

COMPETE

Electricity Competition **IS** the Public Interest

Watt's Up?

January 2009 Newsletter

Wellinghoff Tapped to Head FERC

President Obama has named FERC Commissioner Jon Wellinghoff Acting Chairman of the Commission. Wellinghoff has been on the Commission since 2006 and was recently re-appointed to a second term.

"I thank President Obama for the opportunity to lead FERC at a time when our nation faces the challenge of providing consumers with access to clean, renewable energy and ensuring that our nation can deliver that energy in the most efficient, smart, and technologically sophisticated manner possible," Wellinghoff said in a statement.

William Massey, former FERC Commissioner and counsel to **COMPETE**, congratulated the new chairman:

"With this appointment and others, the Obama administration has shown it will hit the ground running on pressing energy policy issues and climate change. Jon Wellinghoff understands the benefits competitive electricity markets provide in fostering efficiency, such as improved plant performance so we get more electricity with fewer emissions, and innovation, such as the fertile ground markets provide for demand response and sustainable wind energy. We look forward to FERC under his leadership maintaining the bipartisan competition policies that have guided the commission for the past three decades."

COMPETE also thanks outgoing FERC Chairman Joseph T. Kelliher, who will continue to serve as a FERC commissioner for the near term, for his steadfast leadership and commitment to well-functioning competitive electricity markets.

A Defeat for Anti-Market Demagoguery

A federal appeals court this month delivered a stunning defeat to a legal gambit seeking to effectively reregulate the competitive wholesale power market in New England. The U.S. Court of Appeals for the District of Columbia Circuit rejected a lawsuit brought by Connecticut Attorney General Richard Blumenthal, a leading demagogue attacking competitive markets, and upheld FERC's policies providing for market-based pricing of generation. "[M]arket rates are expected and permitted to be higher than marginal costs during times of scarce supply," the Court said in its unanimous opinion, finding that the Connecticut AG provided "no meaningful analysis of whether those rates are just and reasonable." The Court's decision can be found at

<http://pacer.cadc.uscourts.gov/docs/common/opinions/200901/07-1130-1160521.pdf>

COMPETE Co-Chair Named U.S. Trade Rep

President Obama has nominated **COMPETE** Co-Chairman Ron Kirk to be the United States Trade Representative. Once confirmed by the U.S. Senate, he will be the nation's chief trade negotiator and principal advisor to the president on matters of trade. **COMPETE** congratulates Ron on his appointment and wishes him all the best in his new endeavor.

COMPETE Engages with U.S. Mayors

COMPETE brought its pro-competition message to the winter meeting of the U.S. Conference of Mayors in Washington this month. Along with **COMPETE** members Wal-Mart, Johnson Controls, Itron, Target and Tetra Tech, **COMPETE** is a member of the Mayors Business Council. Climate change and green jobs were key topics of discussion for the mayors, many of whom hail from cities with municipal utilities at the vanguard of efforts to roll back competitive markets. The mayors also discussed rate decoupling, and building out the grid to bring remote wind energy to cities. **COMPETE** Co-Chairman Ron Kirk received a rousing standing ovation as a keynote speaker at the mayors' meeting, and Wal-Mart furthered its sponsorship of the U.S. Conference of Mayors' Climate Protection Awards Program.



***COMPETE** Co-Chairman Ron Kirk and Amy Hill, public relations executive with Wal-Mart Stores, at the winter meeting of the U.S. Conference of Mayors.*

Keeping the Lights On

The U.S. Department of Energy's (DOE) Electricity Advisory Committee (EAC), a group of electricity stakeholders that includes **COMPETE** member Constellation Energy, has released "***Keeping the Lights on in a New World.***" The report addresses current challenges in building new generation and transmission; the use of demand-side resources and increased efficiency; and plans for meeting future electricity needs to provide reliable, cost-competitive supplies of electricity while protecting the environment.

The report lists specific actions the EAC believes DOE should consider in meeting these challenges. The report notes that the country's electricity structure is quickly aging and must be refurbished soon in order to meet future challenges. With regard to competitive markets, the paper states that increased market competition will benefit consumers by eliminating grid bottlenecks that inflate

costs by restricting supply. It goes on to say that state, regional, and national priorities, including grid reliability, economic energy supply, energy security, and climate change can all be addressed through the development of a robust transmission system. Some of the recommendations include:

- Promote long-term policies, processes, and legislation that increase investor certainty and reflect the 30-year or longer lives of electricity generation plants;
- Reduce barriers to financing and construction of transmission by supporting new transmission ownership structures and advising FERC to encourage expedited timeliness for construction of economic projects; and
- Reduce the risks faced by new generation developers and electricity consumers by supporting financial grants and ensuring continued funding for loan guarantees.

