Restructuring Today

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New strategy — win utility, PUC support for markets

Orange & Rockland lauded for getting out of marketing

NEMA leaders met in Chicago yesterday and plotted a program to carry the message of markets to utilities and their regulators.

The pro-active, positive approach is part of an overall national program to get retail markets open for electric and gas.

NEMA policy chairs will head delegations to meet with senior management at utilities in key states — even in the Southeast and Northwest, President Craig Goodman told us yesterday.

They have teams for all of the US.

Teams are to be armed with microeconomic models that show how utilities can save money by letting marketers take on the risks and costs of open markets.

NEMA hopes to persuade incumbent utilities that they will gain from letting marketers manage the risks and costs of servicing customers.

Marketers are eager to take those burdens from utilities.

He includes risks in technology, price and supply.

Costs of managing customers have actually lost money for utilities, he added.

His group met yesterday in Chicago with 45 firms represented — all major players in the wholesale, retail and technology sectors, reported Goodman.

NEMA members find utilities have not given customers an accurate picture of how much they can save if they shop and thus the association is devising a strategy to get the word out.

Goodman envisions a future where utilities have few or no customers to manage but enjoy 100% of the T&D.

Utilities could then focus on what they know best — delivering energy, he added.

In exchange marketers would like to see preferred customer status on the utility system.

Orange & Rockland is an excellent transition model, for NEMA, since it dropped out of marketing, Goodman said.

So far, 30% of Orange & Rockland's customers have switched.

Goodman compares that with single digits in virtually all other service territories surveyed at the Chicago meeting.

Georgia may have had a rocky transition into retail gas competition but has one of the best markets in the country, in his view.

The market was allowed to gain scale and scope quickly and marketers there claim they beat utility rates 27 out of 28 months in a row, he added.

Pacer developing hedge for smaller firms

Pacer Power has a new idea it hopes will create a safe haven for smaller players in the wholesale power market that don't have the muscle to protect themselves from deals-gone-awry.

Despite many failed attempts by others, Pacer is confident its on-line power exchange called Supplemental Power Market will attract a wide array of demand-side buyers — munis, co-ops, smaller and regional utilities — with built-in safeguards and the ability to hedge risks.

Supplemental here refers to the area between the real-time markets and the bilateral trades, Brian Williamson, Pacer COO clarified for RT.

"Everything is done in monthly contracts with day-ahead call options that occur before the ISO or real-time markets open," explained Williamson.

Users that opt not to activate a reservation they bought in the Pacer market can still take part in day-ahead trading, he added.

Contracts in the system could be 2 mw or 100 mw and they're all designed to go to delivery, said Williamson.

Contracts have to be tied to some physical generation.

And every contract has built-in, counter-party protection — patented by Pacer — and the firm has a patent pending on the weather-protection component.

Buyers must pass a credit check and show that they are appropriate for the system.

Sellers must show access to the power they're selling via generation assets or tolling agreements.

New York and now New Jersey are pushing folks further and further down the food chain to take part in the real-time markets, Williamson noted.

Smaller firms don't have a way to hedge that exposure while larger utilities can generate their way out of jam.

Williamson hopes activity in the Supplemental Power Market will lower prices in the spot market.

Pacer is looking at markets now to decide whether to launch the exchange nationally or regionally.

Williamson's goal is to launch later this year.

Pacer is a subsidiary of Harbor Solutions, founded by those who brought you PowerBacker.

Pacer (bwilliamson@pacerpower.com) counts Liberty Partners, a $2 billion venture capital firm in New York, among its financial backers.

Will some utilities return to high risk? Wall St is fearful that utilities haven't learned a lesson from their financial turmoil. Utilities have embraced the "back-to-basics" method for now, Standard & Poor's Richard Cortright told S&P's 2003 Utility & Energy Conference in New York. "The question that rankles us all," Cortright added, is whether some companies will succumb to the temptation to develop non-core businesses — expressing disdain for 1%, 2% and 3% growth, "especially if the bull markets return." Investors will not likely run away from energy companies that don't pursue high-risk business strategies, Cortright predicted, because it wasn't traditional utility investors who encouraged non-core ventures. Any company that promises returns of 20%, agreed David Sokol, CEO of MidAmerican Holdings, "better be able to explain how."

