Energy Choice Matters

July 29, 2010

ICC Commissioners Express Concern with Tenaska Plant's Impact on Retail Suppliers

Illinois Commerce Commissioners yesterday expressed concern with the requirement that load serving entities be required to purchase output from the Tenaska Taylorville Energy Center clean coal plant, citing its potential to negatively impact the state's competitive retail market, while also expressing reservations regarding the overall cost of the project.

The ICC is to provide a report to the state legislature regarding the costs of the project, and lawmakers will make the final decision on whether to require load serving entities to purchase the plant's output.

Commissioner Erin O'Connell-Diaz said that requiring competitive electric suppliers as currently provided in statute to purchase output from the plant, without a cost cap, while distribution utilities will have their purchase obligations limited based on a cost cap, would, "kill our competitive marketplace." O'Connell-Diaz observed that the Commission has spent significant effort in building the state's retail electric market, and noted that Commissioners recently participated in the National Energy Marketers' Association Illinois retail forum.

Similarly, Commissioner Sherman Elliott called the asymmetric obligation for suppliers and utilities to purchase power from the plant in "direct conflict" with the mandate that the ICC develop retail competition under the Public Utilities Act.

Commissioner John Colgan echoed both O'Connell-Diaz's and Elliott's concerns regarding the impact on competitive suppliers, and also faulted the proposed plant's construction as transferring all risk to consumers.

Chairman Manuel Flores agreed that the Commission would have to "flesh out" the impact of the

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Direct Energy Operating Profit More Than Doubles

Direct Energy now has over 50,000 residential energy customers in Pennsylvania, parent Centrica said in reporting interim half-year results, which saw Direct Energy's operating profit more than double. Centrica also confirmed that it purchased prepaid provider REPower at the end of April.

Direct Energy recorded a half-year operating profit of £139 million, up 111% from £66 million a year ago, in part reflecting the absence of a 2009 one-time write-off of final debt balances in Texas. On an underlying basis, profit was up 25%, and was up 29% on a constant currency basis, with the improvement in the downstream business more than offsetting the impact of low commodity prices upstream. Revenue was down 9%, and down 11% on a constant currency basis.

Centrica said that its North American downstream supply businesses are achieving rates of return considerably in excess of its cost of capital.

Operating profit for Direct Energy's residential supply segment was £110 million, versus £46 million a year ago. The year-ago total includes a one-off debt write-off of £45 million. Underlying profitability excluding the impact of the write-off was up 25% on a constant currency basis. Revenue

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Constellation NewEnergy Reports Strong Sales in Second Quarter

Constellation's NewEnergy segment reported adjusted earnings of approximately $44 million for the quarter ending June 30, 2010, versus $127 million a year ago, reflecting the reduced scale of NewEnergy's wholesale business. The year-ago quarter also included a $58 million benefit from monetizing a wholesale contract that returned liquidity and accelerated earnings.

On a GAAP basis, NewEnergy earnings were $44 million for the quarter, versus a loss of $62 million a year ago.

Constellation reported a strong quarter for NewEnergy sales, with the retail unit exceeding forecasts for volume, gross margin originated, renewal and win rates, and equity returns on originated business. Additionally, NewEnergy's wholesale business purchased existing load service contracts, at attractive returns, from other integrated companies exiting the business.

NewEnergy maintained equity returns within the target range of 11% to 14% during the quarter, Constellation said.

Margins for new retail electric business compressed over the quarter, at $4.35/MWh for the second quarter and $5.54/MWh year-to-date. Margins for new retail business had been $8/MWh during the first quarter.

Constellation attributed the decline in margins for new business to its focus on larger customers, lower levels of market volatility, and increased competition.

During an earnings call, executives said that while these larger customers tend to be more competitively priced, they provide greater opportunity to market NewEnergy's multiple energy-related products and develop enduring customer relationships.

Over 40% of NewEnergy's business which was originated in the second quarter was from what Constellation termed the "absolute largest" customer class.

Margins for flowed retail volumes during the quarter were north of $6/MWh, said Kathleen Hyle, COO of Constellation Energy Resources. Hyle expects that realized margins in 2011 will be in the $5-7/MWh range.

For NewEnergy wholesale sales, average unit margins for new business were $3.21/MWh during the quarter, and $3.13/MWh year-to-date.

Average margin for new retail gas contracts signed during the quarter was 20¢/Dth.

NewEnergy saw customer renewal rates of 77% during the quarter.

Constellation's competitive business has approximately $1.3 billion in cash on hand as of the end of the second quarter. Constellation said that it is targeting a minimum cash balance of approximately $400 million to manage changes in working capital.

