Restructuring Today

CHRONICLING EFFORTS TO OPEN COMPETITIVE ENERGY MARKETS

Wednesday, July 17, 2013

FERC orders $453 million fine for Barclays Bank, 4 traders

A FERC order issued late yesterday approved fines of $453 million for Barclays Bank and four of its traders for allegedly manipulating Western power markets and told the firm to disgorge $34.9 million in unjust profits. The commission approved the fines its Office of Enforcement was seeking in an Order to Show Cause issued last fall (RT, Nov-2).

Barclays has to pay $435 million while its trader Scott Connelly owes $15 million and three others owe $1 million each. The penalties are due at the US Treasury in 30 days and Barclays has to disgorge the $34.9 million in profits to the Low-Income Home Energy Assistance Programs of Arizona, California, Oregon and Washington.

Arizona will get 19% of the fines, California 63% and Oregon and Washington will each get 9%.

The firm elected a FERC process where the commission could levy the fines without a hearing by an ALJ and in its place, written testimony from Barclays. If Barclays does not pay the fines within 30 days, the commission will seek to get them paid in a federal court.

FERCs order found that Barclays and its traders Connelly, Daniel Brin, Karen Levine and Ryan Smith built and then flattened substantial monthly physical index positions at four of the most liquid trading points in the West and then flattened them to benefit its financial swap positions.

Their actions showed an affirmative, coordinated and intentional effort to carry out a manipulative scheme, in violation of the Federal Power Act and FERC's anti-manipulation rules, the order said.

The manipulation allegedly happened on 655 trading days stretching from November 2006 to December 2008 in FERC-regulated physical power markets. They built up and flattened physical positions to benefit their swaps that were based on the physical market.

FERC has communications between the traders that it said described and substantiated the scheme as well as demonstrating the intentional effort by them to effectuate the scheme.

The firm drove the physical markets up and down to benefit their swaps, with higher prices benefiting any long swap positions it held and lower prices benefiting short swap positions, said FERC's order.

FERC was unconvinced by Barclays' and its traders' responses to the allegations, it added. The economic,

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Arizona commission hears comments for, against competition

The Arizona Corporation Commission's (ACC) proceeding looking at opening up the retail power market (RT, May-13) moved forward Monday as comments came in, with the usual competition supporters urging the commissioners to do so. Arizona was one of many states that turned away from competition after the Western Energy Crisis, but it has also been listed as one of the few potential new retail power markets for some time.

The Compete Coalition, National Energy Marketers Assn (NEM), Retail Energy Supply Assn (RESA), Wal-Mart Stores and several retailers all urged the commission to move forward and open up the market to competition.

Yesterday also saw Arizonans for Electric Choice & Competition (AECC) launch its website, which includes retailers Constellation Energy, Direct Energy, Noble Americas Energy Solutions and some customers.

"The bottom line is that competition

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PJM, Monitoring Analytics renew contract for rest of decade

PJM and its Independent Market Monitor, Monitoring Analytics yesterday released a new contract to have the firm watch the RTO's markets until the end of this decade.

The old contract was coming to a close and PJM had meant to put out an RFP for a market monitor, but it backed down after state regulators protested that course of action.

Market Monitor Joseph Bowring used to work at PJM itself until management tried to make him change some of his work and he complained publicly about it at a FERC technical conference. That led to lengthy litigation, the resignation of PJM's then CEO and the creation of Monitoring Analytics as an independent entity.

State regulators warned that if PJM went with another market monitor, they would start another round of litigation at FERC.

PJM and its board appreciate the "competency, integrity and analytical capability" of Bowring's firm, PJM CEO Terry Boston said in prepared remarks. "Robust, independent monitoring services are essential to PJM's ability to administer fair and efficient wholesale electricity markets," he added.

"We are very pleased that the Board of Managers and Monitoring Analytics have reached an agreement that will allow Monitoring Analytics to continue providing these vital services."

Bowring's firm does have other work, including watching the allowance auctions in California's cap-and-trade system, but the overwhelming majority of its efforts are on PJM.

"We at Monitoring Analytics appreciated the opportunity to work with the PJM Board to create a new contract for market monitoring services," Bowring said in prepared remarks.

"We look forward to a productive relationship with the board, with PJM and with PJM members in the coming years. We look forward to helping to ensure that the PJM markets remain competitive and effective."

[Comments]

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statistical and legal analyses offered in response to staff's allegations also failed to provide an explanation or defense for the trading activity, said FERC.

