

Gongwer News Service  
Volume #46, Report #249, Article #03  
Thursday, December 20, 2007

#### ELECTRIC CHOICE NOT DEAD, BUT COULD SEE LIMITS

Electric utilities could see customers continue to move back and forth between regulated and unregulated rates, but how many of those customers could move would be limited under a plan that appears likely to be part of the final House electric restructuring package that will begin moving after January 1.

As the proposal stands now, only 10 percent of a utility's load would be allowed to seek an alternative provider. But that percentage could increase if the state finds the utility is not operating efficiently.

House Energy and Technology Committee Chair Rep. Frank Accavitti (D-Eastpointe) said the final details of the package are still being worked out.

"We'll rework the bills yet one more time," Mr. Accavitti said Thursday after essentially completing hearings on the package. Though not technically a subcommittee, he said the six leading committee members on the issue, three Democrats and three Republicans, would be meeting over the next few weeks to go over the testimony and propose final language.

The proposal, Mr. Accavitti said, would provide an incentive for the utilities to be more efficient because, as it stands, the new percentage of choice allowed would not be rolled back if the utility was again found to be operating efficiently.

"If they're operating efficiently, people would be flocking back," he said.

But Mr. Accavitti said again Thursday that a key concern driving the package is that residential customers have yet to benefit from the choice already in place.

"After seven years no one residential customer in the state is a choice customer," he said. "But they're paying for the fact that choice is available."

Competitors argued that could change yet this year. Gary Field with Universal Gas and Electric said his company, based in Canada, is hoping to have a license next month to allow it to provide choice to residential electric customers in the state.

Mr. Field said his company's niche in the market is smaller customers - residential and small commercial - that have not been served so far under customer choice. And he brought in petitions signed by Universal natural gas customers urging that they be allowed the opportunity for choice in their electric service.

If the Legislature does place limits on customer choice, Universal would not likely make the investment to provide service in the state, Mr. Field said.

Opponents of setting limits on customer choice said the proposal for limiting the amount of utility load available for choice is actually smaller than 10 percent under the current draft language. Eric Schneidewind, spokesperson for the Customer Choice Coalition and former Public Service Commission chair, said the proposal would allow only about 6.5 percent of a utility's load to be open to competition.

And Mr. Schneidewind said that would be further limited by provisions that would require those selecting an alternative provider to also pay for a portion on any power plants approved while they were still utility customers. "When those migrating have to pay for power plants that are merely in the certification process, no one's going to be able to migrate," he said.

Committee Minority Vice Chair Rep. Mike Nofs (R-Battle Creek) countered that even at 6.5 percent the amount of choice allowed would be triple the current market. And he said the utilities had complained that the language would actually allow about 14 percent of their market to be open to choice.

"So I think my definition is about right," Mr. Nofs said.

But choice supporters, the focus of Thursday's hearing, urged the committee to drop the efforts to make any changes to customer choice and instead focus on the renewable energy requirements.

"Significant progress has been made on those bills," said Robert Nelson, former Public Service Commission member and spokesperson for the Customer Choice Coalition. "There's no reason we believe those bills should be held up for the rest of the package."

Energy efficiency proposals raised concerns with larger corporations, which argued they are already implementing such programs and should not be charged for the utility programs. "They don't need somebody to tell them how to save energy and then charge them for it," said Fritz Benson, spokesperson for the Association of Businesses Advocating Tariff Equity.

Between the charges for the utility programs - which under current bill language large companies would still have to pay 10 percent - and proposals to allow utilities to decouple their rates from power consumption (if they are able to generate enough savings through energy efficiency) there would provide a disincentive for large industrial customers to work on energy efficiency, Mr. Benson said.

But to the key purpose of the bills - to allow construction of new power plants - opponents said the package hands too much to the utilities.

Mr. Schneidewind said the utilities are essentially looking to earn an investment-grade return on the cost of the power plant but shift the risk for that investment to customers.

"We need to leave some risk in this process and let them earn their money or let's take out the risk and reduce the rate of return," he said.

The groups also continued to argue that a proposal to allow the utilities to implement new rate proposals 90 days after filing them with the PSC would lead to essentially indefinite rate increases, as the utilities could implement new increases before earlier filings could be completed.

Rick Coy with ABATE said the nine months for the commission to address a rate case before the utility could file another rate case is currently about the minimum time for the commission to address a rate filing. But he said the actual time depends on what policy changes are included along with the rate changes.

"It would be very easy to give the commission a case it could not possibly handle in 18 months," Mr. Coy said. He and others said the commission should at least have authority to issue interim orders or to order a delay in implementing a rate filing.

But in a press briefing before the hearing, utility officials said the bills were essential to meeting the state's growing energy needs. "We need energy efficiency; we need renewables; we need clean coal; we need new nuclear," said DTE Energy CEO Tony Earley. "Unless we pass these bills we won't have any of those."

Consumers Energy CEO David Joos admitted that, with increasing power demand, eventually someone would build power plants to serve that demand. "The question is whether it will be available on an affordable basis," he said.