Energy Choice Matters

December 2, 2009

MC Squared Energy Services Purchases RRI Energy Illinois Book

MC Squared Energy Services (mc²) has purchased the Illinois book of RRI Energy, consisting of retail electric contracts with commercial and industrial customers in the Commonwealth Edison territory, and associated wholesale supply positions. Terms of the transaction were not disclosed.

As only reported by *Matters*, the RRI Illinois book has been held for sale, and was the last remaining vestige of the former Reliant retail business, whose Northeast/Mid-Atlantic operations were sold to Hess, and whose ERCOT operations were sold to NRG Energy (Only in Matters, 11/6/09). RRI reported $11 million in Illinois retail revenues for the quarter ending September 30, 2009.

The RRI Illinois book includes over 350 service accounts with a forecasted load of 750 million kilowatt-hours of electricity over the remaining term of the customer agreements.

Chuck Sutton, president of mc², called the RRI Illinois book a great fit for mc², which currently limits its marketing to ComEd commercial customers with annual usage above 15,000 kWh.

Sutton noted that there is still a large amount of commercial load served by ComEd available for suppliers, and pointed to the end of fixed price default service for existing customers in the 100 kW to 400 kW range effective May 31, 2010, as driving growth (as this class has been declared "competitive" by the Illinois Commerce Commission).

Serving load for less than one year, mc² provides electricity to over 1,000 non-residential

Continued P. 7

Cawley Expects FirstEnergy Solutions to Enter PPL Residential Market

Pennsylvania PUC Chairman James Cawley thinks that FirstEnergy Solutions will enter the PPL residential market in the near future, speaking during a media briefing on the expiration of rate caps organized by Constellation NewEnergy. FirstEnergy Solutions currently serves residential customers at Penn Power.

As previously reported, Dominion Retail, Direct Energy, Liberty Power, and Anthracite Power & Light are currently offering residential service. Washington Gas Energy Services (Only in Matters, 11/16/09), Gateway Energy Services, and Champion Energy Services have all said that they intend to enter the PPL residential market as well.

Cawley also said that aggregation may be the future of residential electric choice, and said that he has encouraged municipalities to entertain aggregation offers from suppliers, whether they be opt-in or opt-out.

During the briefing, Constellation said that it has affinity relationships with or is an endorsed provider of the Harrisburg Regional Chamber & CREDC, Lancaster Chamber of Commerce & Industry, Pennsylvania League of Cities and Municipalities, Greater Lehigh Valley Chamber of Commerce, and Association Of Independent Colleges & Universities Of Pennsylvania.

Ray Murphy, Manager of Major Accounts for PPL Electric, said that PPL sent letters regarding its transitional 12-month, fixed price offer to over 1,200 large customers considered to be major

Continued P. 7

NFG Distribution, OCA Oppose Proposed 10% Imbalance Tolerance in Pa.

The tolerance band applicable to natural gas supplier deliveries in Pennsylvania should not be as generous as the 10% level proposed in draft Pennsylvania PUC regulations, National Fuel Gas Distribution and the Office of Consumer Advocate said in comments on a rulemaking related to the PUC's SEARCH initiative to remove barriers to retail competition (L-2009-2069117).

As only reported in *Matters*, the proposed rulemaking would, among other things, require LDCs to use a standardized tolerance band permitting deviations in the volume of gas delivered by a supplier of no less than 10% of the volume nominated by the supplier, thus establishing a tolerance band that spans 90% to 110% of the volume of gas nominated (Only in Matters, 5/6/09).

The Office of Consumer Advocate called such a higher tolerance band unnecessary, especially given the much lower tolerance bands at the LDCs with the highest levels of customer migration: Peoples Natural Gas (4% tolerance band) and Columbia Gas (0%).

National Fuel Gas Distribution similarly argued that a 10% imbalance tolerance band was, "overly generous," especially since the proposed rule would require LDCs to support all four NAESB nomination cycles. "[C]reation of such a wide tolerance band is unnecessary, threatens system reliability, is subject to gamesmanship by [suppliers], and could dramatically impact customer costs," Distribution said.

Distribution further warned that suppliers could game such a large tolerance band by only delivering 90% of nominations on cold days, and oversupplying gas on hot days. Distribution argued that tolerance bands should be LDC-specific, noting that it currently has a 2% band for Small Aggregation Transportation Supplier Service, and a 5% band for Monthly Metered Natural Gas Supply Service, and rarely imposes penalties even with those narrower bands.

