ICC Hearing - MISO Zone 4 Resource Adequacy Public Comment

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Hillsboro,IL

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Introduction:

As a concerned citizen and resident of Illinois, residing in MISO Zone 4, I am concerned with the policy decisions of the governing entities when it comes to electrical generation and transmission within our Zone. When I think of MISO Zone 4, my thoughts immediately go to Dynegy and their electricity produced by coal powered generating plants. As we look at resource adequacy in the long run, coal fired power plants appear to be taking advantage of our political climate. Dynegy has been receiving regulation variances and bailouts for years. Yet, that has not stopped them from closing plants, while posting positive financial analyses, while refusing to address their vast environmental issues.

Their representatives/ lobbyists have been working on many fronts. Seeking legislation - attempting to set rates high enough to support coal, Environmentally seeking regulatory cut-backs on air pollution and attempting to influence electrical distribution systems.

First, a little history: In Sept 2005, New York Attorney General Andrew Cuomo sued Dynegy (and other utilities) arguing the the companies were not properly accounting for the financial risks that pollutants from coal fired power plant created. At that time, Dynegy's response was to issue statements to current and future investors that regulations and lawsuits over pollution could pose a financial risk to the company.

Then, in 2012, one of Dynegy's largest subsidiaries "Dynegy Holdings" filed for Chapter 11 bankruptcy. The company structured itself so that the holding company Dynegy, Inc. had little or no debt. Nearly all the debt was held by Dynegy Holdings, which also guaranteed the debt for the operating divisions. Dynegy, Inc also created 3 operating divisions: the Natural Gas Group (GasCo), the coal group (CoalCo) and for all other businesses (known as the Stub Group). GasCo and CoalCo were structured so that they would be little affected by any bankruptcy filing by either Dynegy, Inc or Dynegy Holdings. Part of this structure also meant that few of GasCo and CoalCo dividends were actually given to Dynegy Holdings. To separate Dynegy Holdings from Dynegy, Inc., Dynegy Holdings was transformed from a corporation into a Limited Liability company (LLC).

This legal maneuvering made/makes it difficult for creditors to sue the LLC's board for failing to uphold their fiduciary duty. It also allows GasCo and Coal Co to sell themselves in whole or in part, at whim, to Dynegy, Inc and leave Dynegy Holdings in debt while also preventing creditors seizing the assets of CoalCo or GasCo. This structure provides an incentive for Dynegy, Inc to withhold payment and force Dynegy Holdings to declare bankruptcy (and reduce the value of the debt and make it easier to pay off). This restructuring plan allows Dynegy, Inc. to place assets with the worst performance into the hands of

Dynegy Holdings. The goal was (is) to protect Dynegy's secured creditors at the expense of its unsecured creditors. To date, this plan has already generated one lawsuit.

In 2013, Dynegy purchased 3 electric generating subsidiaries of Ameren, an Illinois power company. This deal was worth $900 Million. Dynegy formed a new subsidiary, Illinois Power Holdings (IPH), to purchase the Ameren Subsidiaries. Dynegy agreed to honor the union collective bargaining agreement in force for all the plants. Under the deal, Dynegy acquired 5 coal generating plants (Coffeen: Duck Creek, Canton: E.D. Edwards Bartonville, Joppa, and Newton). No monies actually changed hands,

The Ameren "Plants-for-Debt" swap also ran into trouble. The Federal Energy Regulatory Commission (FERC) said the studies submitted by Dynegy and Ameren were inadequate and it ordered the 2 firms to re-run them. The agency stated that Dynegy's study showed it changing the market rates for energy in the Midwest. The FERC also stated that it worried that transmission bottlenecks in the area would permit Dynegy to charge much more. In August 2013, the Sierra Club formally filed opposition to the Dynegy-Ameren Deal. The Environmental Group said the transmission bottleneck gave Dynegy too much market power and that Dynegy and Ameren had submitted only regional market power data and had not accounted for local impacts (which could be very costly).

Environmental Concerns: By 2015, Ameren was required to install pollution control equipment on its 5 coal fired generating plants. But because

Ameren was in financial difficulty, it sought and received a waiver from the state of Illinois, granting it a 5-year delay. Ameren sought to transfer this waiver to Dynegy (so that they wouldn't have to install the equipment until 2020). The Illinois Pollution Control Board denied the transfer and Dynegy filed its own request. The Sierra Club, The Environmental Law and Policy Center (ELPC), and other environmental groups believed that Dynegy had the resources to install the equipment and opposed the waiver. ACM partners (a financial firm hired by the Sierra Club) argued that Dynegy purposefully left IPH (their newest subsidiary) significantly underfunded and unable to tap into the parent company's resources. The firm (Dynegy) warned that if IPH went bankrupt, "workers would lose pensions and local communities would have to pay for any environmental remediation)." Tomic, Jeffrey. "Pollution Waiver May Decide Fate of Illinois Coal Plants", St Louis Post-Dispatch. Sept 13, 2013

There is some speculation by financial analysts that the Dynegy-Ameren (Plants for Debt) deal was a poor one. Executive director of UBS Investment Research believes that Dynasty is far more likely to shutter all 5 coal fired power plants rather than add pollution control devices. They also pointed out the US EPA issued the final rules on sulfur dioxide emissions that go into effect July 2018. Because the Edwards plant is in an area of low air quality, EPA is likely to force Dynegy to close that plant anyway. The remaining 4 plants are borderline with the exception of Duck Creek which spent nearly $800 Million on sulfur dioxide removal, however its fate is far from guaranteed.

