Restructuring Today

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Wall St briefing was 'important outreach,' not a problem

Just before yesterday's FERC hearing on requests to abrogate western states contracts, Commissioner William Massey joined his colleagues to issue an order denying a motion that Chairman Pat Wood and Commissioner Nora Brownell not be on hand to listen to oral arguments or take any further action in the cases.

Two plaintiffs in the contract dispute, Snohomish County PUD and Southern California Water Company, sought the recusal Monday, arguing that a March 26 briefing with financial analysts conducted by Wood and Brownell was off-the-record communications that gave defendants in their suit an unfair advantage.

The briefing followed release of a lengthy FERC staff report on price manipulation in western markets and several orders aimed at addressing the problems that were uncovered. Commissioners did not act on the plaintiff's petition that one briefing participant in particular — Morgan Stanley Capital Group — show cause why FERC should not summarily rule against it in the contract cases.

FERC agreed to the PUD's April 7 request and posted a transcript of the press briefing with all three commissioners after the March 26 meeting, a summary of the briefing Wood and Brownell had with investors and a list of conference-call participants.

Briefings are not banned just because a matter is pending before the commission, the order said.

"Informal contacts between agencies and the public are the bread and butter of the process of administration," the order noted, so long as they don't conflict with judicial review and are handled fairly.

The transcript and summary reveal that commissioners did not offer anything that hadn't already been discussed in open meetings, FERC maintained.

Brownell defended the briefings at a meeting held earlier in the day at the United States Energy Assn, calling them important outreach to aid an "energy sector that is in the tank" that needs long-term investment in infrastructure and technology.

"It's important to have financial markets on board," Brownell maintained, because investors are "parking" their dollars in regulated utilities "but as soon as the marketplace picks up and there are other opportunities, they're gone."

Brownell hints at solution to native-load problem

FERC may have found a solution to the question of whether it should have jurisdiction over bundled transmission, Brownell told the USEA meeting (above).

The House energy bill contains specific language protecting a utility's ability to serve its native load while the Senate draft is similar.

"We've taken in the comments of a lot of smart people and I think we've figured it out," Brownell reported.

"I think there is a resolution that will satisfy those who really want competitive wholesale markets. There is no solution for those who do not want competitive markets."

Brownell is not concerned about language in the Senate draft electricity title prohibiting FERC from issuing a final SMD rule until 2005 because in her view "the real work needs to get done in the RTO dockets.

"If you look at the implementation schedules in the RTOs, you'll see 2005 is pretty close."

FERC is holding a technical conference today on ways to restore confidence in energy-price reporting but Brownell does not believe that overseeing the integrity of the data is a government function.

"I don't think it's necessary or appropriate and by the time we got around to doing it right, somebody else would have solved the problem."

Market participants have known that reporting data was suspect for a number of years but continued to use it, Brownell noted.

"That's an odd way to run a business."

Brownell has been "putting pressure on groups to figure it out and come to a consensus.

"I don't think that anyone is well served by asking for volumes of information that's not going to be used or that compromise confidentiality and yet there is an integrity issue that must be dealt with."

Super-cooled super wire gets tryout in New York

It may be near impossible to site new overhead power lines but what about putting better wire along existing rights of way or through sewer and abandoned gas pipes?

That's the solution the Long Island Power Authority (LIPA) will be testing near East Garden City though it won't be ready in time for this summer or the next. The project will be operating by the end of 2005.

The project will bury 2,000 ft of high-temperature super-conducting (HTS) coaxial cable made by Nexans out of HTS wire American Superconductor (ASC) is making at its factory in Massachusetts.

ASC is lead contractor on the project.

The line will have three to five-times the capacity of normal wire, carrying some 600 mw of power along its super-cooled length.

The cable is manufactured like a hose with liquid hydrogen running through it to keep the wires cool. That requires a cooling station every couple of miles.

Air Liquide is providing the refrigeration equipment and overseeing the cryogenic cooling system.

The $30 million LIPA project is the first time HTS will be used in a live grid at transmission-level voltages, ASC says, and is being funded half by DOE and half by LIPA and the companies building the line.

The high cost — it works out to $78 million a mile — shows this is still bench-test stuff but it won't be long until the costs of HTS cable is in line with traditional wires, ASC Vice President John Howe explained.

Once production scales up at the company's Massachusetts plant, it will be able to turn out miles of the stuff at a cost competitive with traditional wires.

Yet the capacity and efficiency of the wire and its suitability to be installed handily in areas where congestion is most acute could solve a lot of grid problems,

3 stories in 0.8 minutes

NJ retail chains boost orders for efficient air conditioners: Retail appliance chains in New Jersey adjusted their orders for energy-efficient room air conditioners this summer because they expect consumers will want to take advantage of state rebates on Energy Star-rated units. Customers of Public Service Electric & Gas, Jersey Central Power & Light, Rockland Electric and Conectiv get $25 back if they choose right, the Board of Public Utilities noted. Appliance sellers like Lowe's, Home Depot, Best Buy and Sears usually order 10-25% of their stock with Energy Star ratings. They've raised the order to nearly 50% because 50,000 people are expected to go for the rebate.