However, the Retail Energy Supply Association said that a 10% tolerance band, "strikes the proper balance between encouraging responsible [supplier] behavior with respect to nominations and deliveries while, at the same time, ensuring sufficient flexibility to account for variables outside a [supplier's] control that affect balances."

RESA further said that imbalance penalties should only be applied after performing a system-wide reconciliation, and that imbalances in the opposite direction of the system-wide imbalance should not be penalized. For example, a supplier delivering more gas than nominated during a system shortage condition would actually be benefiting, rather than harming, system conditions, RESA noted.

Under the proposed rules, cash-outs for imbalances outside the 10% tolerance band would have a 110% multiplier applied for under-deliveries and a multiplier of 90% for over-deliveries. RESA called the penalty structure reasonable and appropriately designed to deter irresponsible behavior while not burdening suppliers or serving as a revenue stream for LDCs.

However, National Fuel Gas Distribution argued that there should be "significantly punitive" pricing for imbalances that deviate by more than 20%. Otherwise, Distribution said, a supplier that does not deliver within tolerance has no incentive to deliver any gas if the penalty rate is only 10% higher. Distribution recommended a multiplier of 140% for under-deliveries and 60% for over-deliveries.

The Office of Consumer Advocate argued that all balancing should occur on a daily basis, since monthly balancing may require LDCs to have more supplies available to account for suppliers' monthly imbalances, with such additional supplies paid for by sales customers.

RESA objected to daily balancing, "because it produces additional costs with typically no opportunity to mitigate those costs." RESA said that the rule should strike the ability of LDCs to use daily balancing, and should limit balancing to monthly or seasonal balancing.

The proposed rule would allocate costs of implementing any rule changes to all customers, either through a nonbypassable surcharge, or base rates. National Fuel Gas Distribution, "questions how the requirement that any cost recovery surcharge will be recovered from all customers and not just customers who choose to use alternative suppliers is consistent with unbundling proposals where certain [LDC] costs are recommended to be recovered only from sales customers. Minimally, cost recovery should only flow from the classes of customers to which these proposed rules would be applicable." Distribution also noted that LDCs have negotiated rate contracts with certain end users that cannot legally be modified through the ratemaking process.

RESA, however, argued that the, "benefits of effective competition are enjoyed by all customers," and thus said that cost allocation to all customers is appropriate.

The Office of Consumer Advocate urged caution on implementing any costly changes to LDC operations or systems, contending that choice may not provide benefits to customers, given the least-cost procurement and zero mark-up applied to LDC supplies. "[T]he worst result would be to take a path that is designed to encourage greater customer switching by either increasing the price or degrading the reliability of the natural gas service that is currently provided to the vast majority of residential customers by their regulated natural gas distribution companies," OCA said.

National Fuel Gas Distribution also said that the any changes should be limited to the mass market, and not apply to larger customers.

Distribution further recommended that EDI not be mandated for all LDCs, and that LDCs be allowed to choose an appropriate communication method based on their internal systems. Furthermore, "[a] state-wide EDI requirement could provide an advantage to mass-market [suppliers] over those [suppliers] that wish to focus upon a limited number of [LDC] markets," Distribution added.

Distribution also urged the Commission to remove a draft rule that would allow the PUC to order LDCs to upgrade billing systems, develop an electronic bulletin board, and improve other communication and data transmission equipment to facilitate electric communication standards and formats. Such a regulation would give the Commission improper power to influence the discretion exercised by the LDC's management, Distribution said.

Distribution requested that LDCs be permitted to conduct less electronic testing with new suppliers if the supplier has either (1) tested with the LDC in another jurisdiction, (2) uses the same vendor as other suppliers already tested and approved by the LDC, or (3) the supplier has already tested and been certified with another Pennsylvania LDC with substantially similar requirements as the LDC.

Michigan Gas Migration at Record Levels

Customer migration in Michigan's gas choice programs is at its highest level ever, the Michigan PSC reported yesterday.

In October, the number of gas choice customers reached 377,955. The previous high, 374,095 customers, was reached in September 2002.

October volumes are just shy of a record – 68.232 billion cubic feet versus the record of 68.849 billion cubic feet set in February 2003.

Generally, much of the growth (by accounts) has been since the spring of this year, though at SEMCO migration was growing more rapidly at the end of 2008, with recent growth more incremental. MichCon's migration has been relatively flat for most of the year until July.

At MichCon, for the first six months of 2009, residential migration hovered between 161,000 and 163,000 accounts. Since July, however, migration has grown to 172,500 residential accounts (as of October).

Commercial migration at MichCon has grown to 22,500 from a steady range of 19,000 to 21,000 for most of the year, and 17,000 a year ago.

