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# AKPIRG

**ALASKA PUBLIC INTEREST RESEARCH GROUP**

PO Box 101093, Anchorage, Alaska 99510-1093 Phone: (907) 278-3661 Fax: (907) 278-9300 e-mail: akpirg@akpirg.org

To: Chairman Norman Rokeberg, Electric Utility Restructuring Committee
and Senator Loren Leman, Chairman
Subcommittee of the Jt. Committee on Electric Utility Restructuring

From: Stephen Conn, AKPIRG

Subject: Suggested amendments to RFP to reflect small consumer needs and expectations and to encourage effective consumer choice and participation per your request

September 16, 1998

CONSUMER PROTECTION IN A DEREGULATED ENVIRONMENT:

- Assess problems and solutions to marketing abuses; define necessary rules and means to handle consumer complaints ; define sources of funding
- Assess ways to make uniform policies regarding disconnect/curtailment for all providers
- Define a special needs and support mechanism that would be funded by all providers in an unregulated environment to assure universal service

CONSUMER INFORMATION:

- Develop a registration system for all providers that affords consumers clear and uniform information regarding the reliability of providers.
- Create criteria for adequate baseline information on providers' track records with consumers in Alaska and elsewhere ,including a capacity to perform along with a means to disseminate this information which allows consumers to make informed choices among providers.
- Create and test a standardized billing format to allow for meaningful comparisons by consumers.
- Define a consumer bill of rights with community participation that commits providers to serve all consumers in a reliable and affordable manner. Define an efficient means for enforcement of rights.

EXAMINE HOW THE STATE REGULATORY AUTHORITY IN A RESTRUCTURED ENVIRONMENT CAN:

A. Establish , maintain and enforce standards for technical and operational reliability

B. Receive, adjudicate and remedy complaints between provider and customers in a timely manner in matters of fraud, collection abuses and safety hazards as well as customer refunds.

C. Ensure full disclosure of price, terms and conditions of service, combat slamming or cramming with all consumer protection rules enforceable against providers or would-be providers.

D. Explore means to expel providers from the market when they abuse the rights of residential consumers and small businesses and fail to afford these consumers with equal access to service available to other consumers in their service area.

SEP 17 1998

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# AKPIRG

**ALASKA PUBLIC INTEREST RESEARCH GROUP**

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Testimony Before the Alaska State Legislature's Joint Committee on Electric Utility Restructuring

by Stephen Conn. Alaska Public Interest Research Group

In the Anchorage Daily News your chairmen decried the absense of consumer involvement . They sought public input in the electric restructuring debate. I applaud this concern. Electricity is a necessity and essential to health welfare and progress. The right of all consumers to reliable and affordable service in our Northern home must be protected.

AkPIRG. a nonprofit consumers group with 3.000 members statewide has followed the process of electric deregulation from its earliest days. It is a charter member of the Electric Consumers Alliance and helped develop a consumer's bill of rights (See document F). We have listened to the experts and followed closely the California experience.

Together with consumers from around the country we have studied statements of principles regarding universal service and the appropriate role for government in protection of consumer rights (See document A). We have drawn on the near term experience of telephone deregulation in and its impact on consumers and applied the idea of electric deregulation to Alaska's urban and rural realities. Here is what we have learned:

Rural Alaska could be devastated at this time by retail electric deregulation. That deregulation would encourage cherry picking of large customers. leaving small customers to bear the costs of maintaining the system.

One cannot ignore the double barreled impact of loss of the power cost equalization subsidy with electric deregulation. The debate on continuation of that subsidy will occur in the next legislative session. If PCE is lost and cherry picking begins. not only use of lights and appliances but advances by villages seeking to maximize economic development through improved telecommunication services and efforts to create minimal rural sanitation improvements will fall by the wayside. Although lawmakers may wish to separate the issues of electric deregulation from that of power cost equalization. in reality .they cannot be separated. The Governor's Council on Rural Sanitation linked adequate funding of the power cost equalization to reforms because of the cost of maintaining alternatives to honey buckets.(document D).

The rural situation is further complicated by the reliability issue. One vendor who sought to cherry pick has already drawn attention for his apparently shaky finances See document C-3).

Consumer apathy and consumer fraud

In California. Pennsylvania and elsewhere consumers generally have met retail deregulation with a collective yawn. this despite massive publicity.(document C) Unfortunately the same cannot be said for scam artists. Con men have engaged in slamming or fraudulent switching of electric accounts. Pyramid

schemes have encouraged consumers to buy from brand x providers that often had not contracted with suppliers to meet retail commitments.

The reason scam artists move into the retail electric field is that utilities are often exempt from basic consumer protections. Consumer protection agencies and regulatory agencies are either overworked. indifferent or unfamiliar with these new scams. In Alaska there is little or no consumer protection. Our regulatory agency takes the position that fraud in solicitation of telephone and cable service is outside of its jurisdiction. Therefore. we can count on retail electric deregulation attracting fraud with no one prepared to deal with it.

In matters of electric service the tradition of sharing the costs has made universal service a goal and an achievement. If competition is undertaken this must be accompanied with protections that insure affordability and availability as a matter of public policy. I have offered the committee the best study of universal service by the Consumer Research Foundation (document E).

The Statement of Consumer Principles drafted by Alaskans and others for the Electric Consumers Alliance suggests that those who purport to provide must be registered and scrutinized to avoid fly by night operators, that standards be enforced to insure technical and operational capacity and that complaints have a place to go and be resolved. Consumers need clear information as to price and performance. (See document A). Standard policies for disconnect and means to maintain privacy must be established. Discrimination by socioeconomic class or location and market abuses all form the basis for a transformation of the regulatory process and not its elimination. Regulation must be defined in the interest of consumers and should be studied.

Consumers have already drafted a list of consumer protections. safety requirements and even principles to guide deregulation where worker and public safety are concerned. (See document B).

In sum. there is not silence from the consumer community but a very clear charter of rights and expectations that deregulated electrici utilities and government should honor.

We know what we want: our voice is not missing.

Until government and utilities have reviewed these expectations and the experience of lower 48 states in retail wheeling has been analyzed.. deregulation should not occur in the retail market. AkPIRG encourages your committee to consider experimentation in wholesale wheeling. Leave retail wheeling for the future. Thank you.

Doc. 17

From Alaska Public Interest Research Group, September 15, 1998

ELECTRIC CONSUMERS' ALLIANCE

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# Statement of Consumer Principles To Guide State Restructuring Of the Electric Industry

## March 6, 1998

*We, the members of Electric Consumers' Alliance, gathered in Washington, D.C. on March 6, 1998, recognize that many states are considering the restructuring of their retail electric industry so that customers can select from among competing providers.* ***We believe this consideration to be predominantly a state issue, and one which states have undertaken with the foresight and attention that is required by such a fundamental policy change.*** *The provision of electric service is the key to participation in our modern society and the significance of change cannot be underestimated. We have been active in many of these states and believe that--if implemented correctly--electric competition can bring significant benefits to the consumers we collectively represent, including competitive prices and service innovation. At the same time, however, we recognize that the consumers we represent--including small businesses, senior citizens, rural residents, the disabled, minorities and low income consumers--may also be placed at risk by the transition to a more competitive market structure. These risks may include marketing abuses, billing confusion, service quality issues and access to a provider of choice, among others.*

*Therefore, given the continuing public interest importance of the provision of electric service--which will endure regardless of market structure--we believe it is necessary and essential for any jurisdiction considering implementation of a competitive market structure to* ***condition entry of a provider in that market upon acceptance of and adherence to the following principles.*** *We believe it is equally imperative that the appropriate legislative and regulatory bodies be given the authority to implement and enforce these principles, which we deem to be minimally necessary to protect and preserve the public interest:*

## Education

An informed consumer population is the key to making a competitive electric market work. Intelligent buyers will respond to superior providers. But quality education about the options and opportunities available to consumers will not necessarily be provided by the market, nor will it be easily understood by all consumers. Experience in the transition from other highly regulated markets--such as cable and telecommunications--suggests that consumer confusion may be significant. To be effective, education about electric restructuring must be ongoing, objective and targeted to specific consumer segments. At a minimum, this requires the development of a state-specific action plan for consumer education that utilizes a variety of approaches and mediums to convey information. It is especially important to involve local constituent organizations--such as the members of ECA and other community-based organizations--into this planning process. The planning process must have a long-term funding source, such as an education trust or other vehicle, to ensure continued effectiveness. This is particularly important because it is likely that many consumers will be cautious in entering the market and may delay decisions for months or even years. It is important that the appropriate educational resources continue to be available to consumers at the time that decisions are made. The funding source should be supported equitably by all market participants. Finally, the state regulatory agency or other authority must take responsibility for the timely compilation and dissemination of educational material and the coordination of this effort with community-based organizations.

