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Electric Power Daily

Tuesday, August 9, 2011

Coalition asks court to force EPA to release standard on ozone

A federal appeals court should force the Environmental Protection Agency to immediately release its new air quality standard for ozone after nearly a year of delay has held up ongoing litigation and endangered public health, a coalition of environmental and health groups argued in a filing on Monday.

The impending revision of the ozone standard has drawn fire from energy producers and manufacturers, who fear tighter limits will harm their bottom lines, and EPA has several times delayed updating the rule.

But groups who say requirements should be tightened, including the American Lung Association, Environmental Defense Fund and Natural Resources Defense Council, asked the US Court of Appeals for the District of Columbia Circuit to set a binding, immediate deadline for EPA to release the standard.

"Delaying stronger standards means more death and suffering from dangerous smog pollution," Earthjustice attorney David Baron, who is representing the

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Dynegy faces a long road after its good restart; Q2 loss narrows

Initial moves by Dynegy's new executive team to maintain the company as a stand-alone entity have gone well, but the team must cope with less-than-ideal market conditions and, more importantly, with long-time bondholders hurt by the company's restructuring.

The Houston-based firm said Monday that it has completed a planned "internal restructuring" to create separate units for its natural gas-fired and coal-fired generation assets and said it has closed on $1.7 billion in senior secured credit facilities designed to put the company on sounder financial footing.

Dynegy posted second quarter results that, while showing a smaller quarterly loss in GAAP terms, left the company with a bigger loss before interest, taxes, depreciation and amortization than in the same period last year.

Dynegy's new team, including President and CEO Robert Flexon, is fighting to keep the company afloat after the previous team failed to persuade Dynegy share-

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Ohio's plan to cut new business electricity rates riles some

With an eye to creating more jobs and stimulating a moribund economy, Ohio has cut taxes on business and filled a large hole in the state budget. Now, officials are proposing a statewide economic development tariff that would reward companies with lower electric rates in return for padding payrolls in an attempt to lower an 8.6% unemployment rate.

Responses are rolling in after the Public Utilities Commission unveiled the proposed "template" last month. Many are not favorable.

"It's a tool that could be used by the state for economic development," PUC spokesman Matt Butler said Monday.

Rob Thormeyer, spokesman for the National Association of Regulatory Utility Commissioners, said he was unaware of other states pursuing a similar strategy. An official with the National Regulatory Research Institute, a resource for state commissions, could not think of any other examples, either.

Ohio's plan was the brainchild of several state agencies, including the PUC

Mississippi latest state to weigh economic-development rates

Mississippi is the latest state to move toward implementing economic-development incentive rates at electric and natural gas utilities with the aim of attracting investment and creating jobs.

Mississippi Power within the next few days will submit proposals to the state's Public Service Commission for incentive rates for new business established in its service territory as well as existing businesses that expand their operations, Mississippi Power spokeswoman Cindy Duvall said Monday.

The PSC last month asked the state's electric and natural gas utilities to develop proposed economic development rates, commissioners Leonard Bentz and Brandon Presley said in statements provided Monday. Bentz and Presley noted that Entergy Mississippi, gas provider CenterPoint Energy Resources and others already submitted their proposals for new business incentive rates, and that the commission approved them late last week.

Under Entergy Mississippi's plan, which

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Nevada data center plans include gas plant, solar

Unique Infrastructure Group plans to start building a data center complex in northern Nevada that includes a mix of up to 700 MW of natural gas-fired and renewable generation this year, a move aimed at providing secure, low-cost power to prospective tenants.

The project includes an on-site 360-MW natural gas-fired power plant, on-site solar capacity as well as off-site renewable sources and power from the wholesale market.

While some data centers supply their own power, nothing operates on the scale envisioned by UIG. Several data centers have solar rooftop systems and at least one has a small wind turbine. Others buy renewable power from their local utility or purchase renewable energy credits.

UIG is in talks with potential lenders and equity investors for the project, according to KC Mares, a UIG partner. The company is also holding confidential talks with potential clients; announcements could come early next year, he said. Prospective clients include

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and Department of Development, working in concert with the administration of Republican Governor John Kasich. Since taking office in January, Kasich has tried to reverse or modify several policies of his predecessor, Ted Strickland, a Democrat, that he believes hindered the state's economy, Kasich's spokeswoman, Connie Wehrkamp, said Monday.

"Everything that he's been focused on since Day 1 clearly is job growth and getting Ohio's economy back to a competitive place, not only in the country, but in the world," she said.

In the electric industry, economic development discounts have been around for years. They usually are approved by state commissions on a case-by-case basis. Ohio's tariff is more encompassing, essentially a one-size-fits-all approach.

To some, that is part of the problem.

Offering incentives to the entire class of "mercantile customer," as defined in Ohio law, is too broad, says Columbus, Ohio-based American Electric Power, one of the largest electric utilities in the nation. AEP says it favors a "more defined approach" to attracting industrial investment to Ohio. Generally, AEP believes the level of incentives proposed "must be flexible and allow for negotiation on an individual basis. Because the competitive dynamics of economic development change over time and every customer's needs are different, there is no 'one-size-fits-all' solution to attracting investment to Ohio."

The Office of Consumers' Counsel, the state's consumer watchdog, also argues the tariff is too broad. In addition, OCC worries lower-income customers could be saddled with higher electric rates to subsidize a corporation expansion.

