Energy Choice Matters

April 20, 2010

Just Energy to Acquire Hudson Energy Services for $304.2 million

Just Energy has signed an agreement to acquire Hudson Energy Services for $304.2 million (U.S.), subject to working capital adjustments, executing on its previously announced strategy to grow through accretive combinations.

Just Energy anticipates that associated transaction and financing costs will bring the total purchase cost to approximately $330 million (Canadian).

Just Energy, primarily a mass marketer, intends for the acquisition of Hudson to significantly enhance Just Energy's growth in the small to mid-size commercial energy marketing segment in North America. Hudson is primarily focused on the small to mid-size commercial customer market in New York, New Jersey, Illinois and Texas.

Additionally, Hudson has built its book relying on indirect sales through ABC channels, an area where Just Energy has not been active, instead relying on its direct sales force of contracted agents. In particular, Just Energy cited Hudson's internal broker portal as providing a more efficient selling process, and a technology which can be replicated in Just Energy's other markets.

Hudson's book includes 35,000 commercial and 115,000 residential customer accounts. Just Energy reported that Hudson's Residential Customer Equivalents as of December 31, 2009 were 591,200 commercial RCEs and 95,300 residential RCEs. When combined with Just Energy's 2.28 million RCEs as of December 31, 2009, the acquisition would give Just Energy about 2.967 million

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ComEd to Delete Meter Number Requirement for Switches, Customer Info Requests

Commonwealth Edison has proposed deleting the requirement that a meter number must be provided in order to validate switch requests (DASRs) and customer information requests, as part of its pending Purchase of Receivables program, ComEd said in direct testimony supporting its previously filed tariff sheets (10-0138, Only in Matters, 1/26/10)).

Currently, a retail supplier must include the 10-digit account number and the 9-digit meter number to request either a switch or historical usage data. Incorrect meter numbers, however, represent the number one reason why a DASR or data request is rejected, ComEd said, which is usually because a meter was recently exchanged and now has a new number, or because of a data entry error. Accordingly, ComEd agreed to drop the meter number requirement.

The proposed deletion of the meter number requirement would not be memorialized in any tariff sheet, but would be reflected in the ComEd retail supplier handbook and customer handbook prior to completion of the POR case, ComEd said.

As only reported in *Matters*, ComEd's POR program would discount supplier receivables at a customer group-specific discount percentage based on Rider UF (ComEd's bundled supply uncollectible rider), plus a flat discount of 50¢ for each utility consolidated bill issued for a supplier, to recover implementation and administrative costs related to both POR and utility consolidated billing. In its testimony, ComEd projected POR costs at approximately $15.8 million, of which

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Briefly:

MXenergy Receives Md. Electric License

The Maryland PSC granted MXenergy an electric supplier license to serve residential, commercial and industrial customers at the four investor-owned utilities (Only in Matters, 3/4/10).

Ridgecrest Energy Advisors Seeks Texas Aggregation License

Ridgecrest Energy Advisors LLC applied for a Texas electric aggregation certificate to pool residential, commercial and industrial customers. Ridgecrest is a full-service energy consultant also offering energy efficiency, lighting retrofit, load response, and green options in addition to brokered supply.

Integrity Communications Seeks Conn. Aggregation License

Integrity Communications of Ohio, LLC applied for a Connecticut electric aggregator certificate to serve commercial, industrial, municipal, and governmental customers in all service areas. Integrity began as a telecom sales agent which branched into energy in 2008, with energy now accounting for 50% of its revenues. Integrity Communications said in its application it does not offer aggregation programs, which will likely prompt dismissal of its application since non-aggregating brokers do not currently require Connecticut licensure (and agents of suppliers cannot be registered as aggregators).

Eneractive Solutions Seeks Md. Broker Licenses

Eneractive Solutions applied for Maryland electric and natural gas broker/aggregator licenses to serve all classes of customers in all service areas (except Choptank Electric Cooperative). Eneractive Solutions is a full service energy engineering and project development company that includes a commodity supply division led by Cole Maccioli, formerly of Reliant Energy and Hess.