Of the remaining $900 million, Constellation plans to use approximately $400 million of cash to fund business opportunities and organic growth initiatives.

The remaining cash, approximately $500 million, is available for acquisitions, and Constellation affirmed its previously reported desire to match its load obligations with owned generation through acquisitions.

NewEnergy's revenue for the quarter was $2.39 billion, versus $3.01 billion a year ago. About 15% of revenue is from non-commodity products and services.

Gross margin for NewEnergy was $251 million, versus $397 million a year ago.

Constellation's Generation segment reported adjusted net income of $57 million, versus $77 million a year ago. GAAP earnings were $16 million, versus $62 million a year ago. The decline was driven primarily by the sale of 50% of Constellation's nuclear assets.

Generation posted gross margin of $198 million, down from $518 million a year ago.

Constellation CEO Mayo Shattuck said that "time is running out" for Constellation to receive a federal loan guarantee to continue with the third Calvert Cliffs nuclear unit. "We definitely can't keep spending without a near term commitment in the form of a loan guarantee," Shattuck said.

Dominion Retail Adds 100,000 Customers in Second Quarter

Dominion Retail reported earnings before interest and taxes (EBIT) of $13 million for the quarter ending June 30, 2010, essentially flat versus $14 million a year ago.

Dominion Retail operating revenue was $394 million for the second quarter of 2010.

Average customer count during the quarter ending June 30, 2010 grew by nearly 100,000 versus March 31, 2010, at 2.046 million, versus 1.954 million as of March 31, 2010, and 1.725 million a year ago. A gain of about 80,000 electric customers along with growth in products and services offset continued churn in natural gas accounts.

A breakdown of average customer count by product type is below:

	Q2 '10	**Q1 '10**	**Q2 '09**
Natural Gas	586,052	608,470	653,582
Electric	740,850	659,462	420,746
Products & Services	718,949	686,101	650,654

Dominion Retail volumes for the quarter were as follows:

	Q2 '10	**Q2 '09**
Natural Gas (mmcf)	13,830	14,790
Electric (MWh)	3,000,503	1,797,086

Earnings before interest and taxes from Dominion's Merchant Generation segment were lower at $179 million for the quarter, versus $333 million a year ago. Merchant Generation operating revenue for the quarter ending June 30, 2010 was $626 million.

UGI's Energy Services Earnings Tick Higher

UGI's Energy Services unit reported higher net income for the quarter ending June 30, 2010 of $5.5 million, a tick above the $5.1 million reported a year ago.

The Energy Services unit includes competitive retail supply, generation, and asset management.

Earnings were higher despite a small drop in margin due to the effect of lower tax expense that included the benefit of tax credits related to a recently completed solar project.

Total margin was $21.3 million, versus $23.0 million a year ago. The decrease in total margin reflects lower sales volume and lower unit margins in both electric generation and natural gas marketing partially offset by higher sales from retail power marketing and, to a lesser extent, an increase in margin contribution from asset management activities.

Operating income was lower at $6.9 million versus $8.6 million a year ago.

During an earnings call, executives said that UGI Energy Services has seen good success in expanding power supply offerings to its existing competitive natural gas customers. Given Energy Services' natural gas customer base is concentrated in PJM, executives called the expansion into greater retail power marketing a natural extension.

Energy Services also continues to focus on marketing to more small commercial natural gas users. Energy Services expects to end fiscal 2010 (September 30, 2010) with approximately 8,000 new small commercial gas customer locations added over the trailing 24-month period.

UGI Corp. has not yet filed a 10-Q.

Md. PSC Takes GSE, Great Lakes Applications Under Advisement as Staff Recommends Rejection

The Maryland PSC took under advisement the applications for electric and natural gas broker licenses of GSE Consulting, LP and Great Lakes Energy, LLC after each entity did not disclose a civil penalty levied against one of the companies' investors in the past 10 years during the application process.

Byron G. Biggs, a passive investor who was included in the technical competency section of the applications, was ordered to pay a civil penalty of $30,000 by the Commodity Futures Trading Commission in 2004 to settle several instances of alleged wash trades dating to 2000. Furthermore, Biggs was listed as a managing partner of one of the companies in a Pennsylvania broker application.

Biggs' penalty was not disclosed by any of the brokers in their Maryland applications, and was brought to Staff's attention by Norman Butts.

Staff issued data requests to the brokers to confirm the information. The brokers confirmed Biggs was subject to a no fault settlement, but said that he is not active in either GSE Consulting or Great Lakes Energy, nor is he an employee. During yesterday's administrative meeting, the companies also said that Biggs was not a managing partner of any of the companies, and his identification of such in an application and on their website was an error.

