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Electric Utility Week

June 8, 2009

Big Rivers and E.ON US in financial difficulties after plant deal collapses

The 11th-hour collapse of a complex deal to return control of five coal-fired plants to Big Rivers Electric has left both the Kentucky generation and transmission co-op and E.ON US in a financial quagmire.

Unless the plant "unwind" can somehow be rewound, E.ON US, parent company of Louisville Gas & Electric and Kentucky Utilities, is stuck with the remaining 14 years of a money-losing, 25-year lease that seemed a good deal for all parties back in 1998. E.ON US, then known as LG&E Energy, figured at the time that the lease of nearly 1,700 MW of low-cost capacity would give it a strong power marketing platform at a time when power marketers were king. British-based Powergen plc acquired LG&E Energy in 2000. Two years later, Powergen was purchased by German energy conglomerate E.ON AG.

So anxious was E.ON US to rid itself of the burdensome lease that it agreed to provide nearly $800 million in cash and other value to Big Rivers to terminate it.

Big Rivers, meanwhile, faces possible loan defaults around the

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How soon is soon? Waxman-Markey bill starts wending its way, but no action deadlines set

Speaker of the House Nancy Pelosi has not set a date by which the House of Representatives will vote on a bill to cap greenhouse gas emissions and mandate a renewable electricity standard. The furthest she would go last week was to say she would bring it to a vote when it is ready — "and not one day sooner."

In the meantime, however, committees with jurisdiction over the controversial legislation have been asked to complete their work by June 19. But even that is not a deadline, Pelosi said. It is a goal.

"If they are making progress and they need more time, I think that will not be a problem," Pelosi said. "However, we are going to go forward and we want to go forward as soon as possible."

The two major House committees that are expected to act significantly on the bill, which was approved by the Energy and Commerce Committee May 21, are Ways & Means, which has jurisdiction over the cost mechanisms and where some members still want to pursue a carbon tax instead of cap-and-trade, and Agriculture, which is expected to look for ways to advance agricultural interests with measures that, for example,

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Red tape and green opposition fails to stop interest in building small hydro

Despite an abundance of red tape and general opposition from environmental groups, interest in new hydropower projects appears to be slowly growing, especially in the Pacific Northwest, as a way to generate electricity without releasing greenhouse gases — even if that power is not considered renewable.

The Snohomish, Washington, Public Utility District and British Columbia-based Plutonic Power both are constructing, or about to construct small, "low-impact" hydro projects that they insist are a huge improvement over previous conventional hydro projects. The projects minimize water and land use and both groups say they will not impact fish populations.

"Large-scale hydro is not always considered green," said Donald McInness, CEO of Plutonic Power, contrasting Plutonic's projects with dams built in the past. "Our company is all about generating green electricity."

Yet neither project would meet the definition of "renewable" under the renewable electricity standard currently in front of the Senate.

Environmental and conservation groups oppose the new dams. "Dams, no matter how large or small, disrupt flows, degrade

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operation and power sales has been held down by the capacity glut in the Entergy Texas/SERC region.

As required by a 2005 Texas law, Entergy Texas had been developing a "transition to competition" plan that would have had the utility join ERCOT and build several transmission links between the Entergy Texas and ERCOT grids, all so Entergy Texas could implement retail competition. The planned Kelson Transmission line had been among the interconnections that Entergy Texas and the PUC had been examining.

Last week, however, the Texas Legislature approved and sent to Governor Rick Perry a bill that would undo the requirement that Entergy Texas move toward implementing retail competition, and instead indefinitely delay customer choice in the utility's service area.

Spokesmen for Kelson Transmission did not return telephone calls seeking comment on the PUC's rejection of its project.

— Housley Carr

FERC gives BG&E return-on-equity adder for its portion of Mid-Atlantic Power Pathway

Baltimore Gas & Electric has won a 150-basis-point adder to its return on equity for participation in the 500-kV Mid-Atlantic Power Pathway, becoming the last of the four project sponsors to obtain that rate incentive from the Federal Energy Regulatory Commission.

But in a dissent, Commissioner Suedeen Kelly said BG&E does not deserve the adder "merely because" it was awarded to partners Dominion Virginia Power, Pepco Holdings and Public Service Electric and Gas.

Yet that is what BG&E seemed to argue, said Kelly's dissent (Docket No. ER09-745). To the contrary, she asserted, BG&E must "demonstrate that there is a nexus between the incentive it seeks and the investment it proposes to make."

BG&E identified two benefits of its portion of the line, saying that underpins the overall project's benefits and provides a conduit for nuclear generation to reach markets, but "amazingly … does not expand on these statements," Kelly said.

In addition, Pepco will actually build BG&E's segment of the approximately 230-mile, $1.4 billion project MAPP project, she noted. Further, the 10.4-mile segment will be built entirely within an existing BG&E right-of-way and it is set to be in service in just a year and a half, Kelly said in wondering what risks are faced by BG&E.

Moreover, the segment's $65 million cost is "neither large by public utility standards in absolute terms nor relative to BG&E's existing transmission," Kelly added in opposing the incentives.

But the commission majority saw no real challenge to granting both the 150-point adder and a request for full recovery of prudently incurred costs if the project is abandoned.

While Kelly focused her analysis on BG&E's discrete segment, the majority based its decision on an evaluation of the project "in its entirety. There are significant regionwide benefits attributable to the MAPP project including increased import capability, reduced congestion and improved reliability," the order said.

Because the project was included in the PJM Interconnection's 2007 regional transmission expansion plan, BG&E is entitled to a presumption favoring incentives, the order said. Further, the adder produces a 12.8% ROE that is well within an appropriate zone of reasonableness and the abandonment incentive will be an "effective means" to encourage completion of BG&E's portion of the project, the majority concluded.

