COMPETE

Electricity Competition **IS** the Public Interest

Watt's Up?

March 2009 Newsletter

MD Electricity Market Under Siege – COMPETE Responds

COMPETE members have rallied to the defense of the Maryland electricity market in the face of re-regulation proposals by the Maryland State Legislature and Governor Martin O'Malley – proposals that could have a significant impact not only on retail choice in that state but on the progress of electricity competition nationally. Under a bill that could be approved by the Maryland Senate as early as today, all new generation would be built in rate base, with the investment risk borne by ratepayers rather than investors. The legislation would require integrated resource planning, and if additional power is needed the Public Service Commission could order utilities to either build new resources or acquire them.

The bill would abolish retail choice for residential and small commercial customers. Large industrial and commercial customers would still be allowed to choose their supplier. However, the bill would establish a non-bypassable surcharge to pay for any new generation ordered by the Commission. This new energy tax would be applied to all customers, including large commercial and industrial customers being served by competitive suppliers.

Earlier this month, **COMPETE** members George Waidelich, Vice President of Energy Operations of Safeway, Paul Allen, Senior Vice President of Constellation Energy Group, and John Shelk, President and CEO of the Electric Power Supply Association (EPSA) testified before the Maryland Senate in opposition to the legislative proposals. George Waidelich furthered his opposition last week with testimony before a Maryland House committee considering the re-regulation proposals.

In his testimony, Paul Allen noted there is no guarantee that re-regulation would result in lower energy prices or cleaner or more reliable power. "In fact, the unintended consequences may well include harsh reaction from credit rating agencies, protracted legal battles in state and federal courts and frustration in capital markets that would lead to higher prices to consumers and disinvestment in Maryland's energy infrastructure," he said.

George Waidelich noted in his Senate testimony that Safeway employs 8,800 people at its 77 stores and distribution center in Maryland and that passing a bill to re-regulate the energy market would take away his company's right to choose its electricity suppliers, which has helped lower costs. He said that Safeway paid in the $60 range for one megawatt-hour of electricity in 2006 and more than $80/mWh in 2007 before prices dropped to about $50/mHh in 2008. "We believe that customer choice provides benefits for all energy users," he said. "We make this statement based on our experience in receiving electricity and natural gas service from approximately 300 providers, including both monopoly and competitive suppliers."

Waidelich said, "In today's financial crisis, limiting a customer's choice for managing operating costs and risk is dangerous. Choice in energy suppliers empowers customers to make longer term energy decisions that use and employ innovative energy products and services to manage risk and cost. These tools are more important now than ever to maintain the health of business operations. Customer choice is a critical tool for Maryland businesses to weather the current economic downturn gripping the state."

Also testifying before the Senate committee was Glen Thomas, President of PJM Power Providers, who reminded lawmakers that proponents of re-regulation forget the many reasons that led to competition in the first place: "Inefficient plants, cost overruns and poor operating performance were all hallmarks of the regulated electricity industry," he said.

The **Retail Energy Supply Association** (RESA) - a **COMPETE** member - sent a letter to the Senate Finance Committee opposing the two bills, saying a return to regulation will not save Maryland consumers money and that the hike in the costs of fuels used to generate electricity is the culprit behind higher electricity prices, not competition.

MD Customers: Competition Yields Major Savings

14 major Maryland commercial and industrial electricity customers and business groups sent a letter to Governor O'Malley strongly opposing efforts to re-regulate the Maryland electricity market and stressing their belief that a market based system is the best way to serve consumer interests.

Signatories to the letter include **7-Eleven**, Best Buy Co. Inc., **Big Lots Stores Inc.**, Giant Food LLC, International Paper, **Leggett & Platt Inc**., **Macy's Inc.**, Maryland Chamber of Commerce, Maryland Retailers Association**, PetSmart Inc**., **Safeway Inc., Staples**, **Target** and **Wal-Mart Stores Inc**. (**COMPETE** members in **bold**.) Collectively, the signatories represent 2,037 facilities in Maryland, 494,147 employees and over $114 million in annual electricity purchases in the state.