## Marketing Abuses

Reasonable constraints must be placed on overzealous attempts to sell the provision of this public interest service. Existing telemarketing and consumer solicitation provisions may provide a reasonable starting point in many states, but there may be a need to more clearly define consumer rights and responsibilities in others. Consumers should be entitled to equal, if not greater protection, than that accorded them in the sale of other consumer goods. At a minimum, this should include 1) full disclosure of the price, terms and conditions of service; 2) a three-day window for cancellation of consumer contracts for the provision of electric service; 3) a prohibition on the unauthorized switching of electric providers, or "slamming," by requiring customer verification of the choice of supplier; 4) a prohibition on the unauthorized billing for services not expressly ordered by a consumer, or "cramming," by requiring customer verification of the choice of service(s); and 5) creation of a "don't call me" list which precludes the telephone solicitation of any consumer who elects to be included on the list. States should identify and prohibit illegal "pyramid" sales.

## Consumer Information

**A standardized bill format within each state must be required so that customers can recalculate their bills for accuracy and make reasonable comparisons between providers.** The format should provide sufficient specificity so that customers can make economically efficient decisions regarding their service(s) selected and consumption patterns. The bill must include full and uniform information about the supplier, including a point of contact with local or toll free telephone number, as well as a description of any payment terms and the procedure to be followed for dispute resolution. A state may wish to prescribe collection/late fee provisions to avoid the excessive fees imposed in other industries. The confidentiality of customer bill information, including usage patterns, shall be maintained.

## Service Quality

The provision of electric service on a competitive basis **should not result in degraded or inferior service for some customers.** The state regulatory authority should establish, maintain and enforce standards for technical and operational capacity. Existing service quality standards may be an appropriate starting point for this purpose as long as they are extended to all providers and sufficient reporting mechanisms are in place. It is anticipated that these standards must be augmented to differentiate between the responsibilities of providers and distributors. These requirements should be designed to ensure that customers get the "quality" of service for which they contract; they should not preclude the offering of differing services (e.g. firm v. interruptible service).

## Complaints

As additional providers enter the market and competition supplants regulation as the primary means of market discipline, it can be anticipated that the number and types of consumer complaints will increase. It is **essential that the state regulatory agency (or other appropriate body) be empowered to receive, adjudicate and remedy complaints between providers and their customers in a timely manner.** This must include sufficient authority to confer jurisdiction over providers and to order appropriate remedies, including customer refunds, as well as the ability to prospectively protect consumers against fraud, collection abuses and safety hazards. Any procedure must provide for an expedient resolution of issues.

## *Privacy*

Consumer information should be protected from unauthorized disclosure to third parties. Consumer billing records, usage patterns and other identifying information should be considered confidential unless a consumer consents in writing to disclosures.

## *Disconnect/Curtailment*

Most states already have in place policies governing the disconnection of service and the priorities to be followed in the event of curtailment of service. Disconnection (especially for non-payment) should be a resort only after remedial steps have failed and due process has been provided. Curtailment should occur only in extreme circumstances and only consistent with an established plan. These policies must be brought forward and applied to all providers so that all consumers are treated equitably and not unfairly deprived of electric service without adequate process. Care should be taken to prevent a situation where essential services or at-risk customers are denied service because they are a lower "economic" priority for the provider.

## *Price/Performance*

For consumers to make informed, rational choices among electric providers, it is essential that they have access to adequate baseline information. The state regulatory agency (or other appropriate body) should compile and publicly disseminate such information on a periodic basis. At a minimum, this should include: a list of each provider registered to provide service with contact information; a general description of each service to be offered and the conditions that need to be met to receive such service; the number of complaints (as a percentage of customers) against the provider and the disposition of those complaints; and any other information deemed to assist consumers in making service choices, including a brief statement of the performance history of the provider.

## Choice

Customers must be given access to their provider(s) of choice. Providers must not be permitted to discriminate unfairly in access to service based on customer classes, demographics, socioeconomic data or any other factor determined by the regulatory authority to be unjust. As well, no unreasonable terms or conditions may be placed on a customer's receipt of service. Conversely, customers must be allowed to select from among all available suppliers and must not have artificial restrictions placed on their right to choose or right not to choose an otherwise qualified provider, including those entities from whom the customer has previously received service. All consumers are entitled to share in the potential benefits of a restructured electric market.

## Special Needs

Access to affordable electric service has been a hallmark of the current regulatory structure, with a number of utility-, government- and private-sponsored programs combining to create what has been described as a universal service "safety net" for consumers, including those with limited capacity (including seniors and the disabled) to pay the full price of service. Affordable access for all must remain a hallmark of a restructured electric industry. To do so, however, will require a recognition that a competitive marketplace is unlikely to fully meet this need and that a new special needs support mechanism is necessary. States should implement procedures to ensure that all customers have continued access to affordable electric service. To do so, states should implement access charges on generation delivered or other funding mechanism on a provider-neutral basis.

## Registration

To provide electric service, even in a competitive and substantially deregulated environment, it is still essential that all providers meet registration requirements. Indeed, providers (including aggregators) must establish that they are capable of meeting service obligations to their potential customers as a precondition to doing business. At a minimum, this must include 1) a demonstration of financial viability, including consideration of performance bonding requirements; 2) a demonstration of technical capability; 3) an explanation of available supply sources and alternatives; and 4) a verified commitment by a senior corporate officer to comply with consumer protection, billing and service quality standards in effect. Recent events in states experimenting with market competition underscore the importance of reasonable registration requirements to identify potential problem areas *before* providers are permitted to market in a state. Along with registration provisions must be the ability of state regulatory officials to revoke or suspend the registration of any provider that fails to meet and maintain minimum standards.

Doc. B

From Alaska Public Interest Research Group,
September 15, 1998

# Alliance to Protect Electricity Consumers

# Statement of Principles
*regarding*
# Electric Industry Deregulation

**February 12, 1998**

## Alliance to Protect Electricity Consumers

The Alliance to Protect Electricity Consumers (APEC) is a coalition of highly diverse organizations formed to ensure the positive resolution of consumer issues related to electric industry deregulation. Our common concerns are the potential effects of deregulation on consumers, communities, the environment and the workplace.

## Statement of Principles Regarding Electric Industry Restructuring

This Statement of Principles is the consensus view of APEC members regarding the specific topics listed below. It is a presentation of facts and issues which we recommend to policy makers and the general public for careful consideration.

