

Friday May 3 2002

## **NEM marketers seek consensus on risk, accounting**

An executive task force of energy companies, accounting firms, risk management companies and Wall Street people, convened by the National Energy Marketers Assoc (NEM) is drafting proposals for an industry consensus on risk valuation, management and financial accountability.

It met recently for a closed-door session in Washington and concluded that the industry should be more pro-active.

The industry should seek to define a credible, industry-wide mechanism for dealing with risk, financial disclosures and mark-to-market accounting, reported Craig Goodman NEM president.

"It is absolutely critical that our nation's wholesale energy markets are stable, reliable, liquid, transparent and financially credible," Goodman advocated.

The industry's active setting of standards is the key to lessening of public worries and critical to the acceptance of markets, agreed Bob Young, director of global energy markets for Deloitte & Touche.

Accounting rules today "do not square with an electricity market years away from the liquidity of other markets."

Four task force teams will coordinate with experts in government and industry, Goodman reported, to develop national guidelines on credit management, market risks, disclosure and reporting requirements, auditing and compliance standards and measuring of capital adequacy.

NEM is reaching out to "key thought leaders" in multiple disciplines and in the federal government, Goodman added, and inviting them to join the task force ([info@energymarketers.com](mailto:info@energymarketers.com)).

A series of conference calls are set for the next few weeks to determine strategy and substance on how to move to protect energy markets and the financial markets.

## **State rule makers test new market entrants**

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### **Every utility is a rule maker too**

Even the biggest retail marketers get overwhelmed by the rulemakers.

Energy retailers try to monitor regulatory actions of dozens of utilities in states where they operate. It's not an insignificant problem.

A case in point -- a request by Bay State Gas in Massachusetts to tack on a charge to marketers for the cost of billing, meters and other services.

An alert state agency — the pro-competition state Department of Energy Resources — was more alert than the potential victims.

DER questioned the distributor then filed opposition with the Department of Telecommunications & Energy (DTE), the body many states call the PUC.

Only two marketers protested a filing that potentially could have set a dangerous precedent in the state.

"Many people are unaware of it. We just caught it on the fly," said Jonathan Gordon, manager of market analysis for Select Energy (Northeast Utilities), New England's largest marketer.

And only one marketer — AllEnergy Gas & Electric Marketing (owned by Exelon) — filed a brief in the case.

The alert respondent reminded regulators that LDCs recover these costs in rates and that the time for setting and justifying additional costs was in the distributor's next big rate case.

Bay State Gas told RT that the services it provides to marketers require continuing IT and involve real costs.

It worked with marketers and other stakeholders to get their input in setting tariff in 2000 and believes that set the grounds for the fees.

For Bay State, unbundling is a process where "we all work together," to serve customers.

Gordon forecast problems in a 100-year-old industry that's suddenly shaken up -- issues "every day of the week and there will continue to be as we progress in the restructured marketplace."

Marketeers must sort through flurries of notices that may come late, may be incomplete, or may come to an operations rather than regulatory staffer and the make sure each is considered

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## **CAEM's Malloy picks England/Wales as world leader**

Ken Malloy at 50 is a widely known energy executive and popular speaker who's begun to hit his stride.

Many remember him as the DOE official who promoted competitive markets. He gained a national reputation for developing large industry-government conferences on energy then drifted off to Hagler Bailly where he studied markets.

Before that consulting firm slid down the final slippery slope, Malloy created CAEM (he says kay-em), the Center for the Advancement of Energy Markets, a think tank promoting competitive energy markets.

Malloy decided to focus America's attention on markets by developing an evaluation of states' and provinces' efforts to develop markets that work -- the retail energy deregulation (RED) index -- the only serious index of its kind we know of.

One result of the third annual rankings is that an international spotlight shines on the states that have done little and those that have done well.

The index then is a tool consumers and others can use to show their states how well their efforts have done in hopes of seeking improvement.

Malloy patted America on the back for moving along towards retail competition despite the California and Enron distractions.

But he was severely critical of the nation for doing so little what with only five states or provinces getting a barely passing grade in the 60s -- Texas, Pennsylvania, Maine, New York and Alberta -- of a possible 100.

He calls that barely passing -- after all these years of effort.