The letter and **COMPETE**'s press release is available at www.competecoalition.com.

Wellinghoff Designated FERC Chairman, Kelly to be Renominated

President Obama designated Jon Wellinghoff as the Chairman of the Federal Regulatory Commission (FERC). He was designated FERC's acting chairman in January. The President also announced his intent to nominate Commissioner Suedeen Kelly to another five-year term. **COMPETE** issued a statement congratulating the President.

"Both [Wellinghoff and Kelly] have demonstrated leadership throughout their distinguished tenures at FERC," said **COMPETE** Executive Director Joel Malina.

"Both have a clear understanding that competitive electricity markets serve a critical role in fostering the innovation needed to meet growing demand for energy while at the same time reducing greenhouse gas emissions, increasing energy efficiency, promoting the development of renewable energy sources, and upgrading our national infrastructure. "

"We look forward to working with Chairman Wellinghoff, Commissioner Kelly, the entire Commission and FERC staff as they continue to promote competition policies that serve the greater interests of the American people," Malina said.

Commissioner Spitzer: Competition "Uniquely American"

FERC Commissioner Marc Spitzer offered rousing support for competition while addressing policy priorities for the coming year at a **COMPETE**-sponsored event March 17.

In his remarks, Spitzer noted that competitive electricity markets provide the best environmental outcomes, promote jobs and offer the best value for consumers. He described competition as "something uniquely American." Discussing issues FERC will focus on in the coming year, Spitzer predicted that the Commission's consistent, long-standing, bipartisan policies on competition and markets will not change.

Opening remarks were delivered by **COMPETE** Co-Chair Senator Don Nickles who noted that **COMPETE** is leading the charge to make certain that competitive markets continue to bring environmental and economic benefits to consumers.

COMPETE Counsel William Massey cited the track record of successful well-functioning competitive electricity markets as an important aspect of addressing our nation's energy challenges. "Ultimately, we need to ensure that existing wholesale markets are not fundamentally modified. These markets are operating as intended, delivering benefits and safeguards that promote innovation, investment and reliability – which are becoming increasingly critical as the demand for energy continues to grow and our infrastructure ages," Massey said.

The event was covered by numerous media outlets, including *Platts, SNL Energy*, *Inside Washington Publishers*, among others.

COMPETE Releases 'Policy Blueprint'

Also on March 17, **COMPETE** released a policy blueprint, highlighting for federal policymakers and the Obama Administration the ways in which competitive electricity markets can help address key challenges facing the electric industry, including generation and transmission infrastructure investment, reducing carbon emissions, cost containment to meet global competition, and promoting energy independence.

The **COMPETE** Coalition policy blueprint is attached to this newsletter, and can also be found online at: www.competecoalition.com/resources/compete-policy-blueprint.

New Studies Counter NY Criticism of Single Clearing Price Auction

A bill under consideration in the New York State Assembly would require the state Public Service Commission to change the way wholesale electricity is sold in New York. The bill would forbid the New York Independent System Operator (NYISO) from using a single clearing price in its current auction system, through which utilities purchase power on the open market. Under the single clearing price auction, bids are arrayed from lowest to highest and a single market price is set at the value of the bid at which demand is met. All bidders receive that market price. Basically, price is set at the point where supply meets demand, which is bedrock economics. The energy markets in all of the RTOs and ISOs use this method to balance their systems. The New York bill would instead require a "pay-as-bid" auction where each winning bidder would be paid the value of its bid.

COMPETE responded by unveiling two new studies during a March 3 webinar: "*Single Clearing Price in Electricity Markets*," written by Ross Baldick of the University of Texas at Austin; and "*Market Misperceptions and Regrets about Past Business Decisions,"* written by Dr. Roy Shanker. Joining Professor Baldick and Dr. Shanker at the event was Robert Stoddard, Vice President, CRA International (author of *"Contracting and Investment: A Cross-Industry Assessment"* also released by **COMPETE** during the webinar).