Addressing protests that taken together the incentives are more than the utility needs, FERC said in the order that BG&E "sufficiently demonstrated that the MAPP project faces risks and challenges that warrant the requested package of incentives."

— Craig Cano

MERGERS & ACQUISITIONS

Two Maryland lawmakers propose solution to help expedite CEG's nuclear sale to EDF

Two outspoken Maryland lawmakers who want the state returned to a regulated electricity market sent a proposal to regulators that they said would help expedite Constellation Energy Group's proposal to sell half of its nuclear operations to the French firm EDF.

"We write to share our thoughts on how the Public Service Commission can quickly bring the CEG/EDF case to a conclusion for the benefit of Baltimore Gas and Electric ratepayers, as well as the two firms and their shareholders," Senators E.J. Pipkin and Jim Rosapepe said in a letter to PSC Chairman Douglas Nazarian.

Under the proposal, the approval of the EDF/Constellation transaction would require the two companies to agree to sign long-term contracts to provide power to Baltimore Gas and Electric residential and small commercial customers who do not choose other retail suppliers.

The contracts would be for power from the 10 generation plants located in Maryland that are owned by Constellation, including the 1,700-MW Calvert Cliffs nuclear plant. The plants, which total nearly 5,300 MW, were once owned by BGE and regulated by the PSC until the state restructured its electricity market more than a decade ago. They are now operated as merchant plants.

"This would resolve the largest piece of the reregulation issue for BGE, which is the existing BGE plants. This would be a game-changer," Rosapepe said.

The proposal does not resolve the issue of new plants, but a bill that would place all new generation under regulation passed the Senate last session, and Rosapepe and others are confident it will pass next year. "It's the next step along the path of taking back our energy future," he said.

Maryland lawmakers and Governor Martin O'Malley are concerned that Maryland imports more than 30% of its power at high prices, while the power from the existing plants is sold to others in the wholesale market.

The proposal is consistent with O'Malley's priorities as

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detailed in a letter from his chief of staff to Constellation discussing a settlement agreement that would reduce rates under the EDF transaction, Rosapepe and Pipkin said in the letter.

The proposal, which was developed by Jeff Hooke, an investment banker who is chairman of the Maryland Tax Education Foundation, is a simple answer to the issue, Rosapepe said. "The PSC has the authority to order long-term contracts, and it could be negotiated in a couple of weeks," he said.

Hooke said that the EDF proposal to purchase 49.99% of Constellation's nuclear operations for $4.5 billion has a value of about $10 a share, or about $2 billion in total shareholder value. "Constellation has offered [only] $36 million in a charitable contribution in Maryland as part of the EDF transaction. That's quite a huge differential and it strikes us as an unfair balance between the state and a commercial operation," Hooke said.

Hooke has calculated the estimated savings to BGE ratepayers from the long-term contract proposal to be about 10%. Constellation would lose about $230 million in revenue a year, and it could cause the EDF deal to be renegotiated since Calvert Cliffs' earnings would fall about 40% under the long-term contract.

"It seems impractical to reverse deregulation by asking BGE to pay $2 billion to get its old plants back. But if the state and the PSC could accomplished the same savings to ratepayers by entering into long-term contracts with set rates, it's the same as if the plants were under regulation again," Hooke said.

Giving Constellation a maximum rate of return for the plants is unusual in the US, but not overseas, Hooke said. "It would immediately lower costs to customers."

Hooke also recommended that the $1.1 billion fee Constellation Energy paid to MidAmerican Energy Holdings for terminating an offer from that company in favor of the EDF bid. At 22% the fee is excessive, Hooke said. The normal termination fee is about 4%, he said.

"While it doesn't look like Constellation will challenge the termination fee, the PSC or a major stockholder could file a lawsuit and would have a reasonable chance of getting a portion of it back," Hooke said.

The long-term contract proposal would reduce Constellation Energy's profits by some degree, but only a slight amount, Hooke said. "They will bellyache, say it's too onerous and there is no precedent, but it would solve Constellation's problems, and the price of their stock would go up," he said. EDF would get what it wants, which is access to the US nuclear market and customers would get some rate relief, he said.

"There has to be some equity in these deals at some point," Hooke said.

— *Mary Powers*

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RENEWABLES

California PUC adopts IOUs' renewables plans; report identifies more than 100 green upgrades

California regulators and stakeholders last week took actions meant to increase the likelihood that the state's ambitious targets for renewables development are within reach.

The California Public Utilities Commission on Thursday adopted 2009 renewables procurement plans for the state's three largest utilities.

They were adopted on the condition that the investor-owned utilities submit revised plans that, among other things, include uniform criteria to screen the viability of renewables contracts (*EUW*, 1 June, 32).

The requirements come as the current 20%-by-2010 renewables portfolio standard program is falling short of its goals. To meet the target, more than 2,500 MW of new renewable energy projects would need to come online in California by 2010, according to the PUC.

As of January, about 900 MW of renewable energy projects had entered service since the RPS law was enacted in 2002. Pacific Gas and Electric had signed 40 renewable energy contracts totaling 2,167 MW; Southern California Edison had signed 38 contracts totaling 3,190 MW, and San Diego Gas & Electric inked 33 deals totaling 1,315 MW for an overall total of 6,672 MW since 2002, according to the PUC.

As part of the adopted decision, PG&E, SoCal Ed and SDG&E will need to screen potential renewable energy deals for viability based on the level of the renewable developer's experience, maturity of project technology and project development milestones.

The required changes also are meant to ensure that

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