The EAC also released two other reports addressing issues regarding deployment of energy storage technologies and deployment of smart grid technologies. These reports similarly review the challenges facing DOE and the Nation in many important energy-related areas and include recommendations for policy and program initiatives:

“Bottling Electricity: Storage as a Strategic Tool for Managing Variability and Capacity Concerns in the Modern Grid” fulfills requirements of the Energy Independence and Security Act of 2007, which directs the Secretary of Energy to establish an Energy Storage Advisory Council and requires the Council to develop a five-year plan not later than December 18, 2009. The report evaluates the applications, regulatory implications, and barriers to implement energy storage technologies and considers the potential energy storage applications in plug-in hybrid electric vehicles. A five-year plan is set forth in the report for the integration of basic and applied research, which looks to enable the U.S. to retain a globally competitive domestic energy storage industry for electric drive vehicles, stationary applications, and electricity transmission and distribution.

“Smart Grid: Enabler of the New Energy Economy” presents the EAC’s recommendations on how to transform the nation’s electric power grid into a more intelligent, resilient, reliable, self-balancing, and interactive network that enables enhanced economic growth, environmental stewardship, operational efficiencies, energy security, and consumer choice. The Report addresses barriers (such as increasing customer awareness and allocating costs fairly) and opportunities to deploying Smart Grid technologies to enhance the nation’s electric power delivery system to meet the challenges of the 21st century. The Report identifies specific actions DOE can take to implement Smart Grid technologies.

All three reports are available at <http://www.oe.energy.gov/eac.htm>.

Demand Response in Higher Demand

According to the Federal Energy Regulatory Commission’s third annual staff report, *“2008 Assessment of Demand Response and Advanced Metering,”* demand response and advanced metering programs have made significant progress in serving more consumers across the Nation. The survey reports that during 2007, 8 percent of energy consumers in the United States participated in some kind of

demand response program and the potential demand contribution from all such programs reached close to 41,000 megawatts, or 5.8 percent of U.S. peak demand. This represents an increase of about 3,400 MW from the 2006 estimate.

"Demand response resources played a critical role in ensuring the reliability of the electricity grid during periods of severe strain in the past year. Demand response resources helped meet peak load in California, the Mid-Atlantic, and New York; helped respond to other system emergencies, including addressing sudden changes in generation output in Texas; and participated in capacity markets in the PJM Interconnection and ISO-New England." It is no coincidence that all of those regions are served by organized markets.

A copy of the report can be found at www.ferc.gov.

COMPETE has updated the fact sheets, *Demand Response & Competitive Electricity Markets* and *Competitive Electricity Markets Drive Renewables, Demand Response, Conservation, Efficiency and Innovation* to reflect these findings. Both are available at www.competecoalition.com.

ERCOT's New Chair Supports Competition

Jan Newton, the new Chairman of the Electricity Reliability Council of Texas (ERCOT) is a strong supporter of competitive markets. Newton, who joined ERCOT's board in 2006, said the competitive electricity market in ERCOT "works pretty darn well" as evidenced by the continued interest among generators building power plants in the region.

In response to a question regarding whether the Texas Legislature would amend the state's restructuring law, she said that generators, transmission companies and retailers need certainty and confidence in the market's future if they are to make the major investments in infrastructure that will be needed.

More Rate Increases in Vertically Integrated States

The Florida Public Service Commission voted to permit **Florida Power & Light** to amortize over 5 years and recover from its customers \$34.1 million in costs the company incurred to develop its **now-canceled** plan to build a pulverized coal station in Glades County.

The Ohio Public Utilities Commission is expected to issue its final order in March allowing **American Electric Power** to raise electric rates by 52 percent over three years, upsetting many interveners, some of whom are questioning how such a huge increase can be justified. In addition, there are other complaints about AEP's position that retail customers should be prevented from directly participating in demand response programs offered by the PJM Interconnection.

Beginning in March, the **City of Girard, Kansas** customers will see some big changes in their monthly electric bills in an effort to allow the city to stop losing money from its electric utility. The rate hikes range for 7 percent for residential customers and as much as 20 percent for government entities.

Members in the News

Under a new contract with **EnerNOC Inc.**, Boston City Hall, the public library, and police headquarters are joining an energy-management network that will pay the city to reduce the buildings' electricity use during peak demand times allowing the city to cut approximately \$60,000 a year from its energy bill. In addition, the city will have access to software that will allow it to analyze and streamline electricity use, potential further reducing costs. The city plans to add more buildings to EnerNOC's demand response network over the next few years.

"Demand response allows the city to implement smart energy saving measures and make an immediate contribution to the overall reliability of our region's electric power grid," Mayor Thomas M. Menino said in a statement. "This is a win-win strategy that puts dollars back in our budget."