Furthermore, the companies said that the application's question regarding past penalties refers to violations of consumer protection laws, and argued that the CFTC does not fit such a definition.

Given these facts, the companies did not believe Biggs' situation was covered by the application's question requiring the listing of prior penalties, and apologized if their interpretation of the application's language was overly narrow.

However, despite responding to Staff's data requests concerning Biggs, the companies, in amendments to their application to cure other deficiencies, failed to reference the CFTC's sanction imposed upon Biggs.

"Staff is concerned about GSE's repeated omission of Biggs' CFTC sanction. The language in the General Affidavit is clearly applicable to Biggs' civil penalty imposed by the CFTC's. Even though Biggs did not admit fault, the Order specifically required Biggs to pay a civil monetary penalty. The Company was clearly aware of Staff's concerns about the Order, as reflected in the two (2) sets of data requests. While an initial omission of such a fact might be understandable, a second omission is questionable," Staff said in recommending that the Commission deny the applications.

ALJ Recommends Approval of UGI Gas Division POR Settlement

A Pennsylvania ALJ has recommended approving without modification a settlement that would institute a Purchase of Receivables program at UGI Utilities, Inc. - Gas Division (P-2009-2145498). The POR program is limited to UGI Utilities - Gas Division and would not include UGI Central Penn or UGI Penn Natural Gas.

The full terms of the settlement were first reported by *Matters* in our July 8 issue.

Briefly, the natural gas POR program would cover customers served under residential transportation rate schedule RT and under non-residential rate schedules NT and CT, excluding non-residential customers whose annual usage exceeds 1,000 Mcf per year.

Under the settlement, UGI would purchase residential receivables at a discount rate of 2.33%, reflecting an uncollectible accounts expense percentage of 2.19% and an administrative cost factor of 0.14%. Receivables from eligible customers on Rate Schedule NT and CT would be purchased at a discount of 0.50%, reflecting an uncollectible accounts expense percentage of 0.36% and an administrative cost factor of 0.14%.

The POR program is expected to be implemented in 18-22 months, after the completion of billing system modifications.

UGI would only purchase receivables representing commodity charges for basic natural gas supply services. The term excludes receivables for "carbon-neutral" products, appliance maintenance service, energy efficiency services, termination or cancellation fees, security deposits, or other products or services not directly related to the physical delivery of natural gas to retail customers.

Customer accounts that are billed for non-basic natural gas supply services would not be eligible for UGI's POR program.

Furthermore, suppliers would be subject to a class-specific all-in/all-out requirement, with one exception. Suppliers could continue to offer carbon-offset natural gas products (which are ineligible for POR) while selling their remaining receivables to UGI. UGI would also make utility consolidated billing available for such carbon offset products, even though such receivables would not be purchased by UGI.

As part of the all-in/all-out requirement, all of a supplier's accounts in a POR grouping (i.e. residential or non-residential) would have to be eligible for POR, aside from any carbon-neutral products. In other words, suppliers participating in POR for a customer class would not be allowed to offer services (even through dual billing) to that customer class if such services' receivables are not eligible for POR (aside from carbon-neutral products). The measure is meant to reduce potential cherry-picking, UGI said.

Additionally, the stipulation's proposed consolidated billing service with POR (CBS POR) agreement retains the originally proposed provision that customer accounts would not be eligible for POR, "if any affiliate of the Choice Supplier provides natural gas supply services on the Company's gas distribution territory but elects not to enter into a CBS POR Agreement with [the] Company applicable to the same customer classes designated by the Choice Supplier under this agreement or any amendment thereto." As previously noted by *Matters*, the term "affiliate" is not defined, and it is unclear if it extends to separately controlled suppliers which are affiliated by means of a common minority investor.

Per the stipulation, UGI would unbundle its supply-related uncollectibles from base rates and use them to set a bypassable Merchant Function Charge (MFC), which would be included in the Price to Compare. The MFCs, once the POR program is in effect, would mirror the POR uncollectible discount components.

UGI would only support rate ready billing under POR, and all supplier rates would have to conform to supported rate designs. UGI would support budget billing for competitive supply charges on its consolidated bills. For budget billing customers, payments to suppliers would still be based on actual billed supplier charges, less the discount rate.

ALJ Gives Nod to Settlement Under Which Columbia Would Cease Marketing Fixed Price Option

A Pennsylvania ALJ has recommended approving a settlement under which Columbia Gas of Pennsylvania would agree to cease making offers under Pilot Rider PPS (Price Protection Service) and agree not to renew the fixed-price tariff (R-2009-2149262).

