeast (2,535 MW). Mirant and RRI said that there was little overlap in the asset portfolios.

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Columbia Gas of Pa. Proposes Lowering Daily Gas Supply Nomination Limit

Columbia Gas of Pennsylvania has proposed lowering the daily gas supply nomination limit for shippers from 120% to 100% of the customer's maximum daily quantity, Dominion Retail, Interstate Gas Supply, and Shipley Energy Company noted in a prehearing memo in Columbia's current rate case (R-2009-2149262).

The reasonableness of the proposed downward revision is among the issues the suppliers will investigate in the proceeding.

Columbia has also proposed replacing the current term "Columbia Gas Transmission Market Area" in its tariff with the new term, "Upstream Pipeline Scheduling Point." The new term is defined as: "(i) the single delivery point or set of geographically-related delivery points grouped by TCO [Columbia Gas Transmission] for purposes of scheduling gas supplies for delivery by TCO, as listed on its Master List of Interconnections; or (ii) the single delivery point or set of geographically-related delivery points grouped by [Columbia-Pa] for delivery for other interstate pipelines interconnected with [Columbia-Pa]."

Furthermore, Columbia proposed including a new tariff provision which states that a General Distribution Service account may be returned to the applicable Sales Service rate if, for a period of at least five consecutive days in one billing month, Columbia has not received gas supply for the account. The competitive suppliers questioned the necessity of this provision.

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Briefly:

Verde Energy Begins Offering Residential Service in PPL

Verde Energy USA has begun marketing a residential electric offer to customers at PPL Electric, with a rate of 9.39¢/kWh fixed through the December 2010 meter read. Verde's entry into PPL was first reported by *Matters*, and represents the first market expansion outside of Connecticut for Verde (Only in Matters, 3/26/10). The rate is tied for the second-lowed (with ConEdison Solutions) among products fixed through PPL's next major default service rate change; Washington Gas Energy Services is offering a rate of 9.30¢/kWh through the January 2011 meter read. Verde's product does not include an early termination fee. As previously reported, residential offers from Energy Plus Holdings LLC and BlueStar Energy Services are imminent, though neither yet has an offer on the Office of Consumer Advocate's price comparison chart.

Hess Seeks Ohio Electric Supply License

Hess Corporation has submitted an application for an Ohio retail electric supplier license to serve commercial, mercantile and industrial customers at the FirstEnergy utilities and the AEP utilities. Hess said that it serves approximately 4,000 commercial and industrial customers and 5,500 peak megawatts across 11 states. Hess projected volume of 876,000 MWh and gross margin $440,000 for its first year of operation in Ohio, which will be the planning year starting June 1, 2011. For its second year of operations (planning year starting June 1, 2012), Hess projected volume of 1.3 million MWh and gross margin of $700,000.

Titan Gas and Power To Expand into Residential Gas Marketing in Pa.

Titan Gas and Power applied at the Pennsylvania PUC to amend its natural gas supply license to include marketing to residential and small commercial customers, in addition to large commercial customers. Titan is currently serving large commercial customers in the PECO territory.

Md. PSC Fines The Loyalton Group, Grants Broker Licenses

The Maryland PSC fined The Loyalton Group, Inc. $1,710.97 for brokering electric service in the state without the requisite license, and $947.72 for brokering natural gas service without the requisite license. The PSC also granted The Loyalton Group both an electric and gas broker license to serve commercial and industrial customers at all of the investor-owned distribution companies.

Gateway Hiring More Pa. Sales Reps

Gateway Energy Services said that it is hiring approximately 15 experienced Outbound Telemarketing Sales Representatives and Residential Sales Representatives for the Allentown, Scranton and Wilkes-Barre areas, and is holding a job fair at its office in Forty Fort on April 13. Gateway had previously announced that it would create up to 100 new jobs by the end of the year. So far, Gateway has hired 49. Gateway also affirmed its previously reported plans to enter the UGI natural gas service area in the "near future" now that is has received its Pennsylvania gas supplier license (Only in Matters, 1/15/10).