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# Organizations and Contacts

**A. Philip Randolph Institute**
Norman Hill 202-289-2774
**American Federation of Labor and Congress of Industrial Organizations**
Bill Cunningham 202-637-5169
**American Federation of State, County and Municipal Employees**
Ed Jayne 202-429-1188 jae@afscme.org
**American Public Power Association**
Madalyn Cafruny 202-467-2952
**Building and Construction Trades Department, AFL-CIO**
Dick Seelmeyer 202-347-1461
**Consumer Federation of America**
Mary Rouleau 202-387-6121
**Electric Consumers Alliance**
Bob Brandon 202-331-1550
**Friends of the Earth**
John McCormick 202-783-7400
**Industrial Union Department, AFL-CIO**
Peter diCicco 202-842-7817
**International Association of Machinists**
Mike Flynn 301-967-4704
**International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers**
Bridget Powell Martin 703-560-1493
**International Brotherhood of Electrical Workers**
Mike Emig 202-728-6060
**International Federation of Professional and Technical Engineers**
Candace M. Rhett 301-565-9016
**Maritime Trades Department**
Daniel Duncan 301-899-0675
**National Association of Community Action Agencies**
Christine Alden 202-265-7546
**National Consumer Law Center**
Kay Guinane 202-986-6060
**National Consumers League**
Linda Golodner 202-835-3323
**National Council of Senior Citizens**
Daniel Schulder 301-578-8839
**National Farmers Union**
Lynn McBride 202-554-1600
**National Rural Community Assistance Program**
Kathleen Stanley 703-771-8636
**National Rural Electric Cooperative Association**
Bob Kabat 703-907-5641
**Oil, Chemical and Atomic Workers International Union**
Paula Littles 703-876-9300
**Public Citizen**
Wenonah Hauter 202-546-4996
**Service Employees International Union**
Robert Masciola 202-898-3346
**United Mineworkers of America**
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**United Steelworkers of America**
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Sam Weinstein 202-347-8105

**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Cost to Consumers

**Electric rates could increase for residential customers and small business due to profiteering, temporary shortages, and the shifting of costs from large industrial users to small commercial and residential customers. Any legislative and regulatory actions leading to deregulation or restructuring of the electric utility industry should not proceed if lower rates for residential consumers and small businesses cannot be guaranteed for both the short and long term.**

Where deregulation is adopted, residential and small business consumers could face several possible scenarios:

Deregulation will actually increase rates for consumers in states with low-cost electricity, if utilities export the cheap electricity and sell it elsewhere to the highest bidder.

Predicted price decreases may not materialize if there is not adequate generation supply and vigorous competition in generation markets. Dominant firms will be able to charge higher prices if there are too few competing sellers. Residential consumers will not have the same buying power as large industrial customers, who will have the bargaining leverage to buy up all the low-cost power, leaving only high-cost power for residential consumers.

Consumers will have to sift through confusing, possibly misleading, offers of electricity prices, savings, service options, and payment plans. They may have to pay transaction fees to power marketers, brokers, and other middlemen, and the related increased marketing and advertising costs.

Whether caused by accidental outages or insufficient generating reserves, any shortage of electricity will drive up the market price of available electricity.

Depending on how stranded costs are divided between utilities and classes of consumers, any possible price reductions due to deregulation could be substantially delayed or nullified altogether. Residential consumers of a high-cost utility may end up paying a disproportionate share of its stranded costs if the utility's large customers no longer buy electricity from it.

Given these possibilities, deregulation might not provide lower prices to residential and small business consumers.

Consumers in certain markets are aggregating their electricity purchases to protect themselves from higher rates. Deregulation, however, should not require consumers to aggregate to avoid higher costs or reduced services.

*continued...*

**Any deregulation plan must include, at a minimum, the following consumer protections:**

- **Lower Rates.** Deregulation should not proceed if lower rates for residential and small business consumers cannot be guaranteed for both the short and long term.
- **Competitive Safeguards.** If policymakers choose to deregulate, state and federal regulators must ensure that truly competitive generation markets have been created before deregulation is adopted, and maintained afterward. To prevent the creation of unregulated monopolies, specific definitions of what constitutes effective competition must be in place before deregulation takes place. In addition, state and federal agencies must update and strictly enforce antitrust and other statutes protecting consumers.
- **Protection from Price Cross-Subsidization.** To increase profits to their stockholders, for-profit corporations with both competitive and regulated subsidiaries may attempt to subsidize their competitive subsidiaries by charging higher prices to captive customers of their regulated subsidiaries. State and federal regulators must prevent this type of cross-subsidization.
- **Access to Information.** Consumers must be able to easily determine and compare the prices for transmission, distribution, and retail energy services and have access to information about the generation sources of the electricity they purchase.
- **Aggregation Protection.** The ability of consumers to aggregate their electricity purchases must be protected.
- **Consumer Protections.** Federal and state agencies must update and strictly enforce consumer protection laws to ensure fair marketing, sales and service practices. All sellers of electricity should, at a minimum, be licensed and be subject to penalty for license violations.

Regulators must address the following issues raised in an environment with multiple electric power suppliers: privacy protection; "slamming" (unauthorized switching of providers); "pre-selling" (securing customers before a supplier has the technical ability or legal authorization to provide service); fair and understandable billing; clearly written terms and conditions of service; nondiscrimination; adequate customer service offices.

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**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Environment

**Environmental and conservation programs implemented by electric power companies could be dropped and/or would not be expanded. Deregulation could adversely affect the environment. Funding for commercialization of renewable resources could be jeopardized.**

Current attempts to deregulate the electric power industry make the already difficult environmental issues even more complex. Increasing competition is already leading to cuts in funding for energy efficiency, renewable energy, and other utility programs that protect the environment. Deregulation could lead to the shutdown of the most inefficient and expensive power plants, but it could also result in marketing and advertising that encourages greater consumption and increased emissions.

**Any plan to deregulate the electric power industry must include the following measures:**

- Spending on programs to conserve energy and increase the reliance on cleaner electric power sources, which is already inadequate, must not be reduced. Spending should be increased for energy efficiency and clean energy technologies such as wind, solar, biomass, geothermal, ethanol, small hydro power and advanced fossil energy technologies.
- No existing generating unit should be allowed to operate in violation of any existing or future Clean Air Act provision or regulation.
- States and the federal government should improve the energy efficiency of buildings and equipment by making appropriate changes to building codes and efficiency standards. The federal government should apply and meet the same standards for buildings and efficiency that are required of non-federal sectors of the economy.
- Recipients of low-income energy assistance should not be prevented from purchasing power from environmentally-efficient generation sources.

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**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Mergers and Market Dominance

**Ongoing consolidation of existing electric utilities and other energy industry companies is likely to lead to abuse of economic power and manipulation of energy markets to maximize profits at the expense of consumers.**

Electric utility deregulation and competition are being presented as "customer choice." Some deregulation proponents, however, want to dominate the market and its consumers, and to prevent competition. Giant utility holding companies, their affiliates, and global energy companies want to dismantle current laws that attempt to suppress anti-competitive forces and protect consumers from monopolies' abuses.

In the late 1920s, 16 corporations controlled 85 percent of the nation's power supply. Congress enacted the Public Utility Holding Company Act (PUHCA) to simplify the web of corporate relationships and establish minimum consumer protections. Today, while some investor-owned utilities are publicly endorsing competition, a growing wave of investor-owned utility mergers and acquisitions threatens to kill any chance of competition actually developing.

If the market protections provided by the PUHCA are repealed and not replaced with more effective statutory provisions, and if the number of competitors is reduced to a handful through mergers and acquisitions, there will be no real hope of bringing competitive choices to consumers. A few generation sellers will have substantial market power and the ability, through that market dominance, to erect high barriers to the entry of other competitors.

*continued...*

**To sustain a healthy competitive electricity market for consumers, certain changes are needed and specific safeguards must be in place:**

- The federal enforcement agency should change. The Securities and Exchange Commission appears to have little interest in enforcing PUHCA's consumer protections against market power abuses. The Federal Energy Regulatory Commission is the appropriate federal agency to aggressively enforce PUHCA or a modernized successor statute.
- Market power must be restrained. A fair, efficient competitive electric industry will not develop if the market consolidates to a handful of giant companies or if some companies are allowed to engage in predatory pricing or discriminatory actions.
- The Department of Justice, the Federal Trade Commission, and the Federal Energy Regulatory Commission must be given the resources and statutory authorities necessary to effectively police electric markets. These statutory authorities should include:
    - The authority to order divestiture of generation facilities if necessary to address effectively the abuse of existing market power.
    - The authority to prevent preferential transactions between corporate affiliates, including discriminatory access to essential information, below-cost transfer pricing, or other anti-competitive arrangements; and in the event of repeal or reform of the PUHCA, the transfer to FERC of provisions under that Act necessary to prevent preferential or anti-competitive activities among and between corporate affiliates of for-profit utilities.
    - The authority to ensure that reliability standards and requirements are adopted and enforced in a nondiscriminatory and competitively neutral basis.

