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Check the Facts

New Electricity Market Offers Consumers Fine Print and Frustration

Just over two months into the new electric market, several companies are making their pitch to residential customers, hoping to lure them away from their traditional electric utility. However, misleading statements and fine print can make the process of shopping for new electricity service frustrating and potentially risky for consumers.

Texas is one of 17 states to replace the traditional monopoly utility system with a restructured retail market for retail electric service open to new companies. That means that households and businesses now have the opportunity to make an affirmative choice about which company will provide electricity at homes and work.¹ When the new state law was adopted in 1999, supporters promised that consumers would save money on electric service and enjoy new service offerings.

Two months into the new market is too early to make a judgment about the long-term savings for consumers. But competition has not yet resulted in double-digit cuts in electricity prices.

Despite the implication of some advertising,² the decrease in electricity prices that took effect in January

was largely due due to regulation. Rates charged by the traditional electric utilities³ were lowered by law to track the decrease in the price of natural gas used to generate electricity, on top of a mandated 6% cut ordered by the Legislature.

Based on our review of the offers for residential customers, we see additional savings from competition of a few dollars per month,

but at a cost of time, effort, and frustration as consumers learn the rules of the new market and trudge through the fine print of the new “*terms of service*” agreements which govern much of the consumer’s relationship with his or her new electric company. Although Texas requires standardized price disclosures, the prices are not actually calculated in the same way for each company (they are not necessarily “standardized.”) Shopping for electricity in the coming months will require fortitude and attention to the fine print.

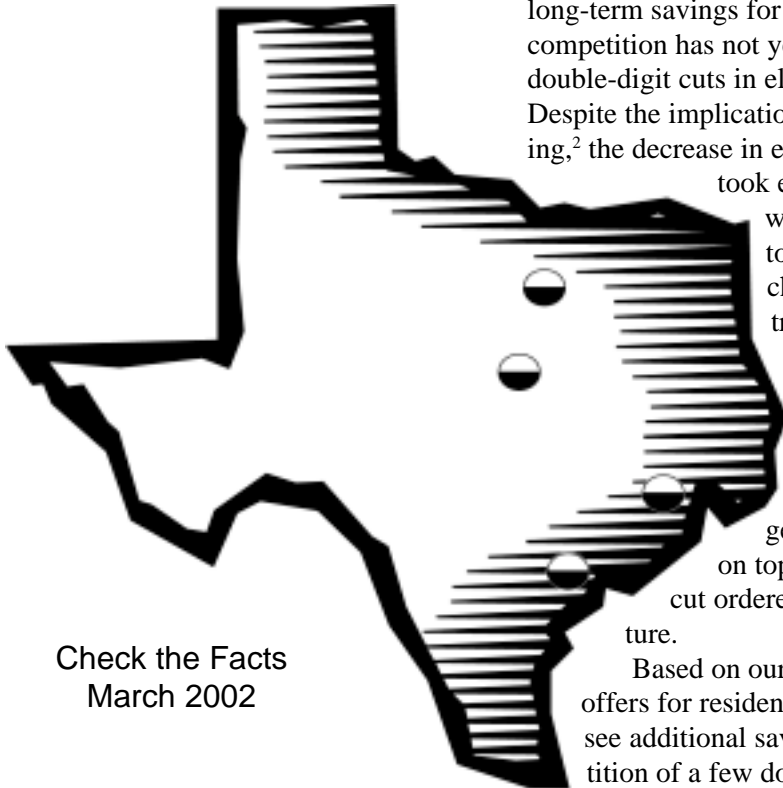
Findings

- Based on the most current rate information posted on March 13, 2002, we estimate that consumers in the Dallas and Houston service areas may save an average of about \$4.00 per month, although actual savings range from zero to about \$8.00 and some plans actually will cost more than the baseline price (the traditional utility price, called the “Price to Beat”).

- Signing on to a long term contract does not necessarily mean savings. Some companies with one to three year contract requirements are currently charging more than the Price to Beat. Customers who sign long term contracts and then want out face cancellation fees as high as \$150.

- “Variable” rate plans offer no rate security. The rate can change as frequently as once every billing period. Some plans tell consumers to check their web site every month for the current rate.

