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# Has electric deregulation law helped or harmed Texans?

By Kate Galbraith \ The Texas Tribune  
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Since 1999, when then-Gov. George Bush signed a law that deregulated the Texas electricity market, a debate has raged about whether and how much the move has benefited ordinary Texans.

Deregulation aimed to introduce market competition as a way to increase options to consumers and force down prices. Clearly, the ramifications hardly have broken down so simply, and some believe the industry and large industrial customers have benefited more than the workaday electric consumer -- who generally pays rates higher than the national average. Last week, the Legislature's Sunset Advisory Commission, which is currently evaluating the Public Utility Commission and ERCOT, the grid operator, recommended several important changes, including making it easier for Texas ratepayers to lodge complaints against electric companies.

The broader questions about the merits of deregulation remain a wonkish but important dispute. Conservative groups assert that deregulation has allowed consumers to choose lower electricity prices, caused old plants to be replaced with efficient new ones and encouraged renewable energy. Some ratepayer groups argue that deregulation has caused rates for ordinary Texans to be higher than they would have been otherwise.

"It's a very, very difficult question," says Steve Minick, the vice president for governmental affairs at the Texas Association of Business. Many factors, especially the price of natural gas -- which has fluctuated widely in the past 10 years --

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determine the cost of electricity. His group, which represents both electric companies and large users of electricity, favors competition and thinks that deregulation has worked, but also acknowledges the "growing pains" of the market.

In the fog of conflicting figures and agendas, this much seems clear: Deregulation is here to stay. Texas manufacturers, who are big users of electricity, cheer the onset of competition, presumably because they employ people savvy enough to aggressively shop for lower electricity rates in a confusing market. Texas consumers, for their part, can in theory also choose plans with low rates. But in reality, few people spend their days scouring for the best deal, and

therefore some of the proclaimed benefits of deregulation may be overstated. Comparison shopping for electricity sits low on the household to-do list, and so they may exert less pressure on the market than advocates had hoped.

Just over half of all Texans live in "competitive areas"; electric cooperatives and municipal utilities, as well as electric cooperatives, are not subject to deregulation. In Texas, the giant utilities got split into three parts: the generator (producer of the power); the operators of the wires for transmitting and distributing electricity; and the company that sells it to the customer. In theory, the companies that sell power should compete for consumers on the basis of price and services. The website powertochoose.org allows Texans to type in a ZIP code, and up pops a list of providers and rates.

"Competition in the electric industry will benefit Texans by reducing monthly rates and offering consumers more choices about the power they use," Gov. Bush said at the time.

Of course, deregulation, while it implies the busting up of monopolies, does not necessarily mean a switch to an unfettered free for all. Consumers can still complain, and the Public Utility Commission and ERCOT will still flag unfair practices. But electric providers are essentially free to offer whatever rates they choose, and change offers at will, where before they would have had to beg the Public Utility Commission for permission.

So has deregulation caused the cost of electricity to go up or down for ordinary Texans? That answer is complicated by the fact that no one knows how rates might have increased without it. "Most Texans can easily buy electricity today below 2001 regulated prices," asserts the conservative Texas Public Policy Foundation, in a recent paper. With inflation adjustments, the group says, "the average competitive price today is 9.46 percent lower than regulated prices in Texas in 2001."

That depends on your definition of "price": In this study, it's not what consumers actually pay, says

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Bill Peacock, the group's vice president of research. Rather, it reflects the offers available at powertochoose.org. "We don't know what choices customers made," Peacock says. The "offers" the foundation tracked do not necessarily translate into customers -- an important distinction in the literature on deregulation. In other words, how many people will take up low offers -- some may be here one day and gone tomorrow -- is unclear.

From 2002 to mid-2009, 86 percent of customers made at least one observable switch, whether between providers or to a different plan offered by the same provider, according to a report by Bret Slocum of Clark, Thomas & Winters, who serves as legal counsel to several retail electric companies. But Tom "Smitty" Smith, the director of Public Citizen Texas, a consumer and environmental advocacy group, says deregulation has been "a disaster for the average consumer" -- partly because people don't have time to shop around, and also because it is hard to evaluate the offers.

Jake Dyer, a policy analyst with Lloyd Gosselink Rochelle & Townsend, a law firm that represents a coalition of cities who are customers in the deregulated markets, says that between 2002 and 2008, the actual cost of electricity offered to residents by almost every company in competitive areas was higher on average than the cost of electricity nationally.

Rates in Texas, he says, were consistently below average for the 10 years before deregulation.

Last year, residential electricity rates for Texas -- including both regulated and deregulated areas -- were 17 percent above the national average.

Meanwhile, Texas manufacturers say they are happy with deregulation. "The fact is that current power prices in the Texas electric market compare favorably to anywhere else in the country," said Luke Bellsnyder, the executive director of the Texas Association of Manufacturers, in a statement.

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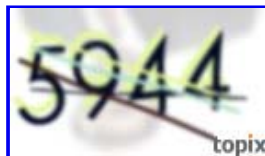
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