

**BEFORE THE
ARIZONA CORPORATION COMMISSION**

In the Matter of Possible)
Modifications to the Arizona) **Docket No. RU-00000A-18-0284**
Corporation Commission’s Energy)
Rules.)

COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

The National Energy Marketers Association (NEM)¹ hereby submits Comments pursuant to the Notice of Retail Electric Competition Workshop issued in the above-referenced proceeding. The December 3rd Workshop was scheduled following the Commission’s direction at its November 7, 2018, open meeting, to engage stakeholders in a discussion of whether it is in the public interest to implement retail electric competition in Arizona. NEM appreciates the opportunity to submit these comments to supplement the statement it made during the Workshop.

NEM is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies. NEM was formed when the retail choice movement was just beginning and is celebrating its 21st anniversary this year. NEM and its members have participated in regulatory proceedings across the country related to the implementation of energy choice. NEM members serve energy consumers of all sizes in the jurisdictions open for competition, and NEM members look forward to serving the energy consumers of Arizona with a diverse array of energy products, services and technologies. Given this experience, NEM can meaningfully contribute to the record to be developed by the Commission in this inquiry.

In NEM’s view, now is an extremely opportune time to implement retail electric competition. Indeed, the consumer demand for energy choice options continues to grow. This demand is fueled by an expanding array of energy and energy-related products, service and technologies, such as distributed energy resources (DER). Consumers are becoming increasingly savvy about energy and technology-enabled energy choices. However, utility monopoly core competencies do not lie in the creation, development and offering of innovative products and services. That is where competitive energy providers excel – proactively identifying consumer preferences and then nimbly and swiftly creating responsive products to meet evolving consumer demand. Competitive energy providers that make these offerings available are funded by at-risk capital rather than ratepayer-backed guarantees.

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies. This document reflects the views of the National Energy Marketers Association and does not necessarily reflect the views of any specific member of the Association.

Importantly, the Commission does not have to make decisions about the implementation of energy choice in a vacuum. There is a large and growing body of experience from other retail choice jurisdictions. In addition, Arizona previously considered the implementation of energy choice. From these experiences, it is possible to construct a market model that draws upon best practices and lessons learned and then customizes the Arizona market model in a manner that recognizes Arizona's unique characteristics. Moving forward with retail choice at this time should also be significantly enhanced through the availability of energy-related technology and information that was not previously available, was prohibitively expensive or otherwise largely inaccessible twenty years ago. These technological advances permit competitive providers to make more innovative offerings and also spur consumer engagement in energy purchasing decisions.

NEM offers its comments on the questions set forth in the Notice of Retail Electric Competition Workshop below:

1) Should retail electric competition be implemented across the board equally for all customer classes and enterprises or for only specific customer classes and enterprises (e.g., for electric vehicle industry only)?

NEM strongly supports the implementation of retail electric competition for all customer classes. Consumers of all customer classes are increasingly interested in managing their energy usage and making energy purchasing decisions. This is driven by numerous factors including the desire to exert increased control over household and/or business energy costs, in response to environmental concerns and a desire to make "green" choices, to have an improved and customized customer service experience, and to utilize innovative energy technologies. Utility monopolies are poorly suited to develop, create and offer energy choices. Utility rate-setting processes and tariff approval processes only accommodate a one-size-fits-all approach to products. Competitive energy providers can rapidly respond to evolving consumer preferences and meet consumer demands. The time is now to seize upon the technological innovations that are rapidly being realized in the competitive energy sector, consumers increasing awareness of energy choice options and desire to control their own energy destiny, and the existing knowledge base that has been accrued about retail energy competition through the experience of other states as well as Arizona's own prior study.

Consumers today have a much greater understanding of energy and energy options. Moreover, consumers are far more technologically savvy, and the internet provides unfettered access to abundant informational resources, that can be supplemented through targeted consumer education campaigns about retail energy choice. Finally, consumers in the digital age expect to be able to shop and purchase all manner of goods and services and have those purchases fulfilled instantaneously, or nearly so. There is simply no reason to differentiate energy and energy-related services from the products that consumers to shop for. Competitive energy providers are uniquely situated to meet the needs of the 21st century energy consumer.

The population density in Arizona varies significantly in different parts of the State. Concerns have been expressed by some that it will be difficult for a retail electric market to serve consumers in the rural, less populated areas. To the contrary, so long as the delivery infrastructure exists to serve those customers, competitive energy providers can and will provide energy service options. A primary determinant of whether consumers in rural, less populated areas are offered competitive options is the extent to which customer acquisition and enrollment processes are approved and

implemented to facilitate it. For example, the provision of customer lists to competitive suppliers aids in cost-effective customer acquisition. Likewise, allowing suppliers to utilize traditional and new technology-enabled methods to enroll customers without unnecessary restrictions or barriers will also help.

