



**INDEPENDENT
ENERGY**
THE POWER INDUSTRY'S BUSINESS MAGAZINE

A
Ace
In The Hole
*Energy Traders Use New Tricks
To Manage Risk*

Debating Choice

Restructuring and retail choice legislation are spreading across the United States. Industry leaders weigh in on the issues affecting the future electricity marketplace.



Opinions about retail

electricity choice are almost as numerous as players in the U.S. electric utility industry. At one extreme on the continuum of deregulation perspectives are a few old-guard utilities, who will go kicking and screaming into the age of retail competition, spouting warnings about unreliability and price gouging. At the other end are rabid new entrants who demand an immediate shift to full choice, railing against transition charges and other alleged forms of anti-competitive corporate welfare. Almost everyone, however, falls somewhere in the middle.

The continuum itself seems to be narrowing. Each month, more old guard utilities abandon their increasingly untenable positions and begin building their own competitive cultures. And while the new entrants will never like the idea of transition charges, some are beginning to figure out how to profit despite them.

Meanwhile, the regulatory framework is changing. The patchwork quilt of state-level regulatory and legislative action is becoming less fragmented (See "State Restructuring Status," page 25). Still, only a few states have retail choice, and opinions are still forming about their market frameworks.

In the background is the federal government. Federal regulators have thus far focused most of their attention on the wholesale market, most notably with Federal Energy Regulatory Commission (FERC) orders 888 and 889, which are meant to ensure fair and open access to the transmission system. But some argue that federal authority is the only antidote to the "crazy quilt" syndrome that threatens to plague companies seeking to participate in U.S. retail markets. The following comments represent a variety of views on the subject of restructuring and consumer choice legislation in the electric power industry.

CHRIS KING, CEO, UTILITY.COM

Utility.com favors federal legislation. We would support providing the states with incentives rather than mandates. Our position is based on several reasons.

First, America's economic history is that competition results in lower prices and better service in every industry and every geographic region. Second, customer choice should be the right of every consumer, especially when energy is typically the third largest household expense (after housing and food). Why should government select a person's energy supplier any more than government tells that person where to live or buy groceries.

Third, while the states should retain some authority, "patchwork" deregulation results in higher costs for energy suppliers, which means less savings for consumers. Federal legislation should promote nationwide standards and operating rules; this will increase customer choices and increase savings.

STEVE R. SPENCER, SENIOR VICE PRESIDENT, SOUTHERN COMPANY

There's currently a shared belief in America that competition is better than a monopoly. And clearly we can already see within our industry the benefits of wholesale competition in the form of market-based pricing for wholesale customers. Southern Company supports competition. We believe all customers should benefit from competition. Our concerns center



Chris King, CEO, Utility.com



Steve Spencer, Senior Vice President, Southern Company

around the transition to retail competition and its ultimate form. We want to make sure that the transition is fair to all parties, that the timing makes sense and that the final form of competition is workable.

More than 40 states have either enacted legislation, amended regulations, or are actively addressing reforms to traditional electric regulation based on their customers' needs and priorities. We believe that the federal government should not impose a date certain for retail competition on the states. The transition to competition should be done in an orderly way, under a bright light, with participation by all interested parties, and with state regulators and legislators addressing their jurisdictional issues.

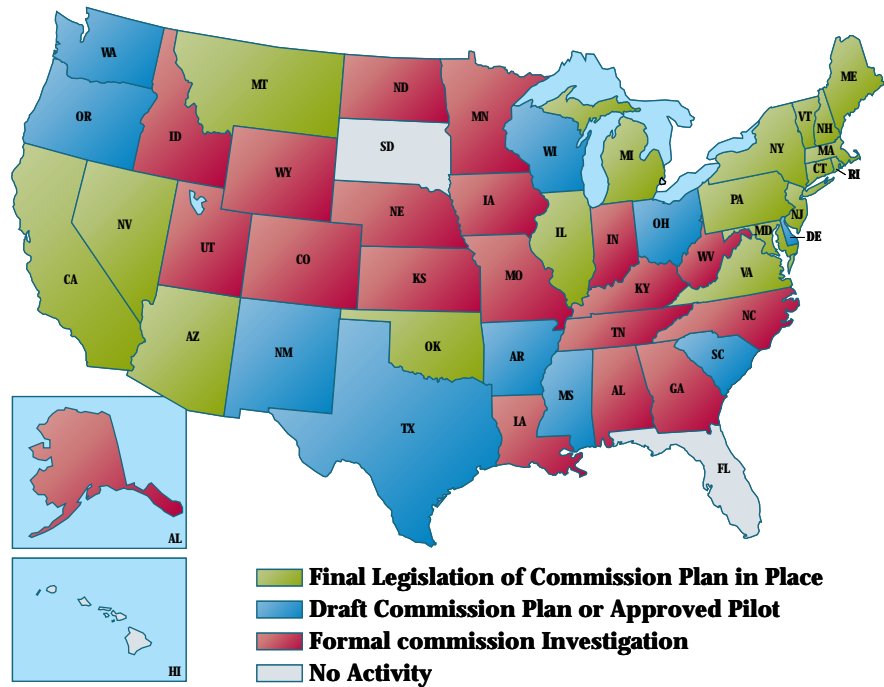
The transition to competition must be based on the following principles:

Customer Benefit: Assure all customers—large and small—will benefit, or at least not be harmed, from a cost, service and reliability perspective.