At Consumers, migration had been steady at around 130,000 residential accounts since September 2008, until growing by about 5,000 accounts (to 136,000) in May 2009. Residential migration as of October stands at 148,000 accounts. Commercial migration at Consumers was steady in the 12,000-13,000 range until back-to-back increases of 2,000 accounts per month in May and June, with growth continuing through the summer and fall to reach nearly 21,000 migrated commercial accounts as of October.

SEMCO residential migrated accounts have been steadily growing since September 2008, and now stand at 3,900. Commercial shopping growth started at the same time, with migrated accounts now standing at nearly 3,000. Michigan Gas Utilities saw a 1,200 account jump in residential shoppers from April to May of this year, with incremental growth since then, with migrated residential accounts standing at 5,800 as of October. Commercial migration has grown steadily since May, increasing from about 1,100 accounts to just over 1,500.

Conn. Draft Would Deny License to ResCom Energy due to lack of Financial Data

In a draft decision, the Connecticut DPUC would deny ResCom Energy, LLC's application for an electric supplier license for failing to meet the financial capability standards.

As only reported by *Matters*, ResCom Energy is a start-up led by CEO David Cohen, co-owner of Standard Oil of Connecticut (Only in Matters, 8/31/09).

The draft decision reported that ResCom provided 3 lines of information to demonstrate its "Pro Forma Financial Summary, November 2009 to November 2010," showing revenue of $1.32 million, costs of $1.1484 million, and EBITDA of $171,600.

"When asked by the Department to provide additional information such as a business plan with spreadsheets and word documents that include the Company's revenue forecast, personnel forecast, income statements, cash flow statements, balance sheets, etc., ResCom responded that it is their position that they have already provided sufficiently for this requirement," the draft says. The supplier application requires budgeted financial statements for the upcoming 12-month fiscal period, and the draft finds that ResCom failed to provide this information.

ResCom also filed a standby letter of credit in an amount equal to $35,000, which is less than the DPUC's requirement of credit in the amount of $250,000 or five percent of a supplier's estimated gross receipts for its first full year of operation, using the $1.32 million estimate.

PUCT Audit to Direct Amigo to Repay SBF for Improperly Applied Lite-Up Discount

A PUCT Staff audit of Amigo Energy's compliance with the Lite-Up Texas low-income discount program found that, due a billing logic oversight, Amigo requested reimbursement from the system benefit fund for discounts to customers who were not matched with the Lite-Up program's eligibility list. The audit is to direct Amigo to review its systems and files to determine when the logic oversight first occurred, determine how many customers not matched with the eligibility list were included in Amigo's reimbursement request, and repay the monies back to the system benefit fund (SBF).

The redacted audit, posted in project 26631, covers the period 2005-2008. It's the first publicly posted audit report since a series of Lite-Up compliance audits were filed in 2003. Overall, the audit found that Amigo Energy appears to have sufficient controls and procedures in place to ensure appropriate application of the rate reduction program and to ensure proper reimbursement from the system benefit fund.

However, the audit found that a redacted number of ESI IDs which received the Lite Up discount in July 2008 could not be matched with the eligible customer list. Amigo reported that its final bill logic had not been updated to remove formerly eligible customers once they are removed from the Lite Up program. Amigo said this billing logic has since been changed so that only eligible customers are provided the discount.

The audit will direct Amigo to determine how many ESI IDs not approved by the Low Income Discount Administrator (LIDA) may have been included in Amigo's reimbursement requests during the affected months, and to repay such monies previously reimbursed for the affected ESI IDs back to the system benefit fund.

Staff also recommended that Amigo Energy continue to work to improve the timeliness of its submissions of the monthly REP reimbursement report. Amigo was late in submitting the monthly REP Reimbursement Report during each of the sample months tested in the audit; however, Amigo timely submitted the monthly REP Reimbursement Report during the most recent reporting months of May, June, July and August 2009.

During the audit, Staff stressed to Amigo that the rate reduction reimbursements can only be applied to actual energy consumed, and cannot be applied based on forecasted and balanced bill kilowatt-hours.

PJM Files to Create Two New CONE areas under RPM

PJM filed for FERC approval of two new Reliability Pricing Model Cost of New Entry (CONE) areas as part of a series of consensus revisions to the RPM capacity market.

PJM sought approval to add a new CONE area consisting of the Dominion Zone, and another new CONE area consisting of the PPL, MetEd, and Penelec Zones. To accommodate this change, the Dominion Zone would be removed from CONE Area 3 and the PPL, MetEd and Penelec Zones would be removed from CONE Area 2.