Customer aggregation programs have been utilized in some states to permit consumers to leverage their joint buying power to procure energy at a lower cost or to buy particular energy products, such as renewable energy, or both. Aggregation programs, when properly designed in a competitively neutral manner, may be an option to consider in market opening, as a means of familiarizing consumers with choice and may potentially enhance mass market consumer participation in retail energy markets. Importantly, an aggregation program should not supplant individual consumer shopping or prevent individual consumers from continuing to exercise their right to shop for a different choice of supplier to suit the consumer's personal preferences.

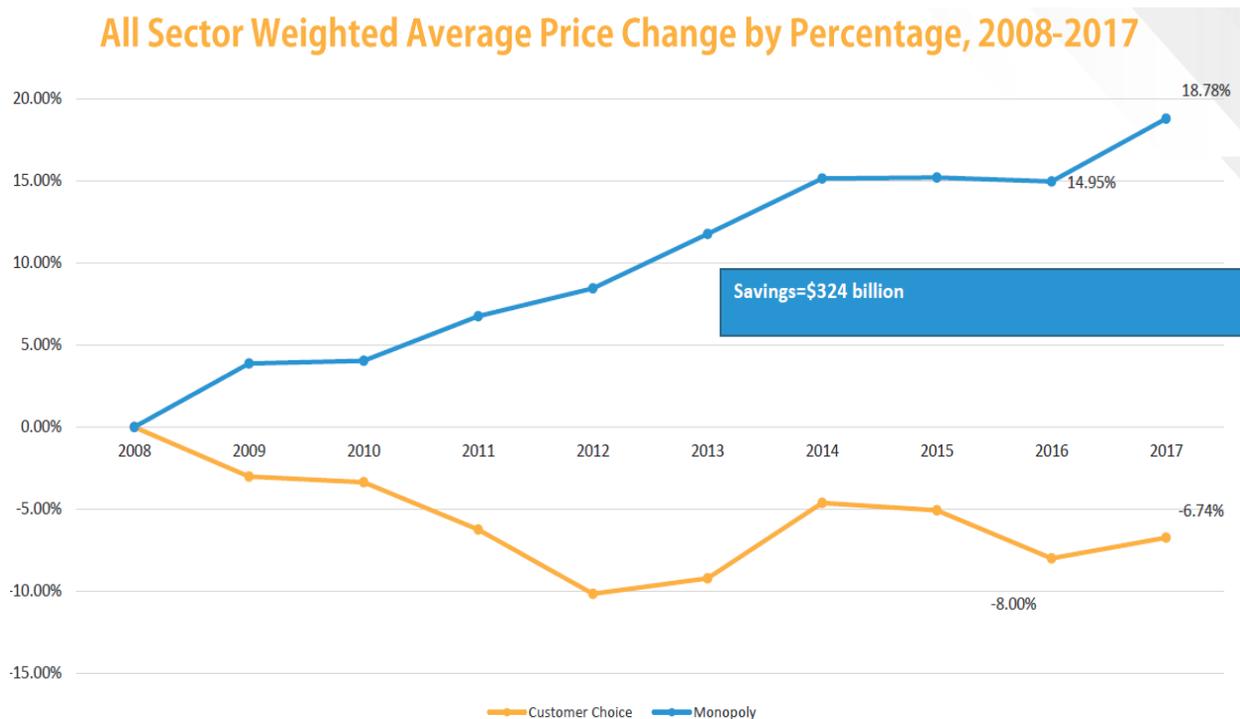
2) How could retail electric competition affect each of the customer classes?

Retail electric competition, when properly structured to minimize artificial barriers to customer and supplier participation, should positively affect all of the customer classes. Retail electric competition will create efficiencies, exert downward pricing pressure on rates, spur innovation in energy and energy-related product and service offerings, provide consumers with greater control over their energy usage and resulting energy budget, and enhance the customer service experience. All customer classes can expect to realize these improvements in a properly structured retail energy marketplace.

3) How might the benefits of competition apply to all customer classes equally and/or equitably?

There are significant benefits to all consumers to be realized through the implementation of energy choice. A recent study by the Perryman Group found that for the period of 2008 through 2017, a savings of \$324 billion was realized by consumers in retail choice jurisdictions. Consumers in retail choice jurisdictions experienced price decreases during this period, while consumers in utility monopoly jurisdictions experienced steady price increases.² (see graph on next page).