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**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Reliability

**Many electric power companies, preparing for competitive challenges, are cutting costs and deferring maintenance. Such cost-cutting could result in systems so overstretched they may not be able to operate efficiently in times of peak demand or during storms.**

Industry restructuring must ensure an adequate generation supply and reliable transmission service. Our electricity systems are highly interdependent and complex operations. Reliability depends on the cooperation of all entities using the systems and a well-trained workforce.

Electrical industry groups now maintain interstate reliability through voluntary adherence to agreed upon guidelines. Early indications show that competition among utilities is already overshadowing the prior tradition of cooperation, and some utilities have cut their maintenance staffs and schedules to cut costs.

**To protect consumers from unreliable service:**

- The roles of state, regional, and federal regulatory authorities must be clearly defined. Primary oversight and enforcement for interstate reliability must be established at the regional or federal level.
- Mandatory national and regional reliability rules and standards should be developed in collaboration with transmission providers, transmission users, consumers and other interested parties.
- An industry-wide umbrella group, such as the North American Electric Reliability Council (or some successor group) should implement such national standards, but any such group should be subject to the oversight, approval and dispute resolution powers of the Federal Energy Regulatory Commission.
- All retail power supply providers in a restructured industry must comply with reliability and minimum quality of service standards.
- Measures must be taken to assure adequate generation reserves.

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**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Safety

**Worker safety and public safety could be threatened by continued cost cutting.**

One likely outcome of electric industry deregulation will be a de-emphasis of public and worker safety as the emphasis shifts to maintaining and increasing profits. Staffing levels and training programs have been the first areas cut when deregulation has occurred in other industries. Work force reductions and scaling back of training programs are already occurring as companies jockey for competitive position.

Electricity service is provided in close proximity to people. It can be extremely dangerous unless conducted properly. In general, industry workers, management and regulators have achieved an exemplary safety record. A long history of proper training and appropriate investments in public safety and worker safety is responsible for that record.

The foundation for the industry-wide safety record is a system of voluntary consensus standards developed through the joint efforts of all segments of the electric utility industry. Some of these consensus standards, such as the National Electrical Safety Code and the National Electrical Code, have become mandatory through enactment by state legislatures. Others form the foundation for the setting of mandatory standards by federal regulatory agencies.

Under the present regulatory framework, funding for this safety culture is borne by electric utility companies, which pass on much of the cost through the rate structure to the consumer. With industry deregulation, funding for public and worker safety programs could be cut substantially.

**To assure continued public and worker safety:**

- All aspects of the continued development of safety codes and standards must continue to be fully funded by all sectors of the electricity industry.
- Consensus on safety codes and standards must be continually developed by qualified, experienced industry and labor representatives.
- Unregulated generating plants must be subject to state and federal general industry OSHA requirements and must undergo periodic government inspection.

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**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Societal Impacts

**Valuable community-based programs funded by local power companies are being placed at risk. They include lifeline rates, low income assistance, wildlife preservation, service cut off protections, and community services such as lighting for playgrounds, athletic fields, and holiday lighting.**

Under the traditional regulatory structure, power companies have provided programs such as community lighting and wildlife preservation. Even under the current regulatory structure, however, government and utility-sponsored programs designed to keep the lights on for people with low incomes have been inadequate. For deregulation to benefit residential customers, a comprehensive program, like that existing in the telecommunications industry, must be implemented.

Similarly, while most existing power companies have service cut-off protection programs, the adequacy of such programs should be ensured. Such programs must be applicable to all retail suppliers.

**Deregulation should enhance and protect public benefit programs by:**

- Providing reasonable incentives to power companies, existing and new, to provide community lighting services for playgrounds, athletic fields and other similar public service programs.
- Including a comprehensive program of low income assistance, including lifeline rates, subsidies and assistance with hook-ups.
- Requiring all retail suppliers to have an adequate program ensuring that service will not be terminated unfairly or during extreme weather.

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**The Alliance to Protect Electricity Consumers**
**Statement of Principles**
**February 12, 1998**

## Stranded Costs

**Under rapid, radical deregulation, some electric power companies may not be able to recover the costs they incurred to provide electric service. The signers of this document differ in their views as to whether stranded cost recovery is necessary or appropriate. All agree, however, that restructuring should not proceed unless all customer classes benefit.**

If deregulation is adopted, utilities might not be able to recover the costs they have incurred to provide service, especially investments in generation facilities that produce electricity at prices now above the prevailing market price.

APEC members have widely varying views on whether utility recovery of these stranded costs is appropriate. Groups representing consumers believe utilities should absorb all or a substantial portion of these costs because the utilities chose to make the investments. Groups representing publicly- and consumer-owned utilities believe recovery of costs stranded as a result of deregulation is generally appropriate, because utilities were required to build facilities sufficient to serve all retail consumers in their service territories.

**Despite these widely varying views, the members of APEC do agree on certain fundamental points:**

- Stranded cost amounts should be based on actual market prices over time, or the actual sales price buyers pay for "stranded facilities" when sold in arms-length transactions. Stranded cost recovery should not include "phantom" stranded costs that do not materialize.
- Stranded cost calculations should be carefully examined to make sure that utility costs are not recovered twice. For example, tax costs already collected through deferred tax mechanisms should not be collected again.
- Utilities should not earn a profit on stranded assets through stranded cost recovery.
- Stranded cost allowances should actually be used to address stranded cost issues and not for other purposes, such as overseas investments or purchase of competitors.
- Human stranded costs, i.e., the cost of worker assistance and retraining, should be considered a legitimate, recoverable stranded cost.
- Large industrial customers must pay their fair share of stranded costs.
- Stranded cost recovery should not subsidize future operating costs of stranded plants.

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## Stranded Workers

**Workers who have devoted their careers to the industry and made a commitment to gaining skills and experience are already suffering great losses with deregulation. Qualified workers are losing their jobs and receiving little or nothing in the way of severance pay, retraining, or other job placement assistance. To assure continued system reliability and safety, every effort should be made to retain electric utility workers.**

Utility companies buy equipment and train workers to be prepared to respond rapidly to outages and emergencies, and to perform regular and preventive maintenance. In response to emergencies or disasters, utilities also "loan" skilled employees to each other to restore electric service as rapidly as possible. This needful cooperation may diminish when affiliates of these utilities are competing for customers.

Anticipating the possibility of competition, investor-owned utilities have, since 1990, cut the number of electricity employees nationwide by twenty-five percent. These cuts have had devastating effects on the affected employees and their communities. Utility maintenance and emergency response time have been impaired.

Extended blackouts of large areas of the nation's power grid have been directly attributed to utility cost cutting and reductions in maintenance. Cutting of workforces and reductions in employee training are creating a shortage of the skilled workers necessary for power restoration in emergencies.

Work force layoffs have also affected workers in the power generation plants, as well as clerical and customer service workers. The increased workloads and responsibilities are being shifted to the remaining utility employees who now cover expanded daily work routines. The work load is compounded when the inevitable emergency situations arise and there are fewer people to deal with them.

**Any electric utility industry restructuring should ensure that:**

- The critical necessity for trained and qualified personnel to operate all segments of the electric utility industry is met by implementing, as soon as possible, the provisions of the 1994 National Skills Standards Act for all electric utility workers.
- State or federal electrical system reliability and maintenance standards require appropriate staffing levels of trained and qualified utility workers at all levels of the industry.
- Appropriate provision is made for severance or retirement options, job retraining, and outplacement assistance for affected utility employees.