If FERC wins in court, the $453 million fine would be the largest ever levied for manipulation. Constellation agreed to pay $245 million in a settlement to end a manipulation probe.

Barclay's manipulation allegedly cost the market about $139 million, but the commission issued a higher fine because high-level employees were overseeing the scheme and it had no system in place to catch uneconomic traders, which triggered red flags at FERC's Office of Enforcement.

The firm settled claims of manipulation of the London Interbank Offer Rate, which was dealing with manipulations in that market that happened at the same time as the power market issues. That prior history pushed up FERC's fine, too, it said.

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simply makes sense," Direct Energy's Director of Government & Regulatory Affairs Andrea Morrison said in prepared remarks. As committed AECC members, Direct Energy, Noble and Constellation look forward to advocating for all Arizona electricity customers and continuing to be active participants in this regulatory process."

Other parties were not convinced, with the utility-investor group Arizona Investment Council, the Natural Resources Defense Council and the Navajo Nation all saying that the risks outweighed any benefits.

NEM told the ACC that it is in the public interest to implement competition for all of the state's consumers and that it will yield significant benefits. Customers of all sizes will benefit from downward pricing pressure created by markets, energy product and service innovation and the ability to choose a product that suits their needs, the retailer group added.

Utilities will benefit due to the ability to focus their resources on delivery infrastructure maintenance and upgrades when they are no longer required to divert resources to commodity-related functions, said NEM.

States with robust competitive markets have seen significant savings in recent years. The Texas PUC told the legislature that prices are now below what they were when the state deregulated in 2002 and every competitive area in ERCOT has one-year fixed rates that are up to 3¢/KWH below the national average, noted NEM.

Illinois' market opened up significantly in recent years and the Commerce Commission's Office of Retail Market Development evaluated the savings from residential shopping at $24 million from June 2011 to May 2012 and $268 million from June 2012-May 2013, noted NEM.

Compete weighs in

Prices do vary over time, but Compete argued that competition does the best job of ensuring the best available price. According to an analysis of data from the EIA and the Bureau of Labor Statistics from 1997 to 2012, prices in states with competitive markets dropped by 4% while those in vertically integrated states rose 7%.

Those savings have been enjoyed by every class of customer, including residential consumers, said Compete.

Price is a major way that retailers compete with each other, but they also come out with innovative new products such as green power or ones that use smart meters to elicit DR and save consumers more money, said NEM.

The AECC members listed above and RESA also noted that competition's benefits go beyond price, saying that some customers might favor higher renewable energy, a fixed-rate or a variable one. Competition lets consumers pick the product best for them, said the two groups.

Any risks that competition brings can be mitigated by the ACC designing proper regulations including making sure that licensees are qualified both technically and financially and laying out the rules of the market to prevent abuses, said NEM.

One key protection that the ACC could implement is leaving the utility as the provider of last resort (POLR), which many states have done, said Compete. That gives customers who do not choose to shop, service to fall back on and the supplies can be procured in competitive auctions overseen by the commission.

Using the Texas model

NEM would like to see the utilities get out of the role of providing commodity service, noting that Texas has succeeded in doing so for power. There POLR obligations are taken on by retailers.

The commission asked whether utilities in Arizona would need to join or set up an ISO for retail competition to thrive.

Compete believes that does not necessarily have to happen, but control of the transmission system should be turned over to an entity that is independent of market participants such as the Arizona Independent Scheduling Administrator. Protocols are already in place for that entity, but it is not in place.

Both Compete and NEM argued that generation assets should be separated from transmission assets to unlock the true potential of the marketplace by ensuring that utilities do not have a leg up in the game.

NRDC explains opposition

The potential move to competition was greeted with opposition by some parties, with the NRDC arguing that retailers' short-term focus may not effectively support investments in generation capacity and renewable energy sources.

When wholesale prices are high, retail produces high prices and NRDC noted that during the California Energy Crisis, retailers had an incentive to dump customers back into utilities and then resell the power supply earmarked for them at hundreds of dollars/MWH.

The environmental group also noted that many of the states that have restructured already rely more heavily on natural gas and prices were higher five+ years ago.

Navajo Nation fears harm

The Navajo Nation argued that retail competition would "cause devastating economic consequences" for itself and Arizona ratepayers in the aftermath of the economic recession. The move to a market would cause the tribe lose a chance to take part as a coal supplier in the Four Corners Coal Plant (FCCP).

