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Competition Hard

Full of Promise, And Then …

BY STEVE MITNICK, EDITOR-IN-CHIEF

Each month, here, in this spot, the History Repeats column takes a look back on the large moments in the history of utility regulation and policy. And reflects on the lessons of history for us in the practice of pursuing the public interest in the present and years ahead.

In the decade starting in 1995, twenty-two of the fifty states, plus the District of Columbia, implemented retail competition for supplying electric energy to consumers. But nine of those twenty-two states had second thoughts and returned that responsibility to regulated utilities. Including all six of the western states and two of the three southern states – excepting only the Lone Star State (Texas) – that had initially joined the retail competition trend.

The remaining thirteen states – I'll call them the retail competition states – are geographically clustered. Specifically, the eleven states from Ohio and Maryland at the western and southern ends up to Maine at the northern end. The only holdout in the region is the Green Mountain State (Vermont). Beyond this eleven-state corridor the sole retail competition states in the country are Illinois and Texas. In other words, beyond the retail competition corridor in the northeast corner of the U.S., just two of the thirty-eight states have retail competition and the remaining thirty-six states do not.

Since there are thirteen retail competition states and thirty-seven states

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that aren't, a number of analysts have looked at the differences between the two groups. Particularly the partisans who favor retail competition and the opposing partisans that do not.

Did retail competition – looking at the differences between the two groups of states – deliver on the promise? Did competition lower electric rates and provide innovative services to consumers? And did it do so without stirring up new problems for them?

The answer to the question about lowering electric rates has been much debated. Reviewing studies by both sides, it appears that if retail competition lowered electric rates from what they would have been under the continuation of traditional utility regulation, it lowered rates only minutely.

I say this knowing the pro-retail competition partisans will object. But, to me, it means a lot that a number of the thirteen retail competition states have stubbornly clung to their positions as states with relatively high electric rates. For the retail competition states with more moderate electric rates like Illinois, Ohio and Texas, it's unclear if their rates have trended lower than their neighboring states that continued utility regulation.

That being said, my main argument goes like this. If retail competition really did lower electric rates, then why have the majority of

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residential consumers resisted signing up with a competitive retailer versus sticking with their incumbent utility to supply them with electric energy? Because, with the exception of Texas, which quite uniquely forced all residential consumers to sign up with a competitive retailer, more than fifty percent of consumers in retail competition states haven't signed up. Despite constant cajoling to sign up by a gaggle of competitive retailers. And heroic efforts by the utility regulatory commissions in those states who have diligently and vigorously urged consumers to go along with competition.

Indeed, of the twelve retail competition states beyond the unique case of Texas, just four of them have appreciable participation in retail competition by residential customers. The four being Illinois, Massachusetts, Ohio and Pennsylvania. In the remaining eight retail competition states, participation by residential customers is paltry. How could this happen – it seems to me – unless the electric rate and other benefits of retail competition are marginal?

I'm an economist so I eat up studies stuffed with stats on, in this case, rate trends in the thirteen retail competition states versus those trends in the thirty-seven states staying with traditional utility regulation. Hey, I even review the statistical appendices of these studies. Great bedtime reading. Though when we have direct evidence of consumers voting with their feet – demonstrating their preferences – to heck with the studies. If signing up with a competitive retailer was clearly beneficial relative to continuing to receive electric energy from the local utility, then most consumers should have signed up. That they didn't is a meaningful indicator that the benefits – while there may be some – aren't clear cut.

The answer to the question about providing innovative services has been largely neglected, which is vexing to me since this benefit of retail competition was constantly touted in that decade starting in 1995. I remember that. How many times in those days did I hear the story about how the Bell System offered a "choice" of black telephones or black telephones to consumers? As if to say, when retail competition comes to the provision of electric energy as it had to the provision of telephones and telecommunications, consumers will enjoy an explosion of new and exciting products and services.

However there's little evidence of such innovative services being provided in the thirteen retail competition states that aren't being provided in the thirty-seven other states. Options such as demand response, green energy and solar roofs do not appear to be restricted to retail competition states and their adoption is as vibrant in traditional regulated utility states.

And, retail competition isn't an easy street apparently. Rather, it has required a whole lot of never-ending regulatory work continuing to this day in the thirteen retail competition states. It was oftentimes said back in the nineteen nineties, as I recall, that retail competition would ease the burdens on state utility commissions. Instead, the commissions in the thirteen states saw the need to take on new burdens. Under retail competition, they're constantly encouraging indifferent customers to participate to improve the participation percentages. And they're constantly monitoring and policing retailer practices.

For example, in New York, prompted in part by a sensational Village Voice cover story in February 2016 about abuses by some retailers, and complaints by the Attorney General and consumer protection groups, the New York Public Service Commission restricted residential retail competition quite considerably, in actions that were upheld by the courts in 2018. Other retailers admirably supported the new restrictions.

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And, retail competition also created a new risk, that ordinary citizens not steeped in a deep understanding of electric energy markets will be unhappily surprised by unanticipated volatility in the bills rendered by the retailer they signed up with. This risk was manifested when energy markets have become temporarily tight, as during extreme weather events.

Which brings me back to the title of this essay, Competition Hard. It is hard, as far as I can see. The benefits of retail competition for residential customers might not be all that much. And this particular variety of competition comes with challenges and risks. The main impact might be that its popularity among the populous has fallen. PUF

The electricity component of September's Consumer Price Index rose 0.7% year-over-year. But the overall CPI rose more, by 1.7%. So, adjusting for inflation, electricity's affordability improved.