Energy Choice Matters

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Constellation NewEnergy Pilots Residential Products in Select Markets

Constellation NewEnergy is, "piloting residential retail offerings in markets where the existing headroom supports customer switching," Constellation Energy CEO Mayo Shattuck said during an earnings call.

As previously reported by *Matters*, Constellation, via BGE Home and branded as Constellation Electric, has begun offering a residential electric product at Baltimore Gas & Electric (Matters, 1/13/10). Though Shattuck said Constellation is piloting residential offers in "markets," the BGE service area is the only electric market which appears on the BGE Home/Constellation Electric website (BGE Home has offered residential gas service in Maryland for some time). No Constellation residential electric offer appears on either the New York or Connecticut official price comparison websites, where price reporting is mandatory. Constellation also does not have a residential electric offer on the Texas or Pennsylvania price comparison websites, though reporting is not mandatory in those markets.

The NewEnergy subsidiary reported adjusted earnings of $109 million for the first quarter of 2010, versus an adjusted loss of $30 million a year ago. The growth in adjusted earnings was primarily driven by costs related to de-risking the business in 2009 and improved retail power margins during 2010, plus the positive benefit of the novation of contracts related to Constellation's legacy U.K. coal and freight business. On a GAAP basis, NewEnergy's earnings were $108 million, versus a loss of

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No Vote on Connecticut Energy Legislation This Weekend

Opponents of a last-minute and wide-reaching Connecticut energy bill were able to delay an expected vote on the legislation until today at the earliest, as the Connecticut DPUC has expressed concerns about several provisions in the mammoth proposal. The legislative session ends on May 5.

The DPUC is circulating an amendment which would contain some changes to lessen the bill's impact on retail suppliers.

Aside from the opposition from retail suppliers and power generators, the Connecticut Business and Industry Association has opposed parts of the bill calling for greater spending on renewable energy and granting regulators the authority to leave ISO New England, while distribution utilities have raised concerns with various parts of the bill that would expand oversight of their earnings.

And Gov. M. Jodi Rell has now expressed reservations about the bill, largely due to the unanswered concerns of the DPUC, with her Staff raising the possibility of a veto.

The legislation is still fluid, but based on the latest copy procured by *Matters*, the bill would impose an assessment on electric suppliers, on a pro rata basis, for any services provided by the electric distribution companies to suppliers (such as billing and the referral program).

The bill would require that the customer receive a written contract prior to any type of enrollment authorization, including telephonic enrollments.

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DPL Energy Resources Retains Nearly 100% of Migrated Sales in Affiliate Service Area

DPL Energy Resources accounted for approximately 720 million kWh of the total 723 million kWh supplied by competitive retail electric providers within Dayton Power & Light's service territory in the quarter ending March 31, 2010, DPL Inc. said during an earnings call.

Although there was a slight increase in the amount of migration to unaffiliated competitive suppliers, such migration represented less than 0.1% of sales during the quarter. Through April 22, DPL Inc. said that 116 accounts have switched to an unaffiliated supplier representing about 0.2% of load, or total annual revenues less than $1.5 million.

DPL Energy Resources has about 20% of load at Dayton Power & Light, and expects to grow that to around 25% this year. Margins earned from sales by DPL Energy Resources are slightly lower than margins earned from electric security plan sales by Dayton Power & Light, DPL Inc. said.

DPL Inc. continues to closely monitor an increase in competitive activity at Dayton Power & Light, reporting that during the quarter one additional unaffiliated competitive supplier registered to provide service in the territory, bringing the total number of unaffiliated suppliers to seven.

As only reported by *Matters* (Only in Matters, 2/15/10), DPL Energy Resources began marketing electric supply to business customers in the non-affiliated service areas of Ohio during the first quarter. DPL Inc. does not expect the incremental costs and revenues of such activity to have a material impact on its results of operations, financial position, or cash flows.

PPL Electric Requests to Assign ARRs to Wholesale Suppliers

PPL Electric Utilities has petitioned the Pennsylvania PUC to allow it to assign prorated Auction Revenue Rights (ARRs) to winning wholesale suppliers under its 2011-2013 default service plan on a prospective basis.

Under the 2010 competitive bridge default service plan, PPL assigned ARRs to wholesale suppliers, and PPL noted that such assignment occurs under the post-transition period default service plans at PECO, Met-Ed and Penelec.

When PPL drafted its 2011-2013 default service plan, it struck the assignment of ARRs to wholesale suppliers. While assignment of ARRs was simple for the one-year term of the 2010 bridge plan, PPL initially believed that allocating ARRs under its layered procurements for 2011-13, in which a portion of wholesale supplier contracts are replaced quarterly, would be complicated given the annual allocation of ARRs from PJM.