Stranded Cost Recovery: Assure the transition honors past regulatory commitments by providing for the recovery of legitimate stranded costs through FERC and the states.

State Authority: Recognize the authority of and the differing circumstances among the states regarding retail electric service and avoid

State Restructuring Status



Source: U.S. Energy Information Administration

market should result from companies working harder and smarter for their customers.

**MARK R. STOVER, MANAGER OF GOVERNMENT AFFAIRS,
ELECTRIC POWER SUPPLY ASSOCIATION**

The Electric Power Supply Association (EPSA)—the national trade association representing competitive power suppliers, independent power producers and power marketers active in U.S. and global energy markets—seeks to bring benefits of full and fair competition to all electricity consumers as soon as possible by restructuring the electric power industry through federal and state legislation.

Competition will 1) bring lower prices to all consumers, 2) increase efficiencies in the electric power industry, 3) improve customer services, 4) allow newer technologies and services to flourish, and 5) stimulate economic development and growth in the United States.

Competition forces all suppliers to offer superior products at better prices or risk losing customers to other competitors—a new paradigm in an industry that historically has been heavily regulated. Merely authorizing competition, however, is not enough.

The resolution of key transition issues, such as stranded costs or market power of incumbent utilities, and ensuring consistency and standardization in the implementation of policies across utility service territories, within a state and among states within a region, is

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federal mandates for retail access. State and regional approaches should continue to be allowed to evolve.

Subsidies and Preferences: As we transition to markets, where electricity suppliers are competing for the same customers, it is essential that the same consistent rules apply to all suppliers. Eliminate distortions to competition, including PUHCA and PURPA. Southern Company believes that success in an open, competitive

critical. Policies adopted need to further the goal of fair, clear, robust markets that allow competition to flourish in a manner that brings the benefits of competition to all consumers.

The competitive power suppliers of EPSA stand poised to bring innovation, savings and the benefits of competition to all consumers, while enhancing the reliability we have all come to expect from our electricity system.

**CRAIG GOODMAN, PRESIDENT,
NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEMA) was created specifically to work with representatives of state and federal governments, large and small consumer groups and utilities to devise fair and effective ways to implement restructuring of both the natural gas and electricity markets.

NEMA is committed to the implementation of laws, regulations, standards of conduct, rates, tariffs and operating procedures that a)

provide all customers meaningful choice, b) implement open, efficient, liquid and price-competitive energy markets, and c) encourage the development of new and innovative energy services and technologies, at the earliest possible date.

The federal government has significant constitutional, national security and budgetary interests in restructuring the United States electricity industry. To further these interests, Congress should resolve outstanding

jurisdictional issues and require FERC to promulgate uniform, non-discriminatory, open access transmission tariffs, clarify current tax laws to expand existing stranded cost recoveries and mandate a date certain by which the states must complete the transition to a competitive energy market.

In turn, FERC should expand and clarify Orders 888 and 889. FERC should require that all jurisdictional transmission services be unbundled and that all service providers reserve, purchase, schedule and curtail transmission services under the same uniform, non-discriminatory, open-access transmission tariff and mandate compliance with and strictly enforce Order 889. Additionally, FERC should make transmission services sufficiently uniform to be transferable and tradable, and should regionalize the U.S. electric grid under truly independent management and operational control with incentives to optimize service, accountability and throughput.

State governments also have significant legal, economic and consumer protection interests in electricity restructuring.

Competition forces all suppliers to offer superior products at better prices or risk losing customers to other competitors.

State legislatures should clarify existing laws and empower state Public Utility Commissions (PUCs) to implement customer choice and retail access to all classes of customers, at the earliest possible time. State legislators should also require government to purchase power from competitive providers, thereby implementing tax and budget reductions immediately.

In turn, state PUCs should act promptly to remove the numerous operational, behavioral and tariff barriers to competition and should establish a date certain by which to complete the transition to a competitive market. Regulatory commissions should immediately separate regulated and unregulated services so that consumers may choose, on a line-item basis, both the price and amount of each competitive service that they wish to purchase. Regulatory commissions should also implement NEMA's Uniform Code of Conduct for competitive suppliers of energy services and technologies.

Lastly, government should stop acting as the risk manager for the new energy marketplace.

The right to switch energy suppliers is the ultimate consumer protection. Choice must exist in order to serve the public interest and it should not be complicated or expensive.

A true measure of a competitive market is the number of customers that have choice and the number of providers ready to serve those customers. One measure of the quality of choice is the number of customers that, in fact, exercise choice. NEMA urges that all customers be given meaningful, competitive choices at the earliest possible date. ●



*Craig Goodman,
President, NEMA*

Chris King is CEO of Utility.com, an energy service company located in cyberspace at www.utility.com, and in the real world in Albany, Calif. Steve R. Spencer is senior vice president of external affairs with the Southern Co. (www.southernco.com), a utility holding company and global energy conglomerate based in Atlanta, Ga. Mark R. Stover is manager of government affairs with the Electric Power Supply Association (www.epsa.org) in the semi-real, political world of Washington, D.C. Craig Goodman is president of the National Energy Marketers Association (www.energymarketers.com), also in Washington.