Donna L. Nelson
Commissioner

Rick Perry
Governor

Public Utility Commission of Texas

November 22, 2010

The Honorable John Carona, Chairman
Senate Committee on Business and Commerce
P.O. Box 12068
Austin, TX 78711

Chairman Carona,

Thank you for the opportunity to testify before the Senate Committee on Business and Commerce on Monday, October 25, 2010. During the hearing, several witnesses discussed electricity prices in Texas and how those prices could be used as indicators of the success of the competitive market. You asked for some clarification regarding the different data sets used, and I am providing my perspective to you through this letter. I am, of course, available to discuss this information at your convenience.

Comparison of Data Sets

The discrepancy between the data that I used in my presentation and that used by some speakers is largely related to data source, and the information contained within each data source. When comparing electricity prices, either within the state of Texas or among states, the two most common sources include product offerings on the Power to Choose (PTC) website, which is maintained by the Public Utility Commission of Texas, and the monthly and yearly reports published by the Energy Information Agency, a division of the U.S. Department of Energy. My presentation included information from the Power to Choose website, because I believe the prices available in the marketplace are the clearest indication of the cost of electricity, especially for customers who are motivated to shop based upon price. While it is common to see both data sets used, the EIA data does not accurately depict the price of electricity in the competitive market in Texas. A look at the significant differences in the data sets will help explain.

Power to Choose Data

- Includes electricity offers available in competitive market – The Power to Choose website includes current offers from retail providers in the competitive market. This is important because it allows electric customers to evaluate what is actually available in the market under today's conditions.
- Change from month to month (sometimes day to day) – The prices on the PTC website can change every day. Indeed, prices are lower today than they were when I spoke at your hearing. Again, this is reflective of actual conditions in the market. As discussed in the committee hearing, changes in the price of electricity are closely correlated to changes in natural gas prices.
- Includes variable, fixed, and prepaid electricity products – The PTC website includes all product offerings including variable, fixed, and prepaid products. It also includes the percentage of renewable electricity in each product offering, and it allows customers to review the Commission's complaint history with regard to each retail provider. This allows customers to choose the product that best suits their needs. In a competitive market, customers establish the priorities that are important to them.

EIA Data

- Includes all of Texas, not just competitive areas – The EIA data does not separate the competitive areas of Texas from non-competitive areas. In fact, EIA's numbers include municipally owned utilities and cooperatives that have not elected to enter into competition and utilities outside of ERCOT that are subject to full rate of return regulation by the Commission. This makes it inaccurate to use for analysis of the success of the competitive market.
- Based on what people pay, not what is available – The EIA data is a backward look at what people paid for electricity during a certain period of time. The source of data and methodology is not readily transparent, but it is roughly equivalent to receipts for electric service, as self-reported by electric companies, divided by total usage.
- Monthly reports are unaudited – The monthly reports released by EIA are based upon unaudited data. The data cited by CAPP at the October 25 hearing was the monthly EIA data, although I would note that it was outdated monthly data. CAPP used the June data, even though the July data was available at the time of the hearing.
- Data is confidential and not transparent – The data underlying the monthly reports is confidential and thus not subject to examination. Based upon my conversations with those responsible for maintaining the EIA data, the reports are an aggregation of information provided by retailers in the competitive area of ERCOT, regulated utilities outside of ERCOT, and an extrapolation of data provided in the annual reports by cooperatives and municipally owned utilities. In my opinion, because it is based on unaudited data and because the data is confidential and not subject to scrutiny by anyone outside of EIA, it is impossible to determine that it is reliable.

- Yearly reports are outdated – Although the yearly reports do contain audited information, the last yearly report published by EIA covers the 2008 timeframe, which makes the information virtually useless.

EIA has been publishing the comparison of electricity rates among the states for decades. At the time EIA began publishing the data, virtually all electric service was provided by an integrated utility at regulated rates. Customers did not have a choice of electric providers. As a result, the EIA historical data allowed policy makers to evaluate the rates in different states, although the data still failed to account for the different generation mix across the states. Some states and some areas of Texas still operate under the regulated model, but Texas transitioned to a competitive market within ERCOT in 2002 (except for municipally owned utilities and cooperatives, who could opt into competition if they so chose) allowing customers to choose their electric provider based upon what is important to them. If price is important, they can choose a provider that is offering a low price, irrespective of the average price paid by all Texans for electric power.