The discounts would apply for a company's total monthly bill "calculated pursuant to the electric utility tariff rates, subject to all riders including the economic development rider for new and existing mercantile customers," according to the proposed tariff. For example, a company investing more than $200 million in Ohio could get a 5% electric rate discount for five years. As currently envisioned, the tariff would affect all of Ohio's investor-owned utilities: AEP, FirstEnergy, Duke Energy Ohio and Dayton Power & Light.

The Retail Energy Supply Association says competitive suppliers should not be omitted. If the PUC is going to implement such a tariff, "It's important that you get the incentive whether you shop for your power or buy it from standard service," Howard Petricoff, an attorney for the national retail group, said. "We don't want standard service to be a requirement in order to receive the tariff. Competitive suppliers want to be able to participate in it, too."

Duke says that while it believes incentives are meaningful and will enhance Ohio's ability to compete globally, it does not support the PUC proposal. For one thing, the tariff does not address intrastate movement, Duke says. "A business that relocates from one Ohio city to another Ohio city is not specifically excluded" from getting discounts, "but it should be since such a move would not provide any incremental benefit to the state."

In terms of getting a break on electric bills, Petricoff said "Everybody loves a subsidy when you're on the receiving end. It's not nearly as attractive when you're on the paying end." For that reason, he urges the commission to exercise great caution in advancing the proposal. "You have to make sure it's fair, and not favor new entrants while hurting those who have been providing jobs for some time."

He added: "If you're going to stimulate the market, you need to use the market in terms of getting the supply, and mechanically that's easy to do."

FirstEnergy Solutions, a competitive supplier owned by Akron, Ohio-based FirstEnergy, concurs. FES is calling on the commission to mandate that all supply for a statewide economic development tariff "be obtained using a competitive bid process or RFP [request for proposals]."

Butler said the PUC will review all the comments and "potentially modify the template." There is no timetable for a final commission decision.

— Bob Matyi

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CFTC proposal on telephone records draws ire

A proposal to require futures commission merchants, introducing brokers and other derivatives market participants, to keep an extensive record of nearly all communications — including recordings of cell phone calls involving certain transactions — has drawn the ire of industry lobbyists.

The proposed rules will create a staggering amount of records the Commodity Futures Trading Commission would never be able to sort through and create high costs for firms trying to comply with the new rules, members of the Futures Industry Association, the National Introducing Brokers Association and the Commodity Market Council argued in letters to the CFTC Monday.

The proposed rule "is overly broad and will impose new and substantial burdens on many market participants," wrote Christine Cochran, president of the CMC.

The rule is included as an amendment the CFTC has proposed as part of numerous changes it is making to the Commodity Exchange Act as it develops its new over-the-counter derivatives regime.

The amendment would require all FCMs, introducing brokers and members of designated contract markets and the forthcoming swap execution facilities to create and maintain a record of all oral and written communications that lead to the execution of deals in a commodity interest or cash commodity.

The proposed rule would require these communications to be preserved for at least five years electronically.

"Requiring every commercial member of a DCM or SEF to record its telephone lines (including mobile telephone lines) and to index these recordings according to transaction and counterparty will be tremendously expensive and burdensome," Cochran told the CFTC.

The proposed amendment "is very broad and would appear to require the recording of all telephone calls, including calls made on mobile telephones, involving sales or trading personnel even if the call does not lead to a customer order," added John Damgard, president of the FIA.

"After all, a customer may decide to enter an order at any time, even if that was not the original purpose of the call," Damgard wrote.

He said the proposal would likely create "significant costs" for energy producers, processors and merchants who are market members and likely to become members of SEFs.

"These costs will be passed on to their cash market customers," Damgard said.

And, Damgard said, the technology to keep such extensive records of all communications either does not exist or is prohibitively expensive. "Simply stated, the commission's proposed requirement is impossible to achieve on any level." .

While the CFTC estimates that complying with the proposed recording rules would cost firms roughly $55,000, Damgard said one large FIA-member firm has estimated the cost of acquiring the technology to record mobile calls could exceed $2.5 million and increase annual operating costs by at least $1 million.

The rule "would force very significant investment in very expensive technology," wrote Melinda Schramm, chairman of the NIBA board of directors.

— Brian Scheid

FERC looks at resource adequacy standard

Federal energy regulators are soliciting case studies to evaluate the economic implications of a principle that has been at the heart of electricity resource planning for decades — the "1-day-in-10-year" loss of load standard that some have argued is excessive.

Parties have until August 15 to submit bids responding to the request for proposals issued by the Federal Energy Regulatory Commission. The process will analyze the economic implications of the "predominant" resource adequacy standard that requires generation to be procured to ensure that demand is curtailed due to lack of generation capacity only one day in any 10-year period, the RFP says.

"The research conducted will inform potential future policy reforms designed to most efficiently use the resources available and create incentives for new resources, when appropriate, to ensure reliability," FERC said in the RFP. The RFP states a period of performance of nine months for the case studies.

The RFP calls for the contractor to develop the case studies to demonstrate the "sensitivity" of reserve margin requirements and the economic implications of the 1-day-in-10-year standard. The demonstration is to be based on "probabilistic simulations of the economic and reliability costs," FERC said. Case studies should include an hourly chronological model, analysis of dispatch capabilities, modeling of weather uncertainty on load shape and generation resources, among other simulations and algorithms, according to the RFP.

