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Michigan laws didn't kill competition, says NEMA counselor

Suggestion of market's end called 'dangerous thinking'

Although Michigan squeezed the competitive market with its new energy laws, marketers apparently still have a place, Jennifer Copland told us over the weekend. She's a senior attorney at the Dickinson Wright law firm in Ann Arbor, Michigan -- and her firm serves as the Michigan counsel for the NEMA.

"There seems to be some sentiment that with the enactment of Public Act 286 in Michigan, there is no longer any room for competition," said Copland. "We don't think that's entirely accurate and, more importantly, it is dangerous thinking."

The level of competitive choice in Michigan in 2008 is estimated to be somewhere between 2% and 4% of the utilities' load.

"If you consider that the PSC's '2007 report on the status of competition in Michigan' showed 1,023 mw being served by choice providers, that leaves several thousand megawatts left to be served in the state, representing a substantial available margin until the cap is reached," said Copland.

Under the new energy laws, choice is capped at 10% (RT, [Oct-28](#)), giving the state's two dominant utilities an almost guaranteed income if they say they need to build new power plants.

Through Public Act 286, the legislature is requiring a move toward cost-based rates.

Copland's firm advised NEMA members that this will likely mean an end to special contracts, economic development rates and other special deals the utilities have been able to offer in the past.

"When combined with the fact that the PSC has recently been reluctant to shift additional generation-related costs or subsidies onto choice customers, the end result is that there is an open market for any choice provider that is able to

compete in Michigan based on the cost of service."

Consumers like to have a choice.

"If and when the level of competition reaches the 10% cap, nobody is going to want to be told that they can't get a competitive rate because some legislative limit has been reached," warned Copland.

"If we can make competition work and encourage the demand for competitive choice, then eventually we will reach the point where the Legislature will need to take notice and perhaps reconsider the sacrifices it chose to make in 2008."

Lots of people are watching Michigan right now and the firm believes choice providers and the customers they serve need to spread the word that competition is an important goal in Michigan and elsewhere, said Copland.

Utilities could conceivably give Michigan the generation capacity needed

to serve customers in the future -- and make renewable programs thrive. Other states may see Public Act 286 as a success and enact similar legislation that puts limits on competitive choice in order to induce utilities in those states to make similar investments, she added.

"In our view, this is a step backwards."

NEMA President Craig Goodman offered similar thoughts to marketers on the potential for an awakening of lawmakers.

"When people can't get what other people get, when businesses can't get what other businesses get and their competitors get a competitive advantage because they are first to shop, it will create the kind of political understanding that shopping is not antithetical to economic growth, it's just the opposite," Goodman told us.

[\[Comments\]](#)

Texas PUC proposes big changes to POLR service

Firms to bid on supplying 'Emergency service'

Texas PUC staff late last week submitted a proposal for publication to change POLR rules in response to the market turmoil earlier this year that led to some firms going bankrupt.

The term POLR would be replaced with "emergency service" and firms would get incentives to offer lower prices for it.

Retail electric providers (REPs) would be divided up into three classes of emergency service providers -- voluntary REPs (VESPs), mandatory REPs (MESPs) and large REPs (LSPs).

If a transition exceeds the amount the VESPs can handle, it would go to the MESPs and LSPs would take only the largest mass transition events.

VESPs and MESPs would offer their lowest monthly power plan to customers who get transitioned, while LSPs would still be able to charge the market clearing

price. But if customers stay with an LSP for more than 15 days, their contact information would be sent to the PUC for distribution to other firms that could offer them lower prices.

Much of the reason for retailers going under earlier this year was that consumers saw their bills jump significantly.

Under the changed rules, customers would be told that they were transferred by a postcard sent by ERCOT on behalf of the PUC.

REPs would have to submit customer information to ERCOT on a monthly basis and failure to do so could result in penalties.

Emergency service providers can offer transitioned customers deals similarly situated non-transitioned customers can get but it has to let them know they can shop elsewhere.

Any REP can become an emergency service provider in a transmission utilities' footprint if it's in good standing and represents at least 1% of the customer class it's trying to get