



Friday, June 16, 2017

Suzanne Casazza, Esq.

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California Public Utility Commission | Energy Division

505 Van Ness Avenue

San Francisco, California 94102

RE: Informal comments on the CPUC Staff White Paper and En Banc Retail Choice Hearing

Dear Ms. Cassazza,

Enclosed please find the informal comments of Infinite Energy, Inc. (Infinite Energy) in response to President Picker's request, via your email dated June 1, 2017, for informal comments on CPUC Staff's white paper entitled "Consumer and Retail Choice, the Role of the Utility, and an Evolving Regulatory Framework," issued on May 9, 2017, and the CPUC en banc retail choice hearing held on May 19, 2017.

We greatly appreciate the opportunity to contribute to this process in any way we can, and hope to participate further as it continues to develop. Please feel free to contact me directly about any questions you may have about Infinite Energy's comments, and thank you for your time and your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Warren Rhea".

Warren L. Rhea

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I. CPUC Staff White Paper Questions

- 1. As an increasing number of customers can obtain electric generation service from a variety of sources (including IOUs, ESPs, CCAs, and on-site technologies), how does California ensure that all customers get the benefit of having multiple institutions play an important role in helping finance the infrastructure needed to meet the State of California's GHG strategies, including electrification of transportation and fuel switching in the natural gas industry, while also ensuring that all customers have access to at least basic electric service?**

California will benefit from competitively restructuring its electricity supply as fully as possible while also continuing to recognize that everyone must have affordable and reliable access to basic electric service.

First, it should fully restructure electricity supply by removing each investor-owned utility (IOU) from the merchant function of electricity supply. Instead, electricity generated by California's already competitive wholesale electricity market should be supplied to customers by new retail electric providers (REPs), and delivered by transmission and distribution utilities (TDUs), as the successors to the IOUs who maintain the safe, reliable, and adequate grid managed by the California Independent System Operator (CAISO).

Texas is the most successful model of a competitive electricity market today because of this kind of full restructuring. By fully unbundling supply from delivery, all of the other elements of a competitive market, from more efficient and competitive generation to the ability of customers to shop between REPs, have succeeded in Texas because fully unbundled costs promote competitive pricing and minimize cost-shifting. Texas retail electricity prices have gradually declined even faster than wholesale costs, so REPs in Texas compete on more than price, offering better service, a variety of on-and-off-site value-added technologies, and fully renewable electricity products, and these are the hallmarks of full restructuring.^[1]

To ensure basic electric service for all, California should focus its Public Purpose Program Charge (PPPC) on environmental and efficiency initiatives and create a separate System Benefit Fund (SBF) to fully fund all low-income assistance and customer education programs. As a separate line item on the customer's bill, the SBF would cover universal service – customer education and low-income assistance programs – while the PPPC would cover the environmental and energy efficiency initiatives it does today.

Separating these two needs will ensure that each continues in a competitive market where REPs supply electricity, with low-income assistance funded by the SBF, while TDUs deliver electricity and implement the initiatives funded by the PPPC.^[2] Customer education is vital for helping customers benefit from the new marketplace and should also be funded by the SBF.^[3] To ensure access to basic electric service for all customers, the SBF must be designed so that SBF funds can only ever be used for these purposes.^[4]

- 2. What are the roles of the incumbent electric distribution utilities in the future, and what are the means for them to finance their core functions (e.g., distribution service, transmission service,**

1. "The evolution of wholesale and retail electricity market prices since [full restructuring began in Texas in 2002] has been dynamic, but competition has yielded an outcome consistent with what economic theory predicts. Namely, retail prices have declined relative to wholesale prices in competitive market areas." From [Electricity Reform and Retail Pricing in Texas](#), June 2017, by Peter R. Hartley, Ph.D., Kenneth B. Medlock, Ph.D., and Olivera Jankovska, from the Center for Energy Studies at Rice University's Baker Institute for Public Policy. We have attached a copy of this report for your consideration as well.

2. As an example, ONCOR Electric Delivery is a TDU which continues to implement a number of energy efficiency programs through its [Take a Load Off, Texas](#) program, as well as smart meter education with other TDUs through [Smart Meter Texas](#).

