

RESOLUTION NO. 2-2009

A RESOLUTION OF THE CITY OF ABILENE, TEXAS, ENDORSING CERTAIN LEGISLATIVE CHANGES TO ENHANCE THE COMPETITIVE ELECTRIC MARKET SUPPORTED BY CITIES AGGREGATION POWER PROJECT, INC.

WHEREAS, the City is a member of Cities Aggregation Power Project, Inc. ("CAPP"), a non-profit organization created by cities throughout Texas to secure affordable energy for its members in the deregulated electric market; and

WHEREAS, affordable and reliable power means economic development for our cities and a better standard of living for our citizens; and

WHEREAS, by deregulating the retail electric market, Senate Bill 7 of 1999 ("SB 7") intended to allow competitive forces to drive down the price of electricity; and

WHEREAS, CAPP's seven-year experience with the deregulated market, including negotiating power contracts with several different retail electric providers, indicates that the Texas electric retail market has failed to develop into a truly competitive market as envisioned by the Texas Legislature and that prices are higher, not lower, after deregulation; and

WHEREAS, competition has failed to develop in the deregulated electric market because certain power generation companies own or control enough generation capacity to exercise market power to the detriment of customers and non-affiliated retail electric providers; and

WHEREAS, alleged market power abuse inquiries conducted by the Public Utility Commission ("PUC") are hampered by the lack of adequate resources because the parties hurt by the illegal activity, like cities, are not allowed to participate in the investigations; and

WHEREAS, residential customers in Texas communities are unable to obtain lower power prices that may be available to them through bulk purchasing because current law makes the creation of citizen aggregation groups unworkable; and

WHEREAS, the Electric Reliability Council of Texas ("ERCOT") is expected to spend at least \$660 million to implement a nodal market in Texas, an unproven market design program that is several years behind schedule and several hundred million dollars over budget; and

WHEREAS, the City supports all legislative initiatives that promote a truly healthy electric market where competition can flourish and consumers can save money; and

WHEREAS, the City endorses efforts proposed by CAPP to modify the electric deregulation legislation to enhance competition, implement the original intent of SB 7 and reduce costs to the City and its residents.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, THAT:

- PART 1. The City supports the introduction and adoption of legislation in the 81st Session of the Texas State Legislature that promotes affordable power and the transition of the Texas electric market from a deregulated market to a fully competitive one. Specifically, the City supports legislation that will address the following issues:

- All generators, regardless of size, should explicitly be barred from the unlawful exercise of market power.
- Ownership and control of generation capacity should be limited to no more than twenty percent (20%) of total generation capacity within the market in order to enhance competition and mitigate market power and the ability of any one generator to affect prices. This is in accordance with basic anti-trust principles and as originally designed in SB 7, although the "market" should be redefined as the functional market (an ERCOT zone) to reflect real-world conditions. In the alternative, the PUC should be directed to create a single ERCOT-wide market with uniform congestion pricing.
- Entities such as municipalities, commercial customers or retail electric providers harmed by wholesale market abuse should be given explicit standing to participate in market power abuse enforcement actions brought by the PUC.
- Cities should be permitted to create citizen aggregation groups to combine the power needs of residents that have not specifically asked to be excluded in order to facilitate bulk power purchasing and enhance the opportunities for residential customers to benefit from deregulation and benefit the entire state by increasing competition. Citizens who have signed a contract with a retail provider would be excluded, as would those citizens who otherwise opt out.
- All efforts to transition to a nodal market in ERCOT should be abandoned and other market design options that benefit all market participants should be considered.

PART 2: A copy of the resolution shall be sent to the elected lawmakers representing the City's interests in the Texas House and Senate and to the Chairman and legal counsel of CAPP.

ADOPTED this 12th day of February, 2009.

ATTEST:


 Danette Dunlap, City Secretary


 Norman Archibald, Mayor

APPROVED:


 City Attorney