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# Tax Revenues

**Currently, electric power companies contribute significantly to the local tax base. In a deregulated industry, this tax revenue could dry up or drop considerably.**

State and local taxes imposed on electric utilities may include gross receipts taxes, income taxes, franchise fees, and property taxes that may be applied differently than those imposed on other businesses. Taxes imposed on utility customers, but collected and remitted by the utility, include sales taxes, use taxes, and utility user taxes. In many states, the aggregate level of taxation on utilities is significantly greater than that imposed on other businesses.

Much of the existing tax regime for electric utilities could become obsolete under deregulation. Deregulation will present three basic tax issues for state and local governments:

1. Revenues could decline in many jurisdictions. This could result from lower electricity prices, a shift in market share from more to less heavily taxed service providers who may be located out of state, and from declining values of property owned by utilities.

2. If utilities continue to be taxed on different bases than other electricity providers, these tax variations will create a very different economic effect in a deregulated industry than under prior cost of service regulation. Taxes which utilities previously recovered as a matter of course under cost of service regulation may become unrecoverable, as consumers choose different electricity providers to avoid the payment of these taxes.

3. If existing tax laws are changed, local jurisdictions could lose control of the tax revenues.

**To protect consumers:**

- No deregulation plan should increase the tax burden of residential and small business consumers or cause reductions in tax-supported services, such as police, fire, and schools.
- Governments considering deregulation must also consider what tax reforms are necessary to prevent the loss of local control or the increase of taxes on individual and small business consumers.

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**The Alliance to Protect Electricity Consumers**
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## Universal Service

**Deregulated electric power companies and new competitive power suppliers may not be obligated or motivated to serve low income customers or customers that need electricity in inner cities, rural areas, or regions suffering economic trouble. Service quality could deteriorate below acceptable standards.**

Not every electricity customer is equally profitable to serve. Not every area costs the same to serve. In a deregulated industry, electricity service sellers that operate solely on a for-profit basis may be allowed to choose freely whom they will serve and the rate they will charge each customer. If they do, they can be expected to segregate customers by geographic area, past credit records and income level, and to sell to the most attractive customers. If they do, what quality of service at what price can people in high-cost, difficult to serve, areas expect? How will people with lower incomes be assured they can afford electric service? Unless these questions are equitably resolved, deregulation will not benefit the whole nation.

**Before deregulation is adopted, there must be assurance that:**

- All consumers will have access to reliable, non-interruptible electric service at reasonable, affordable prices.
- Customers are not left without a power supplier and do not have to endure price-gouging simply because they have no other supplier.
- Low-income customers are not discriminated against or priced out of the market.

**To assure these outcomes, any deregulation plan should:**

- Require all providers of electric distribution service to offer to install facilities needed to connect all customers in their service territories.
- Require suppliers to offer service to all customers in a specified geographic area, or designate a "supplier of last resort" to provide service at a reasonable price to those consumers without a reasonable choice of suppliers.
- Prohibit "redlining" or other discrimination against low income consumers.
- Include a universal service fund to help defray the costs of serving lower income consumers and those consumers in rural or high cost areas.

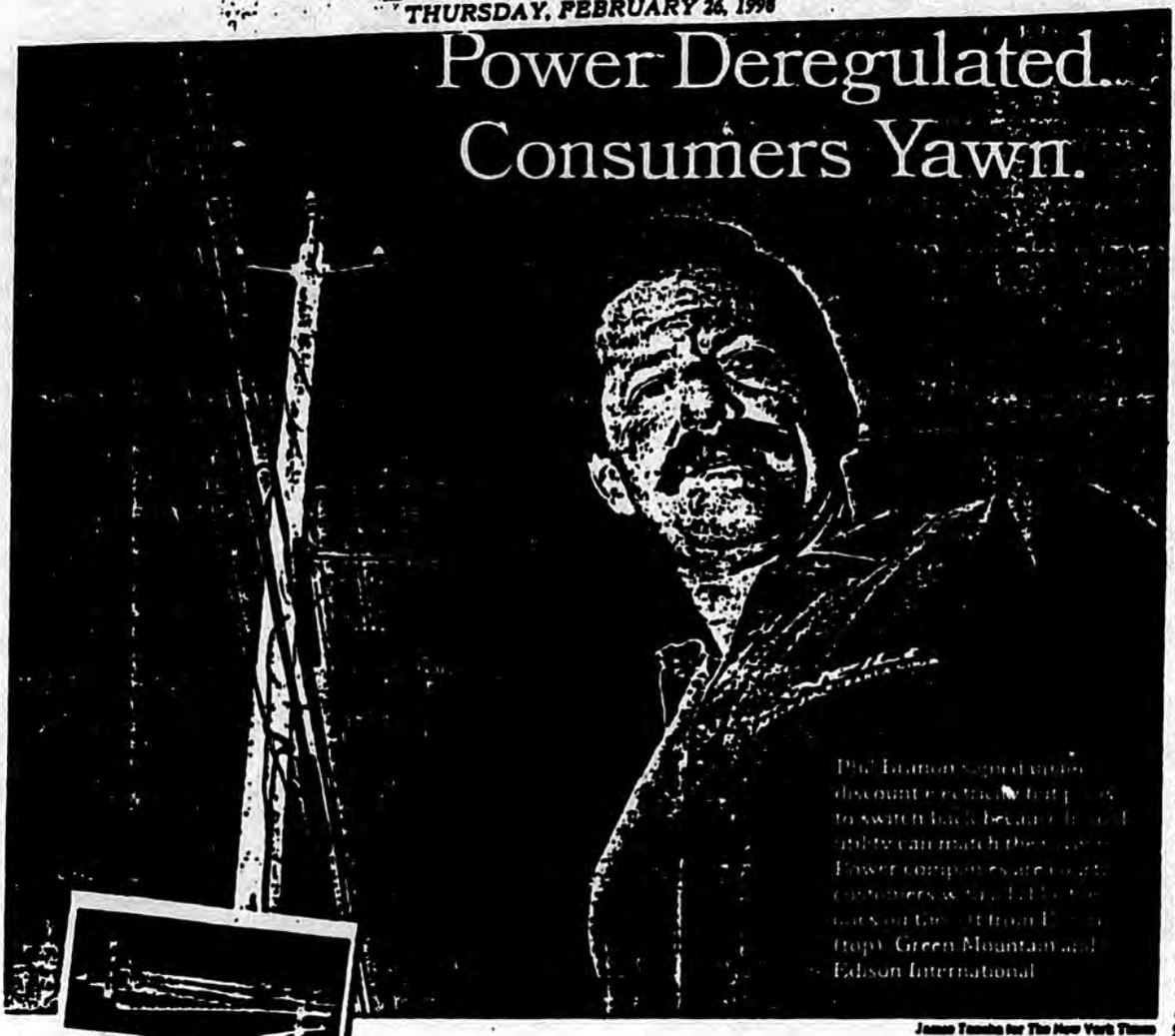
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From Alaska Public Interest Research Group.
September 15, 1998

Doc. C

The New York Times
THURSDAY, FEBRUARY 26, 1998

# Power Deregulated... Consumers Yawn.



James Nawrocki for The New York Times




## California's Effort to Promote Plan For Electricity Is Off to a Slow Start

By AGIS SALPUKAS

They've tried everything.

For the public, California officials have run a commercial that shows a motorcycle cop oblivious to the cars rocketing by him because he is so engrossed in thoughts of electricity deregulation.

For the state's 2.3 million Hispanic households, they've created a Spanish-speaking dancing dog named Chispita who stares into the television camera, spins around and declares, "I am as fast as a spark of electricity."

To get the attention of blacks, who their research indicates "spend little time thinking about electricity," they've developed an animated character called Electron Man as an "entertaining vehicle to deliver the educational message."

They've even recruited a Los Angeles radio talk show host, Michael Jackson, to promote a toll-free number that fields questions about the coming changes in 11 languages, including Ta-

beginning their current $73 million media blitz, they held three years of hearings, then slashed electricity bills by 10 percent to let energy users know something big was in the works.