The case studies should resemble existing regional transmission organization and independent system operator footprints and use simulation models to examine how target reserve margins and reliability costs change across different interpretations of the 1-day-in-10-year standard, FERC said. The contractor will also develop "change cases" to document how reliability and economic costs are affected by differences in resource adequacy requirements, system sizes, fuel mixes, interconnections between systems and varying penetrations of demand response.

In March, FERC approved over the objections of some state regulators, a rule that requires planners in the ReliabilityFirst footprint to analyze, assess and document resource adequacy in transmission-constrained areas and sub-areas using the 1-day-in-10-years loss-of-load criterion (Docket No. RM10-10).

Ohio PUC member Paul Centolella at the time objected to FERC's approval of the rule, saying it could cause an "untenable" level of investment in generation resources.

Consultant Robert Borlick, in a filing in that proceeding, also questioned the 1-day-in-10-year standard, saying it has not been justified and that it should not be used just because it has been the planning practice for so long. The National Association of Regulatory Utility Commissioners said FERC should not be involved in setting capacity requirements, and that making conclusions about capacity at the level of the standard-setting process misses larger issues that come with capacity decisions.

FERC spokesman Craig Cano said that the RFP was not related to the ReliabilityFirst proceeding, but he had no other comment.

— Jason Fordney

PUC, TCEQ to relax rules amid Texas heat

The Public Utility Commission of Texas will use "discretion" in penalizing power generators if they fail to meet certain time guidelines for service, making the commission the second state agency to show leniency during the current heat wave.

Electric Reliability Council of Texas protocol requires load resources providing responsive reserve power to return to service within a specific time frame. A separate protocol requires generators that are bringing mothballed resources back online to provide a minimum notice to ERCOT.

Failure to comply with either protocol might result in enforcement by the PUC.

But in a notice sent Friday, the PUC said it "will exercise its enforcement discretion in these two situations to ensure that regulatory burdens do not prevent entities from maximizing the resources made available to the grid during this extraordinary hot weather."

The PUC is the second state agency to imply leniency in rule enforcement given the record heat blanketing Texas.

One day before the PUC's notice, the Texas Commission on Environmental Quality said it would use "enforcement discretion" when it comes to penalizing power generators for violating emissions limits while they are operating at full capacity to ensure electric grid reliability.

Power generating units have maximum emissions limits with which they must comply during high demand periods; however, the state agency that enforces those limits said it will assess violations on a case-by-case basis.

The TCEQ said it "will exercise enforcement discretion for exceedances of emission limits as well as operational limits for power generating plants to ensure regulatory burdens do not contribute to the loss of critical power during this extraordinarily hot weather."

The measure will apply to generators until they are notified to the contrary.

The TCEQ also waived air permitting requirements during the February winter storm that also necessitated generators working overtime to accommodate spiking demand.

— John-Laurent Tronche

BPA complaint parties file answer to answer

In an unusual move, the five complainants in an ongoing Federal Energy Regulatory Commission proceeding involving the Bonneville Power Administration's oversupply curtailment procedures filed documents with FERC last week that respond to BPA's answer to their original complaint.

Five Northwest wind generators, Iberdrola Renewables, PacifiCorp, NextEra Energy Resources, Invenergy Wind North America and Horizon Wind Energy/EDP Renewables North America, filed the complaint in mid-June alleging that BPA's environmental redispatch oversupply management policy violates the Federal Power Act and FERC orders related to transmission access.

BPA responded to the complaint on July 19, and throughout June and July dozens of other stakeholders filed motions to intervene and comments on the complaint.

Their August 4 filing, which the complainants ask FERC to accept with the acknowledgment that it is an unusual step, rebuts BPA's response arguments and maintains that FERC has the jurisdiction to remedy what they call discriminatory transmission practices.

"The commission's authority is much broader than Bonneville suggests, and Bonneville's statutory obligations do not deprive the commission of its jurisdiction under Sections 210, 211A and 212 of the [Federal Power Act], nor do they prevent the commission from granting the relief requested by complainants," the filing says.

BPA had argued that only the 9th Circuit US Court of Appeals has the authority to rule on many of the issues brought in the complaint, because BPA's actions fall under the Northwest Power Act and were taken in order to comply with federal environmental statutes. BPA also said that the alleged violations of Federal Power Act sections 210 and 211A, dealing with transmission interconnections, are either to broad or do not apply.

The complainants' answer attempts to skewer other arguments in BPA's July 19 response, including that environmental redispatch is motivated purely by the need to protect endangered fish species, and that BPA cannot pay negative prices for curtailed power because it could result in market manipulation.

"Bonneville cannot justify its unduly discriminatory practices based on speculation that commission-regulated generators will manipulate the market," the complainants' answer says. It goes on to say that there are already policies in place for FERC to investigate and punish market manipulation, and that FERC should be trusted to handle any such cases.

Between May 18 and July 10, BPA invoked environmental redispatch to manage an oversupply of federal hydropower, curtailing thermal and wind generation and replacing it with the excess hydropower. This practice helped BPA avoid violating environmental laws with too much spill.