3. [Texas Power to Choose](#) and [Power to Save Texas](#), managed by the [Public Utility Commission of Texas](#), are great examples of popular customer education programs that have proven critical to the success of the competitive electricity market in Texas.

4. For instance, Texas designed an excellent SBF, but eventually, SBF fee revenue was deposited into the state's General Fund instead of being held outside of it. As a result, Texas legislators began to use the money collected by the fund for balancing the state's budget rather than funding customer education and low-income assistance. While the money was eventually used for the purposes for which it was collected, the program was eventually ended altogether as a result of this long-term impasse. Similarly, Senate Bill 87, chaptered on June 30, 2011, tried to transfer of "up to \$155,000,000 from the Gas Consumption Surcharge Fund" to California's General Fund, some of which would have been made up by a transfer of similar electric funds. While this attempt was ruled unconstitutional by the California Supreme Court, as recognized by [D.12-10-026](#), every legislature will have a temptation to use SBF funds for other purposes unless legislation keeps them separate. By formally securing the SBF into the future, California improve on the Texas model by ensuring that SBF funds are always available for basic service.

POLR retail service) where some of these services are provided to all electricity customers and some are provided to only some customers (and in some cases may be provided because no other supplier is willing and/or able to provide them)?

The incumbent IOUs should provide transmission and distribution service as TDUs, and should otherwise continue to carry out those government-related functions they are already charged with, like implementing California's environmental and efficiency mandate programs, since customers rarely move from one TDU to another and are therefore more permanently connected to them. Once these core functions are firmly defined and fully unbundled from the former IOUs' competitive functions, the TDUs' core functions should continue to be financed by the traditional regulatory ratemaking process.

Otherwise, every competitive electricity supply function should be provided by REPs. None should be maintained by TDUs because this will put TDUs in the position of having to compete with their new partners: the REPs, who will take on the cost (and opportunity) of providing competitive service to end-use customers over the electric grid by purchasing the TDUs' customer receivables. This partnership is a success in Texas, where TDUs create efficiencies and value-added services for the REPs they work with. At the same time, TDUs can focus their expertise and ratepayer funds on reliability, storm hardening, efficiency, and security without the complexity of bundled commodity-related cost accounting. This means rate cases will happen that much less frequently, saving ratepayers that much more as well.

3. Who will be the provider of last resort for customers who don't seek to make key decisions for themselves, but prefer a simple and reliable bundled service? What agencies are best designed to provide customer protection in this new electric industry structure? What policies and/or authorities are necessary for utility regulators (or others) to assure that all customers - regardless of their supplier of generation and/or delivery service) have access to reliable and efficient electricity supply that also supports California's economic and environmental goals?

The provider of last resort (POLR) is another competitive function that should be provided exclusively by REPs. In Texas, the POLR is objectively assigned to the largest REP (by market segment) in each TDU service area, although other qualifying suppliers may opt-in ahead of the objectively assigned POLR. A large POLR like this will also be well-situated to handle large-scale transitions such as an REP's sudden exit from the market, which may occur in the early years of market development after full restructuring.

This does not require an extra decision from customers who prefer a simple and reliable bundled service. Every REP should be required to purchase all of a TDU's receivables – the transmission and distribution charges customers would otherwise pay for directly – for each of its customers. Then, the REP should provide a consolidated monthly bill containing all of these fully unbundled charges to the customer, who can see the cost benefits of full unbundling without losing the simplicity of one bill from one company.

The CPUC is best positioned to provide customer protection in this new electric industry structure, while the CEC can provide the resource planning necessary for California's economic and environmental goals.

4. How does the State of California ensure that the many different players work together to ensure that the State's electric supply is not only clean but is also reliable, efficient and resilient? For example in light of the changes underway in the State's electric system, how should the State provide such products and services as ramping power, voltage support, frequency control and managing over-generation? How should the State's electric system become more resilient (e.g., capable of fending off attacks from physical and cyber threats, as well as speedy recovery from disasters)? How will California's consumers pay for the many mandated public goods programs, ranging from energy research to providing energy efficiency upgrades and rate discounts for low income customers, which the California legislature has determined are core elements of the State's electric system?