Moving to retail competition could shut down that plant and the Navajo Generating Station, which would also lead to the shutdown of the coal mines serving them. That would mean a big blow to the Navajo community's economy, it added.

The Navajo Nation is trying to buy the Navajo Mine from BHP Billiton and supply the FCCP with coal through 2031. Arizona Public Service and other owners of that plant have plans to upgrade it to the best pollution control technology to let it to stay open and the Navajo Nation is worried that if the state's generation sector is transferred to the market, the upgrades will not happen.

The deals to extend the life of the plant were put on hold pending the ACC's inquiry into retail competition. APS will withdraw from the plant if it is put into the market.

Investors predict problems

The Arizona Investment Council noted that the ACC's inquiry already had a major impact on one of the big utilities in the state: UNS Energy. The firm had its rates downgraded due to the inquiry June 20 and its stock price dropped by 5.5% -- a loss of $200 million in one day, the group said. The stock since went back up to trade around $50/share through late afternoon yesterday, higher than its price June 18.

The investment council noted that Arizona will have to wade through the stranded cost issue for utility investments made before competition. Even Texas was still dealing with that a decade after competition opened.

The group argued that retailers and large customers who get better prices will benefit, but mass market consumers will be much less likely to take part in the market and could see higher prices due to whatever deal is cut on stranded costs.

[Comments]

1 story in 20 seconds

Gas futures largely ignore heat wave: NYMEX April natural gas futures pulled back into slightly positive territory in early afternoon trading Tuesday, analyst Jackson Mueller reported. The contract added just 0.3¢ to close at $3.677/MMBTU. The market saw some support from weather but not enough to drive sharp and sustainable gains. The heat wave in the East was driving next-day gas deals as contracts were trading as high as $6.00/MMBTU, but it was not impacting the entire country with prices at Henry Hub close -- the NYMEX closing price.

[Comments]

Compete Coalition issues set of market principles

The Compete Coalition yesterday unveiled a set of principles for well-functioning competitive power markets in response to "threats to the long-term sustainability of the markets."

"For almost a decade now, Compete has been a leading voice on the economic and environmental benefits of well-structured competitive markets for electricity," Executive Director Joel Malina said in prepared remarks. "We've compiled this white paper to quantify the elements of vibrantly competitive markets and address specific policy threats to the markets and the continued benefits markets provide for consumers."

The "Principles for Well-Functioning Competitive Electricity Markets" the white paper argued that competitive markets have clearly shown their value to customers through lower prices, added efficiencies and service innovations.

The markets are working, but they face challenges from state-backed power plants and rate-based plants that are trying to compete with generators that lack such price-guaranteeing contracts, said Compete.

Electricity markets have to have accurate and transparent price signals to guide investment and consumption decisions. The signals should reflect market fundamentals and perform certain basic functions.

Competitive markets have to be open to all market participants without arbitrary restrictions on market participations. Preventing some consumers from shopping for power violates fundamental notions of fairness, said Compete.

Market rules and practices have to be non-discriminatory so all resources take part on a level playing field. Non-bypassable charges retail customers have to pay have to not be used to recover the costs of generation and other supply services.

Subsidized resources distort the market and harm consumers by leading to above-market solutions and eventually higher prices, it added.

Competitive procurements should be open to all qualifying resources since that achieves the greatest benefit by ensuring lower-cost resources that can perform the needed services are not left out of the market.

Markets have to have clear and transparent resource adequacy standards that rely on market-based mechanisms.

ISO/RTOs are needed for workably competitive power markets, said Compete.

Competitive markets need clear and transparent rules and effective, independent oversight. Those rules should be regularly evaluated to ensure they are working properly, it added.

[Comments]

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Restructuring Today (ISSN 1522-7324) is published 247 times per year on business days by Modern Markets Intelligence Inc. for the publication's owner, GHI LLC. Both firms are located at 4908 Hornbeam Drive, Rockville, MD 20853-1475 USA, 888-980-4446 (toll-free) or +1-301-769-6903 . Fax is 301-769-6917. The standard annual subscription rate is $687 in US funds (plus 6% sales tax in the District of Columbia and Maryland). Significant discount rates for bulk subscriptions are available including highly affordable and convenient corporate-wide accounts. Sam Spencer, publisher; James Downing, editor; Season Crawford, associate publisher, vice president of marketing and customer service director; Liz Yap, production director.

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