

# Restructuring Today



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## Texas has 3-person PUC

### Meet the new one

With the eyes of America on Texas' retail market, a new PUC member could be trouble for the nation.

Given the Texas-size growing pains, how does Julie Carruthers Parsley, the PUC's newest commissioner fit in?

Parsley describes herself as "pro-competition, pro-market."

"But I understand that we have to keep a balance on all sides of the equation," Parsley added.

Promoting free-market conditions, Parsley said, calls for "keeping access to competitors open, keeping the rules straightforward and the playing field as level as possible."

"If people know the rules they can play fairly," she said in an interview. The Texas legislature is in session and she is briefing lawmakers.

Parsley has been seeking lawmakers' views on raising the maximum PUC penalty for breaking rules from a \$5,000 wrist slap to a heavier wrist slap of \$25,000/violation.

"We need to make sure that everybody understands the rules, that everybody can play fairly and that if someone does violate the rules, then an enforcement action should

be pursued," Parsley told us.

Parsley will support openness regarding infractions and market defects up to a point.

"I'm a big believer that knowledge is power but you have to balance that with what's best for the market."

Gov Rick Perry, R, appointed Parsley Nov 15 after a rancorous election campaign where his opponent attacked competitive markets.

Tony Sanchez, the Democrat, was a serious threat to power competition in Texas and across the land since Texas is seen as such an important example.

Parsley had been the Lone Star solicitor general, arguing cases before the US Supreme Court, the Texas Supreme Court and the US Fifth Circuit Court of Appeals.

"I'm really enjoying myself.

"I've had more comfort with it than I thought I would because there's so much law wrapped around the technical aspects," Parsley replied.

The reaction of financial markets to the energy industry "has posed some challenges to competitors and companies" in Texas, Parsley noted, so the PUC is "working closely with them to maintain

their viability."

Parsley had been paying attention to the trials and tribulations of the Texas market from the attorney general's office.

"ERCOT has worked very hard to overcome the challenges presented by opening the market and has done a very good job."

The low number of residential switches is acceptable, Parsley maintained, and customer awareness of competition "has improved considerably."

"Retail customer switching has been slow but steady. That's a positive thing."

The PUC reported to the legislature that Texas consumers had saved \$1.5 billion last year. Parsley stressed that the savings were not due solely to the 6% legislated price cut when the market opened.

"We've been able to compete [even] with that price reduction so we have a working, vibrant competitive market."

The PUC is considering a number of rules changes including some for the ERCOT wholesale market.

"We're trying to make sure the Texas model evolves in the best way so that we can have the stable markets that we've been enjoying." The ERCOT board is planning "to provide more independence" this year, Parsley noted, and "that's going to be a positive change."

Resource adequacy?

Texas has "a comfortable cushion" because the PUC "opened the wholesale market to generators early before we opened the retail market to customer choice" allowing the generators to come in, site and begin producing energy.

Price transparency, Parsley told a workshop on market design earlier this month, will help to make sure new generation is installed in the right place.

The PUC has asked stakeholders to comment on how the wholesale market can be improved and that will guide her in deciding changes.

Parsley doesn't claim a personal agenda other than to do "the best job that I can," Parsley told us.

Determining whether the market is working will be a stage-by-stage assessment.

The Texas market, said Parsley, is "well on the way to being successful."

## NASUCA fights for UNE-P

Ending competitors' right to lease unbundled network elements (UNE-P) (pronounced you-knee-PEE) from incumbent Bells at a discount would kill off the little bit of local phone competition that exists now, a National Assn of State Utility Consumer Advocates (NASUCA) report predicts.

The FCC is weighing a plan to phase out UNE-P, and the right to lease wires and equipment of incumbent Bells to compete with them in their own territories, the price levied on the baby Bells before allowing them to get into the long-distance business (RT, 1/15).

This is a big issue for state PUCs as well who see setting the rules for local phone service competition to be their responsibility (RT, 1/14).

UNE-P is one of three ways a CLEC can set up shop but is the least expensive thus opening entry to more players,

NASUCA reported.

The alternative is building their own systems to duplicate what the incumbents built risk-free as monopolies with a guaranteed rate of return.

Another way is to buy packages of services from resellers, thus reducing their headroom to offer their customers a better deal and restricting them to particular packages of services.