Hess Energy Marketing has signed a deal with printing firm Tabloid Graphic Services to provide demand response services for Tabloid's facility in New Jersey. Tabloid has gained greater understanding of how they use energy through Hess' PowerPort program and it has dramatically reduced usage and saved money.

COMPETE Member Opinions

COMPETE and its members recently submitted commentaries and letters to local newspapers.

We wanted to share these with you to both 'arm' you with their strong messages and also to encourage you to submit your own opinion pieces to your local newspapers.

Energy Competition Benefits Consumers

San Antonio Express News
San Antonio, Texas
December 9, 2008

Customer choice and competition are important foundations of the American economic system, especially in Texas. They can drive prices lower, push quality higher and give consumers greater leverage with corporations and businesses.

Today, Texas families shop for products and services historically limited by monopolies or government agencies, such as telephone and electricity services. Some have criticized moving these vital services into competition as "privatization" or "deregulation," but research shows that Texans support the power to choose.

A recent poll found that Texas voters support, by a 78 percent to 14 percent margin, the current competitive electric market in our state. Folks polled in the San Antonio and border region supported electric competition by an 80 percent to 11 percent margin.

Texans told pollsters they appreciate that competition helps keep rates down and improve customer service. Consumers also appreciate that a competitive electric market has made Texas the wind energy capital of America by streamlining regulatory snarls blocking wind power transmission in other states.

Electricity demand in our fast-growing state is expected to double over the next 20 years. Since competitive electric laws were enacted in 1999, the market has encouraged power companies to meet growing demand by investing in newer, cleaner power plants.

Today, Texas leads the nation in clean wind power generation. Electric companies also are investing in modern, efficient and environmentally sound power plants. Companies have invested more than \$16 billion in cleaner and more efficient electric power plants in Texas.

Texans support electric competition even in the wake of Hurricane Ike power outages. The poll shows that Ike and resulting blackouts did not undermine support for the Texas electric market. More than half of poll respondents believe additional government regulation on electric companies would make no difference to disaster response, and many think more regulation would make matters worse.

Our competitive system, with oversight by lawmakers, the Public Utility Commission and ERCOT, is working to hold down prices. The Wall Street Journal reported on a major Texas electric company's "inability to pass on its higher wholesale costs to its retail customers, many of whom obtain electricity services under fixed-price contracts."

Competition is not a cure-all, but it does put downward pressure on prices and encourage cleaner, more cost-effective electric generation. Texans were not alone last summer as rising oil and gas prices pressured electric rates higher. Across the nation, regulated markets and regulated utilities saw double-digit rate hikes due to gas prices.

More government control of utility rates has not proven effective in keeping rates down in the face of record oil prices. In Virginia, which recently re-regulated its electric market, state regulators recently approved an 18 percent rate increase. Government utility regulators have recently authorized double digit rate increases for customers of regulated utilities in Florida, North Carolina, Missouri, Kansas, Alabama and Oklahoma.

Texans know that the best antidotes to rising fuel prices are consumer choice, diverse fuel sources and ample electricity supplies. Less than a decade old, the Texas competitive electric market is performing as intended. Most Texans can now choose their electric provider. Today, our competitive electric generators provide enough electricity to power 38 million homes and employ 5,300 Texans.

Judging from the new polling data, Texans are happy to have the power to choose their electric provider, and agree that the competitive market means lower electric prices, more reliable service and cleaner, more efficient power plant construction.

*Marianne Carroll is executive director of **Texas Competitive Power Advocates**, and an energy and regulatory attorney at Brown McCarroll LLP.*

Candidate Tom Knox'd on electricity 'facts'

Philadelphia Daily News

January 26, 2009

In his Jan. 13 op-ed, "Electric Rate Shock," Tom Knox claims that the restructuring of Pennsylvania's electricity industry failed.

If Mr. Knox wants to be considered seriously as a candidate for governor, he needs to get his facts straight.

- Fact: The state's electric customers have saved billions since restructuring began compared to what they would've otherwise paid.
- Fact: When adjusted for inflation, the rates Pennsylvanians pay are 12 percent less than they paid in 1996 despite the fact that the cost to produce electricity has increased substantially.
- Fact: In the years before restructuring, the state had steadily increasing rates, inefficient, poorly run plants and billions of dollars in construction-cost overruns.
- Fact: Electric competition has led to substantially increased operational efficiency and investment in more than 8,300 milliwatts of new generation resources, enough to power more than 8 million homes, including a surge of renewable energy. Pennsylvania did not have a single wind farm before restructuring but now boasts of 10 facilities with almost 300 milliwatts of capacity with even more on the way.
- Fact: Investments in generation since restructuring have been made at the risk of shareholders, not customers. In non-restructured states, the reverse is true. Notably, in some non-restructured states, utilities have been permitted to recover costs of generation projects that never materialized and provided no benefit to consumers.
- Fact: As producing electricity is significantly more costly today than it was 10 years ago, because of rising fuel, labor and construction costs, electric rates likely will increase when the 12-year rate caps expire.
- Fact: Although increases will vary across the state, rates in the Philadelphia metropolitan area are projected to rise by 20 percent or less - not 65 to 100 percent, as Mr. Knox claims.