4 stories in 1 minute

A notebook PC powered by gas? NEC Corp yesterday unveiled in Tokyo the world's second prototype notebook personal computer (PC) powered by a methane micro fuel cell system. Rather than waiting for a lithium battery to recharge, users will be able to keep their PCs operating by replacing methane cartridges or refilling a tank with methane fuel. The first PC powered by methane was announced by Toshiba in March. NEC and Toshiba hope to have their fuel cell-powered PCs on the market next year.

Pa PUC to promote telecom shopping: The Pennsylvania PUC and the Council for Utility Choice yesterday unveiled their TV and billboard campaign aimed at building public awareness of local telephone competition. PUC Commissioner Kim Pizzingrilli presented the ads slated to run first in Harrisburg and Philadelphia at a meeting of the Mid-Atlantic Conference of Regulatory Commissioners (MACRUC).

Md holds ILECs to $11.26 UNE cap: The Maryland PSC yesterday ordered Verizon to once again lower the rate it charges competitive telecom carriers (CLECs) for leasing telephone lines known as unbundled network elements (UNE). Verizon had asked for a rate of $21.03/month per line when the case opened in 2001 but the PSC decided in December 2002 it could only approve a rate of $12. The PSC yesterday lowered the permanent statewide average rate to $11.26 arriving at "a fair and balanced decision" that provides benefits to citizens and businesses throughout the state, said outgoing Chairman Catherine Riley.

Sierra Pacific seeks green power: Sierra Pacific Resources is looking for 273,000 mwh of non-solar renewable and 15,000 mwh of solar power in 2007 ramping up to 311,000 mwh and 18,000 mwh in 2008 to meet Nevada's resource portfolio standards. Contracts have been signed this year for 277 mw to begin in 2005 for geothermal, wind and solar power. Offers are due Aug 18. Details are at www.sierrapacificresources.com/company/renewables.

Reliant cites stranded cost impact on marketer headroom

Headroom will be reduced in competitive markets next year unless the Texas PUC takes immediate action on stranded cost recovery, CenterPoint warned commissioners.

The PUC decided in 2001 that Reliant Energy's Houston Power & Light (now CenterPoint) had mistakenly been allowed to use $1.2 billion of its profits in compensation for stranded costs and ordered it to repay its customers through an excess mitigation credit (EMC) on their bills.

CenterPoint Houston has paid nearly $300 million in EMCs, leaving $800 million yet to be disbursed.

The PUC based its judgment on the low gas prices at the time that increased the value of Reliant's gas-fired generators compared to the value of coal and nuclear plants.

Gas prices have risen and the value of the assets has dropped, CenterPoint told the PUC, so that more than $4 million/week ($630,000/day) will be added to its stranded costs by the time a scheduled true-up is conducted next year.

The PUC should immediately stop requiring CenterPoint to pay the EMC, the utility said, because the commission "should be looking for ways to mitigate, not exacerbate stranded costs."

Living with the new hourly pricing NJ market

Suppliers who want to switch new retail customers in New Jersey Aug 1 have to sign new third-party supplier agreements with the utilities by July 7.

Suppliers with existing retail customers but no new ones have to sign by July 15.

The Board of Public Utilities OKd last month tighter contracts that recognize that some customers will be on hourly pricing tariffs — commercial energy industrial pricing (CEIP) — and accommodate changes in the market that alter the risks to utilities if suppliers default.

The new agreements change creditworthiness tests for new suppliers and allow suppliers only three days — down from 10 — to remedy a default situation and to notify utilities if their creditworthiness slips.

The BPU clarified that a clause that gives customers 14 days to back out of a retail supply agreement applies only to residential customers.

The changes in Public Service Electric & Gas, Jersey Central Power & Light, Conectiv Power Delivery and Rockland Electric's agreements are on the utilities' websites.

OEB sudden fines shock Ontario marketers

Direct Energy Services (DES), a Centrica subsidiary, worked with regulators in dealing with slamming cases — between 12 and 24 months ago — and thought the cases had been resolved at the time to the Ontario Energy Board's (OEB) satisfaction.

Thus it's an understatement to say Paul Massara, president of DES Canada, was shocked when the fine was announced last week (RT, 6/24).

DES was fined $157,000 for 21 cases of slamming.

Brennan Mulcahy, president of Ontario Energy Savings (OES), found the action a complete surprise.

OES was charged with 10 violations and assessed $75,000.

The companies can but had not yet decided whether to appeal the ruling to the OEB's board.

In Mulcahy's view OEB had waited too long in levying the fines.

OES in one case had reported the slamming to regulators and "we were fined for it," he told RT.

