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Guest commentary: Myths about Texas electricity

By: Bill Peacock

A common saying around the Texas Legislature is that bad facts make bad law, meaning that lawmakers too often respond to an isolated bad situation or actor with an overreaching law that applies to everyone in every situation.

Imagine, then, how bad the law can be when lawmakers respond not to facts, but to myths and misrepresentations. Such is the case with legislation in Austin that would undermine the nation's best electric market.

Deregulation of the Texas electric market has been more than a decade in the making. A three-part study by the Texas Public Policy Foundation found deregulation to be an unqualified success. While there are improvements to be made, Texas has competitive markets unparalleled in the U.S.

Yet critics of the free market have repeatedly misrepresented the facts to successfully convince lawmakers in Austin that far-reaching legislation is needed to correct the market malfunctions and higher prices they claim to be caused by deregulation.

A review of these myths will show the folly of these claims.

Myth #1 - Deregulation has caused the price of electricity to increase. Today's higher electric prices have provided pro-regulation policymakers an excuse for abandoning the deregulation they once supported out of expediency.

Though they blame deregulation, the facts clearly show that electricity prices today are the result of dramatic increases in natural gas prices.

In December 2001, the average residential price of electricity in the U.S. was 8.29 cents per kWh. As of December 2006, it was 9.81 cents, an increase of 18.3%. However, in the 15 states (including Texas) that most heavily rely on natural gas for electric generation, the price has risen from 9.75 cents to 12.85 cents, an increase of 31.8%. The average price in these 15 states is also well above the current national average.

Additionally, Texas' average price of 11.54 cents per kWh is below the 15-state average, and far below states like Massachusetts (16.94) and New York (15.54). Prices in these natural gas-intensive states top out above 20 cents per kWh, a third higher than Texas' top rates.

Myth #2 - The Texas electric market isn't competitive. The Texas electric market is America's most competitive market. The market share of new providers is more than 55 percent. More than 76 percent of residential customers have made an observable choice of providers. Residential choice abounds with more than 50 plans offered by about 18 providers at prices as low as 11.9 cents per kWh.

Myth #3 - We have to act now to end market power abuse. In a competitive retail market like Texas, there is no such thing as market power. Companies cannot force people to buy their products. Critics who don't like the market share and prices of certain companies simply don't like the choices that millions of consumers have made, and want to substitute their own opinions. Thus, the provisions in pending legislation to impose price caps and force more "competition" using multi-million dollar fines.

On the wholesale side, market power is created by the regulatory system and congestion, not market share. Changes already underway will resolve these problems. There is no need for the proposed caps on generation capacity.

Myth #4 - Pending legislation would not re-regulate the electric market. Retail price caps. Forced sell off of generation and distribution assets. PUC approval of mergers and acquisitions. Manipulation of market share. These proposed regulations-and others-would greatly hinder competition and interfere with innovation. In fact, they are worse than the traditional rate-of-return regulation, which at least provided companies with 20-year investment horizons with some regulatory certainty.

Texas is the global success story in the movement toward deregulating electric markets. Texas consumers have greatly benefited as deregulation allowed the market to absorb a 200 percent increase in natural gas prices with an inflation-adjusted increase in electricity rates of only 27 percent.

While there are various versions of the proposed legislation at the moment, whatever emerges from the conference committee would cause significant harm to the market if signed into law. Prices-and profits-would be at the whim of regulators. Reliability would be at risk. Texans would be well served if the market-meddling is halted and competition is left to providers and consumers in the best electric market in the world.

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