Restructuring Today
CHRONICLING EFFORTS TO OPEN COMPETITIVE ENERGY MARKETS
Wednesday, March 10, 2010

Senate Energy hears testimony on FERC, CFTC jurisdiction

Senate Agriculture Committee Chair Blanche Lincoln, D-Ark, is amenable to carving bright lines between FERC's and the CFTC's jurisdictions, she said yesterday. "It's critical for them to have an understanding from us in terms of what our intentions are," Lincoln said at a hearing of the Senate Energy & Natural Resources Committee, on which she also sits, "that there are no regulatory ambiguities."

Lincoln believes a compromise can be worked out where FERC would have clear jurisdiction over organized wholesale markets and CFTC could continue to police futures markets.

Energy Committee Chairman Jeff Bingaman, D-NM, is at that table and believes FERC is better suited to regulate physical power and gas markets since its authority includes ensuring just and reasonable rates, he said.

The two agencies have been at loggerheads since the Amaranth Advisors enforcement case and FERC Chairman Jon Wellinghoff told the Energy & Natural Resources Committee hearing that the dispute was only exacerbated by the financial reform bill that passed the House in December.

The CFTC has been prodding into ISO/RTO markets increasingly and while Chairman Gary Gensler said it didn't have immediate plans to try to regulate facets of them, such as the often-cited financial transmission rights, he couldn't foreswear the possibility. Markets continually evolve and eventually CFTC could be regulating them under current statutes, he added.

Wellinghoff told reporters he was pleased with what he heard from Lincoln, whose committee oversees the CFTC.

The House-passed financial reform bill included a memorandum of understanding between FERC and CFTC that asks the latter to give deference to FERC's requests, but ultimately left the decision on whether or not to stake a regulatory claim to the commodity regulator.

Wellinghoff and former FERC Chairman Joseph Kelliher, both said the House language was insufficient. Kelliher was testifying on behalf of EEI and EPSA in his new role as executive VP for the FPL Group.

Another aspect of the financial reform bill that FERC isn't weighing in on, but NARUC and the entire natural gas and power industries are, is mandatory clearing of over-the-counter (OTC) derivatives contracts. Power and gas firms who use those financial tools will only eat up more capital in an industry that needs all the capital it can get, said witnesses.

The recent New Jersey Basic Generation Service Auction where the parties used OTC derivatives would have seen its price tag balloon by $1 billion with mandatory clearing, said Kelliher.

Gensler doesn't want to see blanket exemptions granted on OTC derivatives but he understands the votes might not be there for that position. If exemptions are granted, he wants them narrowly tailored, he added.

Bringing OTC markets to a centralized clearing house would have benefits, said New York PSC and NARUC Electricity Committee Chairman Garry Brown.

But NARUC wants to see Congress weigh those benefits with the costs of increasing capital expenditures and the impact that could have on power and gas consumers, he added.

[Comments]

MISO files complaints at FERC in PJM congestion payments dispute

The Midwest ISO filed two FERC complaints Monday against PJM, delving into a dispute caused by west-to-east congestion on the latter's system. Back when the still-born Alliance RTO broke up, ComEd and AEP decided to join PJM, even though they were far to the west of its traditional region.

Both firms have since tried to ship as much power as possible to the Mid-Atlantic to take advantage of higher LMPs there. That led to the two grid operators hammering out a deal to keep power flows from disrupting normal operations.

PJM alleged it is owed $9 million for the improper use of a "flowgate" from June 2008, when two ComEd lines were knocked out by a tornado. MISO was experiencing near Interconnection Reliability Operating Limits that day due to the probability of cascading outages caused by high west-to-east flow in PJM.

At other times, MISO alleges that PJM started an agreed on process to deal with congestion on Reciprocal Coordinated Flowgates (RCF), but didn't follow through on the market-to-market process. That means MISO generators who were allegedly the cheaper answer weren't used to deal with congestion and the money went to PJM resources.