² Study of The Perryman Group, based on data from the U.S. Energy Information Administration, commissioned by Florida Energy Freedom.



Other recent studies have also shown that customers in retail choice jurisdictions have received significant benefits in terms of price, investment, and efficiency in comparison with those customers in jurisdictions that have retained the traditional utility monopoly model.³

The Texas retail electric market structure in particular, under which the utilities have exited the commodity merchant function, has provided significant benefits to consumers. Those benefits include over one hundred retailers participating in the marketplace to provide consumers with over four hundred products; an approximate 60% reduction in rates since the introduction of competition; robust customer shopping in all customer classes; extensive availability of price comparison information and consumer education resources; and an exceedingly low complaint rate.⁴

By opening the retail market to competition, when the utility exits the commodity merchant function and focuses on its core delivery function, this shifts commodity-related risks away from captive ratepayers and to competitive suppliers. It is far more efficient and will encourage greater investment in both utility delivery infrastructure and competitive energy products and services, if ratepayer-backed capital is directed to delivery infrastructure maintenance and upgrades while competitive suppliers at-risk capital is focused on developing and providing energy and energy-related products, services and technologies. Consumers should not be required to take risks that the market is willing to bear. Competitive market participants are expert at controlling supply-related risks, and they do so without the requisite guaranteed return of and return on utility investments, the risks of which are borne by captive ratepayers.

³ “Restructuring Recharged: The Superior Performance of Competitive Electric Markets 2008-2016,” by Philip R. O’Connor (2017); “Evolution of the Revolution: The Sustained Success of Retail Electricity Competition,” by Philip R. O’Connor and Erin O’Connell-Diaz (2015).

⁴ “Scope of Competition in Electric Markets,” report of the Public Utilities Commission of Texas available at: http://www.puc.texas.gov/industry/electric/reports/scope/2017/2017scope_elec.pdf

Consumers additionally benefit from energy choice because of the increased availability of a slate of energy choices such as different pricing options and new and innovative products, including DER, that enable them to better control their energy usage and manage their energy budgets. Retail competition can also offer benefits such as providing retailing services such as billing and customer care on a more efficient, less costly and more customized basis; procuring wholesale power at a lower price than utilities; utilization of sophisticated technologies to permit consumers to better control energy usage and associated costs; and hedging price risks and weather variability.

When a retail energy market is opened, utility rate unbundling permits price competition by suppliers of energy and related products, services and technologies, including DER. Price competition can increase the competitiveness of local business, attract new business to the state, increase economic activity and operate in a manner similar to a tax rollback for businesses and consumers alike. Price competition also permits state and local governments to reduce expenditures on energy and related services, benefitting state and local budgets.

4) Can a transition into retail competition be in the public's interest if residential customers may be adversely affected by the transition?

The fundamental premise of this question is that residential customers may be adversely affected by the transition to retail electric competition. NEM strongly disagrees with this premise. Residential customers will realize significant benefits from retail electric competition – lower prices resulting from downward price pressure from competition; increased energy product and service options to suit individual consumer preferences and budget needs; improved ability to manage energy usage and control the energy budget; and enhanced customer service experience and responsiveness. Robust consumer protection and marketing standards will ensure that residential consumers share in the benefits of retail competition.

5) How can the Commission minimize or eliminate market structure abuses and/or market manipulation in the transition to, and implementation of, retail electric competition?

It is unclear if this question is related to the retail electric market or the wholesale electric market. With respect to the retail electric market, the incorporation of robust consumer protection requirements and marketing standards in the Commission's retail competition rules will deter potential misconduct. With respect to the wholesale electric market, FERC has developed a substantial body of rules and guidance aimed at detecting and deterring market structure abuses and market manipulation.

6) What, if any, features, entities, or mechanisms must be in place for there to be an effective and efficient market structure for retail electric competition?

The preferable model for a regulatory framework is one in which utilities exit from the commodity merchant role and in which competitive suppliers act as default service providers, thereby permitting utilities to focus their resources on their core competency of ensuring the reliable maintenance and upgrade of delivery infrastructure. This regulatory framework is exemplified by the Texas electricity market.

The regulatory framework that is ultimately adopted will have to accomplish numerous important public policy goals. The regulatory framework should permit informed consumers to shop in an

expeditious, streamlined manner. Likewise, the regulatory framework should permit cost-effective and efficient market entry, investment and participation by competitive suppliers. The regulatory framework should also minimize artificial, unnecessary barriers to supplier participation in the market who are poised and eager to offer consumers expanded product choices, increased price competition and an improved customer service experience.