BPA provided the replacement power at $0/MWh, but will not sell it at negative prices. Under negative pricing, sellers pay buyers to take the power they are producing.

The policy drew immediate opposition from wind interests, who stand to lose production tax credits and renewable energy certificates worth as much as $50/MWh when their power is curtailed.

In a related development, last week two intervenors filed petitions in the 9th Circuit Court of Appeals asking for review of BPA's final record of decision, the documentation and mechanism for implementing environmental redispatch.

The petitions were filed by EDP Renewables, one of the original complainants and owner 300 MW of wind generation connected to BPA's transmission grid; and Cannon Power Group, which had previously intervened in the FERC proceeding. They are essentially asking the courts to review the environmental redispatch policy in the context of the Northwest Power Act.

On Tuesday, several intervenors filed a motion to lodge those review petitions with the related FERC docket.

— Hilary Costa

Emera says expansion into New England on track

Emera, a Canadian company pressing into New England, says its expansion plans remain on track as it awaits regulatory decisions on an 1,100-MW transmission line and acquisition of a Massachusetts-based wind developer.

The Nova Scotia-based company detailed its strategy during an earnings call late Friday. Earnings were C$29.9 million, or 24 cents/share, for the quarter, compared with $48.5 million, or 43 cents/share, for the same period last year. The company attributed the difference to a one-time $22.5 million non-taxable accounting gain on an acquisition in 2010. Absent the accounting gain, 2010 earnings were $26 million, or 23 cents/share.

Earnings for the first six months were $153.3 million, or $1.29/share, compared with $126.3 million, or $1.11/share for the same period last year.

With Emera's projects now "stretching from New Foundland to New England," Chris Huskilson, Emera president and CEO, said he is encouraged by the recent talks between the Ontario provinces and New England leaders about new transmission to push renewable energy into the Northeast states.

Emera has proposed a 230-mile direct current line, called the Northeast Energy Link, that it plans to build through its subsidiary Bangor Hydro-Electric in partnership with National Grid. The line would run from Orrington, Maine, to Tewksbury, Massachusetts.

But before moving forward on the transmission line, Emera says it needs assurance that the Federal Energy Regulatory Commission will approve its participant funding model. The partners petitioned FERC for approval last month and hope for a decision in September.

The model would offer anchor power projects the first crack at securing capacity on the line. First Wind and Nalcor Energy have both expressed interest in the capacity, Huskilson said.

"We need to confirm with FERC that it is okay to have these priority arrangements with shippers," he said. "It is quite interesting that the New England governors are getting more interested in this energy and managing the cost of renewables. It is interesting to see how this will begin to evolve. But we need to know from FERC if this is going to work."

Emera also is in the process of acquiring seven wind projects from First Wind, totaling 370 MW, and taking ownership of 49% of First Wind through a new company Emera has formed with Algonquin Power, called Northeast Wind. The acquisition is now under review by the Maine Public Utilities Commission, and on track for a decision in December, which would allow the deal to close before the end of the year, he said. Northeast Wind will invest $333 million in the new operating company with First Wind, part of it through a $150 million loan. The terms call for the loan to be repaid within five years, or converted to equity in future projects.

In its quarterly earnings report, Emera said Nova Scotia Power made the largest contribution to its quarterly earnings: $16.7 million compared with $15.5 million during the same period last year. The company attributed the gain to load growth, colder weather and lower income taxes. The increase was offset by higher operating, maintenance and general expenses, primarily related to higher pension, labor and plant maintenance costs.

The Maine utilities contributed $8.4 million toward earnings compared to $7 million for the same period in 2010. Emera attributed the increase to higher returns from new transmission investments, and the acquisition of Maine Public Service in December 2010.

Emera has $6.3 billion in assets and revenue of $1.6 billion. The company owns utilities Nova Scotia Power, Bangor-Hydro Electric, Maine Public Service as well as other assets. Emera invests in electricity generation, transmission and distribution, as well as gas transmission and utility energy services.

— Lisa Wood

GPE may retire 535 MW of coal-fired capacity

Great Plains Energy's two utilities may retire six coal-fired units totaling 535 MW in the face of pending federal environmental regulations, Terry Bassham, Great Plains Energy president and COO, told analysts Monday in a call to discuss second-quarter earnings.

While no decision has been made, Kansas City Power & Light and KCP&L Greater Missouri Operations are considering shutting Montrose Units 1 and 2 totaling 334 MW, Sibley Units 1 and 2 totaling 102 MW, and Lake Road Units 4 and 6 totaling 99 MW, Bassham said. Any retirements would occur about 2016 to 2018, he said.

Depending on demand growth, the utilities would have several options to replace lost capacity. Possibilities include renewable energy, demand-side management programs, natural gas-fired plants and power purchase agreements, Bassham said.

Meanwhile, the utilities plan to spend about $1 billion adding pollution control equipment to five units at three coal-fired plants, Bassham said. The projects include La Cygne Units 1 and 2 totaling 709 MW, Montrose Unit 3 totaling 179 MW, and Sibley Unit 3 totaling 364 MW.

KCP&L and GMO own and have long-term contracts for

6,670 MW, with 80% of the capacity coming from coal-fired plants. KCP&L also owns 560 MW of the Wolf Creek nuclear plant near Burlington, Kansas. Great Plains Energy does not expect its nuclear portfolio to change in the coming years, Bassham said. The utilities do not need baseload generation for several years at least, he said.