Cable TV operators are best equipped to build their own networks but "the resulting competition would at best consist of a duopoly with the ILEC," the report noted.

Either way — dual networks or resellers — consumers would benefit less from competition.

Most residential and small business shoppers in many markets use CLECS

*(Continued on page 2)*

## 4 stories in 1 minute

### Congress to look

**into Calif SMD:** The Golden State has its own approach to SMD issued before FERC's. They call it Market Design '02, an attempt to deal with the errors of AB 1890 and then some. Rep Doug Ose, R-Calif, is to schedule a return hearing in Sacramento — he held a hearing there a year ago — to focus on FERC efforts to redesign wholesale markets nationally and how that fits in with the California effort.

### TXU seeks higher gas

**price in free market:** Gas prices have risen by 35% over the past five months, TXU told the Texas PUC in asking for a higher rate last week that will boost the average residential electric bill by about \$10.33. Utilities are allowed by law to file for fuel-cost rate hikes twice a year and the PUC has 45 days to review and approve them. The PUC backed off on the last rate hike during a hot political campaign for governor by Tony Sanchez.

### Ohio licenses aggregator:

Nationwide Energy Partners won an electricity aggregator-broker license to serve residential and commercial customers from the Ohio PUC last week. The Columbus-based company works with real-estate developers, apartment complex owners and owners associations to build or boost efficiency for private distribution, metering and billing systems for electricity, natural gas and water and plans now to provide power for its customers.

### Storage firm has

**Rochester cavern:** New Avoca Gas Storage is offering the first 5 bcf of storage at its new salt cavern near Rochester, NY, through a non-binding open season. The high-deliverability cavern will provide its customers with a tool to even out future price spikes throughout the Northeast via its hook-up to Tennessee Gas and planned interconnects to National Fuel Gas, CNG, Millennium and other pipelines. Details of the offer are at [www.newavoca.com](http://www.newavoca.com). WBI Pipeline & Storage Group (MDU Resources) owns 75% of the storage company with Blue Dolphin Energy owning the rest.

## NASUCA fights ... (from page 1)

relying on UNE-P — 77% in Texas, NASUCA noted.

The availability of UNE-P doesn't discourage CLECs from investing in their own equipment as ILECs claim since CLECs use it to replace lines leased from resellers and to launch new service plans in new territories.

Once they've built a mass of customers they can afford to build their own networks using ILECs only for the last mile (UNE-Loop).

MCI has told the FCC it plans to switch many customers now on UNE-P to its own equipment.

In rural areas "elimination of UNE-P would all but wipe out any serious competitive challenge to ILEC dominance," the report noted, since CLECs serving those markets will never reach the critical

mass needed to support their own equipment. Eliminating UNE-P would harm competition in long distance as well since many ILECs now can offer long distance service and will entice customers into package deals with local service.

Baby Bell SBC reported that more than 50% of local service customers who were offered SBC long distance service "accepted the customer service agent's 'recommendation,'" NASUCA stressed.

The findings show "any action taken by federal regulators to eliminate the way competitors are currently able to lease parts of the network could shut down local telephone choice when it's only just begun," said Robert Tongren, NASUCA president and Ohio Consumers' Counsel.

The FCC is expected to vote on UNE-P changes next month.

## Big buyers plead that IOUs figure stranded benefits

Michigan manufacturers and energy users want the PSC to rethink recent a competition-dampening decision allowing Consumers Energy not to count stranded benefits against future stranded costs.

**Stranded benefits?** The profits incumbents make selling spare generation at sky-high wholesale prices, generating power at below-market costs and selling assets.

Utilities should lower stranded cost recovery by tallying "financial windfalls" selling assets "before asking ratepayers to pay more," the Assn of Businesses Advocating Tariff Equity (ABATE) urged in asking for a rehearing on the Consumers Energy case.

The PSC had put a floor on Consumers Energy's stranded costs reversing its stand a year ago that utilities had to offset costs with stranded benefits.

Now Detroit Edison is asking for the same treatment.

"If both companies are allowed to impose stranded costs without the offset from the stranded benefits, the development of a healthy electric market in Michigan will be impeded as electric users find it uneconomical to switch energy providers," ABATE cautioned.