- Rate offers are likely to change frequently. Consumers Union checked rates in January and again in March and found that five companies have already changed their prices from the January offer. Four have posted rates cheaper than their initial offer and one has actually increased its rates.



- Companies do not calculate their rate offers in the same way, even on the Texas standardized Electricity Facts Label.

- For the first time ever, consumers will be charged late fees if a bill payment arrives after the due date, which can't be less than 16 days after the date on the bill. These new fees apply to consumers who keep their current utility as well as those who switch.

- A handful of green power plans cost more but offer the only true access to renewable energy. Most other companies report that less than 2% of their energy comes from renewable sources (wind, solar, hydropower).

The Electricity Facts Label

On January 1, 2002 state law changed the way most Texans choose electric service by allowing consumers to shop among retail electric providers (REPs) in their service area.⁴ The official web-site for Texas electric deregulation, www.powertochoose.com, lists 11 different competitive electric providers offering service to residential consumers.⁵

In order to make it easier for consumers to shop, the Legislature required retail electric providers to give customers an "Electricity Facts Label." This label contains standardized information on pricing, some contract terms, sources of energy generation, emissions and waste levels.

However, the Public Utility Commission (PUC) did not require standardized Terms of Service Agreements for residential customers. While the Facts Label is a useful shopping tool, it does not substitute for a careful reading of the Terms of Service Agreement.⁶

Consumers Union reviewed the Electricity Facts Label along with the Terms of Service Agreements⁷ from each company's website to compare the different companies and their offers. The study focused on Dallas-Fort Worth (TXU), Houston (Reliant), Texas New Mexico Power (TNMP) and Central Power and Light (CPL) markets, the main parts of the state opened to retail electric choice.

Using 1000 kWh per month to represent a typical residential bill, we calculated that consumers could save as much as eight dollars per month in one plan, while most offered savings of three to six dollars a month. Some plans cost more than the base rate offered by the former monopoly company.

Deciphering the Rate

Although the Electricity Facts Label should be standardized, we found that the most important price information on the label (the average kWh rate) was not, in fact, standard from company to company.

First Choice did not average the monthly base service charge into the average kWh rate but all other companies did. This tends to make First Choice's offers look much more attractive.

Texas Utilities and Reliant are both offering a one time \$25 discount on the first month's bill for customers who switch. Both companies averaged this "incentive payment" into the kWh rate, lowering their estimate of electric costs by about \$2 per month. While this incentive payment represents money in consumer's pockets, including it in the rate artificially reduces the estimate of the actual cost of power and makes rate comparisons more difficult.

Although we looked carefully, we were unable to find a Facts Label for Option Energy's sale of New Power electric service. None was listed on the customer choice web site developed by the Public Utility Commission, and other sites provided information primarily for those who might want to *sell* Option Energy, rather than consumers who might want to *buy* it. Option Energy markets New Power electric service, but in at least one situation charges a higher price than New Power (consumers who do not meet credit standards).

Misleading claims on savings

Claims of double digit cuts in electricity pricing are not technically incorrect, but we believe these statements are misleading. Under state law consumers received a price decrease that

took affect with the first billing cycle in January. The new rates set by regulators are from three to 18 percent lower than last year's rates, based on lowered natural gas prices and a 6% price cut in base rates mandated by the Legislature.⁸ Most people will recall that their electricity bills began steadily increasing in 2000, as natural gas prices increased.

When deciding whether to change electric providers, consumers should not pay attention to claims such as "save 14%" on your electric bill. They may be factual, but are not the accurate point of comparison. Consumers who remain with their current company are also charged a lower rate, now termed the "Price to Beat."⁹ All competing offers should be compared with the current Price to Beat rate that the consumer would pay without switching. The Price to Beat rates are different in winter and summer. The former monopoly electric company may also seek changes in the Price to Beat up to twice per year to adjust the price higher or lower based on fuel costs. The tables at the end of this report compare competing offers with the current Price to Beat that was established by the PUC for customers in TXU, Reliant, CPL and TNMP service territories using 1000 kWh monthly usage.

The Fine Print

When shopping for electric providers, there are several factors to consider aside from price. There are unique features in each Terms of Service agreement that could cost consumers money or affect service, so consumers need to read the fine print. These factors include variation in monthly service fees, the terms for rate changes, contract termination fees, and more.