NEM's recommendations on the regulatory framework underlying a well-functioning and robust competitive retail electric market include:

- **Utility Exit from Commodity Merchant Function** - The most important recommendation and foundation upon which the success of the market is largely determined is the utility monopoly's exit from the commodity merchant function and focus on its core competency of ensuring the reliability of the delivery infrastructure.
- **Unbundled Utility Rates and Market-Based POLR Pricing** – Utility rate unbundling permits consumers to see and understand the full extent of the costs associated with utility service and permit consumers to make accurate, informed choices. In order for consumers to make rational energy purchasing decisions, and to engage in price-responsive demand behavior, they must be able to see and respond to market-based commodity pricing signals.
- **Consumer Education** – Consumer education is a critical component to a well-functioning market. Consumer education is a key component to supporting customers' ability to meaningfully exercise choice in the retail energy marketplace. Competitive suppliers provide consumers with energy shopping information at many points of contact and in many formats, and welcome the opportunity to engage with potential and current consumers about questions they may have. This is fundamental to forming a long-term relationship with a satisfied customer. Consumers also rely on and trust the Commission as a source of objective energy choice information. A robust consumer shopping website⁵ is an excellent education tool. Utilities should also be called upon to provide information about energy shopping opportunities through, for example, informational mailings and their websites.
- **Reasonable Consumer Protection Requirements, Supplier Certification and Marketing Standards** – NEM and its members developed and adopted a “Consumer Bill of Rights”⁶ evincing marketers' commitment to ethically serve energy consumers. NEM's Consumer Bill of Rights addresses the need for clear marketer responsibilities and consumer expectations with respect to appropriate marketing practices. These rights include access to energy products and services that provide what they promise and are presented and described in clear and understandable language; accurate price and usage information; terms and conditions written in plain language; explanation of how to terminate a contract and at what cost; and a fair and timely complaint resolution process.

⁵ See, e.g., the electric shopping website of the Pennsylvania Public Utility Commission available at PAPowerSwitch.com and the electric shopping website of the Public Utility Commission of Texas available at powertochoose.org.

⁶ Available at: http://www.energymarketers.com/Documents/Consumer_Bill_of_Rightsfinal_formatted.pdf

NEM and its members also developed and adopted “National Marketing Standards of Conduct”⁷ that set forth a list of practices that form a common basis for doing business in today’s energy marketplace. These business practices pertain to competitive supplier marketing and sales activities, supplier agents, customer enrollment, customer contracts and complaint resolution.

- **Efficient and Cost-Effective Means to Enroll Consumers** – Competitive suppliers must be allowed to market to and acquire customers on an efficient and cost-effective basis. Traditional means of customer enrollment, including door-to-door sales, telephonic enrollment and internet enrollment are evolving with technology, and should be permitted to do so. Another tool that permits competitive suppliers to efficiently and cost-effectively enroll customers is the provision of customer lists.
- **Expeditious Consumer Switching Timeframes** - Customer energy choice must be easy to execute. The ability to switch energy suppliers is the ultimate consumer protection. Choice should not be complicated or expensive. Consumers have come to expect that they can purchase products and services and receive them without delay. For example, switching cell phone providers can be effectuated and completed through a single phone call. Consumers will rightfully expect a similar experience when shopping for competitive energy products.
- **Consolidated Billing of Utility Delivery Charges and Competitive Supplier Charges** – Consumers prefer to receive a single consolidated bill for utility delivery charges as well as for competitively-provided energy products and services.
- **Timely Competitive Supplier Access to Data** - Competitive suppliers need timely access to granular data in order to design and provide innovative products that are responsive to consumer needs.
- **Requirements for Prudent and Aggressive Management of Stranded Costs and Avoidance of Punitive Exit Fees** – Measures should be taken to mitigate utility stranded costs stemming from existing contracts and any procurement activities that may take place during the market transition. Relatedly, consumers that exercise their right to shop should not be saddled with excessive and punitive exit fees. Verified stranded costs should be collected in a competitively neutral manner from all customers, shopping and non-shopping.
- **Competitive Markets Ombudsperson** – Commissions in many retail choice states have designated Staff to serve as an ombudsperson for competitive retail suppliers. Designated Staff in this role have taken a lead in proactively identifying potential market issues and engaging stakeholders in developing solutions. It also provides suppliers with a knowledgeable and consistent point of contact to address questions and problems.