## Dynegy trader arrested

Michelle Valencia was arrested yesterday morning at her home in Houston, charged with falsely reporting 43 gas trades from November 2000 to February 2001, US Attorney Michael Shelby said. Valencia sent emails to Platt's Inside FERC News Service with false volume and price data to manipulate markets, the indictment added. Valencia was one of seven Dynegy traders dismissed. Their actions violated Dynegy policies in its code of business conduct," the firm said.

Valencia faces up to five years in

NEMA is arguing in the Detroit Edison stranded-cost case that all customers — not just shoppers — should pay stranded costs thus acting "to level the playing field for all market participants, competitive marketers and Detroit Edison, and likewise all customers, retail access customers and bundled sales service."

The Michigan practice of allowing utilities to reset stranded cost charges year-to-year and make only shoppers pay "hampers the development of the competitive market and unfairly favors the incumbent utility," NEMA stressed.

Spreading out the collection of stranded costs to many customers would lower the per-kwh charge and benefit everyone since it would stimulate competition.

That would go far to eliminate the "retail access death spiral" where shoppers return to bundled service to avoid paying stranded costs and those remaining with marketers are burdened with higher and higher stranded cost charges, NEMA noted.

Detroit Edison had proposed a penalty for shoppers returning to bundled service rather than spreading the costs to all.

prison and a fine of \$500,000 for each of three charges of false reporting of trades and five years and \$250,000 for each of four charges of wire fraud.

**MISSION:** To show where the converging communications and energy industries are headed as they create America's biggest industry focusing especially on the opening up of competitive wholesale and retail markets.

## Allowing numbers

**portability urged:** Cell phone companies are asking the FCC to enforce its rule that local exchange carriers allow their customers to take phone numbers with them if they switch from land-line service. Some LECs “have narrowly construed” their number portability obligations, said the Cellular Telecommunications & Internet Assn in a petition to the FCC for a clear ruling. Comments are due at the FCC Feb 26.

**ICE wins UK OK:** The Financial Services Authority (FSA) has given IntercontinentalExchange (ICE) authority to operate its internet energy trading platform in the UK, a move expected to boost electricity trading. During the application period, ICE was allowed to run its UK business under the foreign company exemption rule. The ICE gas market was not governed by FSA regulation and volumes there have been higher. ICE and London Clearing House started clearing gas trades in September and they plan to launch power and crude oil swaps in Germany and the UK in March.

## Calif Senate panel

**OKs ISO's Kahn:** The California Senate Rules Committee yesterday overrode the objections of Sen Joseph Dunn and voted 4-0 to confirm again Michael Kahn as chairman of the ISO's board, the one FERC has ordered to be replaced. Dunn wanted to postpone the

nomination in an effort to force the firing of ISO President Terry Winter and other top managers. “This senior management is not capable of running the complex grid the ISO is responsible for on a day-in, day-out basis,” Dunn told the committee. Capable here is that Winter asked FERC to lift price caps on the wholesale power market and that, said Dunn, “thrust us into the energy crisis.”

## AGL gets to buy

### Dynegy piece of

**SouthStar:** Georgia Natural Gas (AGL Resources) has agreed to buy Dynegy's 20% interest in SouthStar Energy Services in exchange for dismissal of a lawsuit filed in July 2001. SouthStar markets gas for residential and C&I customers in Georgia and for industrial customers in the Southeast. Piedmont Natural Gas owns a piece of SouthStar too. Georgia Natural Gas had sought a Dynegy accounting of its activities as SouthStar's asset manager.

## Nevada Power signs

**with Calpine:** Nevada Power (Sierra Pacific) has asked the PUC for an amendment of its resource plan and approval of long-term supply contracts to add an agreement with Panda Gila River for 200 mw in summer months until 2005. Calpine has agreed to sell 150 mw from June through May 2006 for \$43 million. Nevada Power has three agreements with Mirant for 325 mw with delivery dates ranging from May through April 2008. Reliant Energy Services has agreed to sell

Nevada Power 400 mw this summer only but because the deal is for less than three years, that deal is not subject to PUC approval.

## PacifiCorp seeks 4,000 mw:

PacifiCorp sees a need for 4,000 more megawatts through 2014 in the six states it serves through Pacific Power and Utah Power. The best mix would be 2,100 mw of new base-load plants, 1,200 mw of peakers and 1,400 mw of renewable energy supplemented by 700 mw of contracts or resources — shaped resources — to meet specific needs and 450 mw of demand management. That's what PacifiCorp is telling PUCs in Oregon, Washington, California, Wyoming, Utah and Idaho. The company worked with 30 stakeholders to come up with the resource plan.