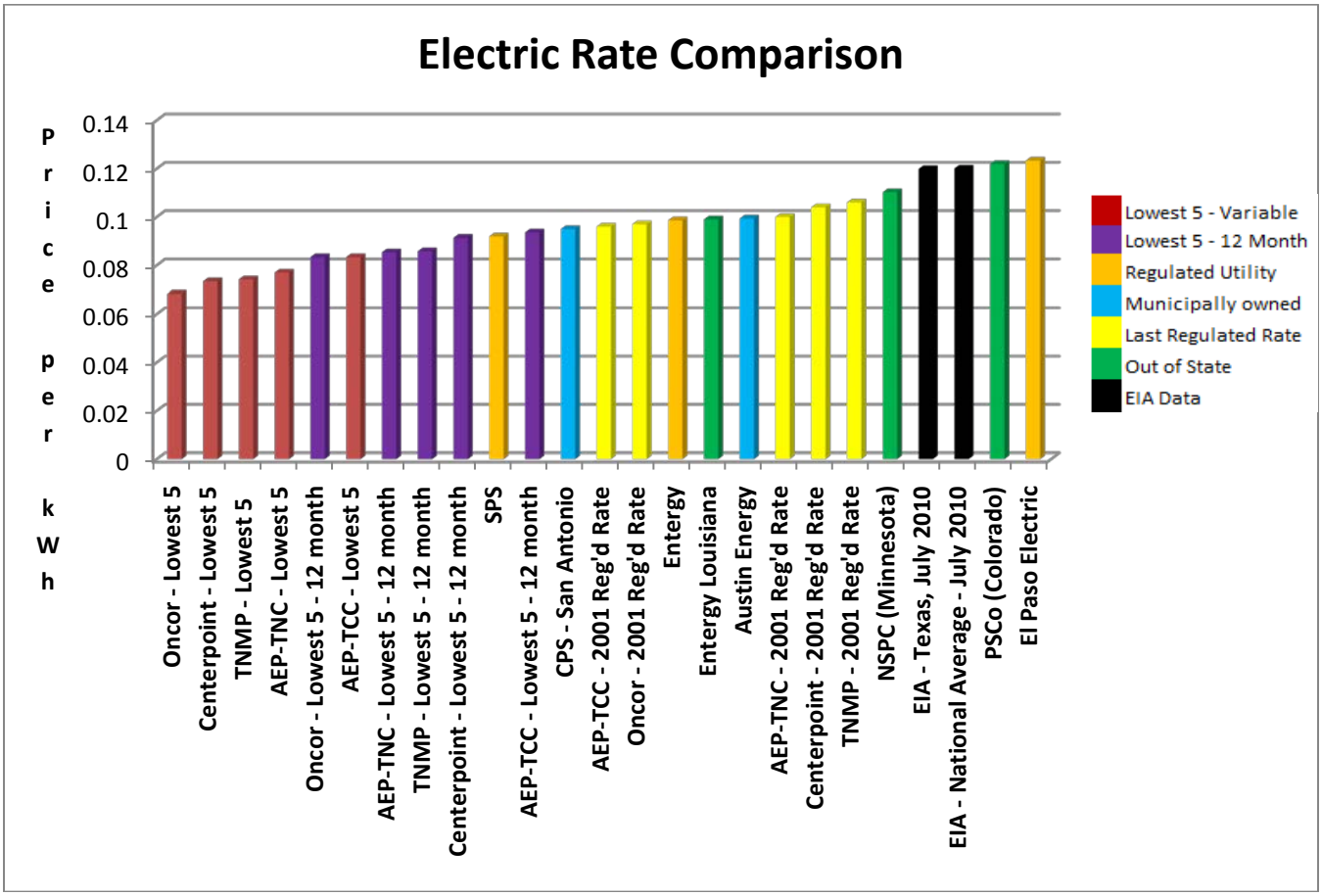
Another way to think of the differences in these data sets is to use an analogy such as purchasing milk. Although this is a simple example, it illustrates the point about costs. The price of milk can vary a great deal depending on where it is purchased. I conducted an informal review of the price of nonfat milk at several Austin stores on November 21, 2010:

- HEB: $2.98;
- Costco: $2.40 (with minimum purchase of two gallons);
- CVS: $3.49;
- Whole Foods: $5.19.