Direct Says Conn. LDCs Develop Draft to Address 12-Month Minimum Stay for Competitive Gas Supply

Connecticut Natural Gas, Southern Connecticut Gas, and Yankee Gas have drafted a proposal which may be the prelude to a settlement regarding the current tariff provision requiring a customer to remain on competitive gas supply for 12 months, Direct Energy informed the DPUC (09-11-15). As only reported in *Matters*, Direct sought relief from the DPUC regarding the interpretation of the current tariff provision, which Direct says may obligate the customer to remain off of LDC sales service for 12 months, but cannot obligate a supplier to provide commodity to a customer for 12 months if the customer breaches the terms of their supply contract (Matters, 12/22/09). Direct said that because the proposal is intended to apply to all marketers and LDCs, including those who were not in attendance at the recent hearings in the proceeding, additional time is necessary to provide an opportunity for review and comment by those parties who would be subject to its provisions. Direct thus requested that a deadline for submitting the settlement be extended until April 23.

Maine PUC Rejects Long-Term Contract With Undisclosed Bidder

The Maine PUC has rejected a proposal from an unnamed bidder for a long-term capacity and energy contract with the state's electric distribution companies. The bidder originally filed a Stage Two proposal in April 2009, and the PUC and bidder have been in negotiations since that time, with a revised proposal submitted March 24, 2010. The Commission said that the proposed long-term contract would not be beneficial to ratepayers because the proposed prices would likely exceed the expected market value of the contract. In addition, other provisions of the proposal would have exposed ratepayers to inappropriate levels of risk, the PUC said. Since the legislature authorized the PUC to approve long-term contracts for energy and capacity, the PUC has only approved one such contract, with First Wind Holding LLC.

NEM Adds Technical Workshop to National Restructuring Conference

The National Energy Marketers Association has added a technical workshop on the second day of its upcoming National Restructuring Conference on April 27-28 in Washington, D.C. The roundtable workshop will include state regulatory commissioners, ALJs, Staff and NEM's policy chairs discussing technical regulatory and operational implementation issues facing the industry in various jurisdictions. NEM's conference will be highlighted by a slate of retail regulators including James Cawley, Chairman, Pennsylvania PUC; Alan Schriber, Chairman, Public Utilities Commission of Ohio; Douglas Nazarian, Chairman, Maryland PSC; Manuel Flores, Chairman, Illinois Commerce Commission; Betty Kane, Chair, District of Columbia PSC; Sharon Reishus, Chair, Maine PUC; Orjiakor Isiogu, Chairman, Michigan PSC; David Armstrong, Chairman, Kentucky PSC; Illinois Commerce Commissioner Sherman Elliott; and Illinois Commerce Commissioner Erin O'Connell-Diaz. NEM will also release a consumer bill of rights developed by members, as well as national recommendations for "Achieving Significant, Near-Term Demand Response by Residential and Small-Commercial Consumers."

Duke Energy Ohio Applies to Implement Pilot Peak Time Rebate

Duke Energy Ohio petitioned the Public Utilities Commission of Ohio to introduce, on a pilot basis, voluntary electric Rate PTR (peak time rebate). The peak time rebate would be limited to 500 customers taking generation service from Duke under Rates RS and TD-AM who receive an advanced meter under Duke's smart grid pilot. Customers would receive a bill credit of $0.28 per kWh of load reduction (versus an estimated baseline) during the critical peak event. Duke would call up to 10 critical peak periods per year during the calendar months of June, July, August, and September. Participating customers would be notified on the day prior to a critical peak event of the planned event for the next day. Critical peak events will last 8 hours and will begin at noon and end at 8 P.M., and they will not occur on weekends or holidays as recognized by NERC. Duke may call up to three events per week with no more than two events occurring on consecutive days.

Ambridge to Relinquish REP Certificate

Ambridge Energy, LLC has filed to relinquish its Texas REP certificate, stating that it does not currently serve customers. Ambridge's customers were previously transferred in 2008 to Champion Energy Services as Crane Capital, Ambridge's owner, acquired Champion.