But try as they might, California officials just haven't been able to get consumers excited about the deregulation of the electricity industry. On March 31, after a three-month delay due to computer glitches, California will become the first state in the nation to throw the market open to something close to full competition — and for the last five months, a host of marketers have inundated homes and businesses with pitches for cheaper and more efficient power delivery.

Yet, so far, a minuscule 25,000 customers out of 9.9 million have switched providers. Most Californians remain confused about the purposes of the program and doubtful about the payoff, if any, for them. As a result, they are taking a wait-and-see attitude.

"Consumers are being bombarded with all kinds of offers," said Jeff Dennard, a senior vice president for Ma-

kovsky & Company, a consulting group that is working with utilities. "Many are scared to switch."

Their reluctance is bad news for the people who are promoting deregulation as a way to lower energy prices and introduce competition to one of the last bastions of monopoly in the nation. It is also a setback for the nearly 300 marketers who have jumped into the fray in the hopes of getting a slice of a $20 billion pie (though so far only 30 have been given approval to do business). And because California has long been viewed as a national trend-setter in everything from popular culture to demographic trends, the public's nervousness poses a challenge to the 20 other states that are in the early stages of deregulating their own utility industries.

In New York, Consolidated Edison plans to start a pilot program on June 1 to allow 63,000 of its 3 million customers to choose alternate suppliers, and already, consumers are getting pitches from marketers and newspaper ads about the project. But similar experiments in Massachusetts, Rhode Island and Vermont encountered public responses every bit as tepid as California's.

"What we're going to see over the next four years is utter and complete confusion," said Erika B. Seamon, who has been working as a consultant to utilities with Kucvmarski & Associates, a management consulting firm in Chicago. What is happening in California is having an effect nationwide, she added.

Part of the problem is that most consumers have little incentive to study the brochures that arrive in the mail or to listen to the telemarketing pitches that seem to intrude just as they are sitting down to dinner. The savings on monthly bills that average $50 to $75, after all, amount at most to a few dollars.

Eventually, after a four-year transition period in which the costs of paying off old power plants that are no longer cost competitive are spread among all customers, the savings could become much more substantial. Industry executives predict an additional 10 to 15 percent cut in the bills of residential and small commercial customers. Larger industrial and commercial customers are expected to see rates drop 20 to 30 percent.

Most people, though, remain skeptical that they will enjoy even that meager reward. And most are unfamiliar with the utility industry and how deregulation will work. Under the California plan, anyone who pays a $100 fee and fills out a form can buy electricity from generating companies or a state power exchange, sell it to consumers and pay utility concerns a fee to deliver it, maintain lines and collect bills.

Moreover, said Mr. Dennard of Makovsky & Company, "There is also the residual knowledge that things did not go as advertised in telephone deregulation. Many are still wondering whether they are doing better after telephone deregulation." Even though telephone and airline deregulation did indeed foster innovation and lead to lower prices for most consumers, many people still find it difficult to grasp why the same should hold true for electricity. In a national survey in December by Makovsky & Company, 62 percent of those questioned predicted that utility deregulation in their states would lead to *higher* prices.

It does not help that many marketers indulge in hard-sell techniques or even outright fraud. Some tout freebies that are hard to evaluate, according to analysts. Some promise low rates without making it clear they will load on various charges and fees to make up the difference. And some contend that the electricity they deliver will come only from solar power, dams or other environmentally benign sources.

In recent weeks, California regulators have suspended the licenses of dozens of marketers until they provide more information on how they will deliver the power they are selling. In one case, the Public Utilities Commission banned a company founded by a 19-year-old entrepreneur, saying it had signed up 8,000 customers for $300 each, even though it had no supply agreements with utilities.

More commonly, marketers use perfectly legal ploys that some consumers nonetheless find misleading. When the Enron Corporation, a Houston-based energy giant with ambitions to become a national natural gas and electricity marketer, sent a mailing to Phil Branon offering a 10 percent rate cut and two weeks of free electricity if he switched from the Pacific Gas and Electric Company, the state's largest utility, he jumped at the chance.

But then Mr. Branon, who puts out a trade newsletter called Infoworld in San Francisco, did a little digging and discovered that neither offer had much value. The 10 percent savings was an automatic bonus — mandated by the State Legislature and paid for by a special bond issue — for every energy user in the state.

## One state's experience may prove a model.

And after reading the fine print of his contract, he realized that he would get the free electricity, worth about $25, only if he stayed with Enron for a year.

"I felt like someone had pulled the wool over my eyes," he said. "I'm going to switch back." Gary Foster, a spokesman for Enron's marketing arm, said the offer was straightforward and contained no misleading information.

If the wariness of consumers like Mr. Branon is putting a crimp in California's deregulation plan, unexpected resistance from another quarter — industrial and commercial customers — is an even greater disappointment.

Most marketers had aimed at these big energy users as the quickest path to profits because signing up just a few would have given them the same economy of scale as recruiting thousands of homeowners and small businesses. But instead of grabbing the first money-saving deal, many such customers are using the prospect of deregulation to do in-depth studies of their energy needs.

"We see deregulation as destabilizing and potentially confusing," said Mick Spilsbury, an executive vice president of the Union Bank of California, the third-largest bank in the state, which spends $10 million a year on natural gas and electricity. "We have to get better educated before we get tied into a four-year deal that looks good today but four years from now everybody will be telling me we signed a bad deal."

Because of the expense and effort to come up with a serious proposal, he said, only two companies — Enron and the marketing affiliate of San Diego Gas and Electric called Edison Source — have made a serious effort. "They have not come beating our doors down," he said.

Mr. Spilsbury's caution is echoed at other companies. Glen Lewis, a regional procurement manager for Del Monte Foods, one of California's largest employers, said there were still too many unknowns about how deregulation would actually work. "It's such a dynamic thing right now," he said. "We're going to go slow and look at things gradually."

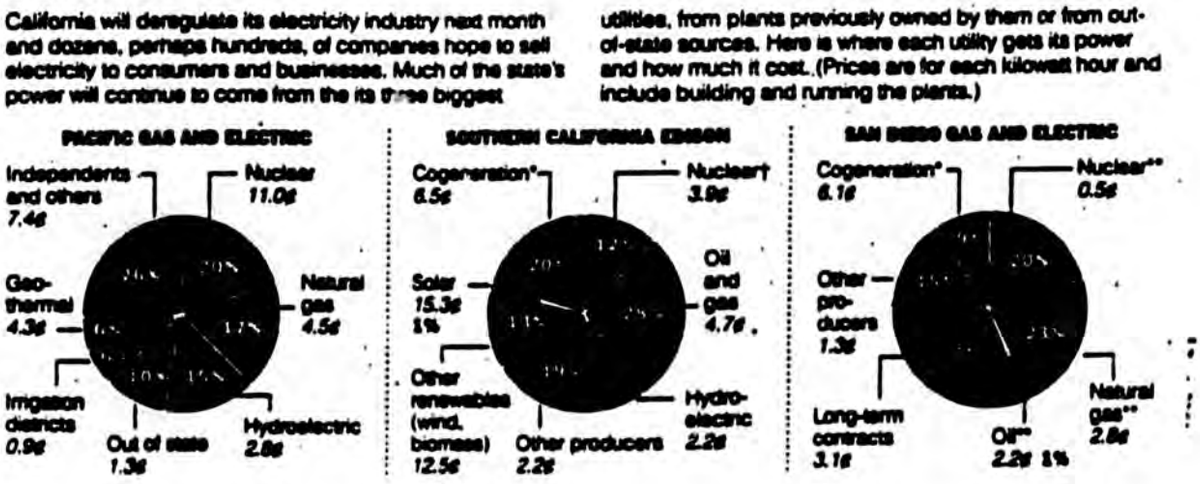
Some marketers have gotten the message and are wooing big corporate customers through painstaking analysis of their energy-consumption practices, rather than just by promising lower rates. To win a multiyear, $180 million account to supply electricity to 800 McDonald's restaurants in California, for example, the staff of P.G.& E. Services, the marketing arm of Pacific Gas and Electric, spent months looking into every corner of the company's operations.