Examples of fine print:

- Prices may change from month to month—the customer has to check the company's website or call a toll free number to find out the current month's prices (ACN, GEXA).

- Monthly service charge may change during high cost summer months (New Power).

- Monthly charge and per kWh rate may be based on "the quality of your pay performance" (TXU Energy).

- A higher monthly service fee

based on your credit report (Option Energy).

- Fees to cancel service (Several companies).
- Fees for late payments (Most companies).
- Option to charge additional one-time fee for apartment dwellers (GEXA).

Variable Rates

ACN's Facts Label and Terms of Service Agreement disclose that its posted rates are variable, and the price will change based on market conditions. GEXA describes its offered rates as "fixed" but the Terms of Service states that: "The electricity price may be adjusted on a monthly basis as prices may vary depending on the cost of fuel used to generate the electricity." Customers of both these companies are directed to the company's website or a toll free number to check the current rate. New Power announces that its Super Saver rates will vary according to individual usage "and potential monthly rate changes."

Variable rates can be risky business for consumers. Even holding your usage constant, it will be difficult to budget for electricity as the per kilowatt hour price can vary by month. Consumers must also be aware that they need to check the current price each month to know the current rate. Wholesale electricity prices sometimes spike with little warning, especially during the summer when usage is highest. It may be difficult to cut usage or quickly change companies in order to avoid high per-kilowatt prices under variable plans.

Companies that charge consumers fixed prices must be prepared to deliver service at the fixed price, and will usually secure long term contracts or use "hedging" to reduce their risk of price fluctuations. However, when consumers are paying variable rates, price spikes could be passed directly through to consumers and companies may have no incentive to plan ahead and take steps to smooth out price swings.

Service Fees

All companies (with the exception of

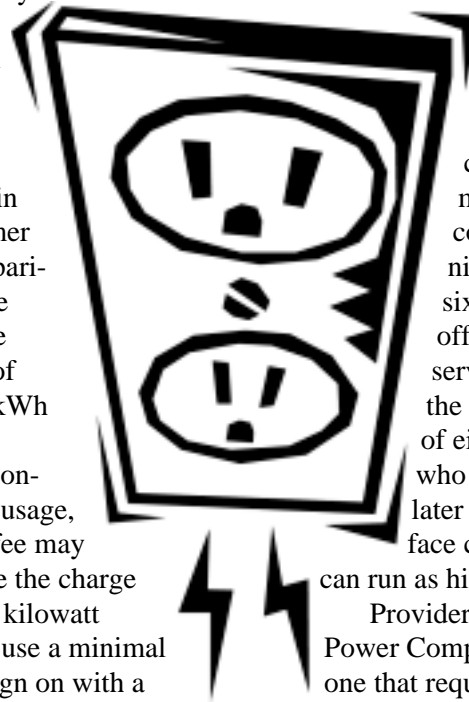
Entergy, which operates in the Reliant market) charge monthly service fees regardless of the amount of energy you use. They range from \$3.00 to \$18.00 depending on the company and the plan. The price per kilowatt hour shown on the Electricity Facts Label must include any monthly charge and any other recurring charges in order to give the consumer a standard basis of comparison. Therefore, the wide range in monthly service fees accounts for some of the differences in rates per kWh among companies.

For example, for a consumer with high energy usage, a high monthly service fee may not matter as much since the charge is spread out over many kilowatt hours. However, if you use a minimal amount of energy and sign on with a high monthly service fee then it matters more.

Though monthly service fees typically remain the same over the term of the contract, two companies reserve the right to raise their monthly service fees in their Terms of Service Agreement. New Power customers will be given an introductory monthly service fee of \$6.99 until April 30, 2002, after which the service fee will vary but not exceed \$9.99. TXU Energy Inc. reserves the right to review a customer's payment history and either increase or decrease the monthly base charge and/or rate per kWh. Prior to these rate changes, a company must notify the consumer forty-five days in advance, after which the consumer has the ability to cancel services without penalties if they do so within ten days of the change in rates.