The full terms of the settlement were first reported by *Matters* in our June 29 issue.

Pilot Rider PPS is a 12-month fixed offering from Columbia, which it began offering in March 2009. As of last fall, Columbia served approximately 2,000 residential and small business customers under Pilot Rider PPS.

Under the settlement, Columbia would agree to make no further offers under Pilot Rider PPS and agree not to seek to extend the Pilot Rider after the expiration of the initial two-year term, which concludes February 28, 2011. Columbia would be permitted to continue to serve existing customers until the expiration of their contracts.

Additionally, Columbia would agree not to engage in further mass advertisement of Rate NSS (Negotiated Sales Service), including radio, television, newspaper, and billboards. Columbia would still be permitted to offer Rate NSS, but would not use direct mail to solicit any Rate NSS-eligible customer that is taking service from a competitive supplier.

Columbia would be permitted to continue to promote Rate NSS on its website; however, any link could not be placed in a more favorable location than links to competitive supplier websites. As of last fall, Columbia served approximately 14 commercial and industrial customers under Rate NSS.

Settling parties agreed to make the unbundling of Columbia's commodity-related uncollectibles permanent (such unbundling had been undertaken on a pilot basis), with the uncollectible rate included in the Price to Compare updated to 1.66%.

Additionally, Columbia would agree to raise the volumetric limit under Rate SCD (Small Commercial Distribution) to 4,000 Mcf/year, from the current cutoff of 600 Mcf/year. This change would expand the Choice program to additional commercial customers who are currently only eligible for transportation service. Suppliers had said that Choice service is much simpler for smaller commercial customers than the transportation programs, and the expansion of Rate SCD will allow for broader participation of these small commercial customers who often do not have the wherewithal to participate in transportation programs.

For General Distribution Service (GDS) customers and suppliers, the Operational Flow Order/Operational Matching Order penalty charge will be reduced from $30/Mcf to $25/Mcf.

For the Choice program, Columbia will reduce the current penalty for Operational Flow Order/Operational Matching Order periods from $60/Mcf to $50/Mcf. For periods where there is not an Operational Flow Order/Operational Matching Order in effect, the Choice program penalty would be reduced from $40/Mcf to $25/Mcf.

Maine PUC Approves Standard Offer Rates

The Maine PUC approved new Standard Offer prices for medium and large commercial customers at Central Maine Power and Bangor Hydro-Electric for the period beginning September 1 as follows:

Central Maine Power

Medium Commercial ($/kWh)

Sep-10	$0.065270
Oct-10	$0.066630
Nov-10	$0.069030
Dec-10	$0.072030
Jan-11	$0.078280
Feb-11	$0.079030

Large Commercial ($/kWh)

Sep-10	$0.069346
Oct-10	$0.069908
Nov-10	$0.072812
Dec-10	$0.078016
Jan-11	$0.083796
Feb-11	$0.084894

Bangor Hydro-Electric

Medium Commercial ($/kWh)

Sep-10	$0.063270
Oct-10	$0.063270
Nov-10	$0.065520
Dec-10	$0.069270
Jan-11	$0.075020
Feb-11	$0.075270

Large Commercial ($/kWh)

Sep-10	$0.067000
Oct-10	$0.070000
Nov-10	$0.071250
Dec-10	$0.072500
Jan-11	$0.090250
Feb-11	$0.098750

Mass. DPU Authorizes Bill Protection in National Grid Smart Grid Pilot

The Massachusetts DPU has issued an order on National Grid's smart grid pilot which authorizes National Grid to offer bill protection to customers participating in opt-out pilots featuring dynamic generation rates (Docket 09-32).

Competitive suppliers had opposed bill protection since it would distort customer behavior under dynamic rates.

While recognizing bill protection will not mimic likely real-world conditions under dynamic rates, the DPU said that bill protection is necessary since it is integral to the proposed opt-out approach for the dynamic pricing program. "To ensure that the Company fully understands the effect that the bill protection provision has on customers' willingness to participate in the dynamic pricing program and participants' price responsive behavior, the Department directs the Company to evaluate these effects as part of its program evaluation efforts," the DPU ordered.

The dynamic pricing pilots are limited to customers taking basic service. Additionally, National Grid will be eligible to earn an incentive payment that would be calculated based on average bill savings realized by dynamic pricing program participants on the basic service portion of their bills. However, the DPU did establish a performance incentive cap of three percent of Grid's spending on the "customer-facing" (e.g. dynamic pricing and related efforts) components of its smart grid pilot program.