It was not hard for CAEM to put Texas in the lead with retail prices not capped, bumping out Pennsylvania where shopping has been discouraged and marketers have left in droves.

Alberta continues to lead in Canada but a major phase-in in Ontario Wednesday will likely propel Ontario into the top ranks, Malloy predicted.

Malloy broadened his scope to include England/Wales and several Australian provinces especially since the Brits are so far ahead of the New World.

Why is England number one in the world? We suspect it's because the government really wants the program to succeed and because the market was

opened nationally, the market is free of interference from local regulators who for some reason want to see what's best for the old monopoly.

Why does that happen?

If we find out, we'll let you know.

Using Malloy's reasonable criteria he tallied 83 points for England/Wales versus only 69 for Texas.

We were shocked that New Jersey got a 50 despite the legislature's fine work being totally blocked by state regulators.

We wrote an obituary for the Jersey market when the last marketer -- KeySpan Energy -- pulled out.

Malloy reminded us that 50 is not a passing grade and that even though the market is moribund the state has set up a market that could be easily reversed.

All eyes are on Texas now, in part because Texas represents a new, large, coherent retail market. Texas has benefited from its integrated retail and wholesale regulation under one state legislature and one state public utility commission, Malloy reminded us.

Within ERCOT, the PUC of Texas has an opportunity to develop compatible wholesale and retail rules.

Look for a summary of the RED index at [www.caem.org](http://www.caem.org).

**MONDAY:** *Malloy answers RT's hard questions about American markets.*

## Wyo regulators catch incumbent plan to discourage shopping

An alert Wyoming PSC is taking bold action to foster competition in the state's nascent retail gas market.

The historic Choice Gas Service program is being opened to customers throughout the state.

Kinder-Morgan had applied to allow it to continue a traditional cost-based service for one year because many newly eligible customers were said to have expressed either "strong dissatisfaction" with or a "lack of understanding" of the program operating since 1996.

Thus the PSC decided to have new ballots mailed that include a regulated-rate option or to pick from four marketer choices they were to have selected from before the open season ended this week.

Yet the PSC stopped at adding a fifth service choice.

The PSC decided to divide non-shoppers evenly among the four marketers, one of them a Kinder-

## World RED index ranking March 2002

PST	RED index score 2001	North America Bank 2001	RED index score 2002	World Bank 2002
England/Wales	NA	NA	83	1
Texas	31	14	69	2
Pennsylvania	67	1	67	3
Maine	59	2	64	4
New York	58	3	61	5
Alberta	57	4	60	6
District of Columbia	47	5	54	7
Michigan	31	14	53	8
Maryland	47	5	53	8
Victoria	NA	NA	50	10
New Jersey	37	9	50	10
Arizona	43	7	43	12
Massachusetts	34	11	42	13
Montana	40	8	40	14
New Hampshire	29	17	40	14
Ohio	33	12	39	16
Connecticut	36	10	36	17
Virginia	18	22	34	18
Delaware	20	20	30	19
Illinois	30	16	30	19
New South Wales	NA	NA	29	21
Ontario	29	17	29	21
Rhode Island	29	17	29	21
Oregon	19	21	25	24
Queensland	NA	NA	23	25
West Virginia	17	23	18	26
Arkansas	11	25	17	27
California	32	13	10	28
New Mexico	6	26	6	29
Vermont	5	27	5	30
Nevada	16	24	5	30
Washington	3	28	3	32
Kentucky	2	29	2	33
Iowa	0	30	1	34
North Dakota	0	30	1	34
Wisconsin	0	30	0	36
Hawaii	0	30	0	36
Florida	0	30	0	36
Indiana	0	30	0	36
North Carolina	0	30	0	36
Nova Scotia	0	30	0	36
Prince Edward Island	0	30	0	36
Georgia	0	30	0	36
Wyoming	0	30	0	36
Kansas	0	30	0	36
Missouri	0	30	0	36
Utah	0	30	0	36
Alaska	0	30	0	36
Tennessee	0	30	0	36
South Dakota	0	30	0	36
South Carolina	0	30	0	36
Oklahoma	0	30	(1)	52
Minnesota	(5)	49	(5)	53
Mississippi	(5)	49	(5)	53
Louisiana	(5)	49	(5)	53
Idaho	(5)	49	(5)	53
Alabama	(5)	49	(5)	53
Colorado	(5)	49	(5)	53
New Brunswick	(8)	55	(8)	59
British Columbia	(8)	55	(8)	59
Quebec	(10)	58	(10)	61
Northwest Territories	(10)	58	(10)	61
Nunavut	(10)	58	(10)	61
Manitoba	(10)	58	(10)	61
Saskatchewan	(10)	58	(10)	61
Yukon	(10)	58	(10)	61
Nebraska	(9)	57	(10)	61
Newfoundland	(10)	58	(10)	61