Option Energy offers two monthly service fee brackets, one for consumers with a good credit history and the other much higher fee for consumers with a poor credit history. Never before has the price of electricity been based on a consumer's credit history. Consumers deemed a credit risk by Option Energy

will pay a monthly base charge of \$18 or \$19 depending on the plan. This is more than twice the base charge advertised in their literature.



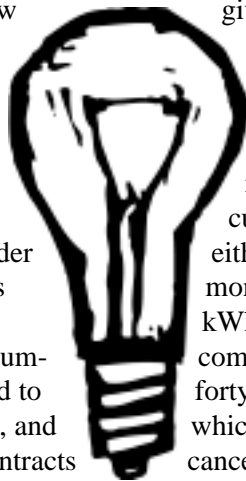
Long Term Contracts

Some electric companies require customers to sign minimum term contracts ranging from nine months to thirty-six months. Others offer month to month service, while a few give the consumer the option of either one. Customers who sign contracts and later decide to break them face cancellation fees that can run as high as \$150.00.

Providers such as the New Power Company offer two plans, one that requires a contract and one that does not. However, both plans require a ninety-day notice of cancellation in order to avoid cancellation fees. New Power gives all customers a forty-five day grace period where they can cancel without penalty. However, after that grace period, customers who are not on a contract are still required to give ninety days notice of cancellation or pay a cancellation fee of \$50.00. Customers who have signed a contract and want to break it face a cancellation fee of \$50.00 if ninety days notice is given or \$95.00 without a notice.

First Choice Power also has varying cancellation fees, from \$25.00 - \$35.00 depending on the length of their contract. Cancellation fees for customers in nine and twelve month contracts are \$25.00. Customers in eighteen and twenty-four month contracts face cancellation fees of \$35.00.

For customers concerned with their ability to cancel contracts with retail electric providers, there are a few options. Customers have the legal right to cancel, without paying a fee, any electric company contract within three business days after receiving the Terms of Service. Additionally, customers must be notified in writing forty-five days in advance before any material changes in a



TXU Service Area Comparisons

For residential customers in Dallas and most of East Texas, 10 companies are offering alternative electricity plans to compete with Texas Utilities.

Company	Est. Bill for 1000kh	Cost or Savings	Green Power	Variable Rate
Texas Utilities	\$81.00	----	----	----
ACN	\$81.95	\$0.95 more		✓
Cirro Corp (1 yr. contract)	\$83.00	\$2.00 more		
Energy America (3 yr. contract)	\$81.10	\$0.10 more		
First Choice (9 mo. contract)	\$77.45	\$3.55 less*		
First Choice (1 yr. contract)	\$74.95	\$6.05 less		
First Choice (18 mo. contract)	\$74.45	\$6.55 less		
First Choice (2 yr. contract)	\$72.95	\$8.05 less		
GEXA	\$80.00	\$1.00 less		✓
Green Mountain	\$86.95	\$5.95 more	✓	
New Power Sup. Sav. (1 yr. cont.)	\$78.00	\$3 less**		✓
Option Energy Super Saver	\$78.00 or \$90.00	\$3 less or \$9 more***		
Reliant Simple Savings Plan	\$77.95	\$3.05 less****		
Reliant Renewable Energy	\$86.00	\$5.00 more	✓	
Utility Choice (1 yr. contract)	\$79.00	\$2.00 less		

Reliant Service Area Comparisons

For residential customers in the Houston area, 11 companies are offering alternative electricity plans to compete with Reliant.

Company	Est. Bill for 1000kh	Cost or Savings	Green Power	Variable Rate
Reliant	\$86.00	----	----	----
ACN	\$83.95	\$0.05 less		✓
Cirro Corp (1 yr. contract)	\$85.95	\$3.40 less		
Energy America (3 yr. contract)	\$80.70	\$5.30 less		
Entergy	\$84.00	\$2.00 less		
First Choice (9 month contract)	\$87.95	\$1.95 more*		
First Choice (1 year contract)	\$86.45	\$0.45 more		
First Choice (18 month contract)	\$84.45	\$1.55 less		
First Choice (2 year contract)	\$82.95	\$2.95 less		
GEXA	\$82.00	\$4.00 less		✓
Green Mountain	\$91.95	\$5.95 more	✓	
New Power Sup. Sav. (1 yr. cont.)	\$80.00	\$6.00 less**		
New Power Basic	\$78.00	\$8.00 less		✓
Option Energy Super Saver	\$80.00 or \$92.00	\$6 less or \$6 more***		
TXU	\$84.00	\$2.00 less****		
Utility Choice (1 yr. contract)	\$80.00	\$6.00 less		