Suppliers Object to Reporting of Pre-RPS Electric Contracts in Illinois

Proposed rules regarding Illinois alternative retail electric suppliers' reporting and compliance with the renewable portfolio standards would require the disclosure of confidential and competitively sensitive information, FirstEnergy Solutions and MidAmerican Energy Company said in comments on the draft regulations (10-0109, Only in Matters, 2/12/10).

Specifically, proposed Section 455.120(c) provides that suppliers (or utilities supplying customers outside of their franchised areas) must provide a list of those Illinois retail customers who were served on contracts not executed or extended after March 15, 2009, and thus not subject to the renewable requirements. "The list shall include the following information: account number(s), and the quantity of electricity (in megawatt-hours) supplied to the account numbers(s) during the compliance period."

FirstEnergy Solutions and MidAmerican Energy Company argued that nothing in the underlying statute requires or authorizes a provision of such information. The suppliers called the rules "unnecessary and improper."

At the very least, the rule must be modified to protect and prevent the disclosure of pre-March 16, 2009 customer information, the suppliers added.

"[T]he disclosure of non-public, competitively sensitive confidential information would serve no useful purpose, could be highly detrimental to customers, and could have a negative effect on the competitive market," the suppliers said.

The suppliers said that customer-specific information should not be required, and that only aggregate information of the pre-March 16 contracts should be reported, with such information receiving confidential treatment automatically.

Mass. DPU Approves National Grid-ConocoPhillips Co-Management Agreement

The Massachusetts DPU approved National Grid's petition to continue for an additional year (through March 31, 2011) its agreement with ConocoPhillips Company under which National Grid and ConocoPhillips co-manage National Grid's portfolio assets to secure gas supplies necessary to meet the firm requirements of the LDC's sales customers (09-141).

The Attorney General had objected to the arrangement because National Grid did not conduct an RFP for asset management services for the April 1, 2010 through March 31, 2011 period, as anticipated by the Department. National Grid justified extension of the current ConocoPhillips agreement for an additional year without an RFP by contending that, after analyzing and researching market conditions for an RFP process, it determined that the combination of the fixed guaranteed payment and the percentage share in any additional revenues derived from optimization activities make the ConocoPhillips agreement more valuable for customers than would be likely achieved through a new RFP. Furthermore, National Grid said that if a new RFP process were undertaken, ConocoPhillips would have been provided with the opportunity to step away from the current contract and bid on the RFP based on prevailing market conditions.

Although the DPU took issue with several of National Grid's arguments, it ultimately approved a one-year extension of the ConocoPhillips agreement.

However, the Department stressed that should National Grid decide to engage in a full outsourcing or co-management arrangement of its resource portfolio for 2011-2012, it must engage in the processes identified in D.P.U. 08-111. Specifically, National Grid, "should file a new proposal that is (1) tested through a fair, open, and transparent competitive solicitation process, and (2) contains a margin sharing mechanism that either mirrors, or provides greater benefits to ratepayers than, the margin sharing arrangement established in D.P.U. 93-141-A," the DPU said.

Furthermore, National Grid shall file with the DPU, no later than May 16, 2010, a copy of the RFP it intends to issue. In addition, a petition for approval of a full outsourcing or co-management arrangement for 2011-2012 must be filed with the Department no later than November 1, 2010. Alternatively, if National Grid intends to manage the portfolio internally beyond March 31, 2011, it shall advise the Department of this intention by November 1, 2010.

In future years, if National Grid intends to enter into a full outsourcing or co-management arrangement it shall: (1) file its petition no later than 120 days prior to the requested commencement date of the applicable agreement; and (2) file a prospective RFP no later than 150 days prior to the filing of the petition, the DPU directed.

Industrials Oppose AEP Utilities' Proposed Restrictions on PJM Demand Response Participation

"AEP-Ohio is seeking to either hold customers hostage to inferior demand response programs available through AEP-Ohio or impose conditions or limitations on mercantile customer's abilities to commit their capabilities towards AEP-Ohio's peak demand reduction obligations," Industrial Energy Users-Ohio charged in comments on the AEP utilities' proposal to limit Standard Service Offer customers' participation in PJM load response programs and to revise their own tariffed curtailment programs under Rider ECS (10-343-EL-ATA).