In a second downward revision, Great Plains Energy expects weather-normalized electric sales this year to fall 1% from last year's levels. At the beginning of the year, the company expected a 0.7% sales increase, but three months ago revised the forecast down to zero growth.

Annual load growth in the 2% to 4% range used to be considered normal, but those days may be over, according to Michael Chesser, Great Plains Energy chairman and CEO. In the past, customers did not respond to rises in the cost of electricity because it was relatively cheap. Now, customers may be cutting their use as rates rise. Also, energy efficiency programs, more efficient appliances and distributed generation will dampen sales, he said.

KCP&L and GMO are focused on reducing the time it takes to recover their costs, an especially important issue when sales are stagnant, Chesser said. KCP&L and GMO will likely seek rate increases by early 2012, with new rates taking effect at the start of 2013, Bassham said. The utilities also will look to rate riders to have timely cost recovery, Chesser said.

In the past five years, KCP&L has had fair treatment from regulators in Kansas and Missouri as the utility implemented a major energy infrastructure plan, which included building an 850-MW coal-fired plant, Chesser said. Since 2005, Great Plains Energy's utility rate base has jumped from $2.12 billion to $5.6 billion, partly on the purchase of Aquila, which was renamed GMO. With planned infrastructure investments, Great Plains Energy expects its utility rate base to climb to $7.4 billion by 2016.

Great Plains Energy is keeping a close eye on solar rooftop technology, Chesser said. Rooftop solar could expand significantly, especially if it is linked to energy storage technology. Utilities need to take part in the solar rooftop business or they may get bypassed by it, he said. The company is also watching for opportunities with electrical vehicle charging stations.

KCP&L has asked for new bids for a 221-MW wind request for proposals, Bassham said. The utility plans to add the capacity, most likely via PPAs, next year to fulfill an agreement with the Sierra Club, according to Bassham. Wind prices have fallen, partly on the uncertainty around a possible extension of the federal production tax credit.

KCP&L will need to add roughly 270 MW of renewable generation by 2020 to meet the Kansas renewable portfolio standard and KCP&L and GMO will need about 830 MW to meet Missouri's 15% by 2021 RPS.

The utilities plan to invest heavily in energy efficiency programs, if adequate cost-recovery rules can be established, Bassham said. The utilities have about 205 MW of DSM capacity, but believe they could add about 600 MW over ten years. KCP&L committed to pursuing 300 MW of DSM resources next year under the Sierra Club agreement.

KCP&L and GMO plan to spend about $434 million building two 345-kV power lines. The utilities would consider partnering with a transmission company on the projects if that led to other transmission investment opportunities, Chesser said.

Q2 net slips on nuclear outage

Meanwhile, Great Plains Energy's second-quarter income fell to $43 million, or 31 cents/share, from $63.9 million, or 47 cents/share, a year ago, partly on an extended outage at the Wolf Creek plant and lower retail sales. Second-quarter revenue increased to $565.1 million from $552 million in the year-ago period.

Total retail electric sales fell 2.5% to 5.48 million MWh in the second quarter. Residential sales were flat at 1.98 million MWh, commercial sales fell 3.3% to 2.63 million MWh and industrial sales fell 3.7% to 848,000 MWh. Not counting weather, total sales fell 0.8% in the quarter and 2% in the first half of the year.

Great Plains Energy expects to earn $1.10/share to $1.25/share, compared with $1.53/share last year. Earnings should grow to a range of $1.35/share to $1.55/share next year, the company said.

— Ethan Howland

Calif. stakeholders debate renewable auction

California's investor-owned utilities and energy developers are continuing to debate how to treat capacity in the state's new renewable procurement program set to begin at the end of 2011.

The ongoing proceeding will determine the design of the so-called renewable auction mechanism, or RAM, a market-based procurement process meant to spur the development of small-sized energy projects in California. IOUs must purchase up to 1,000 MW of renewable distributed generation.

Sellers would offer the electricity for sale, but not capacity. California utilities must still buy capacity to meet their resource adequacy requirements. However, the state does not have a formal capacity market, or even a well-established bilateral one.

The IOUs have argued that renewable sellers must first document how much capacity they can deliver to the grid to be eligible to participate in the program.

Pacific Gas & Electric and Southern California Edison wanted to purchase both the electricity and capacity together during the auction, a position the CPUC rejected earlier in a draft resolution.

"By requiring the IOUs to effectively ignore [resource adequacy] value in the evaluation process, the draft resolution implements a process that will result in the selection of less-valuable projects for PG&E and its customers," PG&E wrote.

Renewable energy interests have fought against the IOUs on this point, arguing capacity is a separate benefit than the electricity, and not for sale in the auction.

Recurrent Energy, Solar Alliance and SunEdison filed comments supporting the CPUC's draft resolution regarding capacity.

"We think the draft resolution's decision not to require full capacity deliverability status at this time is the best solution in light of the lack of information on the true need for resource adequacy capacity from these resources," SunEdison wrote.

However, Recurrent Energy, Silverado Power, also a renewables developer, and SunEdison —disliked a section of the draft resolution that limited how much a seller can be awarded per auction. IOUs may sign multiple contracts per seller, but the total amount cannot exceed 20 MW.

