
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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INTERAGENCY TASK FORCE SEEKS PUBLIC COMMENT ON COMPETITION REPORT TO CONGRESS UNDER EPACT

Under section 1815 of the Energy Policy Act of 2005, a multi-agency federal task force is preparing a report to Congress on competition in wholesale and retail electricity markets and is seeking public comment on observations contained in a draft of the report.

Section 1815(b)(2)(B) of the Act requires the Task Force to publish a draft report for public comment 60 days prior to submitting the final version to Congress on August 8, 2006.

A representative of the Federal Energy Regulatory Commission is on the five-member task force, which also includes representatives of the Department of Justice, the Federal Trade Commission, the Department of Energy and the Department of Agriculture's Rural Utilities Service.

The draft interagency report recognizes that for almost 30 years, Congress has taken steps to encourage competition in wholesale power markets, beginning with the Public Utility Regulatory Policies Act of 1978 (PURPA). The Energy Policy Act of 2005 represents the third major federal law enacted in the past 30 years to promote wholesale competition, following PURPA and the Energy Policy Act of 1992. These laws promoted competition by lowering barriers to entry and increasing transmission access. "Federal electricity policies seek to strengthen competition but continue to rely on a combination of competition and regulation," the draft report states.

"Enactment of the Energy Policy Act of 2005 marked an important threshold in U.S. electricity policy. For five years, we have had a national debate on whether competition is the right policy in wholesale power markets. The Energy Policy Act of 2005 reaffirmed that policy, and represents a national decision to stay the course. The interagency report reflects that decision," commented Chairman Joseph T. Kelliher.

"The Energy Policy Act of 2005 significantly strengthened the Commission's regulatory authority. Congress did not give us this authority to substitute regulation for

competition, but to help make competition more effective. The Commission is pursuing regulatory reforms to that end, including reform of our open access rules,” the Chairman said.

The draft report notes that, “Regional wholesale electric power markets have developed differently since the beginning of widespread wholesale competition. Each region was at a different regulatory and structural starting point upon Congress’ enactment of the Energy Policy Act of 1992.” The draft report notes the importance of transmission access to wholesale competition. In May, the Commission issued proposed rules to reform its transmission open-access rules to improve access to the interstate grid.

The Task Force asks for comment regarding price caps and generation capacity markets. The Task Force also solicits comment on difficulties in developing transmission infrastructure.

The Task Force researched and analyzed the relevant features of seven states – Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas – that have implemented retail competition. These seven states represent the various approaches that states have used to introduce retail competition where retail competition programs are active.

Most of the states profiled in the draft report began retail competition in the late 1990s, and implemented retail rate caps and distribution utility obligations to serve, which are now just ending, making it difficult to judge the success or failure of retail competition, the draft report notes.

“Few alternative suppliers currently serve residential customers, although industrial customers have additional choices. To the extent that multiple suppliers serve retail customers, prices have not decreased as expected, and the range of new options and services is limited,” the draft report notes, calling the lack of market entry by alternative suppliers “one of the main impediments to competition” in retail supply. “At the same time, there is some evidence that alternative suppliers have offered new retail products including ‘green’ products that are more environmentally friendly for residential and non-residential customers and customized energy management products for large commercial and industrial customers.”

The Task Force seeks comment on the requirements for local distribution companies to be a “provider of last resort” to consumers, noting that such service affects competition in retail markets, and may distort consumption and investment decisions. The draft report also notes that “rate shock” can occur when transitional caps on retail rates at below-market costs are lifted. The Task Force asks whether auctions to procure power for suppliers of last resort may benefit consumers as suppliers compete to supply the necessary load, and whether consumers have information necessary to choose among

suppliers.

To prepare the report, the Task Force consulted with and solicited comments from industry, the States, and others. The Task Force issued a *Federal Register* notice on October 13, 2005, seeking comment on a variety of issues related to competition in wholesale and retail electric power markets to comply with this statutory obligation. The Task Force received over 80 comments that expressed a variety of opinions and analyses. Comments on the draft report released today are due June 26, 2006.

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