"They want more than just prices," said Faye Worthy, the director of national commercial accounts for P.G.& E. Services, who spent endless hours alongside McDonald's executives and franchisees. "They're looking for someone who really understands their business."

Robert D. Glynn Jr., the utility's chairman and chief executive, said "You have to have the staying power and the fortitude to survive the early years."

## Behind the Meter

California will deregulate its electricity industry next month and dozens, perhaps hundreds, of companies hope to sell electricity to consumers and businesses. Much of the state's power will continue to come from the its three biggest utilities, from plants previously owned by them or from out-of-state sources. Here is where each utility gets its power and how much it cost. (Prices are for each kilowatt hour and include building and running the plants.)



ANCHORAGE DAILY NEWS WEDNESDAY, March 4, 1998

# Alaska Power under siege

## Creditors clamor for payment from state-backed company

By HELEN JUNG
Daily News reporter

An Anchorage power company that received state money to develop new technology is under siege from creditors that haven't been paid for loans and supplies.

But the Alaska Science & Technology Foundation, the state agency that last September authorized a $1.5 million grant to Alaska Power Systems, maintains that the Anchorage company's financial problems don't necessarily jeopardize the state's investment.

An Alaska Power subsidiary has spent about $500,000 of the grant to develop software that lets operators in Anchorage run electric generators in far-flung communities. The grant occurred over the objections of some Alaska Power suppliers, customers and competitors that argued the state should not give money to the financially shaky company.

Now, six months after the grant was approved, Alaska Power has handed over its office building and at least 10 power generator units in several communities to National Bank of Alaska, which financed the units' construction. And unable to make payroll, the company last week laid off its remaining five or six employees, said Steve Hartung, a consultant to Alaska Power and former chief financial officer.

Hartung referred further questions to Alaska Power chief executive Scott Thompson or general manager Brian Chronister. Neither man returned messages left at their office and homes this week. Thompson is traveling.

Meanwhile, the state has hired an expert to evaluate how close

Please see Page F-3, POWER

# POWER: Company under siege

Continued from Page F-1

the new software is to being finished, said Jamie Kenworthy, ASTF executive director.

The state formed ASTF in 1988 to provide seed money for innovative technological projects. The Alaska Power proposal drew support from ASTF because it offered a creative concept for providing cheap electricity for rural communities throughout Alaska, where electricity can cost five times as much as in urban areas.

But Alaska Power's financial status and high employee turnover concerned ASTF, Kenworthy said. In 1997 and 1998, more than 20 parties sued the Anchorage company, many over unpaid debt. A former employee also filed a wage claim with the state Department of Labor.

"We knew this was a high-risk deal," Kenworthy said. "We thought the value of the technology was worth it."

To protect the state's investment, ASTF insisted that Alaska Power spin off software development into a new company called Diversified Solutions. It also required financial audits of how DS spends the money and decreed that no state money pay the parent company's operating costs.

The state money is to be released over time as DS reaches benchmarks the state set. Alaska Power has not met its Jan. 1 benchmarks yet so has not received more than the grant's initial $500,000.

The grant is still active, and ASTF is waiting for its consultant's report, which is due at the end of the month, Kenworthy said.

Alaska Power's generator units are in Chenega Bay, Akhiok, Nelson Lagoon and other communities around Alaska. By foreclosing on the company headquarters in South Anchorage and on the units, NBA is exercising its legal right to repayment, said bank vice president Jim Brinker. He declined to say how much Alaska Power owes, but said the bank expects full recovery of its loan.

The bank is seeking utilities or others to purchase or take over maintenance of the generator units, Brinker said. "We're not in the power business. We're not knowledgeable or experts in that area," he said.

In the meantime, the communities where the generation units are installed are responsible for maintenance, Brinker said.

Alaska Power customer Park Kriner of Glennallen bought two systems for a small shopping center he owns called Park's Place. The system has been running well, he said, and he wasn't worried about Alaska Power's financial problems.

He plans to work out a deal with NBA to purchase the systems, he said.

Legislative auditors plan to review ASTF's grant-approval process and other issues at the request of House Speaker Gail Phillips, R-Homer, and Rep. Con Bunde, R-Anchorage, said Pat Davidson, acting legislative auditor. Phillips specifically cited questions about the Alaska Power grant in her request, she said.

# CURRENT CONNECTION

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*March 1998*


## PENNSYLVANIA AND CALIFORNIA TAKE ACTION AGAINST CONSUMER SCHEMES

Pennsylvania Attorney General Mike Fisher (R) has filed a lawsuit against Provo, UT-based Nu Skin International for allegedly operating an "illegal pyramid scheme" to sell electricity and related services without the ability to provide them, according to the *Phildelphia Inquirer.*

In a classified ad in the *Philadelphia City Paper* last month, the company said would-be sales agents could make "big money" from electricity deregulation, which a recorded message falsely told callers was federally required by 2002. A spokesperson for Fisher added that Nu Skin has neither a license to sell power in Pennsylvania nor power-purchase agreements with any generators.

Nu Skin spokesperson Kamille Thorne said the company was not aware of any public complaints from the state and had not received prior notification of Fisher's concerns. But she said the company "is fully cooperating ... to resolve the issues at hand."

The attorney general's office began investigating Nu Skin's newest venture, Big Planet, after a Public Utility Commission attorney saw an Internet ad promoting the venture. Big Planet spokesperson Mark Calkins acknowledged the company had no contracts with electric suppliers and would not offer the service "in the immediate future."


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| House, Senate Leaders Remain Split on Priority for Deregulation in 1998 | P. 3 |
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| Price of Electricity Declines for Third Straight Year | P. 6 |
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| Talk Back to ECA | P. 7 |
| Electric Consumers' Bill of Rights | P. 8 |

Pyramid schemes are illegal because they only recruit new investors and do not sell any goods or services, causing those at the bottom of the pyramid to lose their investment "when the pool of potential recruits dries up," according to Fisher. Fisher warned consumers and investors to be wary of such "scams in [the] newly created competitive market" of electricity deregulation.

In separate cases, state and federal regulators have taken action against two power companies in California for alleged marketing fraud, according to the *Los Angeles Times*.

The California Public Utilities Commission revoked the registration of Harrisburg, Pennsylvania-based Boston-Finney Inc. and set a hearing to consider a fine of up to $97 million for making fraudulent claims and operating a pyramid scheme to sell electricity distributorships. California Attorney General **Dan Lungren** filed a lawsuit against the company last month for a scheme in which individuals were charged $295 each for the right to recruit other sales agents.

Meanwhile, the Federal Trade Commission filed suit against Valencia, California-based FutureNet, an Internet-service provider which recently branched out into electricity marketing. The charges also involve an alleged pyramid scheme. A federal judge in Los Angeles on February 23 issued an injunction against the company's sales activities, froze its assets, and appointed an FTC lawyer as a receiver.

State Senator **Steve Peace** (D), who coauthored the state's deregulation legislation, criticized the PUC for lax oversight. In response, the PUC has tightened the rules and is increasing its scrutiny of potential power marketers.