MISO alleges that the amount that would have been paid to it during 2009-2010 is $5 million, though reportedly further data from PJM is needed to firm that number up and MISO wants an interim order from FERC mandating PJM give it that data.

Those prior numbers are still in dispute but the two markets have come to agreement on other underpayments as outlined in MISO's second complaint.

PJM, MISO and stakeholders have been working to fix the calculation error and PJM said it regrets not being successful in that effort yet. PJM plans to file answers to the complaints when they're due near the end of the month.

PJM and MISO agreed that the first RTO underpaid $65 million from 2007 to 2009 under their joint operating agreement. With interest that would total $74.5 million.

PJM was unable to come up with a number on the allegations from 2005-2007 since it didn't keep the data -- as FERC requires.

MISO believes it would be about the same as the next two years since the reported settlements were the same for the two periods.

If PJM doubts the validity of MISO getting $65 million for 2005-2007, MISO wants FERC to come up with a more appropriate figure.

[Comments]

Obama nominates Cheryl LaFleur, re-nominates Moeller at FERC

President Barack Obama nominated Cheryl LaFleur to take over the empty FERC seat and also re-nominated Commissioner Philip Moeller to a new term.

LaFleur has over 20 years of experience as a leader in the electric and natural gas industries, retiring in 2007 as executive VP and acting CEO of National Grid USA. She was with that firm's predecessor, New England Electric System, working at a variety of executive positions.

LaFleur has been an active leader in the growth of energy efficiency and DR programs for consumers, the introduction of competitive energy markets and efforts to strengthen reliability.

Before joining National Grid in 1986, LaFleur was a lawyer at Ropes & Gray in Boston for six years. She went to Princeton for undergraduate and Harvard Law School where she was an editor of the Harvard Law Review.

Moeller was first nominated by President George Bush and sworn in July 24, 2006 for a term that expires June 30.

Before FERC, Moeller worked for US Sen Slade Gordon, R-Wash, and worked for Alliant Energy and Calpine Corporation.

[Comments]

EIA predicts gas price will grow as power prices hold steady

EIA is expecting the economy to grow more this year than it did earlier, it said in its most recent Short-term Energy Outlook released yesterday. US GDP is expected to grow at 2.8% instead of 2.3% in 2010 and that will mean more consumption of oil but not natural gas, said the report. Economic growth is relatively unchanged next year at 2.6% domestically.

Henry Hub gas prices are expected to average $5.17/mmbtu this year, a boost of $1.22/mmbtu from last year's average. Gas prices next year are expected to jump to an average of $5.65/mmbtu.

Average residential power prices nationwide aren't expected to change much over the forecast, rising from 11.5¢/kwh to 11.6¢/kwh.

Natural gas use is expected to rise 0.7% this year, then dip back by 0.4% next year with cold weather driving use boosts this year. Total heating degree days were 5.5% above the 30-year normal level in the first two months of this year.

The weather not only had gas being burnt in furnaces but boosted the electric sector's use of the fuel by 3% over the same period last year and 17% over the five-year average. That boost all but eliminated the 1.3% dip in generators' annual gas use predicted in last month's outlook.

EIA is expecting a 4.4% growth in manufacturing output in 2010 and that will lead to 1% higher power sales to that sector.

Residential power sales should jump 3.5% this year as the summer's heat returns to normal after a cool one last year. Overall power sales are expected to grow 2% this year and 1.5% next year.

[Comments]

NEM's Goodman testifies on Maryland Bill 799 to share customer lists

The Maryland Senate Finance Committee heard testimony yesterday on Senate Bill 799 that looks to provide customer lists maintained by the IOUs to marketers. Under the bill, however, marketers would not get information if the customer does not want to be marketed to.

Customers would be told that their information is being sought and would have a chance to opt-out of being on any list turned over to marketers.

The customer lists would include the account name and number; billing and service address; utility rate class; SOS type, if any; load profile; power use for the previous twelve months, and the type of power supplied to the customer.

One organization pushing lawmakers for approval of SB 799 is NEM.