According to Baldick, single price clearing auctions successfully allocate generation resources efficiently and on a least-cost basis. Having sellers receive their as-bid price rather than the auction clearing price would impair not only grid operators' ability to dispatch generation efficiently but also their ability to police against the exercise of market power. Baldick stressed that adopting a pay-as-bid approach would not result in lower electricity prices or improve the performance of electricity markets.

In a foreword to the Baldick study, University of Maryland economist Peter Cramton noted, "The main argument against a single clearing-price auction is political, not economic. When electricity prices are high, critics point to the disparity between the clearing price and the marginal cost of generators using less expensive fuel. What they fail to appreciate is that these higher profits of the low-cost generators are needed to cover the much higher fixed-costs of these resources that use less expensive fuel such as hydro, nuclear, solar and wind. In addition, the higher spot price motivates the demand side to conserve."

In his study, Shanker argues that most of the criticism leveled at the electricity markets of today can be traced to past business decisions rather than Single Price Clearing Auctions and other market design features. Shanker warned that efforts to revert to cost-based regulation are both misguided and myopic. He said that when many states began restructuring their retail markets about 10 years ago, large industrial customers benefited from the various retail rate caps that were established and lasted for years, while they avoid having to pay stranded costs. Now that many of these favorable deals have expired, these same customers are complaining about the electricity prices that have resulted. Rather than engage in hedging strategies while the deals were still in place, they failed to do so and now seek to deflect attention from their business decisions by asserting there are problems with the competitive market.

All three reports, along with a **COMPETE** press release from the webinar, are available at www.competecoalition.com.

COMPETE in the News

COMPETE Executive Director Joel Malina wrote a letter to the Editor of Newsday regarding the shortfalls of the NY proposal. The letter (below) was published in that paper's March 9 edition.

> LTE: Competitive electricity
> By Joel Malina
> Newsday
> March 9, 2009
>
> Electricity consumers should beware of good-intentioned but misguided efforts to re-regulate electricity prices in New York. Legislation to abolish the clearing-price auction for wholesale electricity would not result in lower prices for consumers and represents a threat to the billions in investment New York needs to develop renewable resources and keep the lights on.
>
> Two studies released last week by my organization show the auction helps to efficiently allocate electricity generation resources on a least-cost basis and is superior to cost-based alternatives.
>
> Critics fail to acknowledge the wide range of economic and environmental benefits of a competitive electricity market, overlooking the threat to continued investment, reliability and renewable-power development posed by a return to failed, cost-based regulation.
>
> Misperceptions about restructured electricity markets should not determine policy. Painting a balanced picture of this complicated and important debate is critical if New Yorkers are to continue enjoying reliable and affordable electricity that is far cleaner than the national average.
>
> Joel Malina, Washington, D.C.
> Editor's note: The writer is executive director of Compete Coalition, a national advocacy coalition of electricity stakeholders.

On Sunday, March 29, **COMPETE** Counsel William Massey was featured on CleanSkies TV, available on line and broadcast locally in Washington, D.C., discussing Maryland's legislative proposal to re-regulate the state's electricity markets.

Massey offered a compelling defense of competition as a means to providing innovation, keeping costs down and creating incentives for good performance. "It is an absolute myth that going back to the so-called good old days of regulation will bring customer benefits," said Massey.

The show also featured John Shelk, President and CEO of the Electric Power Supply Association (a **COMPETE** member). "Our members supply electricity throughout the United States in both states that deregulated or restructured as well as in those that did not, and what we're finding is that there are rate increases in both types of markets.

"Often-times people blame the market mechanism – sort of like going to the gasoline station when prices were raising and blaming the pump for the price when it's underlying market fundamentals. What we're actually seeing today and over the last year is why markets are better and why the re-regulation approach…would be bad for consumers."

To see the entire segment, follow this link: http://www.cleanskies.tv/#.