"We believe that a seller concentration limit would be overly restrictive on project development and would likely result in substantially higher prices, which would detract from RAM program viability in the longer term," Silverado Power wrote.

Other parties submitting comments were the Department of the Navy, on behalf of federal government agencies, and the Independent Energy Producers Association.

Comments were due Tuesday regarding the draft resolution, which was issued July 13. The draft resolution is on the agenda of the CPUC meeting scheduled for August 17.

The IOUs will hold two auctions annually for two years. At each auction, the IOUs will seek to procure a total of 250 MW. Each project can have a capacity of as much as 20 MW on the system side of the meter.

The CPUC describes the RAM on its website as "the primary procurement tool" for system-side renewable distributed generation.

California has other programs targeting small-sized renewable projects feeding electricity onto the grid. A feed-in tariff program is open to various renewable technologies. The size of eligible projects is being increased from 1.5 MW to 3 MW.

In addition, the CPUC has authorized the IOUs to run solar photovoltaic programs. Eligible project sizes vary from 1-2 MW for SoCal Edison, 1-20 MW for PG&E and 1-5 MW for San Diego Gas & Electric.

— Geoffrey Craig

Developer seeks OK of 500-MW solar project

Solar developer BrightSource would build a 500-MW Hidden Hills project near the Nevada border in Southern California under a construction permit application the company filed with the California Energy Commission.

Pending approval by the CEC, the project would comprise two 250-MW units, each with its own solar field and solar power tower, BrightSource said. The proposed site is on 3,280 acres of privately-owned land in Inyo County, which is 45 miles west of Las Vegas. The company filed its request with the CEC on Friday.

The Oakland, California-based company said the project would use taller power towers to minimize land use and would minimize water use by air cooling.

The project would provide power to Pacific Gas & Electric under agreements approved earlier by the California Public Utilities Commission, BrightSource said.

BrightSource is now building the 392-MW Ivanpah Solar Electric Generating System in the Mojave Desert. Construction is expected to be completed in 2013.

— Lisa Weinzimer

International Power lands PPA, begins wind farm

International Power Canada has secured 20-year power purchase agreements from the Ontario Power Authority for all of the output from its 99-MW Erieau and 99-MW East Lake St. Clair wind farms in the southwestern portion of the province, the company said Monday.

The PPAs will start when construction and commissioning of both facilities is complete in early 2013. They are part of OPA's feed-in tariff program, which provides long-term fixed power prices for renewable sources of generation such as wind, solar and biomass.

The projects are expected to cost just over $300 million each and would comprise 55 Vestas V901.8-MW turbines.

In a separate statement, International Power Canada also said it is preparing to build the Cape Scott Wind Farm, a 99-MW wind facility 25 miles west of Port Hardy on the northeast coast of Vancouver Island, British Columbia.

Site assessment of the project — formerly named the Knob Hill Wind Farm — is underway and civil construction is estimated to start in October upon receipt of a final environmental permit. International Power bought the project in June from Sea Breeze Power Corp.

The approximately $300 million wind farm will provide all its power to BC Hydro under a 20-year PPA. It is expected to start commercial operations in spring 2013.

International Power operates 25 facilities totaling a capacity of 589 MW within North America. In Canada, it operates five wind farms totaling 287 MW in the Canadian Maritimes and Ontario.

— Valarie Jackson

Duke Energy unit plans 200-MW wind farm

A unit of Duke Energy is planning its fourth wind farm in Texas, a 200-MW unit south of Corpus Christi that will sell power to San Antonio's municipal utility CPS Energy, the company said Monday.

Duke Energy Renewables will build, own and operate the Los Vientos I Windpower Project and sell all of the output and associated renewable energy credits to CPS Energy under a 25-year deal, the Duke Energy unit said.

Construction is slated to start in the fourth quarter and Duke expects the wind farm to start commercial operation in December 2012, the company said. Financial details about the project were not disclosed.

CPS Energy already buys all of the power Duke Energy

Renewables generates through its 14-MW Blue Wing Solar Project in San Antonio, which began operating in November 2010.

Duke Energy Renewables now owns nine wind and four solar farms — totaling about 1,000 MW — operating in five states, the company said.

— Staff

Coalition asks court to force EPA *... from page 1*

groups, said in a statement Monday. "Millions of Americans are being denied the health protection that doctors say they need. The president needs to stop stalling and start protecting people's lungs as the law requires."

The rule at issue establishes ozone concentrations that states and regions must attain. Those that do not have to reduce emissions of nitrogen oxides and volatile organic compounds, which combine with sunlight to form ground-level ozone that health experts say leads to higher levels of respiratory problems. Top NOx sources include vehicle engines and electricity generation, according to EPA, while VOCs are generated primarily by solvent use, engines and other industrial processes.

EPA has spent more than two years reevaluating the 2008 ozone standard set during the administration of President George W. Bush, after environmental groups and the agency's own science advisers said the 2008 standard was too weak. EPA initially told the court it would have the revised standard ready for release in August 2010 but has repeatedly pushed back that deadline, according to the filing.

The most recent deadline EPA missed was July 29, and the agency has not said when the ozone reconsideration will be released aside from saying on its website that the new standard will be out "shortly." The reconsidered standard has been under review at the White House Office of Management and Budget since July 11.