NEM President Craig Goodman told lawmakers of several benefits to customers of making lists available, including:

- Contributing significantly to the management of customer acquisition costs for competitive suppliers, ultimately resulting in favorable product pricing to the consumer;
- Letting suppliers narrowly tailor the contacts made to only those customers in a particular utility service territory that receive a particular type of service;
- Providing an efficient means to ensure that a contact is not made with consumers that do not reside in the relevant service area or do not receive the type of service -- either power or gas -- the marketer is offering, and
- Having accurate, up-to-date complete customer lists significantly cuts levels of customer confusion, limits the population of customers contacted and targets the customers with accurate and timely offers of service.

"It bears noting that for some time customer lists have been authorized in other jurisdictions for dissemination by utilities to competitive suppliers without compromising consumer protection," Goodman told lawmakers yesterday. "Consumer complaint levels have been minimal as a result of the authorization of customer lists and migration rates are at record levels in these jurisdictions, supported in part by the release of customer lists."

To illustrate his point, Goodman told the Finance Committee that in one market alone -- northeast Ohio, customer migration surpassed 70%, demonstrating the success of the program that was in part fueled by the releasing of customer data.

"This has sometimes been coincident with the initial opening of a market and in other cases has been instituted subsequent to a market opening as a further means to enhance competitive marketers' ability to serve customers," said Goodman, adding that the PUC allows the release of customer lists for both natural gas and power consumers.

He also told lawmakers that Pennsylvania has a similar opt-out program and that regulators in the Keystone State have restated the importance of customer lists to help retail choice flourish.

"The provision of customer lists to competitive suppliers has been a component to many states approach to opening retail energy markets," said Goodman.

"Moreover, it can be done in a fashion that adequately protects consumers. As such, we support the provision of customer lists to competitive gas and electric suppliers as provided under SB799."

[Comments]

CORRECTION: We incorrectly reported that AEG Affiliated Energy Group is now representing over 10 million kwh in yesterday's edition when the firm has over 10 million mwh in ERCOT business.

[Comments]

OCC wants PUC's FirstEnergy all-power customer decision made clear

While the Ohio PUC has moved to restore rate discounts for all-power customers in FirstEnergy's territory, the Ohio Consumers' Counsel (OCC) wants the decision clarified for customers (RT, Mar-04). The all-power discount goes back to the energy crisis of the '70s as an incentive for people to use power for heat, cooking and all other parts of the home that energy is needed for.

The OCC has been fielding calls about the issue and wants to know whether the restoration of discounted rates to 2008 levels will apply to all FirstEnergy customers in all-power homes, regardless of when they took occupancy.

The OCC also wants it cleared up whether claims that FirstEnergy promised owners of all-power homes a permanent discount will be addressed during the PUC's staff investigation.

While the PUC's order "was good news for many all-electric consumers, the wording of the order left several important questions unanswered," said Consumers' Counsel Janine Migden-Ostrander.

"We have heard from several customers who need to know whether their rates will be rolled back. We are particularly concerned that some customers may still be forced to pay higher rates while their neighbors won't, simply because of when they moved into their homes."

The OCC also wants the PUC to give quicker access to the information on FirstEnergy's promotional practices and a greater opportunity for the public to comment on residential rates.

[Comments]

5 stories in 2 minutes

Adventist HealthCare shops for big savings: Adventist HealthCare went to the market and now believes it will save about $1.25 million on power costs during the next three years compared to its current contract. The contracts secured from World Energy Solutions will cover seven facilities in Maryland and New Jersey. The new power purchase includes 10% green power and could cut CO_2 emissions by 4,100 metric tons/year.

Monday's April gas price drops 6.6¢: The NYMEX April natural gas futures price slowed its decline from a bigger retreat early Monday, analyst Jackson Mueller reported. The contract still managed to end the day down 6.6¢ to close at $4.527/mmbtu. Gas remains under selling pressure as fundamentals have grown increasingly bearish, led first by storage outlooks after Thursday's gas inventory report.