As only reported in *Matters*, Ohio Power and Columbus Southern Power have petitioned the Public Utilities Commission of Ohio to prohibit Standard Service Offer customers from participating in demand response programs offered by PJM except where customers agree to commit their load reductions to the AEP companies' Peak Demand Reduction benchmarks required by Ohio law (Only in Matters, 3/22/10). The petition does not impact the ability of customers on competitive generation supply to participate in PJM's demand response programs, a point IEU-Ohio noted in its comments.

"IEU-Ohio suspects AEP-Ohio's indifference is the result of the PJM rules applicable to FRR [Fixed Resource Requirement] plans. As noted above, because of its FRR election, AEP-Ohio must count the load of all customers (including shopping customers) within its footprint, except those customers taking service under AEP-Ohio's interruptible rate schedules, as firm load for the purpose of complying with PJM's FRR alternative. Under the FRR plan, when customers switch to a [competitive retail] provider, the [competitive retail] provider must obtain and pay AEP-Ohio for generating capacity at the corresponding RPM auction clearing price for the relevant delivery year," the industrials noted.

IEU-Ohio further said that the AEP companies' arguments that allowing SSO customers to participate in PJM's demand response programs, rather than in AEP's tariffed program, will impose costs on other customers, "stretch credibility at best."

"AEP-Ohio's retail rates under its [electric security plan] do not explicitly reflect any costs AEP-Ohio may incur (or revenue they may collect) under the FRR alternative," industrials said. "More importantly, AEP-Ohio completely ignores what AEP-Ohio proposes to treat as a 'cost' under its amended ECR Rider. As previously noted, under its amended ECR Rider, AEP-Ohio would pay customers a negotiated amount equal to no less than 80% of the RPM auction prices for the current delivery year and 80% of the relevant LMP. Rather than recognizing that customers on the amended ECR Rider would be paying a lower net price in exchange for a lower quality of service, AEP-Ohio is proposing to treat these payments to customers as a 'cost' that it would recover from other Ohio customers. Not surprisingly, AEP-Ohio also ignores that if customers elected service under the amended ECS Rider it would free up AEP-Ohio's generating capacity that could be sold," IEU-Ohio added.

Finally, while the AEP companies characterized the question of SSO customer participation in PJM demand response programs as unresolved, IEU-Ohio pointed to PUCO's electric security plan order as affirming the Commission's, "decision not to prohibit AEP-Ohio's SSO customers' from participating in PJM's DRP at this time."

Mirant-RRI ... *from 1*

The combined firm's portfolio, by dispatch type, will be 59% controlled coal, 25% uncontrolled coal, and 13% natural gas.

Under the terms of the merger agreement, Mirant stockholders will receive a fixed ratio of 2.835 shares of RRI Energy common stock for each share of Mirant common stock they own. The ratio reflects an at-market transaction based on the volume-weighted average price for the preceding 10 trading days. The transaction values Mirant at $16.1 billion.

Upon closing, which is expected before the end of 2010, Mirant stockholders will own approximately 54% of the equity of the combined company and RRI Energy stockholders will own approximately 46%.

Edward Muller, chairman and chief executive officer of Mirant, will be chairman and chief executive officer of the combined company until 2013, when he plans to retire. Mark Jacobs, president and chief executive officer of RRI Energy, will be president and chief operating officer of GenOn and will serve on its board. Jacobs is to succeed Muller as CEO in 2013.

The GenOn Board of Directors will be comprised of 10 directors, with five members of the current Mirant Board and the five members of the current RRI Energy Board.

Columbia ... from 1

Finally, the suppliers will investigate whether Columbia is appropriately calculating its uncollectibles percentage, and in particular, the method by which Columbia accounts for late payment fees in the calculation of its uncollectibles expense.