



**POST-WORKSHOP COMMENTS OF THE
RETAIL ENERGY SUPPLY ASSOCIATION
ON THE CALIFORNIA CUSTOMER CHOICE PROJECT
AND WORKSHOP ON OCTOBER 31, 2017**

November 28, 2017

The Retail Energy Supply Association¹ (“RESA”) is a non-profit trade association representing a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more innovative and efficient, customer-oriented outcome than the regulated utility structure. RESA and its members are actively involved in the development of retail and wholesale competition in electricity and natural gas markets throughout the United States. Some RESA members are electric service providers (“ESPs”) serving retail customers in California and others are considering entering the California market.

RESA previously provided comments regarding the Retail Choice *En Banc* and is pleased to provide these additional comments addressing the post-workshop questions provided by the California Customer Choice team on the California Customer Choice Project workshop convened on October 31, 2017.² RESA reiterates its strong commitment to enhanced retail competition and consumer participation in the retail marketplace.

White Paper Scoping Questions

- 1) The California Customer Choice project has three principles and eight key questions when considering customer choice in California and other markets. Are there any additional questions that the project should be considering? Why?**

¹ The comments expressed in this filing represent the position of the RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at: <https://www.resausa.org/>.

² The post-workshop questions were provided in rulings issued in multiple Commission proceedings on October 19, 2017.

Yes. The California Customer Choice Project should address this additional and fundamental question:

- Does this choice model enable all retail customers to select the energy provider of their choosing simply and efficiently?

RESA members serve customers in all markets and have consistently heard a key message from their customers: “we want choice.” Thus, the critical question to ask is whether the model being considered will provide the choices the customers are seeking. Answering this question is fundamental to the success of the California Customer Choice Project.

Commission Staff should focus on ensuring the chosen model facilitates customer switching through easily understood rules and without erecting artificial barriers, such as lengthy waiting periods or minimum stay requirements. Moreover, to enable *all* retail customers to choose, the Commission must support legislation to remove the current cap on the direct access market and the prohibition on new direct access service for residential customers. The Commission should fully and unequivocally champion retail customers’ right to select an energy supplier of their choosing.

Comments made by some panelists during the October 31st workshop presented the view that customers ignore their electric bill. This is simply not true in RESA members’ experience. California’s electric rates are some of the highest in the country. Customers demand the ability to manage their own energy futures and the Commission should make it their highest priority to achieve that end.

2) The California Customer Choice Project is reviewing several markets as key examples of how customer choice operates under different regulatory frameworks.

These markets include:

- a. New York**
- b. Texas**
- c. Illinois**
- d. United Kingdom**

Are there other markets, either domestic or international, that you think would be an important model for California to consider as a regulatory framework option? Why?

As RESA explained in its comments on the May *En Banc*,³ Texas is the only state that has adopted a fully restructured model in which the former vertically-integrated utilities have become wires-only companies and all customers are required to choose a competitive retail supplier to meet their electricity needs. This model has been most effective in spurring development and adoption of innovative consumer products for managing energy use and costs, while the state's wholesale market has exceeded state renewable energy goals.

In addition, RESA recommends that the Commission investigate PJM as a reasonable model for simplifying regulatory compliance. Load-serving entities (LSEs) currently comply with exceedingly complex and cumbersome requirements for Resource Adequacy (RA), Renewable Portfolio Standard (RPS), Greenhouse Gas (GHG) emissions reduction, energy storage procurement, and Integrated Resource Planning (IRP). These requirements entail multiple, detailed filings, procurement obligations, and significant risk to the non-utility LSEs. The Commission should consider simplifying and clarifying these requirements to reduce the administrative burden of Commission Staff and LSEs, as well as lower costs for consumers.

3) What published resources do you recommend the California Customer Choice team review in addressing key questions for evaluated markets?

Numerous studies have been conducted to evaluate competitive retail markets. RESA provided several recent studies and expert reports as Appendices to its comments on the *En Banc*.⁴ In particular, *Restructuring Recharged -- The Superior Performance of Competitive Electricity Markets 2008-2016*, by Dr. Philip R. O'Connor (April 2017),⁵ documents the cost savings and other benefits customers receive from access to restructured energy markets, including meeting renewable energy goals. Further, the study explains that innovative, customer-oriented energy options will thrive in states embracing competitive retail electricity markets. In addition, RESA provided an consumer opinion survey gauging consumers' current thinking on energy choice conducted by the American Coalition of Competitive Energy Suppliers (ACCES).⁶ The survey confirmed that customers are overwhelmingly in favor of

³ *Comments of the Retail Energy Supply Association on Retail Choice En Banc and White paper*, June 16, 2017, p. 2.

⁴ RESA's June 16th Comments, *loc. cit.*, Appendices A through D.

⁵ RESA's June 16th Comments, *loc. cit.*, Appendix A.

⁶ RESA's June 16th Comments, *loc. cit.*, Appendix D.

competitive choices to meet their energy needs. These publications should be touchstones for the Commission's deliberations.

4) What specific statutes should the California Customer Choice team review when considering customer choice as discussed during the workshop?