Mulcahy takes issue with the "timing and the motivation" of the OEB action.

It's "peculiar" the OEB would impose these fines after legislation was passed with stiffer consumer protection riders, Mulcahy said.

"I wouldn't suggest it was political," he observed, adding that it's odd the fines were levied "long after the issues were dealt with."

Both reported they had taken swift action to fire the agents involved and put in measures to protect customers.

The companies had been using independent agents, but after the problems surfaced in 2001-2002, DES brought the sales in-house to better monitor the process.

OES, with 250,000 electric and gas customers, investigated and fired agents in six of the cases before the OEB notified the company of the complaints, Mulcahy noted.

He grumbled that the OEB provided "limited" information on the other cases giving the retailer only the customers' first names and the initial of the last name making it difficult for the marketers to investigate the complaint. OES reported two agents to the police and pressed for some action, said Mulcahy, but was rebuffed.

The firm held that the agents were "defrauding" the company by faking commission sales but the police saw the agent's action as an internal matter to be pursued in civil court, Mulcahy said.

Now legislation is in effect that allows for automatic renewals with the consumer able to opt out within 30 days after renewal notification or 35 days after receiving the first bill.

Massara and Mulcahy "fully" support the new rule.

Automatic renewals have been used in the gas industry for over 10 years, added Mulcahy.

Electric customers should enjoy automatic renewals just like telephone, cable and insurance services are renewed without filling out new paperwork, he said.

DES plans to work closer with the OEB.

DES has vast experience in helping to shape retail markets in North America and Europe, Massara noted.

FTC faults FERC on yielding to regions in SMD white paper

Recognizing regional differences is likely to slow the formation of efficient markets, the Federal Trade Commission (FTC) said in response to the white paper the agency issued in April.

Despite some benefit from deferring to regional preferences, the FTC warned, that approach may cause higher costs and create risks that will reduce incentives for trading.

Utility and special interests have lobbied Congress intensely to protect native load priorities, the FTC said, but that bias "could dampen or eliminate the investment incentives of entrants that are more efficient than incumbent firms and harm customers by leaving more of the market supplied by high-priced suppliers."

FERC should do more to publicize the state programs that "help protect customers from market power, reduce system costs and improve system reliability," FTC suggested.

Standardized market monitoring is required, the FTC added, the final SMD rule should include a provision that allows the monitors to report antitrust violations directly to federal agencies.

FERC's recognition of regional differences is to be applauded, EEI said in separate comments, but not its mandate for RTO formation.

The mandate has been poorly received, EEI noted, while most utilities have joined or are committed to join RTOs.

The SMD's lack of a strong reciprocity requirement, EEI added, "discriminates in favor of government-owned utilities and electric cooperatives who will reap the benefits but not bear its obligations."

The stranded costs come from where?

Jersey Central Power & Light is filing a plan for New Jersey customers to pay the piper for too-low default service rates over the four years the state has been moving towards competition.

Default rates beginning Aug 1 were set by the basic generation service auctions and will go up 7.4%.

FirstEnergy reached a settlement with the Independent Energy Producers of New Jersey, Gerdau Ameristeel, New Jersey Transit, New Jersey Commercial Users and the US Defense Dept on a settlement that would allow the company to securitize some $618 million in deferred energy costs over the next 10 years.

The deferred costs stem mostly from buying power at higher than wholesale prices from non-utility generation and providing basic generation service through the end of this month at below-market rates.

Base rates would go up because $111 million in annual customers credits required by the state's restructuring act expire at the end of the month.

Some of that is offset by a lowering of JCP&L's distribution charge and the societal benefits charge.

The BPU staff and ratepayer advocate did not sign off on the settlement. It goes now to an ALJ.

Lieberman, Cantwell disappointed with DOE Wood findings

FERC should resolve "what appear to be serious issues of fairness" but there were no violations of the rules, DOE Inspector General Gregory Friedman suggested in a report issued yesterday on his probe of a March conference call Chairman Pat Wood and Commissioner Nora Brownell held with Wall St analysts.

Wood and Brownell were said to have disclosed plans to vote against abrogating

Risk officers have plan for reporting prices

FERC should overhaul policies for gas price reporting in two phases, the Committee of Chief Risk Officers (CCRO) said yesterday, to keep the process moving.

Sticky legal issues involving counterparty data can be put off for a while, said CCRO on behalf of its membership of about three-dozen energy companies.