Consistent with its order at Nstar, the DPU held that dynamic pricing pilot costs shall be recovered only from basic service customers, but that distribution-related smart grid improvements shall be recovered from all distribution customers.

Briefly:

Ambit Energy Seeks Pa. Electric License

Ambit Energy applied for a Pennsylvania electric generation supplier license to serve residential customers and commercial customers under 25 kW in all service areas. Ambit Energy currently serves over 320,000 customers.

Integrity Communications of Ohio Receives Conn. Aggregator License

The Connecticut DPUC granted Integrity Communications of Ohio, LLC an electric aggregator certificate to serve commercial, industrial, municipal, and governmental customers.

DPUC Approves Settlement to Allow Drop of Delinquent FT Customers

The Connecticut DPUC has approved a settlement that allows gas marketers to drop delinquent customers from their supply pools during the initial 12-month firm transportation (FT) term without the potential for financial repercussions from the LDCs, such as failure to deliver penalties (06-04-04RE01). A full discussion of the mechanics may be found in our July 12 issue. The ability to drop a customer prior to end of the 12-month initial FT term would only be available for non-payment.

DPUC Approves United Illuminating Procurement

The Connecticut DPUC approved United Illuminating's recent procurement of Standard Service supplies for a portion of 2011 load and Last Resort Service supplies for October, November, and December 2010. New Last Resort Service rates are to be filed by August 17.

Illinois ... from 1

Tenaska PPAs on the Commission's responsibilities under the Public Utilities Act, including its duty to promote competitive markets.

Commissioner Lula Ford expressed several reservations about the plant's cost and transfer of risk to customers as well. Ford cited the Prairie State coal project, being undertaken by Peabody Energy and several municipals and cooperatives, whose cost has doubled to $4.4 billion prior to completion, and said customers must be protected from any potential cost overruns in the Tenaska plant.

Ford suggested that the ICC hold public hearings or sessions on the Tenaska plant, an idea echoed by O'Connell-Diaz and Elliott, as Elliott said that he would like to hear from competitive suppliers in a public forum regarding the plant, especially since more than half of the state's load is served competitively. Flores agreed, and directed Staff to convene a policy committee meeting on the Tenaska plant.

Elliott noted that the price for electricity from the Tenaska plant would be priced 4.5 times higher than the cost of on-peak power purchased in 2010.

Direct ... from 1

was down 6% to £1.37 billion, due in part to customer churn, as well as lower prices and consumption.

Direct's residential customer count fell by 5% over the first half of the year as it focused on retaining the most valuable customers, and tightened its acquisition criteria. Total residential energy supply customers were 2.945 million as of June 30, 2010, versus 3.075 million as of December 31, 2009, and 3.115 million a year ago.

In Texas, Direct has improved retention rates through an increased focus on value-based pricing, proactive outbound retention, and an improved understanding of the causes of churn.

Centrica said that Direct's tighter acquisition criteria have already produced benefits in reduced bad debt charges.

Centrica confirmed that it purchased the business and net assets of prepaid Texas retail electric provider REPower for total cash consideration of $5 million, part of Direct's effort to commercialize prepaid retail electricity in the North American market.

In the Northeast U.S., Direct is focusing on customer retention and acquisition in the most valuable customer segments, which resulted in attrition of some blocks of low value customers. Direct now counts 50,000 customers in Pennsylvania. Market conditions remain "challenging" in Ontario for electricity, Centrica said, where Direct is assessing the impact of recent consumer protection legislation, "that makes it more difficult to sell electricity contracts."

At Direct's business supply segment, first-half operating profit more than doubled to £44 million from £20 million a year ago, as a result of higher volumes and higher margins. Revenue was broadly flat, reflecting the lower commodity price environment.

Business electricity volumes were up 18% compared to the same period in 2009. Business gas sales were 361 mmth and electric sales were 18,280 GWh in the first half of 2010.

Following a first quarter in which business customers were holding back on signing new contracts as a result of wholesale commodity price uncertainty, Direct has seen a significant upturn in sales volumes in the second quarter.

The net margin on business energy supply improved to 3.3% from 1.5% a year ago, due to a lower cost base and disciplined customer acquisition.

Direct's energy services unit saw higher operating profit of £8 million, up from £3 million a year ago, on reduced costs.

Direct's upstream assets recorded an operating loss of £23 million, versus an operating loss of £3 million a year ago, due to the low commodity price environment. However, as asset prices fall, Direct will continue to look for opportunities to increase the level of vertical integration in its North American business in both gas production and power generation.