COMPETE at KEMA

COMPETE Counsel William Massey participated in a panel discussion at KEMA's 20th Executive Forum in Houston in early March, entitled "Competition and Regulation: Debating the Right Mix." In his remarks, Massey emphasized how well-structured electricity markets are attracting renewables and demand resources and are spurring operational and investment efficiencies that monopoly regulation simply can't match: "Now would be the worst possible time to return to heavy-handed regulation. We cannot meet these challenges without the innovation and cost containment that markets produce. The last large infrastructure buildout occurred in the 1970s and 1980s under cost of service regulation, and the result was not pretty -- significant cost overruns and inefficiencies with ratepayers bearing the risk. As our nation faces these challenges, we need the innovation and efficiencies of well functioning electricity markets more than ever."

COMPETE Launches New Ad Campaign

COMPETE is pleased to announce a new ad campaign that launched this month. Our "Brackets" ad focuses on the ability of competitive markets to drive innovation. The ad, a play on NCAA basketball "March Madness," ran in Capitol Hill and energy trade publications, and the New York Times and the Washington Post online editions.

The ad can be seen at www.competecoalition.com.

More Rate Increases in Vertically Integrated States

Florida Light & Power (FPL) has asked the Florida Public Service Commission to consider an increase in its base rates by more than $1 billion – or a whopping **31.5 percent** – in January and an additional $247.4 million increase just 12 months later. FLP said that the base-rate increases are needed to recoup the cost of major investments in generating capacity and its transmission and distribution system.

Ohio Power's and **Columbus Southern Power's** (together known as **AEP Ohio)** rates are going up, but not as much as they asked for last year. AEP filed a request with the PUC to raise rates by 15 percent annually, or a **cumulative 52 percent, over three years**. Due to public outcry, in its final order the PUC authorized Columbus Southern to hike rates by 19 percent over three years – 7 percent in 2009 and 6 percent in both 2010 and 2011. For Ohio Power, the total increase is 23 percent – 8 percent in 2009, 7 percent in 2010 and 8 percent in 2011.

Oklahoma Gas & Electric has asked the Oklahoma Corporation Commission to increase electric rates for residential customers by $8 per month. In addition, the company requested a 1 percent increase for small business and a 5 percent increase for commercial and industrial customers.

COMPETE Membership Surpasses 300

COMPETE membership has reached a new milestone. Today we stand 310 strong. We would like to welcome and extend our thanks to Polo Ralph Lauren Corp. (Lyndhurst, NJ); BJ's Wholesale Club, Inc. (Natick, MA); Legacy Energy Solutions (Houston, TX); K! (Salem, OR); GABCGroup (Atlanta, GA): Energy Power Light, LCC (New York); Smith Land Group / Laurel Self Storage (Sicklerville, NJ); Ashe County Renewable Energy (Jefferson, NC); Stone & Webster Management Consultants (Brentwood, NH); Arctech, Inc. (Chantilly, VA); Kinetic Energy, LLC (Houston, TX); Future Home Improvements (Jacksonville, FL); US-NRG (Darnestown, MD); My Source Energy LLC (Houston, TX); Energy Advisory Service (Kennesaw, GA); Human Dimensions TV, LLC (Rockville, MD); North Shore Energy Consulting, LLC (Sagamore Hills, OH); The Houston Company (Houston, TX); AES Engineering Design & Construction Services, PLLC (Southampton, NY); Comcast (Philadelphia, PA); Power Brokers, LP (Dallas, TX) who have joined since our last newsletter.

COMPETE New Member Profile

Comcast, headquartered in Philadelphia, PA, was founded in 1963 as a single-system cable operation. Today, Comcast is the country's largest provider of cable services - and a leading communications company. Comcast is focused on broadband cable, commerce, and content. In addition, Comcast delivers digital services, provides Internet and broadband phone service, and develops and delivers programming. Comcast has 24.2 million cable customers, 14.9 million high-speed Internet customers and 6.5 million Comcast Digital Voice customers.

Did You Know?

Wind power in New York reach 1,000 megawatts for the first time according to the NYISO. Wind is now providing close to 5 percent of the 21,000 MW of total system demand. One MW powers about 1,000 homes. New York now has 1,274 MW of wind capacity and that number is expected to surge in the future. The NYISO is currently studying proposals for another 8,000 MW of wind power.

America: Powered by Competition

*The **COMPETE** coalition represents 310 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.*