Ontario IMO to release outage data: Ontario's Independent Electricity Market Operator (IMO) says it will release more information about generator outages including data on fuel type and plant. The Independent Power Producers Society of Ontario had asked for greater transparency in the market and the IMO's market surveillance panel signed off on the change concluding it wouldn't boost prices. "We want to make sure that the benefits of a better understanding of the market are achieved without compromising legitimate confidential information of the generating companies or disadvantaging customers," IMO president Dave Goulding said. Reports will be phased in over time and the IMO will monitor their impact on the market.

Constellation renews business pact: Constellation NewEnergy renewed its preferred-supplier deal with the New Jersey Business & Industry Assn, the largest statewide employer association in the country with 19,000 members. CNE has been managing the group's Power New Jersey program for four years, delivering energy savings to thousands of businesses. Changes coming in August in the market — including hourly pricing for large users — "will require electricity customers to be more proactive in managing their electricity supply," noted CNE Vice President Dierdre Lord, and Power New Jersey is the "perfect vehicle" for C&Is to take advantage of them.

said Howe. The project will be a permanent part of LIPA's grid and the muni has talked to ASC about installing HTS elsewhere on its congested grid.

DOE is looking at two other projects to test HTS in the real world and ASC hopes it will be involved in the others as well.

Ohio marketer blocked by Columbia credit rule

Columbia Gas' credit requirements are so onerous, says one Ohio marketer, that it can't grow its business.

Volunteer Energy Services (VES) is asking the Ohio PUC for relief from Columbia's formula for posting credit that it says is "unlawful and unreasonable" and out of whack with the actual risk Columbia would take on if the marketer defaulted. The security required is so exorbitant, VES said, it jinxed a deal with Nicor Energy — a Dynegy-Nicor Gas joint venture that has been shutting down its business — to buy its Ohio gas transportation service customers.

Columbia wanted close to $1 of security for every mcf thus creating, said Volunteer, "unreasonable barriers for [the marketer] to continue to grow its business and provide Ohio customers with additional supply choices."

That meant Nicor's customers had to be turned over to Columbia, a lose-lose deal for everyone, Volunteer noted.

The marketer has been asked to post more credit every time it tries to add new customers, Volunteer told the PUC.

Volunteer pointed out that Columbia hasn't filed it creditworthiness rules in its tariffs so it doesn't know if it is being singled out or charged the same security everyone else has to pay. PUC rules require LDCs to post security requirements in tariffs.

Power costs bite some NH customers, others get relief

Unitil has asked the New Hampshire PUC to raise its stranded cost charge billed to everyone by 0.696¢/kwh to compensate the utility for interim fuel and purchased power costs eight-times larger than it expected.

The IOU asked to collect the shortfall over 12 months rather than six but doesn't want to wait another year when it would have asked for more to collect on the much smaller shortfall expected.

The PUC granted Connecticut Valley Electric customers a 0.8¢/kwh credit over the next eight months when lower demand allowed the utility to cut its purchased power costs significantly.

Michigan plan for stranded costs to chill competition

NEMA finds little to like in a PSC staff proposal to let Consumers Energy stranded costs change every month depending on how many switch.

Stranded costs would be capped at 5 mills applied if 30% of Consumers' customers switch but that could change every year when stranded cost collections are trued up and only until new base rates are calculated in January 2006.

That doesn't create price certainty, NEMA told the Michigan PSC and letting the rate change each month puts "marketers at considerable and unnecessary financial risk given the thin margins that already exist in this market."

Marketers would have to build the 5 mills into their offers or let customers assume the risk that their stranded cost charge would rise.

If the annual true-up finds stranded costs weren't recovered, NEMA asks if shoppers will have to pay even more the following year to make up the difference.

That would "significantly distort price signals," NEMA noted, prevent more customers from switching, keep some marketers out and cause other marketers to assume unreasonable risks.

The largest flaw is that only shoppers pay for stranded costs, said NEMA, even though everyone benefits from competition. The charge operates as an exit fee that will grow, ironically, the more successful the competitive market is.

The marketers support compensating utilities for their stranded costs but not when they are collected "in advance," adjusted monthly and collected only from shoppers.

That punishes shoppers, increases the costs to serve them, slows migration and the development of robust markets and encourages utilities to keep investing in competitive services "thereby further increasing future stranded costs."

The PUC should be careful as well to segregate costs related to POLR service and charge those to POLR customers, not to shoppers, NEMA added.

FERC told sanctity of contracts takes back seat to fairness

Long-term power contracts signed by Nevada Power and Sierra Pacific Power during the West's energy crisis should be abrogated, the utilities' attorney told FERC yesterday, because the terms of the deals were influenced by high spot-market prices.

"That influence was greatest for contracts of one to two years" length, said Philip Nowak, attorney for the Nevada utilities.

Most of the utilities' long-term deals were for three months to one year with delivery to begin within two years after their signing in late 2000 and early 2001, Nowak reported.