"After four EPA failures to honor its representations to this court, a remedial order directing the agency to do what it promised is fully justified," the environmental groups said in their filing on Monday.

Republican lawmakers and industry trade associations have mounted an aggressive effort to postpone EPA's release of the new ozone national ambient air quality standard, fearing a tighter limit will throw counties across the country into nonattainment with the ozone NAAQS and hamper economic development.

The 2008 rule set primary and secondary ozone NAAQS at 75 parts per billion, but environmentalists and EPA's science advisers say the standard should be between 60 and 70 ppb.

In their finding, environmental groups said OMB's review of the new ozone NAAQS "is neither warranted nor consistent with the [Clean Air] Act," and they argue that scientific findings on the impacts of ozone on public health are the only criteria EPA can consider in establishing the standard.

"The statute does not allow consideration of other factors such as economic impacts or budgetary concerns," the groups said.

— Nick Juliano

Dynegy faces a long road *... from page 1*

holders to approve two buyout offers, first from Blackstone Group and then from a group led by Carl Icahn.

The new team's make-or-break move, unveiled on July 10, resulted in the realignment of almost all of its gas-fired assets into Dynegy Power, and all its coal-fired assets and one peaking station into Dynegy Midwest Generation. Dynegy Power's portfolio totals 6,771 MW and Dynegy Midwest Generation's 3,132 MW.

The company's leased Danskammer coal station and Roseton gas peaking station are part of another entity, Dynegy Northeast Generation.

The new credit facilities that closed Friday consist of a $1.1 billion, five-year senior secured term loan facility available to Dynegy Power and a $600 million, five-year senior secured term loan facility available to Dynegy Midwest Generation.

Dynegy said the credit facilities will be used to refinance a portion of Dynegy Holdings' first-lien facilities, to provide collateral support for the gas unit's ongoing hedging activities, and to provide liquidity for general corporate purposes, among other things.

As of Friday, the company said, Dynegy's liquidity on a consolidated basis was about $1 billion, including about $1 billion in cash and cash equivalents and about $30 million in unused availability under the new letter of credit facilities. Dynegy's net debt and other obligations, on a consolidated basis, totaled about $4.4 billion, which included the new facilities offset by cash and cash equivalents of about $1 billion and restricted cash of approximately $660 million.

Flexon said during the conference call that Dynegy's new internal structure and new credit facilities will give the company "greater operational and financial flexibility," and that — with that initial work now done — he and the rest of the new team will now focus on "what additional restructuring steps we can take."

Because the new Dynegy Power and Dynegy Midwest Generation units are deliberately "credit ring-fenced" from Dynegy's legacy bonds, Flexon said that Dynegy will try to "work through" with its legacy bondholders an arrangement under which they would be compensated for their investments. "We hope to work [with them] in a very open and cooperative way," he said, without providing any hint of whether that might result in some sort of distressed debt exchange transaction.

Flexon declined to commit to Dynegy making required November lease payments for two stations in the Northeast, adding, "We will be discussing that internally over the next few months."

Flexon and other team members noted during the call that Dynegy may participate in additional debt restructuring activities, which may include direct or indirect transfers of its subsidiaries' equity interests, refinancing of existing debt and lease obligations, or further reorganizations of its subsidiaries.

The new team's strategy earns at least mixed reviews from analysts. CreditSights analyst Andrew DeVries said in an email, "In short, the $1.7 billion of new loans subordinated the existing $4.5 billion of cash bonds and that drove their price down. So now management will offer the unsecured cash bondholders the opportunity to exchange into new debt at or closer to the assets and pick up some covenants. The catch is, they will force a 20% to 25% haircut in principal on the bondholders that exchange into the new debt. That is the big picture of what's going on here."

Macquarie (USA) Equities Research said in a Monday note to investors that the "aggressive debt restructuring and cost cutting" initiated by the team, "together with a recent pick up in forward power prices and a correction in Dynegy's share prices, do increase the investment appeal of Dynegy shares to us."

Macquarie added, however, that it "remain[s] on the sidelines as we await further debt restructuring updates and delivery on cost-cutting measures" that Flexon has committed to implement.

Macquarie said that the promised cost savings "seem very aggressive to us, especially given cost cutting implemented by Dynegy's previous management team." It also said that while the three new Dynegy subsidiaries are "credit ring-fenced ... we see significant legal risks to Dynegy, especially associated with the power plant leases" at its Dynegy Northeast Generation unit. "We await legal updates and commentary from Dynegy as we get closer to the November lease payment due date."

While questions Dynegy's restructuring and potential next steps dominated Monday's call, the company also discussed its second quarter earnings. The company posted a loss of $116 million, or 95 cents/share, on revenue of $326 million in the April-through-June period, compared with a loss of $191 million, or $1.59/share, on revenue of $239 million in the same period last year.

On an operations basis, Dynegy's loss for the second quarter was $106 million compared to an operating loss of $229 million for the second quarter of 2010. These results include unrealized, net mark-to-market losses of $78 million after-tax in the quarter just ended and $162 million after-tax in last year's second quarter. Dynegy's adjusted EBITDA was $102 million for the second quarter, down 18% from the $124 million reported for the second quarter of 2010. Dynegy said that during the second quarter it benefitted from higher generation volumes in its Midwest region and lower operating expenses in its Midwest and West regions. But it said that these improvements were more than offset by lower realized prices across all regions, and lower generation volumes, tolling revenue and capacity revenue in the Northeast and West regions.