⁷ Available at: <https://www.energymarketers.com/Documents/ACF74.pdf>

- **Code of Conduct** – A Code of Conduct⁸ should be adopted to ensure competitive neutrality among utilities, affiliates and non-affiliated energy providers. The Code of Conduct should govern commercial transactions between regulated and unregulated energy service providers.
- **Provision of Regulatory Certainty to Encourage Supplier Entry, Investment and Market Participation** - Regulatory certainty, including the establishment of a date certain by which the retail market will open, will permit competitive suppliers to make investments to participate in the marketplace and to develop innovative products and services to serve consumers of all sizes. Investment capital must have both political and financial certainty in order to be competitively deployed for the benefit of consumers.

7) What impact, if any, would retail electric competition have on the reliability of electric service in Arizona?

Retail electric competition can and should be implemented to restructure the current utility default service model in a manner that encourages the maintenance, upgrade and expansion of electric delivery infrastructure. The desired market end state should be the competitive provision of POLR service and the utilities exit from competitive functions. Utilities should be encouraged to focus their resources on their core competency of delivery system reliability. If utilities do not have to divert their finite resources to competitive commodity-related functions as well as monopoly distribution functions, and instead are incented to focus on upgrading and maintaining distribution facilities this should encourage utility delivery system reliability.

8) Among the states that have transitioned to retail electric competition, which model(s) best promotes the public interest for Arizonans? Which model(s) should be avoided?

In general, the regulatory model best suited to promote competition, maintain reliability and protect consumers, and therefore best promotes the public interest is one in which the utility is focused on, and incented to, use its resources on its core delivery infrastructure functions and in which consumers are served by a competitive supplier for energy commodity and related products, services, information and technology. The Texas retail electric market is an example of this competitive market model that has delivered significant benefits to consumers.

Texas law required that all electric customers have the option of choosing a competitive supplier by January 1, 2002.⁹ The electric utilities were required to unbundle their business activities into three entities: a wholesale power generation company, a retail electric provider (REP), and a transmission and distribution company.¹⁰ When competition began on January 1, 2002, standard offer service was transferred to the affiliated REP of the utility company, to provide service at the Price to Beat, which could be adjusted twice per year for fuel cost changes. Affiliated REPs were prohibited from offering competitive rates to residential and small commercial customers in the utility service territory, other than as the standard offer provider, until 40% of residential and small commercial customer load had chosen a competitive supplier. The temporary Price to Beat

⁸ See NEM's Uniform Code of Conduct for Regulated and Unregulated Suppliers of Energy and Related Services and Technologies available at: <http://www.energymarketers.com/Documents/FinalUCC.pdf>

⁹ Texas Utility Code Ann. Section 39.102.

¹⁰ Texas Utility Code Ann. Section 39.051.

mechanism expired at the end of 2006. Provider of last resort service is rendered by competitive providers on a customer class-specific basis. Marketers serving customers in Texas perform their own billing and customer care.

By contrast, those retail choice jurisdictions that chose to retain the incumbent utility monopoly as a direct competitor with other competitive suppliers in the marketplace have all experienced related market development difficulties as a direct result. This is caused by incumbent utility market power and economies of scale coupled with inadequate utility delivery rate unbundling and lack of market-based pricing signals to consumers. While there have been regulatory efforts undertaken in numerous jurisdictions to level the playing field under those circumstances, the numerous and distinct advantages of the incumbent utility monopoly are difficult to overcome when they are permitted to compete in the retail marketplace. It inhibits competitive supplier market entry and participation and limits the ability of suppliers to offer competitive prices, products and innovations against artificially understated utility monopoly rates.

9) How have retail rates been affected in states that have implemented retail electric competition?

As discussed in greater detail in response to Question 3 above, retail rates have decreased in retail electric competition jurisdictions. In the Texas electric market, where the utility has exited the commodity merchant function, prices have decreased by approximately 60% from the last regulated rate.

10) Considering the Court of Appeals' decision in *Phelps Dodge Cop. v. Ariz. Elec. Power Coop.*, 207 Ariz. 95, 83 P.3d 573 (App. 2004), are the Commission's existing retail electric competition rules (R14-2-1601 through R14-2-1618) able to be modified to comply with the court's decision or should the Commission completely discard those rules and start with a clean slate to transition to retail electric competition? Are there other legal impediments to the transition to and/or implementation of retail electric competition?