FERC is to hold its third technical conference on price indices tomorrow, specifically trying to reach consensus on a safe harbor provision that would hold those reporting data blameless in the event they made an honest mistake (RT, 6/27).

In the first phase, FERC should determine the elements that would be contained in data reporting, CCRO said, starting with the adoption of a corporate code of ethics.

Someone who doesn't have a personal financial interest in it should provide data on each reportable trade, the group recommended, and contain plenty of details.

Financial hedges, transactions and trades of gas or electricity would not be considered reportable.

Commissioners realized at their second technical conference that making a safe harbor policy decision would bring the industry closer to an accord and encourage more participation, explained Michael Smith, CCRO executive director.

"One of the reasons they're not participating is that they have yet to see a nod from FERC as to their support of the industry's solutions," Smith told RT.

Phase two should start with FERC and industry stakeholders finding a way that counterparty data could be exchanged legally, CCRO suggested.

The present business and legal environment may not yet permit providers to share counterparty or buy/sell data, CCRO noted.

Counterparty data would not have to be filed if FERC allowed companies to rely on internal audits or eliminate the risk arising from confidentiality agreements, Coral Energy Resources (CER) and Coral Power (CP), both Shell affiliates, told FERC.

Standards for price reporting should have a sunset date, Coral added, because the industry has already been addressing a crisis of confidence that is "likely to be short-lived."

western power contracts.

"This was a proper phone call made as a part of an overall outreach program," said FERC's Bryan Lee.

Friedman spoke with everyone involved with the conference call, Lee added, and found no evidence of wrongdoing.

Sens Joseph Lieberman, D-Conn, and Maria Cantwell, D-Wash, had requested the report on the grounds it might have given an "unfair advantage to some parties at the expense of others.

The Democrats were disappointed.

"These activities don't even pass the smell test. In fact, they stink," Cantwell said after receiving the report.

The matter may ultimately be resolved in federal court, Friedman predicted, but regardless of the outcome, FERC can take "additional steps to ensure public confidence in commission proceedings."

Abbreviations: To see a glossary of RT's abbreviations, go to www.restructuringtoday.com/glossary.html.

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Upcoming Audio Conference:

The Outlook for the Texas C&I Markets

Can't make it on July 18? For those who miss the live audio conference, a digital replay will be available to listen to (one time use only) at any time/day the following week.

July 18 at 10:00 AM Central

Large Texas commercial and industrial buyers face a mix of risks and opportunities that energy buyers in other states don't share. Eighteen months after the retail market officially opened buyers and sellers have the first contract cycle and what have they learned? More important, what's up ahead for energy buyers and sellers?

Restructuring Today will present a 90-minute panel of experts including PUC Chairman Rebecca Klein, President of Reliant Energy Solutions Jim Ajello, Ray Cunningham of Exxon Mobil who is president of the Texas Industrial Energy Consumers and Jackson Mueller, a consultant who guides large energy buyers.

Distinguished Panel:

- Texas PUC Chairman Rebecca Klein
- Reliant Energy Solutions President Jim Ajello
- Texas Industrial Energy Consumers President Ray Cunningham
- Jackson Mueller, a consultant who guides large energy buyers

Here's what the conference will cover:

- The potential for $4 billion more cost if the PUC allows the unregulated Reliant Solutions to buy Reliant assets and pass on the cost to the public as a transition cost.
- The real costs of switching from a zonal congestion pricing to locational marginal pricing.
- A non-surprise may be the outlook for competition in East Texas where fear of Entergy grid access has cooled retailer eagerness to sell to the public. PUC Commissioner Brett Perlman has vowed to get the area open before he leaves the commission in September.
- Is market gaming a real threat in Texas or has the ERCOT mar ket oversight division (MOD squad) got the situation under control?
- As gas prices rise are there things power buyers can do to ease the burden?
- Within ERCOT is the market competitive today? Does the over building of generation assure competitive prices for C&I buyers?
- Is there any hope for green power from wind mills in West Texas will needed transmission get built to move that power to market?

Mark your calendar for July 18 from 10:00 - 11:30 AM Central, 11:00 AM - 12:30 PM Eastern, 9:00 - 10:30 AM Mountain, 8:00 - 9:30 AM Pacific for this audio conference call. It's just $170/line when you register before July 14. Late registration is $200.

After each speaker gives you his or her view of the market, **you'll have a chance to ask the panel your own specific questions by phone or email.**

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