Please remember, the first standards for suffer dioxide were set in 1971. The EPA health standard for one-hour sulfur dioxide emissions was adopted in 2010 (well before Dynegy even purchased these coal fired power plants in IL). The EPA estimated these Clean Air Act mandates would prevent 2,300-5,900 premature deaths and 54,000 asthma attacks a year. **The EPA estimated the cost to the industry at $1.5 Billion over the 10-year phase in period and the value of the health benefits at $13 Billion to $33 Billion an year.** (EPA Tightens Sulfur Dioxide Limits, John M. Broder June 3, 2010).

Electrical Transmission: The transmission of electricity requires planning. The Federal Energy Regulatory Commission (FERC) has approved the Mid-continent Independent System Operator (MISO) as a regional transmission organization (RTO). It manages the electric transmission system to over 15 states and Manitoba, Canada. As such, it is responsible for transmission planning, reliability coordination, and the operation of wholesale energy markets. We are in MISO Zone 4. Transmission planning involves identifying electric grid needs, and developing solutions to meet those needs. Through its transmissions planning process, MISO takes into account many factors including **potential customer deman**d, **existing planned and retiring power plants**, **state and federal environmental and clean energy standards, grid reliability issues, and the cost of moving power across the grid**.

Currently, Dynegy plants are responsible for approximately 50% of electricity production in MISO Zone 4. In 2017, MISO projects a surplus of energy for the 2018 delivery year of 2.7 to 4.8 GW in excess of the reserve margin. For 2018, Zone 4 (our area) 0.7-1.6 GW surplus which is up from the 2016 estimates. The electric industry is currently facing a relatively static demand with a growth rate of an estimated 0.45 %. All generators in MISO compete against each other and since load growth is minimal, the competitive pressure is not likely to decrease.

IEPA and Dynegy: For Dynegy, the initiation of the 2006 Multipollutant Standards (MPS) resulted in a series of waivers and variances. Original documents gave Ameren until 2015 to meet the standard. In 2008, the Pollution Control Board (PCB) rejected the variance request finding the requestor sought to re-write the rule rather than meet the standard. In 2012, the PCB granted Ameren an additional variance giving the company until Dec 31, 2019 to reduce the SO_2 levels called for in the standard. In 2013, Dynegy assumed ownership of the 5 plants. Postponing compliance with SO_2 until Dec 31, 2019. Oct 27, 2016 the PCB issued an order terminating the Dynegy variance because the company was “able to comply with the MPS limits”. Nov 7, 2016 IEPA Director Alec Messina received an email from Jeff Ferry, Dynegy lobbyist, to “check his pulse” on changing the MPS rule, a request he writes referring to conversations they “had discussed in the past”. Through Freedom of Information Act (FOIA), it was determined that IEPA and Dynegy Representatives met/or held discussions on an series of 9 dates spanning from Nov 7, 2016 - July 17, 2017. The purpose of these meetings/discussions/negotiations was to write a rule revision that was favorable to Dynegy. By making one regulated company part of the rule making team, it is my opinion that the IEPA abdicated its responsibility to the Illinois public and showed favoritism to a private company.

Recent financials:

Market Watch Published Oct 30, 2017 7:14 ET

Dynegy's stock rallies after Vista Energy merger confirmed

http://on.mktw.net/2D6J6bj

> *Shares of Dynegy Inc.* ***DYN, +0.42%*** *rallied 3.7% in premarket trade Monday, after the energy company said it agreed to merger with fellow power generation company Vista Energy Corp.* ***VST, +0.16%*** *in a deal that values Dynegy at over $1.7 billion. Under terms of the deal, Dynegy shareholders will receive 0.652 shares of Vista for each Dynegy shares they own. Based on Friday's closing prices, the deal values Dynegy shares at $13.24 each, an 18% premium. With 131.2 million shares outstanding, that would put Dynegy's market capitalization at about $1.74 billion. Vista's market cap through Friday was $8.68 billion. The companies said the merger would make over $5 billion in excess capital available for capital allocation. The companies expect $500 million to $600 million in net present value benefit from tax synergies. The Wall Street Journal had reported last Thursday that the companies were in merger talks. Dynegy's stock had run up 33% year to date through Friday, while Vista's stock had rallied 31%, the SPDR Energy Select Sector ETF* ***XLE, +0.97%*** *had shed 11% and the S&P 500* ***SPX, +0.67%*** *had climbed 15%.*

Conclusion:

I'm looking at Cost and benefits here for the real stakeholders, the people of Illinois. So what have I outlined here? The Ameren-Dynegy "Plants for Debt" deal was a raw deal to those of us living in Illinois. The Federal Energy

Regulatory Commission (FERC) predicted that this deal in particular would raise the market rates for energy in the Midwest and it also predicted that the ensuing transmission bottlenecks in the area would permit Dynegy to charge even more.

Dynegy, Inc has insulated itself from Illinois Power Holdings, (IPH, the actual "owner" of the 5 Dynegy Coal fired power plants along with their liabilities here in Illinois). The firm (Dynegy) warned that if IPH went bankrupt, "workers would lose pensions and local communities would have to pay for any environmental remediation)."

Dynegy has been meeting with the IEPA in closed-door sessions attempting to re-write existing Multipollutant Standards (MPS). But did it do anything to remediate the environmental issues other than to isolate the costs in a subsidiary shackled to employee pensions while insulating themselves financially?

In my opinion, Dynegy is waging an attack on public health and our finances to prop up their corporate profits without fulfilling their already existing responsibilities. MISO's responsibility to the Illinois public far outweighs the manipulations of the systems by Dynegy. I feel their coal-fired power plants have been receiving more than their share of incentives at the expense of other electrical power generators within MISO 4. I urge the ICC, along with MISO to take the steps necessary to increase the diversification of our electrical power generation and transmission within MISO Region 4 and MISO in general. You have a tough job to do. I feel our electrical power infrastructure needs improvement.

Thank you for your time.

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