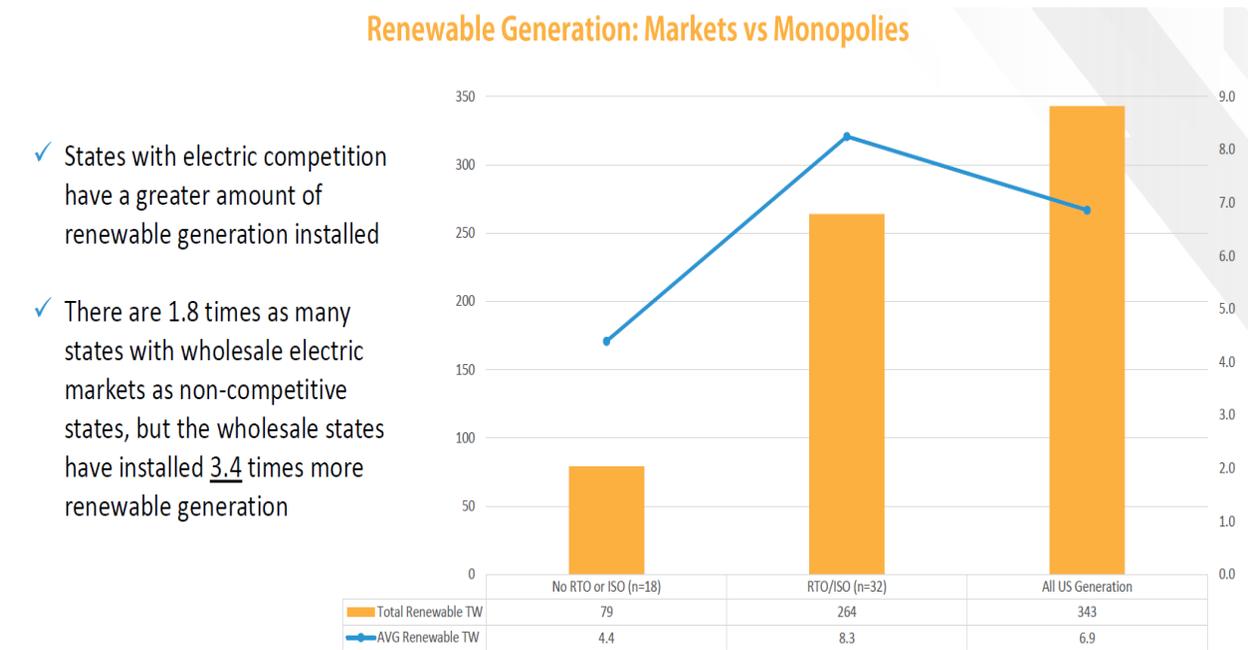
Given the passage of time since the retail electric competition rules were first developed and adopted, the technological innovations driving an increasingly expanding array of competitive energy products and services; and experience accumulated to date in other retail choice jurisdictions, the Commission's rules should be updated and revised. The Phelps Dodge decision will of necessity be an underpinning of revised retail electric competition rules as it does provide parameters to be considered to ensure the rules are consistent with the scope of the Commission's authority to implement retail electric competition. In addition, the existing rules include timeframes and phased-in periods for competition that are now outdated. The existing rules do not reflect and did not anticipate the scope of technological innovations and capabilities in the competitive energy sector, rather reflecting an understanding of consumer choice and energy shopping that was prevalent and appropriate two decades ago but has since dramatically changed.

The existing rules incorporate conceptual guideposts that should form the basis of revised rules, including competitive supplier licensing and certification standards; marketing and consumer protection standards; utility delivery rate unbundling; provision of non-discriminatory open access to transmission and distribution facilities; and requirements for codes of conduct, amongst others. However, in the two decades since the existing rules were adopted, other retail choice jurisdictions have adopted rules and gained experience that can be leveraged to update the rules to reflect best

practices. Marketing standards and consumer protection requirements should be reviewed and updated to reflect consumer experience in other jurisdictions, to both maximize consumers ability to participate in energy choice with a minimum of unnecessary restrictions and maximize competitive suppliers ability to cost-effectively serve consumers. For example, the regulations adopted by the Pennsylvania Public Utility Commission¹¹ and Public Utility Commission of Texas¹² represent best practices related to consumer protection requirements, supplier certification and marketing practices and would be useful resources to consult in designing rules for the Arizona retail market. One of the most significant hurdles to competitive suppliers offering the most innovative energy products and services is the timely provision of customer data. The rules should be updated to facilitate data exchange.

11) Is retail electric competition compatible with the Commission’s Renewable Energy Standard that requires Arizona’s utilities serve at least 15% of their retail loads with renewable energy by 2025? (See A.A.C. R14-2-1801 et seq.)

Renewable energy offerings are inherently competitive products. The implementation of retail electric competition is certainly compatible with the Commission’s renewable energy goals. Indeed, renewable portfolio standards are a common feature in retail choice states, and competitive suppliers are experienced with complying with these requirements. In addition, studies show that states with retail electric competition have a greater amount of renewable generation than utility monopoly states. This is illustrated in the graphs below:¹³



¹¹ See 52 Pa. Code § 111, Marketing and Sales Practices for the Retail Residential Energy Market and 52 Pa. Code § 54.31, Electricity Generation Supplier Licensing.