Scores and rankings for 2001 may vary from those previously published because of corrections to data, new scoring options, and new weightings assigned to the attributes. "North America" was the scope of the 2001 report.

Morgan affiliate.

Thus the regulated rate option will not be a default supplier nor will the regulated option be available to customers where choice is already in place.

The regulated-rate service means Kinder-Morgan will continue making periodic filings on its gas costs with its first filing due next month.

All customers — not just those who choose a competitive supplier — will pay the \$1/month charge that covers educational and administrative costs of the program.

The PSC then will weigh the choice program, the \$1 fee and whether to allow the regulated option to continue after next May.

## **FERC weighs ISO bid cutting in New York**

FERC has extended an absurd program run by the New York ISO until the end of this month to allow the commission to review a more comprehensive plan submitted by the ISO in March.

The New York ISO plan includes a computer program that automatically lowers bids from generators that don't conform with historical prices.

The Independent Power Producers of New York (IPPNY) not surprisingly wants FERC to block the ISO from lowering bids it doesn't care for.

But the ISO wants more stringent rules to stop existing generators in New York City from exerting market power in times of high demand and limited supply.

## **Pa's Thomas tells Ontario of glory in free markets**

Pennsylvanians have benefited from electric competition, alleged Glen Thomas, PUC chairman, who feted neighboring Ontario's following suit Wednesday.

"Competition is improving Pennsylvania as a place to live and work.

"Consumers have more choices, and technology is advancing at a rapid pace, Thomas added, although he gave no hint as to when retail price caps will be removed.

What could he say nice about free markets with price controls?

He cited "more jobs, more and

cleaner power plants, wind farms and the popularity of buying green power, less intrusive government through a more competitive marketplace, more consumer empowerment through education and Demand Side Response and milestones in reliability."

Meanwhile CAEM (story elsewhere this issue) bumped Pennsylvania out of the number one spot for competitive markets moving Texas into the lead but kept Pennsylvania strangely in the top five US states.

## **ERCOT sets session to deal with power bidding mistakes**

A May 10 meeting has been set to hammer out a settlement with six power companies the Texas PUC alleges got millions in payments through exploiting ERCOT market rules.

The PUC charges that, under a rule that has since been changed, ERCOT last August paid \$29 million because the companies intentionally overestimated power they needed for their customers.

The PUC originally estimated a \$43 million market impact.

Another rule obligated power plant owners to pay penalties for generating less electricity than they projected.

The amount of overpayment, the companies claim, is cancelled out by the penalties they paid for shortfalls in generation.

The PUC, the companies, co-ops and munis formed a working group to resolve the payment issue but, if an agreement is not reached by June 1, the PUC will recommend its own.

The companies accused of taking advantage of the old rule include American Electric Power, Mirant, Reliant Energy, Constellation Energy Group, TXU and Enron.

## **SoCal Ed gets ready for the big day soon**

Southern California Edison (SCE) is about to ask the PUC to allow it to work with the Department of Water Resources to begin negotiating long-term power contracts.

California's PUC ordered IOUs to submit a plan for buying power looking to the time when DWR loses its authority to do so at year's end.

SCE would negotiate the terms of the contracts and be the main

counterparty.

Because of the long lead-time associated with negotiating these contracts, "it is in our customer's best interests to get a head start on the negotiations," SCE told the PUC.

But Edison should not be required to begin buying power for its customers, SCE said, until after it regains its investment grade rating and other conditions are met.

## **State rule makers test new market entrants**

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carefully and its implications are weighed.

