GUEST JUICE

Direct Access Revival

By Arthur O'Donnell

You have to keep a close eye on Sacramento lawmakers during the summer.

It's not just because of last-minute budget shell games, but also because of the infamous "gut and replace" tactic that quietly transforms one piece of legislation into something completely different.

That's not always a bad thing. The strategy sometimes gives new life to worthy policy initiatives that got bogged down in committee politics or perhaps were not on the table at the spring deadline for new legislation.

Current readers should flag Senator Christine Kehoe's SB 855 (D-San Diego).

That bill made an instant transformation two weeks ago. Originally it would have continued the State Race Track Leasing Commission beyond its sunset date—now SB 855 would further expand direct-access competitive options for commercial and industrial electricity users.

Titration.

Much of the nation still believes California completely suspended direct access opportunities as a result of the 2000-01 energy crisis. The reality is more complex.

Even under the emergency suspension of household switching from bundled utilities to competitors, like Enron, the door was left ajar to non-residential power buyers. Those that had previously been signed up for competitive supplies during our brief fling with fully open markets had their direct access contract grandfathered in for continued use.

Regulators had the option to restore the market if and when certain crisis conditions were met, largely having to do with ending or off-loading the California Department of Water Resources' power purchase contracts.

While the California Public Utilities Commission fretted endlessly over when that might be, lawmakers in 2009 passed SB 695. The bill partly restored direct access for commercial and industrial users. This was done in a very limited, phased-in manner. Regulators set a baseline for the direct-access market that reflected a relatively modest level of activity, and scheduled several open seasons to let non-residential customers vie for the ability to seek non-utility power supplies.

Essentially, the state market would be capped at about 25 million MWh, with the new allocation approaching 8.35 million MWh spread over three years. In quantifying the amount of energy this represents compared to system load, the CPUC characterized it as "less than the annual variation in electricity consumption across the state due to weather and the economy" (D.10-03-022).

The response to this careful titration of market opportunity was astounding.

During the initial open seasons—held in 2010 and again on January 31 of this year—the new caps on direct access were filled in less than a minute. Even customer groups with access to highly sophisticated energy auction computer software were shut out by the rush for eligibility in the first-come, first-served email notice system.

In some ways it was like trying to score tickets to a U-2 concert via Ticketmaster—except for losers in that gold rush, there is always the option of paying scalpers' prices on the secondary market.

As one customer representative put it, "There were a lot more disappointed people than happy people."

What remains on the books is a scant 10 percent opportunity, some 835,000 MWh to be allocated next year for service in 2013. That is minus some part of the allocation to Pacific Gas & Electric's territory, where it appears the prior open seasons were over subscribed.

That's just the first step for obtaining competitive power. Prospective customers still need to go through the utility Direct Access Service Request (DASR) process once they sign deals with suppliers. This often takes months, and the first wave of new switching requests began showing on CPUC records last summer; first a trickle, then a flood of several thousands of new DASRs for commercial and industrial consumers.

While not restoring the direct-access market to its historic high level reached in spring of 2000, the latest state market activity report indicates a strong rebound among the larger commercial and industrial sectors. In fact, there are more industrials (1,219) taking competitive supplies now than there were in May of 2000 (1,030). The percent of industrial non-private utility load is currently just about 31 percent, compared with 36 percent then.

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Evidently there are more of these utility customers than before, despite our recent economic woes.

The total mid-sized commercial class has grown remarkably in the past decade, by about 30 percent, at least according to these figures. Currently, there are over 15,000 of these customers taking direct access, compared to about 14,200 a decade ago, with 15.7 percent of electric load served competitively.

Of course, small commercial and residential access is nil, leaving the overall state average direct-access load served at about 11.6 percent, compared to a high water mark of 16 percent in May 2000. The competitive market dipped to its lowest since the crisis in May 2010 at 8.4 percent of total power deliveries because of the emergency caps, just 11 percent for larger commercial and 23 percent for industrial customers.

Right now, the direct access market totals about 22 million MWh. Some believe the demand could double.

So, it comes as little surprise that this pent-up demand for direct access would find a new vehicle in Sacramento.

Direct Access Faceoff

San Diego Democratic Senator Christine Kehoe's attempt to revive retail electricity choice, SB 855, is countered by a bill seeking to put an end to direct access.

An urgency measure by Assemblymember Das Williams (D-Santa Barbara) introduced July 5 restricts direct access by requiring non-utility power providers to annually report to the California Public Utilities Commission and to submit a list of all their customers and addresses. As of Jan. 1, 2013, direct access would be limited to those customers on the electric service providers' list. Williams' bill, ABx1-37, also repeals existing law authorizing the CPUC to facilitate direct access.

"Neither bill is going anywhere this year," said Gary Ackerman, Western Power Trading Forum executive director.

—Elizabeth McCarthy

Although the language of SB 855 is somewhat difficult to decipher, its proposed impact would essentially double the amount of new direct-access opportunity that was afforded by SB 695—adding roughly 8.3 million MWh. It's also phased over three years to mitigate potential market impacts or suddenly stranded utility assets. That could bring the statewide averages of competitive load served to between 16 percent and 20 percent depending on the utility.

Households and small businesses are still not eligible for market expansion.

If SB 855 or a follow up bill is adopted in the not too distant future it also restores national focus on California as a viable competitive power market.

In the decade since our crisis, about a dozen other states have continued to offer retail competition for all customers, with several allowing more than half of their total utility load to be served by competitive suppliers. These markets boast significant energy cost savings and innovations in service offerings because of competition.

SB 855 passed the Senate floor in its previous incarnation. It survived its first Assembly committee, with unanimous support and a lot of vocal cheering from larger customer groups and suppliers. But, it was turned into a two-year bill mid-week.

Meanwhile, the CPUC continues its long-running direct-access proceedings to define and allocate exit fees and other rules.

This is not a race track to retail competition, as the original restructuring effort tried to be, but a long and winding road to a slightly more competitive marketplace.

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Baseline

"Baseline" is a road that divides the hills from the flatlands. It also divides the "haves" from the have nots and workaholics who are rarely home from those who fire up the spa, flat screen, and blender. Baseline rates aim to increase conservation by rewarding those with low energy use by giving them lower rates. On the flip side, high energy users pay higher rates, creating a subsidy for low energy users and conservation.

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