WGES Wins Delaware Electric Supply Pool

Washington Gas Energy Services has won a contract for over 800 million kWh with the State of Delaware and other public agencies brokered through World Energy Solutions. The 36-month contract commencing on July 1, 2010 is priced at 7.52¢/kWh, and includes 25% renewable energy. Also included in the aggregation were school districts, volunteer fire companies, New Castle County, Kent County, Sussex County, the University of Delaware, Delaware Technical and Community College, the Delaware Solid Waste Authority, and the Riverfront Development Corporation, along with other Delaware cities, towns and municipalities.

PUCT Grants Name Change for New Era Energy

The PUCT granted New Era Energy's request to amend its aggregator certificate to reflect the new name Electric Rate Adjusters. NextEra Energy Resources had objected to the name New Era Energy as too similar to its own (Only in Matters, 2/2/10).

Peevey Issues Updated Scoping Memo on Minimum Stay, ESP Bonding

California PUC President Michael Peevey has issued a revised scoping memo in R. 07-05-025 to address several direct access issues deferred from consideration when the Commission was working expeditiously to set the timeline for implementing the new direct access caps under SB 695. Among these issues is the appropriate minimum stay and notice requirements for customers returning to and leaving bundled utility service, which will now be addressed in the proceeding. Peevey noted that the current minimum three-year commitment and six-month notice requirements, as set forth in D.03-05-034, apply only to pre-existing direct access customers, and are not applicable to any bundled customers electing direct access service for the first time pursuant to SB 695. Additionally, the scope of the proceeding was expanded to include consideration of electric service provider security requirements to cover costs associated with involuntary returns of direct access customers to investor-owned utility commodity supply. Peevey noted that a proposed settlement addressing the bond requirement for community choice aggregators has been presented for the Commission's consideration in R. 03-10-003, and suggested that parties address such provisions in commenting on the appropriate ESP bonding level. However, issues relating to bond requirements for CCAs addressed in R. 03-10-003 will not be relitigated in the instant proceeding.

PECO Requests One-Time, Minimal Increase in Small Commercial Load Cap

PECO has petitioned the Pennsylvania PUC to amend its default service plan to permit PECO to increase the load cap from 65% to 67% for its spring 2010 default service procurement for the small commercial customer class in order to encourage increased bidder participation (P-2008-2062739).

PECO explained that in the spring 2010 procurement, only three tranches for the small commercial customer class will be available for bidding. Given the existing load cap of 65% of tranches available for a class in a particular auction, suppliers will be limited to bidding for only one tranche in the spring 2010 procurement, since awarding two of the three tranches (i.e., 67%) would exceed the load cap.

Increasing the load cap to 67%, and allowing a supplier to win two small commercial tranches, "will make the product more attractive to potential bidders and help achieve a more competitive price," PECO said.

PECO said that the issue arising in the spring 2010 procurement will not be present in other solicitations, and limited its request to the spring 2010 procurement. PECO said that no party to its default service settlement objects to its requested relief.

PECO requested that the Commission approve its petition and the amendment no later than the public meeting presently scheduled for May 6, 2010.

Illinois Suppliers, Businesses, ComEd Oppose Tenaska Plant

A coalition of Illinois retail electric suppliers, businesses, and industrial customers contended that the Tenaska Taylorville Energy Center would result in above-market costs in the hundreds of millions of dollars while resulting in a net loss of jobs, while Commonwealth Edison claimed that the Tenaska plant is inconsistent with the goals of the Clean Coal Act, in comments on Tenaska's cost report filed with the Illinois Commerce Commission (Matters, 3/3/10).

The STOP, or Stop Tenaska's Overpriced Power, Coalition filed an analysis from Christensen Associates Energy Consulting and argued that the Tenaska plant could cost Illinois customers an average of $386 million more per year in electricity, for the first thirty years of the plant's life, plus another $100 million annually if projected costs are higher, or revenues are lower, than the forecasts in the Tenaska report.