In a historically bad day on Wall Street, where the Dow Jones Industrial Average fell by more than 5.5%, Dynegy shares fared even worse, falling 11.02% to close at $4.36/share.

— Housely Carr

Mississippi latest state *... from page 1*

becomes effective September 9, new businesses that open in buildings that have been vacant for at least six months will qualify for a 15% reduction in their base electric rates for the first 24 months. New businesses also may pay their security deposit in three monthly installments instead of in one upfront payment, and may substitute a surety bond or letter of credit for deposits of $2,000 or more, Bentz and Presley said. Entergy Mississippi's incentive rate for new businesses applies to businesses that start taking electric service by December 31, 2012.

"A major consideration for me is that as we move forward to help new businesses develop, that we also put into place some incentives for existing businesses," Bentz said. "Every cent we can save a business can be used to expand services or hire new employees." A similar incentive plan for existing businesses will be introduced soon, he said.

Stubbornly high unemployment rates have led state regulators, utilities and others to encourage economic development rates in several parts of the US in recent months.

On July 26, the Florida Public Service Commission approved Florida Power & Light's plan to offer a special economic development rate to larger commercial and industrial customers who add electric load. Under the approved plan, new or expanding businesses in FPL's service area that add a minimum of 350 kW of new electric load and create new jobs by June 1, 2013, will be entitled to a 20% reduction in their standard base energy and demand charges during the first 12 months.

That rate reduction would decline to 15% the second year, 10% the third year and 5% the fourth and final year.

— Housley Carr

Nevada data center plans *... from page 1*

financial firms, telecommunication companies and Internet businesses, he said.

UIG believes it will be able to provide its electricity at about half the cost of the incumbent utility, NV Energy, Mares said. Once the project is finished, UIG believes its power will cost less than any electricity offered by a utility, he said.

"We are offering customers 5.5 cents per kWh, all-in, meaning inclusive of all demand, transmission, distribution, generation, taxes and ancillary benefits for forward-priced and long-term clean power contracts from our highly reliable electrical distribution system," Mares said. "Each tenant will choose between their generation sources, length of contract and other parameters, and with current natural gas prices, we expect each tenant's actual total energy rate to be even lower."

In the past, the main issue for data centers was electric reliability, Mares said. While reliability remains important, cost has become the most important issue for data centers, Mares said.

Data centers' power usage makes up the largest part of their operating costs. Typically, an office uses 5 W per square foot, while an average data center uses 250 W per square foot and can use up to 500 W, Mares said. Data centers accounted for 1.7% to 2.2% of all electricity used in the US last year, according to a report released August 1 by Jonathan Koomey, a Stanford University professor who focuses on climate change and information technology issues.

Besides a cost advantage, UIG believes its campus will offer better cybersecurity than NV Energy would. NV Energy, like many other utilities, is moving ahead with major "smart meters" programs. "Securing these entry points into their web-based control networks will be challenging," Mares said.

UIG plans to build the Reno Technology Center in phases on 2,200 acres near Reno. The company expects to begin building the first 100-MW phase this year and finish it in 2012, Mares said. A second 200-MW to 300-MW phase could begin operating in 2013. UIG envisions adding another 200 MW to 300 MW, possibly bringing the project to about 700 MW, according to Mares, who noted that further expansion is possible.

UIG plans to build a 360-MW combined-cycle plant that would be able to supply the park with 300 MW, Mares said. The plant, to be built in 120-MW phases, would be supplied by at least two existing natural gas lines, with possibly a third added, Mares said. The technology park would also include several substations, providing resiliency to the system, Mares said. Several major power lines run through and next to the site.

In addition, UIG intends to include on-site renewable generation, Mares said. The company has a permit for a solar thermal plant of up to 150 MW. It is also negotiating with a developer for a 20-MW photovoltaic system that could be expanded, Mares said. UIG also wants to develop geothermal resources, which are abundant in the area, Mares said.

Further, UIG has a tentative agreement to bring power directly into the campus from a 100-MW wind farm that is under development nearby, Mares said. The wind farm could be expanded to 200 MW, he said. "We believe natural gas and renewables will be low cost over time," Mares said.

UIG will be able to tailor the power supply to its tenants' needs, Mares said. For example, a data center could receive all its power from renewables if the owners wanted, he said. The company wants to avoid coal-fired generation, Mares said.

Shell Energy North American will act as the scheduling coordinator for the technology park, supplying power from the wholesale market, Mares said. As the technology park's power resources expand, grid power will mainly serve as a back-up to its supplies, Mares said.

Nevada allows business operations with more than 1 MW of load to buy power from outside sources. Only Barrick Goldstrike Mines has taken advantage of the decade-old law. Barrick built a 115-MW gas-fired plant and uses Shell as its scheduling coordinator. UIG and Shell have asked the Nevada Public Utilities Commission for a finding that their tenants do not need to pay an "exit" fee to NV Energy to cover stranded costs. The companies contend that because the park's tenants will never have been NV Energy customers, they should not be required to pay exit fees. UIG has met with the PUC about the project, Mares said.

Washoe County, where the project is located, granted UIG a special use permit in July.

— Ethan Howland

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