Had Mr. Knox done a little more research, he would have reached the conclusion that so many Pennsylvania policymakers have: If competitive markets are allowed to work as intended, they will produce lower rates over time. A return to the failed monopoly system would only serve to increase prices for the very people Mr. Knox seeks to protect.

Glen Thomas, Former Chairman

Pennsylvania Public Utility Commission, King of Prussia

And rate caps distorted reality

Philadelphia Daily News

January 26, 2009

The problem Pennsylvania electricity consumers face is not competitive markets but that competition hasn't been allowed to freely work (op-ed, "Electric Rate Shock"). Because of rate caps, consumers have been shielded from the real cost of electricity for more than a decade. Consumers in states without rate caps have gradually absorbed a proportionate rise in rates from escalating fuel costs over several years.

No market or regulatory structure can protect against rising fuel costs in a global energy market. But price is only one measure of success. Pennsylvania consumers enjoy other benefits provided by competition, like the development of renewable wind energy and related jobs. According to the American Wind Energy Association, more than 70 percent of wind resources are in competitive markets like Pennsylvania, despite the fact that only 44 percent of wind energy potential is found in these areas.

Wind energy producers and consumer representatives joined me in testifying before the Pennsylvania Public Utilities Commission on Dec. 18 about the real benefits provided by competitive electric markets. Big employers like Wal-Mart talked about major energy savings, which not only help them provide jobs but let them pass savings on to customers. State manufacturer Leggett & Platt touted the efficiency and flexibility of competition to control energy costs and preserve jobs. These and other consumers strongly favor competitive electricity markets.

Returning to the failed system of monopoly utility regulation won't solve concerns about prices, won't provide job growth and won't help meet our enormous energy challenges with clean energy sources and other innovations. Policy decisions should be made with a long-term focus on what will foster efficiency, reliability and environmental benefits. Competitive markets continue to prove they are better equipped to meet these challenges.

William L. Massey, Counsel
COMPETE Coalition
Washington, D.C.

Membership Update – COMPETE at 280

COMPETE membership continues to grow. Today we stand at 280 members. We would like to welcome and extend our thanks to Tetra Tech (Pasadena, CA) who has joined since our last newsletter.

COMPETE New Member Profile

Tetra Tech, headquartered in Pasadena, California, is a leading provider of consulting, engineering, and technical services worldwide. Tetra Tech is a diverse company of individuals with expertise in science, research, engineering, construction, and information technology. Tetra Tech's strength is in collectively providing integrated services – delivering the best solutions to meet clients' needs. In a complex world with competing demands for limited resources, Tetra Tech offers clear solutions made possible with sound science, understanding, innovation, and industry-leading approaches.

Did You Know?

According to *Electric Power Annual 2007*, released recently by the Energy Information Administration (EIA), electricity generation and electricity sales reached record levels in 2007. Following a year of relatively weak growth in 2006, net generation of electric power increased by 2.3 percent, rising to 4,157 million megawatt hours and retail sales rose by 2.6 percent to 3,765 million megawatt hours in 2007.

Continued economic growth in 2007, combined with changes in winter and summer temperatures relative to 2006 that added to electricity use for space heating and cooling requirements, contributed to the increase in electricity sales.

Key points:

- For the first time, non-hydroelectric renewable energy, led by wind power, was the leading source of new electric generating capacity.
- The U.S. average retail price for electricity increased by 2.6 percent to 9.1 cents per kilowatt-hour.
- Drought conditions prevailed in the West and Southeast, contributing to a 14.4 percent year-over-year decline in conventional hydroelectric generation.
- Net generation at nuclear plants increased slightly in 2007 to 806 million megawatt hours, despite a small decline in net summer capacity. The average capacity factor for the nuclear generating fleet was 91.8 percent, an all-time high.
- End-of-year coal stocks for 2007 increased 7.3 percent from 141 million tons to 151 million tons. The build in coal stocks in 2007 was considerably less than the 39 percent increase that occurred in 2006.

America: Powered by Competition

The COMPETE coalition represents 280 electricity stakeholders, employing nearly seven million American workers, including customers, suppliers, generators, transmission owners, trade associations, and economic development corporations – all of whom support well-structured competitive electricity markets for the benefit of consumers. For more information, please visit www.competecoalition.com.