The STOP Coalition includes the Building Owners and Managers Association of Chicago; Chicagoland Chamber of Commerce; Chemical Industry Council of Illinois; Illinois Competitive Energy Association; Illinois Industrial Energy Consumers; Illinois Manufacturers' Association; Illinois Retail Merchants Association; Illinois State Chamber of Commerce; Mid-American Energy Company's Unregulated Retail Services Division; and PROactive Strategies, Inc.

The STOP Coalition further said that of the above-market amount, residential and small commercial customers are guaranteed to pay an average of $152 million per year regardless of future uncertainties. "The remaining $140 million to $244 million of this annual burden will be imposed on all other consumers -- businesses and other entities that provide jobs and services vital to the Illinois economy. This burden on business will result in a potential annual average loss of about 15,000 to 16,000 jobs (and the earnings, and income tax revenues that go with them) for decades," the Stop Coalition said, estimating lost earnings at $460 million annually. If the Tenaska plant fails to provide any of its promised CO2 reduction benefits, the costs will increase substantially and could lead to an average loss of between 27,000 and 35,000 jobs a year (along with their associated earnings) over decades, the Stop Coalition said contended.

ComEd noted that the Clean Coal Act contemplates that the emissions from a clean coal facility should generally be comparable to that of a similarly sized and located natural gas-fired combined-cycle facility (CCGT Facility).

"However, TEC will emit 50% more carbon dioxide ('CO2') and displace 50% fewer net CO2 emissions from other generating facilities than a CCGT facility. That is not moving toward attainment of the environmental goals of the Clean Coal Act," ComEd said, arguing that the high costs are not justified given such performance.

"Moreover, more than a third of the energy output of TEC that will be sold to Illinois consumers will be generated using natural gas that TEC purchases from the market. The use of such a large quantity of purchased natural gas in the generation of energy from TEC clearly undercuts the ability of TEC to contribute to the goal of demonstrating the viability of coal in a carbon-constrained economy. In addition, the proposed sale of energy generated by purchased natural gas at a huge clean coal premium is inconsistent with the Clean Coal Act, which requires only that utilities buy 'clean coal energy,'" ComEd added.

While Tenaska did not file a sourcing agreement with its cost report, it has circulated a draft sourcing agreement, and ComEd contended that the draft agreement fails to comply with various consumer protections in statute.

Among other things, ComEd said that the Tenaska sourcing agreement did not propose to incorporate the price, stated in cents per kilowatt-hour, that is to be approved and enacted into law by the General Assembly under the Clean Coal Act. "Instead, the sourcing agreement proposed charging an amount based on TEC's costs divided by the amount of energy delivered from the facility. This amount would vary monthly and would not be known in advance. In essence, Tenaska proposed a full cost recovery mechanism, not a per kilowatt-hour price. In fact, Tenaska's cost recovery did not even depend on the generation of energy by TEC. In any month in which TEC failed to generate even a single kilowatt-hour of electricity, it was to be deemed that one kilowatt-hour was delivered and all of TEC's costs for the month were allocated to that one kilowatt-hour. Thus, whether or not TEC generated a single kilowatt-hour of electricity over the thirty year term of the sourcing agreement, Tenaska was to be guaranteed full cost recovery," ComEd said.

"Similarly, the proposed Tenaska sourcing agreement ignores the statutory requirement of obtaining Commission review and approval prior to making any changes in the price for electricity under the sourcing agreement. The proposed sourcing agreement anticipates making annual changes in the price charged for electricity. Attachment D to the sourcing agreement sets out the process for implementing these annual changes. While that process acknowledges the need for Commission approval of the sourcing agreement prior to that agreement becoming effective, the Commission's role in approving any subsequent changes appears to be quite limited and secondary. The process includes providing the Commission's Manager of Accounting with a copy of the proposed changes. However, it does not provide for any Commission review or approval prior to the changes becoming effective. In fact, the process requires that the Commission or some other interested party initiate a proceeding at the FERC if they wish to challenge any of the proposed changes," ComEd added.