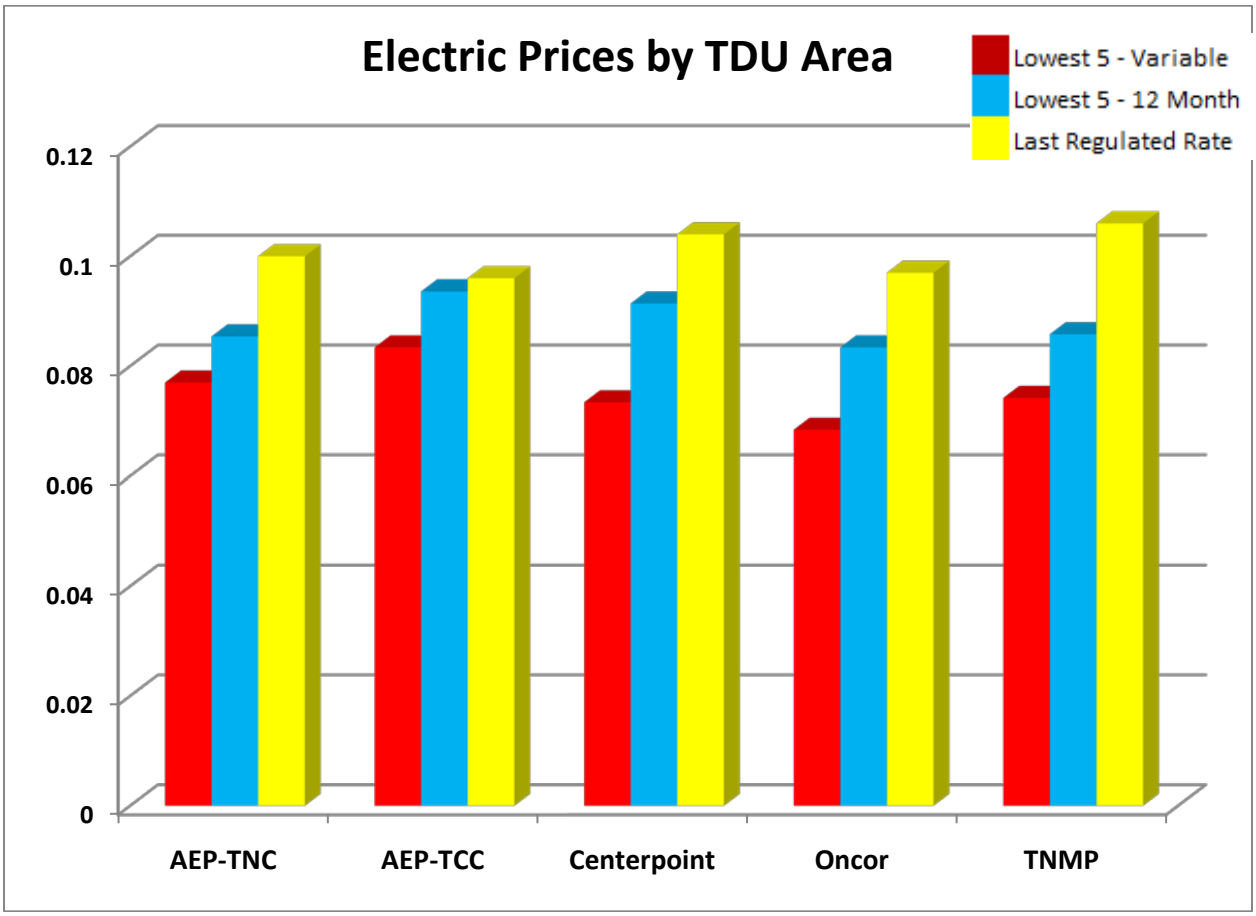
According to KHOU in Houston, the average price for a gallon of milk in 2010 is $3.31. I have a choice of where I want to buy milk. If I am motivated by low prices, I will either buy my milk at Costco or HEB, at a respective savings of 27 or 10 percent over the national average. If I choose convenience and buy my milk at my corner drug store or I choose to buy organic milk at Whole Foods, I will pay more than the national average. Electricity products are similar. If I want to pay a low price, I can find one. Therefore, the average price paid is not a meaningful indicator of the success of the competitive market, especially because it includes customers who do not have a choice and those who make their decision based on something other than price.

Even though it is not possible to conclude that the EIA data is reliable, and it is not an appropriate measure of the success of electric competition in Texas, in an abundance of caution and to ensure that I am responsive to your request, I have included some charts that analyze this information. The first chart shows residential prices for several different geographic areas, using both PTC and EIA data. The prices shown for the competitive areas include an average of the lowest five variable offers and the lowest five twelve-month offers on October 26, 2010. Looking at an average for both of these data points helps minimize the effect that any one "unreasonably" low priced product may have. You can see that the vast majority of the

competitive offers are below the other states, below the national average, and below the regulated utilities in and around Texas.



The second chart shows residential price data for all of the restructured utility areas of the state. This is some of the same information shown on the previous chart, but is presented a little differently.



Last Regulated Rate

Another issue discussed at the hearing was what appeared to be a spike in regulated rates in 2001 before we transitioned to competition. However, according to Commission records, the last rate cases for the restructured utilities occurred in the 1990s, and Senate Bill 7 implemented a freeze on base rates beginning in September 1999. During the first half of 2001, regulated rates increased as a result of higher fuel costs. The 2001 rate information does not indicate that rates in 2001 included fees associated with restructuring. Some of the fuel-related price increases expired in the second half of 2001, and when our market opened to competition, there was a required six percent reduction in prices. The result of these factors was that the average regulated price in December 2001, which is often used as a comparison for later competitive rates, was generally in line with rates over the course of 2001 and with the price to beat rates implemented by the affiliated retail electric providers in January 2002.

Other Metrics for Competitive Market

Price is obviously an important metric in analyzing the success of our competitive electric market. However, it is not the only metric. The following statistics, among others, are also indicators that our market design is a success.

- Generators have invested $36.5 billion in at-risk private capital in new generation since 1999;
- There are 9,137 MW of installed wind capacity in the ERCOT market;
- As of May 2010, 53 percent of the residential load and 80 percent of the small commercial load in ERCOT have chosen a competitive product or retailer; and
- Within the competitive areas of ERCOT, customers can choose from more than 40 retail electric providers.

Again, I appreciate the opportunity to testify last month and to provide some additional information now. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Donna L. Nelson
Commissioner