PPL originally believed that retaining ARRs, and using the proceeds to credit default service customers, would be simpler. PPL stressed that it never intended to manage an ARR portfolio, and intended to simply pass through ARR revenues to customers, since it lacks the expertise to efficiently manage congestion risk on behalf of its customers.

"However, upon further analysis, PPL Electric concluded that rights to ARRs are more appropriately allocated to wholesale suppliers," since such suppliers assume congestion risk under the full requirements master supplier agreements, PPL said. By assigning ARRs to wholesale suppliers, these suppliers will be provided with another tool to hedge congestion risk, and incentivized to optimize their ARR allocation.

PPL's proposed language for assigning ARRs to winning bidders prospectively on a pro rata basis mirrors the language used in its competitive bridge plan. The modification would not affect procurements for the 2011-13 period which have already been conducted.

PPL asked that the PUC approve its request by its June 16 meeting, so the modification may be in place for the July 20 procurement.

Calif. Draft Would Extend Year One Direct Access Open Enrollment Window

A proposed California PUC decision would grant a petition from retail suppliers and other parties to extend the Year One direct access Open Enrollment Window to accommodate the potential enrollment of wait-listed customers (R. 07-05-025, Only in Matters, 3/29/10).

As only reported by *Matters*, operation of the current Year One direct access timeline results in the Open Enrollment Window closing June 30, 2010, while providing customers accepted onto direct access until July 5, 2010 to submit a direct access service request. In other words, the Open Enrollment Window will close before the deadline for submitting a direct access service request for customers whose Notices of Intent were accepted. This precludes customers on the wait list from taking advantage of any room which opens up under the Year One cap if customers fail to submit a direct access service request.

The proposed decision would accept the proposed modification from retail suppliers, Southern California Edison and TURN to extend the Open Enrollment Window until July 15, 2010 to accommodate these wait-listed customers. Furthermore, with the extension of the window, the draft decision would, as requested, delay the start date for submitting six-month Notices of Intent to leave direct access for Year Two of the transition period until July 16, 2010, meaning that the phase-in of direct access load in Year Two will commence on January 16, 2011 rather than January 1, 2011.

The proposed decision dismisses San Diego Gas & Electric's alternative proposal which would have maintained the July 1, 2010 start date for the six-month Notice of Intent period for Year Two direct access, but would have allowed utilities to accept wait listed customers' enrollment under Year One after the close of the Open Enrollment Window on June 30. The draft decision agreed that by not extending the start date for the Year Two Notice of Intent period, SDG&E's proposal would require wait-listed customers to make an uniformed choice between either remaining on the Year One wait list (without knowing if there is room available), or opting off of the wait list and submitting a six-month Year Two Notice of Intent, because the utilities' backoffice systems do not permit a customer to appear on both the wait list and Year Two Notice of Intent list.

PUCT Issues REP Change in Control Proposal for Comment

The PUCT approved for comment a proposal for publication that would limit REPs to a single trade name, and would require REPs to seek pre-approval for mergers, acquisitions and other changes in control (37685).

There was little change in the proposal issued for comment versus Staff's draft as exclusively reported by *Matters* last week (see Matters, 4/26/10 for full discussion).

Generating most discussion among Commissioners was whether the REP certification form should require applicants to disclose whether their principals have ever been charged with a felony or misdemeanor, rather than only asking if the principals have been convicted (or otherwise settled) such a charge. Staff said that their proposed requirement to list all such charges is based on the SEC broker-dealer registration form, and is appropriately broad to provide information to Staff in evaluating an applicant's background.

Chairman Barry Smitherman questioned if requiring the reporting all charges was appropriate in cases where the applicant is cleared, or the charges are otherwise dismissed. Commissioner Kenneth Anderson noted, however, that simply requiring applicants to report any history of charges does not automatically disqualify them as an applicant, but merely facilitates Staff's investigative duties.

Briefly:

Direct Energy to Offer Prepaid AMS Product

Direct Energy has submitted to the PUCT a statement of intent to provide retail electric services using a customer prepayment device or system. Direct's filing was confidential, and Direct is not releasing at this time pricing or other details regarding its product, other than it will be based the installed advanced meters. Jim Steffes, Direct Energy's vice president and general manager for Texas, told *Matters* in a statement that, "Direct Energy's ambition is to use the opportunity opened-up by the deployment of smart meter technology in Texas, to offer its customers greater choice and flexibility in the way in which they pay for and manage their electricity usage. This is the next big step for Direct Energy in delivering new and innovative products for its customers in Texas, which in the future will lead to a new way to buy electricity, without having to pay a deposit, sign-up for a contract or wait to pay bills monthly."

TLSC, ROSE Seek Hearing on Deferred Payment Plan Rulemaking

Texas Legal Services Center and Texas Ratepayers' Organization to Save Energy have requested a hearing on the PUCT's rulemakings concerning deferred payment plans and related issues (36131), and critical care designations (37622). Both hearings would be on May 17.