As recommended above, the Commission should actively pursue removing the current cap on direct access service specified in Public Utilities Code Section 365.1(b), which was added by Senate Bill 695.⁷ In addition, the Commission should address the statutes prohibiting new direct access service to residential customers: (1) Public Utilities Code Section 365.1(a), which suspended direct access service for residential customers; and (2) Public Utilities Code Section 365.1(e), which requires the Commission to report to the Legislature “on the efficacy of authorizing individual retail end-use residential customers to enter into direct transactions, including appropriate consumer protections.” ESPs currently serve about 7,700 residential direct access customers in California. This is down significantly from the peak of more than 160,000 residential customers on direct access service in 2000. Retail consumers in California will be unable to exercise full energy choice until these current barriers are eliminated.

The pent-up customer demand for direct access has been thoroughly and repeatedly documented by Commission Staff in annual direct access status reports. The most recent report issued in October 2016 documents the significant waiting list for customers seeking direct access service and concludes:

The pent up load demand for DA remains substantial and has increased in 2015, as can be seen in increases in the number of customers on the waiting lists as well as the amount of customer load that remained on the waiting list for all three utilities.⁸

Panel Follow-Up Questions – Market Perspectives

1) What are the most compelling examples of successful implementation of customer choice that you heard during the Market Perspectives panel?

The most compelling example of successful implementation of customer choice during the Market Perspectives Panel was the presentation provided by Darrin Pfannenstiel of Stream

⁷ Stats. 2009, Ch. 337.

⁸ *Energy Division Direct Access Annual Status Report*, October 7, 2016, p. 3 (footnote omitted).

Energy.⁹ The results of the “Heat Map” exercise also bore this out with a large proportion of the attendees supporting Texas as the preferred model. The details Mr. Pfannenstiel provided demonstrated that the Texas retail market is successful with more than 100 competitive retail providers active in the market. By comparison, California has only 21 ESPs registered,¹⁰ many of which serve little or no load as evidenced by their filed RPS plans. While the Texas model may not be entirely workable for addressing California’s needs, it should be useful as a foundational example of what has worked and been successful in stimulating both customer choice and innovation.

2) Given some of the pitfalls illustrated by the panelists, how might California best avoid or mitigate these issues?

The main potential “pitfall” to avoid will be to resist the temptation to take half measures or slightly “tweak” the model in place today in California. The current California “model” stifles choice and innovation. Frustrated customers are “voting with their feet” and leaving utility service. In short, the California “model” requires a re-vamp. That said, the Commission has taken an excellent first step in creating the California Customer Choice Project. Review and analysis of other successful retail choice markets will aid Commission Staff in discerning what may be workable for California.

3) What are the motivations and entities driving customer choice in California? How are they similar or different from the other markets?

In all markets, customers are motivated to seek savings, renewable energy options, and the freedom to choose their provider. In 2016, Nevada voters strongly supported a statewide initiative to adopt competitive retail markets.¹¹ Californians are no different, as evidenced by the significant movement to Community Choice Aggregators.

Panel Follow-Up Questions – Shark Tank

1) After reviewing the “shark tank” presentations, what are the “must haves” as California considers regulatory framework options to manage the transition

⁹ Mr. Pfannenstiel is currently the President of RESA.

¹⁰ The list of registered ESPs is available on the Commissioner’s web site at: <https://apps.cpuc.ca.gov/apex/f?p=511:1:0::NO>

¹¹ In November 2016, more than 70% of the voters in Nevada approved a Constitutional amendment to require the Legislature to “provide by law for the establishment of an open, competitive retail electric energy market that prohibits the granting of monopolies and exclusive franchises for the generation of electricity.”

associated with customer choice? What is the most compelling vision of customer choice as presented in the shark tank?

RESA was disappointed that none of the “shark tank” participants provided a “compelling vision of customer choice.” Accordingly, RESA provides its own vision of customer choice and the associated “must haves:”

- Limitations on direct access service removed for all customers.
- Investor-Owned Utilities (IOUs) converted to wires-only companies and restricted from offering competitive services that can be provided in the market by third parties.
- Default, provider-of-last-resort (POLR), electric service provided by non-IOUs.
- IOU affiliates operating in any competitive market required to: (1) abide by strict rules that prohibit (a) sharing of IOU staff or costs and (b) marketing using the IOUs’ branding or resources; and (2) recover the affiliate’s costs of doing business solely in those markets with none of the costs allocated to Transmission or Distribution rates.
- Simplified and workable compliance obligations for all LSEs.
- Equal access to customer usage data for all LSEs.
- Unbundling of the IOUs’ electricity rates.

2) As California considers potential updates to its regulatory framework on customer choice, it is possible that certain existing rules or statutes may need to be reconciled. Are there any “must change” and/or “must not change” statutes? What are these rules and statutes and why?

Please refer to RESA’s response to Questions 3 and 4 under the section addressing White Paper scoping questions. In addition, if California adopts a fully competitive retail model with 3rd-party providers of POLR service, a number of current Commission rules will require modification, such as ESP financial security, customer protection rules, compliance, and customer data access. The Commission will also need to review retail market rules to ensure competitive neutrality. RESA looks forward to working collaboratively with the Commission to adopt the competitive retail model that best meets California’s objectives – providing carbon-neutral energy through innovation, empowering consumers to support different renewable technologies, and ensuring reliability.