## Harsh weather hurt

**DOE Roadshow attendance** at Flint Energies in Warner Robbins, Ga, Friday. The co-op (RT, 1/15) is happy with the Plug Power unit serving its main office supplemented by grid power, said Vice President Jimmy Autry. The generator is about to have its first annual maintenance cycle. “We've lost power maybe three times since June. It's extremely reliable.” Many visitors have seen it. The PEM stack takes hydrogen out of natural gas. Flint will start selling the units as soon as General Electric decides to put its name on it. Autry tells us he expects the marketplace to happen in about 2005 or 2006.

**Abbreviations:** AGA, American Gas Assn; ALJ, administrative law judge, a hearing examiner within a regulatory agency, a fact finder; APPA, American Public Power Assn; API, American Petroleum Institute; ATC, available transfer capability; bcf, billion cubic feet; BPA Bonneville Power Administration; cfd, cubic feet/day; CFO, chief financial officer; CIO, chief information (IT) officer; C&I, commercial and industrial; CLEC, competitive local exchange carrier; CTC, competitive transition charge used to recover costs stranded by customer freedom; DG, distributed generation; DSL, digital subscriber line, **dkt** = **dekatherm** = mmbtu, is roughly = mcf; DOE, Department of Energy; DSM, demand side management; ECAR, East Central Area Reliability Coordination Agreement; EEL, Edison Electric Institute; ELCON, Electricity Consumers Resource Council; EPA, Environmental Protection Agency; EPRI, Electric Power Research Institute; EPSA, Electric Power Supply Assn; ERCOT, Electric Reliability Council of Texas (but not all of Texas); FCC, Federal Communications Commission; FERC, Federal Energy Regulatory Commission; FRCC, Florida Reliability Coordinating Council; G&T, generation and transmission; GAPP, General Agreement on Parallel Paths; GRI, Gas Research Institute; gwh, gigawatt hours = 1,000 mwh; HVAC, heating, ventilating and air conditioning; ILEC, incumbent local exchange carrier; INGAA, Interstate Natural Gas Assn of America; IOU,

investor owned utility; IPP, independent power producer; ISO, independent system operator; ISP, Internet service provider; kv, kilovolt; kwh, kilowatt hour; LADWP, Los Angeles Department of Water & Power; LDC, local gas distributing company; MAIN, Mid-America Interconnected Network; MAPP, Mid-Continent Area Power Pool; mcf, thousand cubic feet; mmbtu, million btu generally equal to mcf; 1 mw = 1 megawatt or 1 million watts, enough power to supply 330 homes for one hour on a hot summer's afternoon; mwh, megawatt hour; NAESB, North American Energy Standards Board (replaced GISB); NARUC, National Assn of Regulatory Utility Commissioners; NERC, North American Electricity Reliability Council; NOPR, notice of proposed rulemaking; NPCC, Northeast Power Coordinating Council; NRECA, National Rural Electric Cooperative Assn; OASIS, open access same time information system; Ofgem, the UK Office of the Gas & Electricity markets; OMB, Office of Management & Budget (White House); PEM, proton exchange membrane (type of fuel cell); PJM, the Pennsylvania-New Jersey-Maryland ISO and reliability region; POLR, provider of last resort; ppm, ppb parts per million, billion; PSC, Public Service Commission; PUC, Public Utilities Commission; PUHCA, Public Utilities Holding Company Act; PURPA, Public Utilities Regulatory Policy Act; PX, Power Exchange (California trading center); QF, qualifying facility under PURPA; RBOC,

regional Bell operating company; RFP, request for proposal; RTO, regional transmission organization; SEC, Securities & Exchange Commission; SERC, Southeastern Electric Reliability Council; SMD, Standard Market Design; SPP, Southwest Power Pool; T&D, transmission and distribution; tcf, trillion cubic feet; therm, tenth of an mmbtu; TLR, transmission line loading relief, the failure of a transmission provider to make good on a firm agreement to move power; TURN, The Utility Reform Network, California ratepayer group; TVA, Tennessee Valley Authority; USDA, US Department of Agriculture; WSCC, Western Systems Coordinating Council. UTC, United Telecom Council.

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