In addition, PJM would shift the APS and DQL Zones from CONE Area 2 to CONE Area 3.

"The driver for these changes is variation in expected energy revenues," PJM said. Specifically, PJM noted that the congestion component of LMP in 2008 was $10.94 and $12.26 for BGE and Pepco, respectively, both of which are in CONE Area 2. However, the congestion values at APS and DQL, which are also in CONE area 2, differed markedly from those for BGE and Pepco, at -$0.52 and -$11.80, respectively. The MetEd, PPL, and Penelec values also differed substantially from those for BGE and Pepco, at $6.56, $5.60, and -$0.93.

"Grouping all of these Zones together in CONE Area 2 masks these differences and misestimates the Net CONE for many of these Zones. Currently the [Energy & Ancillary Services] revenue estimate for all of the Zones in this CONE Area is based on energy prices in the BGE Zone ... this substantially overstates the energy revenue estimate for all other Zones (except Pepco) that now are in CONE Area 2," PJM said.

Similarly, the Dominion Zone stands out from the other Zones in CONE Area 3, PJM noted. Day-ahead congestion LMPs for AEP, Dayton, and ComEd are -$9.58, -$10.06, and -$11.39, respectively. By contrast, the value for Dominion is $8.05. "As energy revenue estimates for CONE Area 3 are based on LMPs in the ComEd Zone, Net CONE for Dominion now is substantially overstated," PJM explained.

PJM would set the gross CONE for the two new CONE Areas at the same level as is now in effect for CONE Area 2.

Among other consensus changes proposed by PJM is to spread the scheduling of the RPM auctions more evenly throughout the year to reduce administrative burdens. PJM would shift the First Incremental Auction from June to September and the Second Incremental Auction from April to July. PJM is not proposing changing the applicable months for the Base Residential Auction or the Third Incremental Auction, which will remain in May and February, respectively

PJM also sought to revise its tariff so that Energy Efficiency Resources may participate in the Incremental Auctions that are yet to be held for the 2011-2012 Delivery Year, i.e., the Second Incremental Auction now scheduled for April 2010 and the Third Incremental Auction now scheduled for January 2011. Energy Efficiency Resources had previously been allowed to participate in the capacity market starting with the 2012-2013 Delivery Year.

PJM would also revise how demand resources are compensated to treat demand resources and generation resources comparably. Currently, demand resources are compensated based on the RPM charge to loads, which for Locational Deliverability Areas (LDAs) that can internally price-separate into sub-zones is based on an average of the clearing prices paid in the constrained partial-zone LDA and the price paid to resources in the rest of the Zone. This averaging means that demand resources are paid more than generation in one of the subzones, while demand resources in the other subzone are paid less than generation in that subzone.

To treat demand resources and generation resources comparably, PJM proposed paying demand resources, beginning with the 2013-2014 Delivery Year, according to their location within Zones that have internal price separation. This will require sellers of demand resources in PSEG or DPL, the two areas with LDAs smaller than the transmission Zone, to identify in which part of the Zone their resources are located, and to register their cleared resources in the appropriate portion of the Zone.

Briefly:

U.S. Gas & Electric Confirms Pa., Md. Entries, Expands to N.Y. Electricity

U.S. Gas & Electric confirmed plans to enter the Pennsylvania and Maryland markets in the coming year, as exclusively reported in *Matters*. U.S. Gas & Electric received a Pennsylvania natural gas license in November (Only in Matters, 11/20/09), and has a pending Maryland natural gas license application (Only in Matters, 10/27/09). U.S. Gas & Electric also said that, consistent with its state-based branding in other jurisdictions, it will now market as New York Gas & Electric in New York, as it has recently began to offer electricity in addition to gas. U.S. Gas & Electric has also launched a redesigned website which gives customers the opportunity to purchase energy efficient products.

Gexa Files Flow Chart for Meter Tampering Flag

Gexa Energy filed in project 37291 a flow chart diagramming a potential Enrollment Flag Solution process to prevent customers engaged in meter tampering from switching until their back-billing is paid off. Though discussed among several REPs and TDUs, the flow chart does not represent a consensus solution, and was provided to facilitate discussion at today's open meeting. Issues which are still being debated include whether, and if so how, to block a Move-In for an ESI-ID associated with tampering in addition to a switch; and how to notify REPs that a flag has been placed on an account.

DPUC Approves AllStar Energy Partners Aggregator License

The Connecticut DPUC granted AllStar Energy Partners, LLC an electric aggregator certificate to serve commercial, industrial, municipal and governmental customers (Only in Matters, 9/23/09).