Once the IOUs are removed from the merchant function in every capacity, becoming TDUs, all parties to the new market should work together in an ongoing stakeholder process to ensure that each of them is doing their part to ensure that California's electric supply is clean, reliable, efficient, and resilient. For example, the Electric Reliability Council of Texas (ERCOT) operates the electric grid and manages the restructured market in Texas. To do this, ERCOT is a non-profit clearinghouse and electricity market

stakeholder entity that provides an excellent forum for all market participants and which is transparent to all parties (including the Public Utility Commission of Texas and its Staff). This model helps standardize transactions and processes, which reduces costs for all market participants overall, including customers.

But to make all of this possible, the CPUC must have clear statutory authority to actively oversee the new market for all of its participants, including REPs, TDUs, generators, brokers and aggregators, individual customers, and others. Texas, along with nearly every other state and country which has implemented electricity restructuring, has done so with comprehensive legislation that outlines the responsibilities of each participant in the new market, resolving questions similar to those in Staff's white paper. Legislation must also ensure that the energy research, efficiency upgrades, rate discounts, environmental mandates, and utility user taxes that are core, continuing elements of California's electric system are all provided for.

By contrast, New York is the only jurisdiction that tried restructuring its electricity market administratively, without new legislation. As a result, its once-promising restructuring project was repeatedly stalled by a lack of regulatory certainty, and its originally collaborative processes gradually became adversarial.^[5]

5. How will the State of California provide protection for consumers against predatory actions by providers of electric service or energy technologies in these new policy settings?

The CPUC must adopt rules which ensure that every participant in California's fully restructured market, including REPs, TDUs, brokers, aggregators, and others are subject to proper CPUC oversight and licensure. Finally, these rules must be backed by clear legislative authority, which will enable the CPUC to be necessarily firm, fair, and transparent in its enforcement of the new rules it must promulgate.

The CPUC should also launch an official online electricity shopping portal before its retail market opens. If it creates a quality online shopping portal for electricity and then adds its official imprimatur to the website and to the process of competitive shopping generally, the CPUC can shape the retail electricity market by its control over what would surely become the most widely-used and well-trusted online shopping portal in the state. Maintaining the site over the long term will also give the CPUC an important tool for resolving market issues and protecting customers without necessarily having to resort to additional regulation.^[6]

II. Non-Utility Energy Supplier Panel Questions

A. What value or services does your company/organization offer customers that is distinct from the distribution utility?

Infinite Energy is unique among most energy suppliers in that it builds all of its systems from the inside out – its award-winning customer care, software development, and resource trading operations are all performed in-house. The flexible problem solving that this facilitates is at the core of how Infinite Energy meets its customers' individual goals with custom-built solutions. For example, Infinite Energy offers its retail customers a variety of fixed, variable, blended, and index-based rates for terms of up to five years. It also offers a number of value-added services, including home security, insurance, and product protection plans, bundled internet, television, and phone products, energy-saving NEST thermostats, LED light bulbs, and Green Choice renewable energy credits, as well as a host of energy consulting services. For larger customers, Infinite Energy also specializes in asset management agreements, which it uses to help these customers maximize the value of their transmission capacity and save on energy costs.^[7]

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5. For example, without legislation affirming that it was no longer obligated to supply electricity, one New York utility that wanted to leave the merchant function still threatened to sue New York regulators if they ordered it out of the merchant function without express legislative authority, since the utility feared it might later be ordered back in by a court ([Case 00-M-0504, p. 22, n. 7](#)).
 6. For your consideration in designing an online electricity shopping portal for California, we have attached a copy of a report we provided to the New York Public Service Commission on March, 27, 2017 for the purpose of helping improve its official portal.
 7. Founded in 1994 to serve commercial, industrial, and public utility natural gas customers in Florida, Infinite Energy now serves electric customers in Texas, as well as residential and non-residential natural gas customers across Florida, New York, New Jersey, and Georgia, where Infinite Energy is one of the only three original natural gas suppliers still serving the state since its natural gas market was fully restructured in 1999. Infinite Energy also serves natural gas to industrial direct-connects, public utilities, and large customers across the United States and Canada as a natural gas supplier and an asset manager. You can learn more about our company and about all of the value-added services we offer online at <https://www.infiniteenergy.com/>.