Nowak's contention appears to be supported by a March 26 FERC staff report that nearly every major energy company active in the West engaged in market manipulation tactics that contributed to soaring power and natural gas prices during the region's 2000-2001 energy crisis.

Forward contracts negotiated at the time were influenced by those high spot prices in a statistically significant way, the report added.

Yesterday's hearing covered similar cases brought by Snohomish County PUD against Morgan Stanley and the Southern California Water Co against Mirant.

Sierra Pacific Resources (SPR) has asked FERC to abrogate contracts with Allegheny Energy, Calpine Corp, Enron Corp, El Paso Corp, Mirant, Morgan Stanley, American Electric Power and Reliant Resources.

SPR has settled with Duke Energy Corp.

The Nevada utilities' complaint should be dismissed, a FERC ALJ suggested in December, because of a lack of connection between bilateral and spot-market prices.

If FERC fails to uphold the sanctity of contracts now, attorneys for suppliers told commissioners, it will make companies reluctant to enter into such deals in the future.

"The outcome of these cases will determine if the industry can rely on contracts and if buyers have available contracts to hedge price risk," said Keith McCrea, Calpine attorney.

Contract sanctity doesn't apply when the contracts in question "were obtained by fraud, misrepresentation and in bad faith," Nowak replied.

"Whether I buy short-term or long-term is irrelevant to whether the [purchase] price is unjust and unreasonable."

The more than 200 contracts in the Nevada case involve wholesale power prices of $33-$290/mwh.

Wholesale power prices in California and the West now are in the $34-$45/mwh range.

Dynegy sells LNG project, exits power contracts

Dynegy will get a $20 million down payment on its $700 million LNG project in Hackberry, La.

Sempra Energy LNG has agreed to make additional contingent payments depending on performance and will change the name of the facility to Cameron LNG.

The project is expected to begin commercial operation in 2007 with the capacity to process up to 1.5 bcf/day.

The acquisition is in keeping with Sempra's plans to expand its presence in the LNG market, said Donald Felsinger, president of Sempra Energy Global Enterprises.

Sempra Energy International is developing an LNG receiving terminal in Baja, Mexico, that will be able to process 2.5 bcf/day when it begins operation in 2006.

Dynegy agreed to pay Southern $155 million for the right to exit three wholesale power contracts for 1,100 mw.

The agreement is in the best interest of Southern customers and shareholders "given the events that have transpired in the independent power sector over the past 18 months," said CEO Allen Franklin.

The company is exploring several options to market the capacity, Franklin added, and has signed several new wholesale power contracts in the Southeast where future capacity has not been committed.

FPL revving up wind plans

FPL Energy plans to add 3 projects totaling 135 mw to its portfolio. It's buying project rights from Orion Energy for a 63-mw project in northeast Pennsylvania and selling the power to Exelon.

A 51-mw facility in northwest Oklahoma will sell its output to Oklahoma Municipal Power Authority and a 21-mw wind facility in Kulm, ND, has lined up customer Otter Tail Power.

FPL will buy 24 mw of existing wind assets in southwestern Pennsylvania from Zilka Renewable Energy and Atlantic Renewable Energy later this year.

The company had previously announced plans to build an additional 434 mw of wind generation in New Mexico, California, North Dakota and South Dakota.

Europeans wade into trading as US climbs out

European utilities are jumping into the energy-trading sector, a PricewaterhouseCoopers (PwC) survey found.

Gas and power trading is crucial for hedging, 87% of utility executives told PwC, compared to 66% in a similar survey last year.

Nearly half of the firms reported engaging in speculative trading as well as hedging, up from 25% last year.

"Pan European liberalization means that a much greater proportion of European companies is now embracing energy trading and see more potential than their US peers in the development of trading markets," PwC said.

"The underlying case for energy trading remains," PwC added, despite "shockwaves" after the crash of Enron.

Just over a quarter of the US executives surveyed reported severely cutting back on trading operations or shutting them down completely.

Gas shopping flat in Empire State

New York lost a couple thousand gas shoppers in February, with total migration down to 376,727 or 8.3% of eligible customers from 379,100 in January (RT, 4/9).

Supply switchers are still up 0.3% from last February and switched load has risen 0.4%.

Non-residential shoppers make up 16.9% of the market and 22.5% of load while only 7.6% of residential accounts and 10.8% of their load have shopped.

The decline in switching was in the C&I sector (down 4.2%) while residential shopping nudged up a modest 0.1%.

Market delay won't hurt MISO

The Midwest ISO's decision to delay the startup of its day-ahead and real-time energy markets from December to March of next year will not effect the company's corporate credit rating, said credit-rater Standard & Poor's (S&P).

MISO's market participants requested the delay, S&P explained, so there would be additional time to prepare information systems and improve understanding of the allocation of financial transmission rights.

"MISO is going to fund and manage the installation of equipment for control-area connections,"

S&P added, instead of turning that responsibility over to separate control areas.

The $30 million cost of the delay and interface will be recovered through tariffs approved by FERC.

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