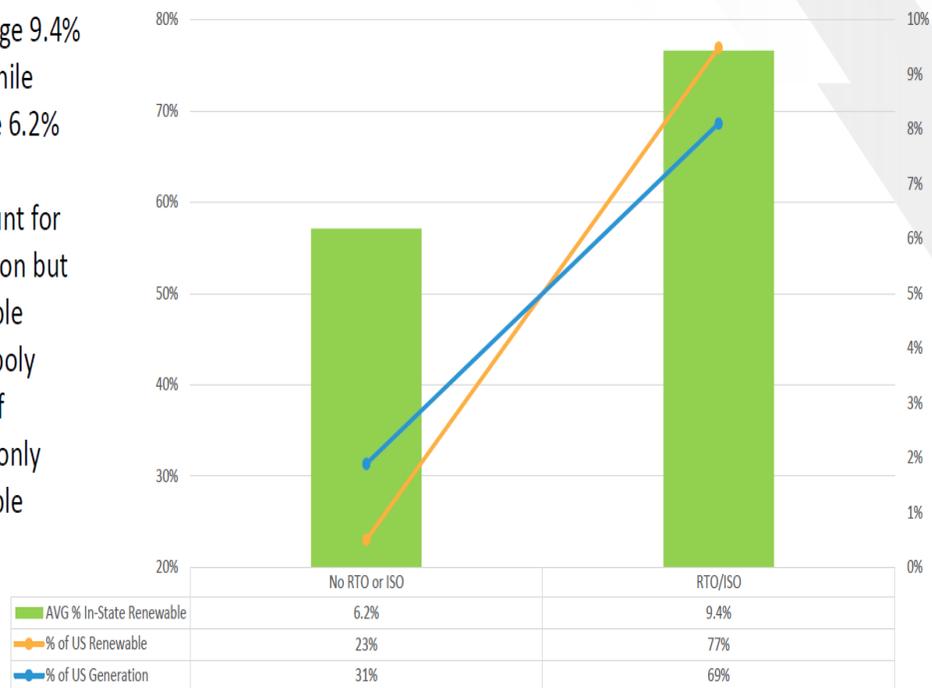
¹² See Texas Administrative Code 25.107 Certification of REPs and 25.471 Consumer Protection Rules for Retail Electric Service.

¹³ Study of the Perryman Group, commissioned by Florida Energy Freedom from data compiled by Energy Information Administration, Electric Power Monthly, February 2017.

Response to Question 11 cont.

Renewable Generation: Markets vs Monopolies

- ✓ Competitive states average 9.4% renewable generation while monopoly states average 6.2%
- ✓ Competitive states account for 69% of installed generation but 79% of installed renewable generation, while monopoly states account for 31% of installed generation but only 23% of installed renewable generation



12) Is retail electric competition compatible with the Commission’s Energy Efficiency Standard that requires Arizona’s electric utilities to achieve a 22% reduction in retail energy sales by 2020? (See A.A.C. R14-2-2401 et seq.)

Energy efficiency offerings are inherently competitive products. Energy efficiency products are being offered by competitive suppliers now in retail choice jurisdictions across the country. The implementation of retail electric competition is certainly compatible with the Commission’s energy efficiency goals.

13) Should the Commission address net metering rates in a competitive market differently than it has in the Value of Solar decision (Decision No. 75859)?

No response.

14) How will retail electric competition affect investor-owned utilities, public power utilities, cooperatives, and federally-controlled transmission systems?

No response.

15) What consumer education should be provided, and which consumer protection issues will need to be addressed?

As noted in our response to Question 6 above, NEM has developed a “Consumer Bill of Rights”¹⁴ and “National Marketing Standards of Conduct”¹⁵ that address consumer expectations and supplier responsibilities in a competitive retail marketplace. These documents are a compendium of best business practices, developed from NEM member experience in serving consumers over the past two decades in all of the states open for retail competition. The documents highlight the consumer education and protection issues that should be addressed as Arizona moves forward with a competitive retail electric market.