*First Choice Facts Label did not incorporate the service fee into the average rate estimate. We corrected for this in our estimate to make First Choice comparable to other Facts Label offers. First Choice is a subsidiary of TNMP and all customers of TNMP who do not choose another company will become First Choice customers. **After April 30, 2002, New Power's monthly fee may vary between \$6.99 and \$9.99. ***No Facts Label posted. Estimate from Feb. kWh rate plus monthly fee information provided to sales associates. Option may charge a monthly fee of \$18.99 for customers who do not meet their credit standards. This fee would make Option the most expensive available plan for these customers. ****Reliant and TXU Facts Label rate incorporates into the average a one time \$25 incentive. We removed this discount for purposes of comparing actual monthly rate to other plans without this incentive, but the \$25 incentive will significantly reduce the first month's bill.



material change. Consumers can also sign up for month to month service—offering them the flexibility to cancel without penalty, but possibly with higher per kilowatt hour rates than they would receive under a minimum term agreement.

If the consumer looked at price alone, the rates offered under contract are generally lower than rates offered without contracts. However, Consumers Union found that prices are not *always* lower under contract plans. We found that three of the contract plans actually offered rates higher than the Price to Beat.

Late Fees

For the first time ever, customers of the formerly monopoly utilities--as well as the customers of the new, competing electric companies--will be charged late payments on overdue bills (some municipally-owned utilities and cooperatives have already instituted late charges).

The PUC rules now permit companies to charge up to 5% per month for late charges if a bill payment arrives after the due date, which can't be less than 16 days after the date on the bill. Depending on a consumer's payment habits, these fees could reduce the potential savings from competition.

Paper and Electronic Billing

GEXA Energy's February Terms of Service agreement required consumers to receive bills and make payments electronically. Consumers who signed up under this agreement and wanted or needed the traditional methods of billing and payment were required to pay \$3.00 more than the basic rate. When we checked the Terms of Service again this month, we found that language removed from the Terms of Service Agreement and the base service charge increased from \$3.00 stated in the earlier agreement to a new base charge of \$4.79. No other company currently charges extra for paper billing, but this issue may return.

company's Terms of Service Agreement. The changes will occur on a given date in the notification and the customer will be able to cancel their agreement without any penalty, no later than ten calendar days before the effective date of the

CPL Service Area Comparisons

For residential customers in Corpus Christi and south Texas, 3 companies are offering alternative electricity plans to compete with Central Power and Light.

Company	Est. Bill for 1000kh	Cost or Savings	Green Power	Variable Rate
CPL	\$86.00	----	----	----
First Choice (9 month contract)	\$90.95	\$4.95 more*		
First Choice (1 year contract)	\$88.95	\$2.95 more		
First Choice (18 month contract)	\$87.45	\$1.45 more		
First Choice (2 year contract)	\$85.95	\$0.05 less		
TXU	\$85.00	\$1.00 less****		
Utility Choice	\$82.00	\$4.00 less		

TNMP Service Area Comparisons

For residential customers in scattered parts of northeast, central, and Gulf Coast Texas, 4 companies are offering alternative electricity plans to compete with Texas New Mexico Power.

Company	Est. Bill for 1000kh	Cost or Savings	Green Power	Variable Rate
TNMP/First Choice	\$86.10	----	----	----
Green Mountain	\$93.95	\$7.85 more	✓	
Reliant Simple Savings Plan	\$86.95	\$0.85 more****		
Reliant Renewable Energy	\$96.95	\$10.85 more	✓	
TXU	\$84.00	\$2.10 less****		
Utility Choice (1 yr. contract)	\$83.00	\$3.10 less		

Multilevel Marketing and Aggregators

There are not only new companies in the electricity market in Texas, but new methods of selling electricity to consumers as well. One is multi-level marketing, in which sales agents are compensated based on each customer they sign up and also on recruiting new sales agents. These agents do not have to be licensed or registered at the PUC. A Retail Electric Service Provider (REP) is responsible for the actions of such agents marketing its services. One such organization is "Option Energy" which had been marketing New Power products. Option offers rates that are basically the same as New Power's rates, except that Option reserves the right to charge a much higher basic service fee depending on a customer's credit (see above).