GDF Suez Signs City of Sunbury, Pa.

GDF Suez Energy Resources NA has signed a multi-year contract to supply 100 percent of the electricity needs of the Municipal Authority of the City of Sunbury, Pa., located in the PPL territory. The contract covers all of the city's 28 separate meters that manage critical infrastructure including drinking water, wastewater, flood control, recycling, and the Municipal Transfer Station. The contract includes 10% renewable content through RECs, and begins in January 2010.

Mich. PSC Extends Billing Waiver for Detroit Edison, MichCon

The Michigan PSC extended a waiver to allow Detroit Edison and Michigan Consolidated Gas to bill customers whose monthly bills total less than $30 on a three-month rolling period (instead of monthly), with the waiver in place for an additional year through December 1, 2010.

Dynegy Completes Asset Sale to LS Power

Dynegy has completed its previously announced transaction with LS Power under which Dynegy sold to LS Power eight plants (plus its interest in Sandy Creek) totaling 4,800 MW for $970 million in cash (Matters, 8/11/09). The sale increases Dynegy's liquidity to approximately $3 billion to address near-term debt maturities. By selling certain assets, Dynegy said that it has reshaped its generation portfolio with a strategic emphasis on baseload and intermediate assets that is less weighted toward peaking plants. After the sale, Dynegy's portfolio stands at 13,000 MW, with 43% located in the Midwest, 32% in the West, and 25% in the Northeast. See our 8/11 story for full transaction details.

Calif. Jury Denies DWR Contract Breach Claims Against Sempra Subsidiary

A California jury found that Sempra Energy Resources did not breach a $6.6 billion supply contract with the California Department of Water Resources when it supplied power from a source other than a proposed Elk Hills power plant, which DWR claimed was required to be built and supply power under the PPA by April 1, 2002. Due to changing market conditions Sempra altered its schedule for constructing the plant, and supplied the contract with market purchases. The jury found that the contract did not require Sempra to source the power from any particular plant, and also declined to award damages. However, the jury did find Sempra misrepresented that energy would be delivered from Elk Hills, a finding DWR intends to pursue in FERC litigation. The 10-year contract subject to litigation expires in mid-2011.

PUCT Approves Interest Rates

The PUCT approved Staff's recommended interest rate of 0.34% applicable to REP deposits, and an interest rate of 0.61% applicable to REP overbillings, and underbillings resulting from theft of service, for 2010 (Only in Matters, 11/23/09).

Mich. PSC Approves Detroit Edison REC Purchases

The Michigan PSC approved two REC contracts for Detroit Edison with Sterling Planet and Upper Peninsula Power Company which have terms of 10 and seven years, respectively. The REC contracts are the result of an RFP for Michigan-based RECs issued by Detroit Edison in Dec. 2008. The PSC also approved an amendment to Detroit Edison's contract with Heritage Stoney Corners Wind Farm I that will help site a pilot, utility scale 2.2 MW wind turbine generator in Missaukee County which features an innovative, permanent magnet generator with a direct drive configuration that is designed to deliver superior performance, reliability and efficiency.

National Grid Long-Term Contract with Cape Wind Expected

An announcement regarding negotiations for a long-term contract between the National Grid Massachusetts distribution companies and Cape Wind is expected to be made today by Massachusetts Governor Deval Patrick, both the *Boston Herald* and *Boston Globe* reported.

mc^2 ... from 1

accounts at ComEd. It recently began offering RECs to complement its commodity supply as well.

Sutton said that mc^2 has no immediate plans to expand into the Ameren territories, or offer residential service at either ComEd or Ameren, but said that its strategy may change depending on how purchase of receivables is eventually implemented at ComEd.

Pa. ... from 1

accounts (who would otherwise default to hourly pricing). About 16%, or a little over 200 customers, have opted onto the large customer fixed rate.

Meanwhile, consumer advocates renewed a push for legislative action on the end of rate caps, in an effort that had been quieted over the last several months. Taxpayers and Ratepayers United and other groups urged lawmakers to extend the caps and provide discounts to seniors and low-income customers. House Bill 20, sitting in the House Appropriations Committee since April, would require PPL to offer a three-year (or more), opt-in and competitively neutral rate phase-in plan for residential and small commercial customers. PPL is already offering an opt-in phase-in plan (as well as an opt-in prepayment mitigation plan), but House Bill 20 would set different limits for the mitigated increases applicable each year, and allow for an extension of mitigation beyond three years. In a limited December session, the bill has taken a back seat to the budget process.