PUCT's Smart Meter Testing Finds 100% Accuracy Thus Far

The PUCT's independent testing of advanced meters has verified that all 1,400 pre-deployment smart meters tested to date meet industry standards for accuracy. Additional pre-deployment smart meters will be tested, while meters which have already been deployed will also be tested, along with on-site testing of deployed meters at Oncor.

Financial Marketers Say Higher MISO Prices Result from Virtual Trading Decline

The decline of virtual trading and associated decrease in competition in the Midwest ISO are a primary reason for MISO's increasing costs in a declining price environment, several financial marketers told FERC in requesting expedited action on several outstanding Revenue Sufficiency Guarantee dockets. "In other organized wholesale electric markets like PJM and the New York ISO, electricity prices have fallen approximately 45 percent and 61 percent, respectively, since 2008, largely due to low fuel costs. Yet, while low coal and natural gas prices prevail in MISO as well, the price of electricity for consumers in the MISO footprint has actually increased 6 percent since 2008, as reported in the latest quarterly report of MISO's Independent Market Monitor," the financial marketers said. "It is clear that a primary reason for the high electricity prices in MISO is that high RSG charges and regulatory uncertainty have eliminated competition. As MISO's IMM has found, virtual supply offers in MISO have declined 60 percent and virtual demand bids have now fallen 38 percent in the last quarter alone, and these declines are largely attributable to the high RSG charges and regulatory uncertainty," the financial marketers added (EL07-86 et. al.).

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$247 million a year ago.

Adjusted gross margin at NewEnergy for the first quarter was $331 million versus $138 million a year ago. Revenue was $2.35 billion, versus $3.14 billion a year ago.

Shattuck reported that during the first quarter, the NewEnergy segment continued to generate "strong" new business with retail margins averaging at the upper end of the targeted range of $5.00 to $7.00 per MWh. The cash flows and earnings associated with these new contracts will be recorded over their duration which averages about 18 months.

For all retail power, gross of collateral costs, gross margin for the first quarter was just shy of $8/MWh, while gross margin for retail gas was about 20¢/Dth.

The current low commodity price environment has reduced the NewEnergy segment's contingent and other capital requirements, "which means that we are able to grow new business volumes without a significant impact on the current balance sheet and liquidity profile," Shattuck added.

"This segment will help offset the negative impact of lower commodity prices on our Generation segment's earnings. Additionally, since NewEnergy is the segment with the higher return on equity, the associated earnings and cash flow growth will also play an important role in sustaining our FFO [Funds From Operations] levels and insulating our credit metrics," Shattuck said.

"Over the longer term, as power prices rebound, we will expect the contingent and other capital requirements of NewEnergy to increase, [and] maintaining and growing volume levels in a higher priced environment is dependent upon a more efficient capital means to hedge the business. In a higher priced environment physical generation provides a collaterally efficient hedge to the load business. The long term role generation plays in sustaining our NewEnergy business is one reason why acquiring additional generating assets in the current environment is a high priority," Shattuck told investors.

The previously reported acquisition of 1,100 MW of generation from Navasota in ERCOT will reduce NewEnergy's net load position by approximately 21% in 2011 (from 12.1 TWh to 9.6 TWh), Shattuck reported. The dispatchable Navasota units will provide a risk management benefit to the NewEnergy business by allowing NewEnergy to manage and mitigate the risk associated with ERCOT price spikes, while providing valuable ancillary services for its load business. Shattuck also said that the 275 MW expansion capability at each of the Navasota assets is not currently economic, but provides an opportunity for further load balancing if conditions warrant.

Constellation CFO Jack Thayer added that, "the current commodity market and the lack of a capacity product means that new build economics will be challenging in Texas in the near future."

"At the same time, Texas has one of the lowest reserve margins in the country -- currently 22% and it's expected to decline to 10% by 2015 according to ERCOT's estimates ... Accordingly we would expect to see longer term spark spread expansion required to support new build economics," Thayer said.

Shattuck also affirmed that the Northeast and Texas continue to be the highest priorities in Constellation's efforts to acquire generation to match its NewEnergy load. "We think that during the course of the year there are going to be some opportunities that arise in those regions," Shattuck said.

Constellation also provided investors with a current breakdown of its NewEnergy product lines. Customer power and gas sales, both retail and wholesale, account for approximately 70% to 80% of the total NewEnergy business mix.

Customer services and solutions such as energy efficiency, automated demand response, behind the meter solar, and energy audits represent a total of approximately 10% to 15% of NewEnergy's total business mix. Constellation affirmed plans to grow this segment of its business.