ComEd further claimed that the proposed Tenaska sourcing agreement, "effectively circumvents the cap on the amount of costs that can be charged to customers. The proposed sourcing agreement does limit the amount that utilities' bundled customers' rates can increase in any year to 2.015%, consistent with the Clean Coal Act. (Of course, other customers have no such price protection). However, any amounts from that year that are over the cap are accumulated and deferred for recovery in subsequent years. Then, when the sourcing agreement terminates, it provides that there shall be a final true-up adjustment in order to collect any remaining unrecovered costs. Thus, Tenaska is guaranteed full cost recovery, regardless of the final cost of TEC, and there is effectively no limit on the amount of those costs that customers must pay," ComEd said.

Comments in support of the Tenaska facility were filed by a host of local governments and politicians who cited the economic development and jobs benefits from the plant's construction.

Just Energy ... from 1

RCEs. Greater detail on the Hudson book is provided below.

Total Customer Base in RCEs (thousands) as of December 31, 2009

	Just Energy		Hudson	
	Comm.	Res.	Comm.	Res.
Canada				
Gas	249.1	509.9	-	-
Electricity	349.7	427.3	-	-
United States				
Gas	41.9	351.1	64.1	42.0
Electricity	136.5	214.5	527.1	53.3
Total	**777.2**	**1,502.8**	**591.2**	**95.3**

Just Energy said that the combined customer load after the acquisition will represents less than 4% of the market in the four states where Hudson operates. Furthermore, Just Energy reported that Hudson's annual customer attrition has been 5.5%, while Hudson's average customer life is 4.4 years, which is significantly longer than Just Energy's existing U.S. customer base.

According to Just Energy, Hudson recorded (all following figures Canadian) $714.2 million in sales for the 12 months ending December 31, 2009, resulting in $137.7 million in gross margin, $90.6 million in EBITDA and $75.5 million in Adjusted EBITDA. Approximately 30% of Hudson's customer revenue is derived from non-POR markets, Just Energy said. Hudson's bad debt in those markets for the calendar year 2009 was 1.5%, Just Energy reported.

Net income for Hudson was $66.3 million (Canadian) for the year ending December 31, 2009, Just Energy said.

Hudson employs 100 full-time and part-time employees. Hudson is privately held and backed by Lake Capital.

Closing of the acquisition is expected to occur on or about May 7, 2010. Just Energy is issuing $330 million of convertible debentures to fund the acquisition.

Inorganic growth has been a consistent strategy for Just Energy. In 2009 it acquired Universal Energy; in 2008 it acquired several books from distressed retailer CEG Energy Options, and in 2007 (as Energy Savings Income Fund) it acquired Just Energy Texas.

ComEd ... from 1

approximately $3.2 million relates to the purchase of receivables and roughly $12.6 million relates to billing system modifications. ComEd also estimates that it will incur additional operational costs of approximately $50,000 annually as a result of POR implementation, which includes, for example, supporting the processing of daily EDI 820 payment transactions to each supplier on Rider PORCB.

ComEd, the Retail Energy Supply Association, and Illinois Competitive Energy Association have signed an agreement assenting to the discount rate methodology, as well as the all-in/all-out requirement applicable to the residential class only. However, the agreement provides that if total POR usage reaches 150,000 bills per month, the all-in issue shall be revisited via the stakeholder process. ComEd further said that the Citizens' Utility Board has also agreed, though less formally, to using an all-in/all-out requirement for the residential class only.

The previously reported requirement allowing customers under 100 kW to rescind a supply contract via notification to ComEd at least five days before the effective date of the switch is also an outgrowth of an agreement with CUB, ComEd said. Customers 100 kW and larger will not be permitted to rescind their contract by contacting ComEd directly.

ComEd, which is targeting a December 2010 POR implementation date, said that it expects to begin supplier testing for POR and associated new EDI transactions in July. All suppliers must be re-certified due to the EDI changes, ComEd said.