PG&E buys PV output from First Solar: First Solar and Pacific Gas & Electric entered a long-term power purchase deal for 300 mw in photovoltaic panels, the developer said yesterday. The Desert Sunlight project will have a total capacity of 550 mw, with the balance going to Southern California Edison. The project will use First Solar's thin film technology and is expected to start building later this year and be done by 2013. First Solar's deals with utilities in North America now total 1,700 mw, the firm said.

DOE to give NRG cash for carbon capture: DOE announced yesterday plans to give up to $154 million to NRG Energy for a carbon capture and storage project in Texas. The plant in Thompsons, Texas, would capture and store CO_2, with some going to enhanced oil recovery in a nearby oil field. NRG plans to build a 60 mw capture demonstration facility at an existing plant that will run for six years. The federal funding is being matched by NRG.

Wind power world turns up heat in Congress: The American Wind Energy Assn called on Congress to pass a strong national renewable electricity standard at a press conference yesterday as 120 wind energy representatives were traveling to Washington, DC for Wind Power on Capitol Hill. The event starts today and executives are holding over 70 meetings with lawmakers to urge action on an RES.

[Comments]

P3 president urges Maryland lawmakers to defend market advances

Maryland lawmakers are looking at a bill -- SB 807 -- meant to effectively reregulate the state's power market and kill competition. Lawmakers in favor of the bill tout it as pro-ratepayer but clearly those who favor the open market see it differently.

One group hoping to help lawmakers see the light is PJM Power Providers (P3). The group offered testimony yesterday to the State Senate Finance Committee.

"P3 urges the committee to reject this well-intentioned but misguided legislative proposal and instead to focus on opportunities to improve and enhance the competitive landscape for the benefit of Maryland consumers," said P3 President Glen Thomas.

"Overall, the events of the last year continue to support the case for competitive markets in Maryland," Thomas said.

The market responded, he noted, with investments made and consumers are exploring opportunities presented by competitive suppliers.

SB 807 would disrupt the positive momentum in the competitive power marketplace and ultimately hurt Maryland energy customers.

Several developments have happened since last year -- when lawmakers were looking at a partial re-regulation that would have shut out residential customers and some small firms. Investments have brought a higher level of reliability to the state in the last two years and fears of rolling blackouts first raised in 2008 are now a thing of the past, noted Thomas (RT, 2008-Aug-15 Maryland PSC looks for feedback on filling future power gaps).

The simple numbers have shown that consumers are into competition, too, with over 100,000 customers taking part in choice -- over 40% of the total load.

"The number of residential customers taking advantage of competition has nearly doubled in the last year as thousands of homes each month make the move away from SOS service," Thomas told lawmakers. While certainly more can be done to boost the opportunities presented by the competitive market in Maryland, the trend of consumers finding lower-priced alternatives through competitive choice is a positive one."

Other improvements since the 2009 legislative session includes SOS rates falling consistent with the drop in wholesale prices, DR continues to grow and environmental investments -- where the energy sector is involved -- are being made with at-risk capital.

[Comments]

Tell us what you think. We want to hear from you. Send your comments, questions and suggestions about this issue of *Restructuring Today* to news@restructuringtoday.com.

Abbreviations: To see a glossary of *Restructuring Today*'s abbreviations, go to www.restructuringtoday.com/glossary.

Restructuring Today (ISSN 1522-7324) is published 247 times a year on business days by **GHI LLC** at 4908 Hornbeam Drive, Rockville, MD 20853-1475 USA, 800-486-8201 or +1-202-351-6880 by phone, +1-202-298-8210 by fax. Standard rate of a one-year subscription is $687 in US funds (plus 5.75% sales tax in the District of Columbia). Significant discounts for bulk and corporate subscriptions are available, some that allow you to put our copyright-protected issues on your password-protected internal intranet site for others to see. George Spencer, publisher; Sam Spencer, editor; Season Crawford, marketing and customer service director.

support@restructuringtoday.com
www.restructuringtoday.com