National Energy Marketers Association

By CRAIG GOODMAN

Competitive Neutrality For Successful Competition

There are still a number of viable retail energy marketers out there, for instance, National Energy Marketer Association (NEM) executive committee member Total Gas & Electric.

This 24-employee company in Matawan, NJ, is active in regulatory proceedings in New York, New Jersey and Maryland and reports progress on the regulatory front. Total's message is the same as all NEM member companies: competitive neutrality.

Orange & Rockland Utilities in New York State is the best example in the post-Atlanta Gas Light era of a company that understands the value that energy competition brings to customers. The New York State Public Service Commission and the office of governor George Pataki must be recognized for their innovative approach. They allowed Orange & Rockland to develop a program that has resulted in 25% and 30% voluntary migration of residential electricity and natural gas consumers, respectively, to energy choice. Further, passage of the Energy Consumer Protection Act of 2002 brings new protections to consumers and energy marketers. These innovations and those that follow may make New York's retail energy markets the most competitive in the nation and a model for others.

NEM has developed its list of prerequisites for successful competition, most proven by the Orange & Rockland program:

Utility commodity pricing (currently the primary competitive price for energy marketers) must be based on market costs each month. Energy marketers are unable to defer energy costs as utilities can. In addition, where utilities hedge supply costs, energy marketers must be informed (immediately after the fact) to prevent uncompetitive future pricing.

Utilities must remove all costs related to commodity sales from delivery service charges and place them in their commodity price. These costs include carrying costs of gas inventory and pre-paid transportation, bad debt related to commodity, collection expenses, customer care, energy planning and procurement, legal and regulatory, and a portion of general administration and overhead. These costs are incurred by energy marketers and are included in energy marketer pricing and in utility pricing, resulting in a double payment of these costs if they remain in utility delivery service pricing. In addition, costs and overheads related to metering, billing, customer care, etc. must be fully unbundled to accommodate those energy marketers providing a more complete range of competitive services.

From a cost-recovery standpoint it is only logical that payment for a consumed commodity should have priority over payments for depreciable physical assets such as pipes and wires. Utilities follow this priority when determining their priority of bill payment (suppliers are always paid in full and on time). It follows that energy marketers should be paid first for their delivered commodity at the same priority as an energy supplier is paid. Any deviation from this logical payment priority will result in bad debt expense for the energy marketer. The argument that an energy marketer should bear bad debt risk is completely flawed if the utility delivery rates include an allowance for commodity bad debt. The argument that both the utility and energy marketer should share bad debt risk equally seems reasonable on the surface but places payments for depreciable assets on an equal footing with energy consumed by the customer and paid for by the energy marketer.

Utilities must take an active role in promoting customer switching to energy marketer service. The most effective means of educating consumers on the availability and advantages of energy competition is for the utility to advocate on behalf of the energy marketers and to actually switch interested customers. This requires prearranged short-term pricing and fair distribution of assignments.

Market-area storage and pipeline capacity from utilities must be made available to energy marketers for customers who switch. The capacity is necessary particularly during times of high price volatility.

Regulatory commissions act as an advocates for consumers; however, this advocacy does not reach to energy marketers who are also customers of utilities. Commissions that are serious about competition will act as advocates for energy marketers in their efforts to make utilities fully deregulate commodity service.

In addition, NEM supports innovative approaches to monitoring and controlling market power like those adopted by Orange & Rockland and its parent Con Edison. These programs provide a checkpoint where total migration in any utility program reaches 35% of eligible customers and one marketer's share exceeds 25% of all eligible customers. At that point any energy marketer with market power concerns can call a meeting of all stakeholders. In the event a resolution cannot be reached, any party may petition the commission. Promoting self-regulation is a forward-looking way to prevent market power problems and avoid government intervention.

Competitive neutrality has a long way to go nationwide, but the Orange & Rockland Utilities example and New York State's ongoing efforts to make energy choice real to consumers provides not only encouragement but proof that retail deregulation will work where the right regulatory leadership and innovative utility management is in place. ■

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