Pick and choose your battles, counseled Rebecca Bachelder, charged with regulatory affairs at AllEnergy, who added "the bucks are in these little cases."

Her company sells gas and electricity in Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, New Hampshire and Maine, in the territories of some 28 utility rulemakers.

Select Energy does business in 11 states from Maine to Maryland and has customers in the footprints of 30 gas and nearly 20 electric utilities. New opportunities add more utilities to that number.

"We as unregulated suppliers just don't have the manpower and the resources to keep track of all this regulatory activity," Gordon noted.

The historic rulemakers consider a free market a test of their importance and take joy in making rules in these final days of the regulated monopoly paradigm certainly without consideration of the problems they create along the way.

One can only wonder how long it will be before state regulators find gainful employment in the economy.

One strategy some marketers employ is to see who intervenes in various cases. If another marketer with a strong regulatory track record files an elegant brief, others might pick a different case for their legal dollars and manpower.

PUCs notice the number of intervenors and thus cases with light response may slip by especially since regulators are politically appointed and thus politically sensitive. Regulatory agencies "don't fully appreciate how we struggle," said Gordon.

"They assume we're like the utility

and have a full-time dedicated staff of regulatory analysts and experts who can file briefs and take care of all this stuff.”

When regulators see few intervenors, they interpret that as lack of concern.

“They make the assumption that suppliers aren’t going to be impacted by this. And that’s not the case at all,” Gordon noted.

“It’s virtually impossible for many suppliers who have national operations to be aware that Bay State Gas is making a supplier fee filing that could set precedence in Massachusetts.”

The National Energy Marketers Assn (NEM) tries with limited resources to provide good national coverage.

NEM takes part in the major state cases, Bachelder noted, but marketers are on their own in the smaller ones.

Sometimes dollars aren’t the only issue.

All states have barriers to competition, but “we look for opportunities to make [them] better,” Bachelder added.

He considers Massachusetts to be one of the more competition-friendly states.

“They’ve tried hard and done better than most in reaching out to the suppliers and getting supplier input” notably through a series of “cracker barrel” meetings in Boston and around the state to solicit stakeholder views.

The meetings draw suppliers, legislators on the energy committees, regulators and others. The final meeting is May 20.

“I haven’t seen anything this open in any other state where we do business,” Gordon observed.

Unfortunately the issue isn’t always about improving the competitive climate, it’s about saving it.

A small change can chill the competition in a single LDC’s footprint or it can kill the market throughout a state.

In a new marketplace marketers leave in droves when the rules get too unfriendly. In protecting the public, regulators often destroy a market that’s in the public’s best interest.

Witness Pennsylvania’s semi-permanent price caps.

In Pennsylvania and Georgia dozens of marketers dropped out as changes in the rules or the business climate made business too hard and much too risky.

The Bay State billing charge is a “classic example of another one being thrown at us that will clearly hurt the competitive market,” said Gordon, noting that his company is prepared to tough it out. Fortunately, as one of the

top suppliers in the region, (owned by Northeast Utilities) it has the financial strength to do that.

## Gas price surge

**helps Questar:** Questar profited from the March run-up in natural gas prices locking in higher prices for the rest of the year, said CEO Keith Rattie. Otherwise the overall decline in gas prices hurt its bottom line. The company’s average selling price dropped 41% in the first quarter to \$2.46/mcf compared with last year’s first quarter. Questar produces and markets natural gas and owns pipeline and LDC units.

## Calpine doubles

**output in quarter:** Calpine Corp doubled power output in the first quarter versus the 2001 quarter but with wholesale prices averaging only \$48.48/mwh versus \$82 a year earlier revenue rose only 30%. The San Jose-based company brought online another 1,400 mw and expects to build its portfolio to 79 plants and 20,100 mw this year despite cancellations and two sales.

**CORRECTION:** “One slight correction to today’s story in RT (5/1) on POLR service and wind power. I was not a commissioner back at the time of the PECO restructuring decision referred to on page two. The person who supplied the third vote was David Rolka. Upon the expiration of his term, I was appointed to the commission in 1999... I was in private law practice at the time. Earlier, I worked in the Pennsylvania Senate where I participated in drafting of our competition law in 1996.

[Commissioner] Terry  
Fitzpatrick  
*Ouch!*

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