NewEnergy's upstream gas business, consisting of six fields with proven reserves of approximately 280 Bcf, primarily located in the Woodford basin, account for 10% to 15% of its business mix. The assets provide an effective hedge to approximately 30% of its overall gas needs in 2010 and also provides a collaterally efficient means to offset the impact of changing gas prices on the Generation fleet.

Adjusted earnings for Constellation's Generation segment were $89 million, versus $96 million a year ago. The decrease reflects the sale of 50% of its nuclear assets to EDF, partially offset by lower interest expenses due to the retirement of the EDF preferred stock in conjunction with the close of the sale. As Generation is fully hedged in 2010, the quarter's decline in spot prices did not have a material impact on first quarter earnings.

Adjusted Generation gross margin was $245 million versus $572 million a year ago. Generation's revenue was $580 million versus $791 million a year ago.

Generation's GAAP earnings were $27 million for the quarter, versus $42 million a year ago.

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Contracts would require a comparison between the supplier's rate and the customer's, "current electric generation services costs." As written, this would apply regardless of whether the customer was on default service, and thus would require a comparison to another supplier's existing rate for customers served by another competitive supplier, which, unlike default service rates, are not readily know. All advertising and price disclosures by a supplier would also have to disclose the electric distribution company's current charges.

The three business day rescission period applicable to mass market customers would be extended to all customer classes under the bill.

Under the bill, "[a]ny third-party agent who contracts with or is otherwise compensated by an electric supplier to sell residential or commercial electric generation services shall be a legal agent of the electric supplier." The supplier or agent, in all solicitations, would be required to state that the agent does not represent an electric distribution company.

Residential termination fees would be capped at the lower of $100 or twice the estimated bill for energy services for an average month.

The bill would also mandate that each electric supplier offer a time-of-use rate option to customers that provides for a peak rate of at least a five hundred per cent increase in the standard non-peak use rate. The peak period shall be not more than four hours in any twenty-four-hour period.

The bill would authorize the procurement of default service supplies using a managed portfolio with a mix of contract lengths and product types (e.g., products aside from full requirements contracts).

The state's integrated resource plan shall provide options to reduce the price of electricity by 15% by July 1, 2012, and maintain at least such decrease for another five years. Such options may include the procurement of new sources of generation. In reviewing new sources of generation, the plan shall determine whether the private wholesale market can supply such additional sources or whether state financial assistance, long-term purchasing of electricity contracts, or other interventions are needed to achieve the goal.

The bill would require the DPUC's replacement, the Connecticut Energy and Technology Authority, to establish target clearing prices for electricity generation in Connecticut before August 1, 2010. The target clearing prices shall reflect the estimated electricity costs on July 31, 2011, as if ISO New England made the following electricity market changes: (1) created a separate bidding process for the baseload, intermediate and peaking components of the electricity markets; (2) adopted a pay-as-bid system; and (3) required immediate public disclosure of the names of any bidders whose bid price exceed $300 per megawatt-hour upon submission of such bid.

If the target clearing prices are not met by July 31, 2011, the Connecticut Energy and Technology Authority could require one or both utilities to leave ISO New England and join PJM or the New York ISO. Additionally, the Connecticut Energy and Technology Authority could compel the utilities to enter into long-term contracts with new or existing generation if the target clearing prices are not met. Finally, the Connecticut Energy and Technology Authority shall study the potential for a Connecticut-only ISO.

More than 20 energy suppliers and generators, representing more than 3,400 employees in Connecticut, urged legislators in a letter to oppose the rushed and far reaching bill, as the legislation will, "lessen competition and increase the cost of electricity for Connecticut consumers." Suppliers also conducted a full scale newspaper and radio advertising blitz over the weekend.

Meanwhile, a New England Energy Alliance (NEEA) survey found that 88% of Connecticut consumers either strongly favor (45%) or somewhat favor (43%) electric competition.

The survey found that 75% of consumers favor maintaining a requirement that electric companies provide information to consumers on how to choose alternative electricity suppliers, while 83% of customers expressed a preference for consolidated billing rather than dual billing.

Some 75% of respondents said that it was extremely important that the legislature focus on job creation and economic development, while just 24% had the same feeling about additional regulation of electric companies, NEEA reported.

A question about a state power authority drew mixed results. When asked whether buying electricity from a state-run authority is the best way to lower the price of electricity, versus competition among companies in the private sector, 76% said that competition among private companies is best way to lower price. However, when the question about the power authority excluded competition, and just discussed the authority's potential costs and benefits, support was higher. When presented with the following two statements concerning the authority, 53% agreed that a state-run electric authority would create needed jobs and save consumers millions, while 32% agreed that a state-run electric authority would require hundreds of state bureaucrats and billions of new state debt.

The telephone survey was performed for NEEA by Opinion Dynamics Corporation between April 14-21 among 241 registered voters in Connecticut as part of a broader, region-wide survey. The margin of error on the Connecticut portion of the sample is ±6.3%