Texas law permits "Aggregators" to act as representatives of consumers in negotiating for electricity service. A person or business or non-profit organization meeting certain financial and technical standards can register as an aggregator in Texas. At the time a customer requests services from an aggregator, it must disclose to customers all of its trade or commercial names, any relationships with the electric companies, and its sources of compensation for the provision of aggregation services.

By law, an aggregator represents the buyers of electricity. It is possible for aggregators to use the "power of numbers" and secure a better deal for many households than any one household could obtain on its own. Consumers who consider joining a group formed by an aggregator should be sure the aggregator is registered with the PUC, have a complete understanding of the services the aggregator promises to provide, and at what price, and ensure the aggregator is truly independent of the Retail Electricity Providers, negotiating with many in order to secure the best deal for the consumers.



Consumer Tips

RESEARCH THE COMPANY OR AGGREGATOR

- Electric companies and Aggregators must be licensed or registered and must provide a certificate or registration number to consumers.
- Inquire with the PUC regarding complaints or enforcement actions against a REP or Aggregator you are considering.
- Determine whether you are dealing with a sales representatives and agents, such as someone working with multi-level marketing. The prices offered by such an agent may differ from other offers from the same company.

UNDERSTAND THE PRODUCT

- Read the Electricity Facts Label—CAREFULLY. Know whether the offer is for a fixed or variable prices. Know whether you are signing up for a minimum term.
- Read the Terms of Service Agreement before you choose a company, or IMMEDIATELY after you sign up. Read it all, and read it carefully. Look for additional fees, penalties, or unique requirements like electronic billing or differential pricing based on credit. Exercise your option to cancel without penalty within 3 days if you do not like what you see in the Terms of Service.

KNOW YOUR RIGHTS

- In addition, we have heard complaints that some call center employees and sales agents are providing incorrect information to consumers. The market is young and it appears all staff and agents have not been adequately trained. Especially during these early months of the new market, it would be smart for consumers to spend time reviewing the Power to Choose website and familiarize themselves with the rules and procedures of the new market.

Footnotes

¹ Energy Information Administration, U.S. Department of Energy, "Status of State Electric Industry Restructuring Activity," March 2002, download from internet, 3/7/02. Residential and small

business consumers maintain service with their local electric utility until and unless they choose another provider.

² Dallas Morning News, ad for Texas Utilities telling customers they would save 14% by staying with TXU. Reliant Press Release, 11/16/01 touting 17% reduction.

³ TXU and Reliant, now termed the "Affiliated Retail Electric Provider"

⁴ Consumers currently served by a municipally-owned or cooperative utility, El Paso Electric, Entergy or Southwest Public Service are not included in the restructured retail market at this time.

⁵ This report includes information about The New Power Company. According to company announcements, Centrica (owner of Energy America, which is also providing retail electric service in Texas) has agreed to purchase New Power.

⁶ There are certain rights that are standard, regardless of who is providing service. These should be included in each Terms of Service agreement of each REP and titled "Your Rights As a Customer."

⁷ Information posted on company web sites in February, 2002 and March, 2002.

⁸ Regulated electricity prices were made up of a flat monthly customer service charge and a per kilowatt hour price, consisting of two parts: a "base rate" and a fuel charge. The base rate portion of customer bills has been frozen since 1999, but the fuel charge could be, and was increased to reflect higher fuel costs when natural gas prices skyrocketed in 2000. The Price to Beat was set by the Public Utility Commission in December of 2001. Public Utility Commission of Texas, "'Price to Beat' Set for Electric Customers," December 7, 2001.

⁹ In a news release, December 7, 2001, the PUC stated that "the price to beat is designed as a rate that offers a discount to customers who do not switch to another REP, but at the same time allows competing REPs to offer more attractive customer rates." The Affiliated Retail Electric Provider cannot charge above or below this rate until it loses 40 percent of its customers to competitors or five years pass, whichever comes first.