NEM’s “Consumer Bill of Rights” provides that all consumers should have the right to choose their energy supplier, receive delivery of their energy supply from a reliable utility delivery system, and be provided information which entitles them to:

- Access to energy products and services that provide what they promise and are presented and described in clear and understandable language
- Accurate price and usage information, from both the utility and competitive energy supplier, that is expressed in simple and straightforward terms
- Terms and conditions written in plain language that set forth contractual obligations for both the consumer and energy supplier
- Specific information about savings claimed in any offer
- Information about how the consumer may terminate a contract and the cost, if any, of doing so
- A clear understanding of when price changes may occur and what happens when the contract term expires
- An enrollment process that verifies a consumer’s acceptance of a product offer
- Verbal and written offers that identify the competitive energy supplier as operating independently of the utility delivering electricity to the consumer
- Consumer education on energy, energy conservation, and technology available to help control energy costs
- A fair and timely complaint resolution process

NEM’s “National Marketing Standards of Conduct” sets forth business practices that form a common basis for doing business in the energy marketplace, including:

- Supplier and agent compliance with applicable federal, state and local laws and regulations
- Suppliers shall not engage in false, misleading or deceptive conduct
- Suppliers shall be responsible for conduct of their agents
- Suppliers shall utilize methods appropriate to the size and type of consumers when engaged in door-to-door, telephonic, electronic and network sales and marketing
- Suppliers shall provide accurate information to consumers about the products and services being offered
- The supplier’s agreement with the consumer shall set forth all material terms (rate, term, early termination fees, rescission rights)

¹⁴ Available at: http://www.energymarketers.com/Documents/Consumer_Bill_of_Rightsfinal_formatted.pdf

¹⁵ Available at: <https://www.energymarketers.com/Documents/ACF74.pdf>

- The sales presentation shall be in the same language as the agreement with the consumer
- The supplier agreement with the consumer shall be clear, plain and in a language understandable to the consumer
- Suppliers shall make accurate representations regarding the relationship with the delivery utility
- A consumer shall not be enrolled for competitive energy service unless s/he has expressed his/her consent to do so
- A supplier shall record, retain and honor all valid contracts in accordance with applicable federal, state and local requirements
- The consumer shall be provided with contact information of the supplier and state regulatory commission
- Suppliers shall promptly and timely investigate and appropriately respond to consumer inquiries and complaints

16) What issues may arise regarding billing and collection in the transition to retail electric competition?

As has been demonstrated through experience gained in other retail choice jurisdictions, consumers prefer to receive a single consolidated bill that presents utility delivery charges as well as charges for competitively-provided energy products and services. Different jurisdictions utilize supplier consolidated billing or utility consolidated billing as part of the retail choice programs.

Billing is an inherently competitive function as is well-demonstrated in all facets of American commerce. As competitive retail markets have matured, competitive suppliers have increasingly added billing technology, and its expert use, to their menu of services that they can render to provide consumers with more innovative, customer-focused products and services.

Competitive suppliers offering supplier consolidated billing (SCB) need the power to order termination of a customer's service for nonpayment in order manage bad debt risk. Under SCB, the supplier takes responsibility for the utility delivery portion of the bill. In other words, the supplier assumes the risk of nonpayment. Allowing suppliers to order termination for nonpayment permits them to properly manage this risk (the utilities are currently permitted to collect for customer bad debt in their rates), by appropriately providing suppliers with payment collection tools, i.e., the ability to issue a disconnect request to the utility for nonpaying customers and to request customer deposits. Also under SCB, the utility would retain its traditional delivery service responsibility for performing physical customer connection/disconnection.

Once the energy commodity is consumed, it cannot be reclaimed. Consumers that are able to pay should not be entitled to avoid payment for a commodity product they have consumed, based on the provider's status as a competitive supplier.

17) How should the Commission accommodate and encourage evolving technology in a competitive market?

Perhaps the most significant way to accommodate and encourage evolving technology in a competitive market is to ensure that the utility is providing competitive suppliers with timely access to data. Competitive suppliers need timely access to granular data in order to design and

provide innovative products that are responsive to consumer needs. The need for suppliers to have timely access to data is especially critical to enabling the deployment of, and realization of benefits from, distributed energy resources. A streamlined mechanism must exist by which competitive suppliers can obtain billing quality data for all of their customers, with customer authorization. Customers should be able to authorize third party providers to have access to their information, and the access should be free of charge.

18) Other than the Commission's existing retail electric competition rules, what other existing Commission rules and policies will need to be changed to accommodate retail electric competition?

No response.

Conclusion

NEM appreciates this opportunity to submit comments on the Commission's Inquiry into Retail Electric Competition. NEM strongly believes that the public interest would be well-served through the implementation of a retail electric choice program in the State of Arizona. We look forward to working with the Commission and stakeholders in this proceeding to achieve that goal.

Respectfully submitted,

Craig G. Goodman, Esq.
President
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, D.C. 20007
Tel: (202) 333-3288
Email: cgoodman@energymarketers.com

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