## EFFORTS OFF TO SLOW START

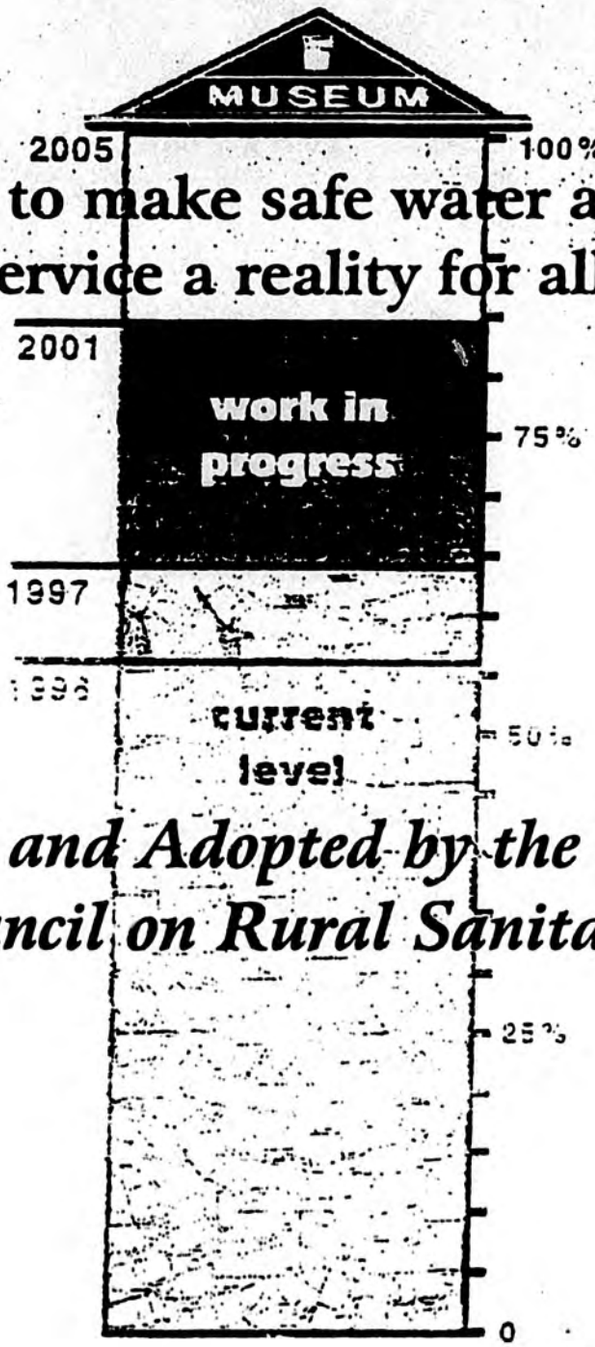
Despite "inundat[ing] homes and businesses with pitches for cheaper and more efficient power delivery," California officials have not been able to get consumers "excited" about electricity deregulation, the New York Times reports.

After a three-month delay due to computer problems, California's electric power market will be opened to competition on March, 31. But so far only 25,000 customers out of a possible 9.9 million have decided to switch providers.

**Mike Spilsbury**, Vice President of the Union Bank of California: "We see deregulation as destabilizing and potentially confusing. We have to get better educated before we get tied into a four-year deal."

From Alaska Public Interest Research Group,
September 15, 1998

# RURAL SANITATION 2005 ACTION PLAN




## A strategy to make safe water and hygienic sewage service a reality for all Alaskans

*Developed and Adopted by the Governor's Council on Rural Sanitation*

February 17, 1998

# RECOMMENDATION 1.

## Provide a minimum of $17 million (FY96 funding level) annually through the Power Cost Equalization program.

The Power Cost Equalization (PCE) program has been helping rural electric customers by keeping high electric charges down since 1985. The program is designed to bring the consumer price of electricity in rural Alaska down to a level close to the price prevailing in urban Alaska. Specifically, PCE pays a portion of the difference between the average cost of producing power in rural Alaska and the average cost in urban Alaska. But even with PCE, rural residents typically pay twice as much for electricity in comparison to urban Alaskans. PCE is not a welfare program. It is an EQUALIZATION program. It was developed by the legislature with the intent that an equal amount of funding be spent in rural Alaska as was spent in urban Alaska on dams and reducing energy costs.

Because water and sewer facilities are often large consumers of electricity, PCE is a critical link in making sanitation services affordable in rural Alaska. PCE funds approximately 50 percent of the electrical costs associated with water and sewer systems in rural communities. The loss or reduction of PCE would severely retard implementation of the Rural Sanitation 2005 Action Plan. Rural residents would not only be faced with higher electric bills but their water and sewer bills would also increase substantially. If this happens, many communities may not be able to afford existing sanitation services - let alone improved services. A 1995 study conducted by DEC found that without PCE, monthly fees for water and sewer in a rural community with piped systems would more than double from $47 to $97 per household per month. Nearly every water and sewer system is energy intensive - even watering points and washeterias.

Of all of the issues deliberated by the Governor's Council on Rural Sanitation, PCE received the greatest public attention. Residents from all over the State called in to provide testimony supporting continuation of the program and to let the Council know the dire impacts reduced PCE funding would have on community sanitation services and the general economy.

The Council strongly urges that a minimum of $17 million be made available through the PCE program annually. In 1993, the Legislature passed a bill expressing their intent on future funding of the PCE program. The Act states

From Alaska Public Interest Research Group,
September 15, 1998

Doc. E

# Universal Service in a Restructured Electric Industry

## Can we ensure that all consumers have access to affordable electric service?

By

**Carl K. Oshiro**

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Carl K. Oshiro is a public interest attorney in San Francisco. He was Staff Attorney and Director of Special Projects for the West Coast Regional Office of Consumers Union and Supervising Attorney for the Center for Public Interest law. In addition, he has served in state government as Legal Advisor to the president of the California Public Utilities Commission, as a public member on the Telecommunications Education Trust and as Administrative Law Judge in the California Department of Insurance.

Published by

**The Consumer Research Foundation**

Published by
The Consumer Research Foundation
Mill Valley, California
415·381·0825, fax 415·381·3712

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Design by Kit Croucher
SkyTree, Mill Valley, California
415·383·7157, fax 415·383·7773

# Universal Service in a Restructured Electric Industry


## ACKNOWLEDGEMENTS

The Consumer Research Foundation has been dedicated to research and education for the benefit of consumers since 1967. The Board of Directors in January 1997 voted to undertake the production of a White Paper to examine the impact of electric industry restructuring on affordable access to electric service.

CRF presented Edison Electric Institute with a proposal. They concurred and provided a grant to help carry out the project. From the outset, EEI agreed that Consumer Research Foundation would have complete independence in every aspect of the project and it has fully honored that commitment. We are grateful for their help in making this publication possible.

We are also sincerely grateful to the author, the six distinguished consumer and public interest experts who served on the Advisory Panel and to the many policymakers, advocates and thought leaders who contributed valuable information and enhanced the final result.

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**The members of the Advisory Panel contributed invaluably to the project by providing detailed guidance on the scope and content of the paper. However, the final report, its findings and recommendations are solely the responsibility of the author and the Consumer Research Foundation.**

## PREFACE

**"Energy is just like any other commodity; just like oxygen is any other gas."**
Hazel O'Leary, former Secretary, Department of Energy

Electricity, it can be said, illuminated the 20th century in the United States. At the beginning of the century electric lights supplanted the more familiar gas lights. Electricity supplanted steam as the motive power in much of manufacturing. Electricity made urban and suburban rail transportation possible, contributing decisively to the growth of our great cities. It has made Las Vegas a glittering oasis in the desert. It was welcomed as a boon into every household. By mid-century, through our democratic processes, we had decided as citizens that electricity is a necessity to be available to every household and business.

We achieved this entitlement by an assortment of strategies. New York State, for example, built with taxpayer dollars a large power producing facility, Mohawk, on the Niagara River. The Federal government built regionally-beneficial generating plants, e.g. Tennessee Valley and Bonneville. Some large cities created generating and distribution facilities to serve all their resident, e.g. Los Angeles.

In most cases, citizens authorized their government to grant long-term franchises for service to investor-owned companies, subject to oversight and regulation by the government. Congress completed the coverage by creating the Rural Electric Administration. With low-interest loans, consumer and community groups could create their own service cooperatively where investor-owned utilities had manifested no interest. With these strategies, and a few others to fill in the gaps, electricity is the most universally available of our several public utilities.

Now, with new technology making alternatives possible, and fueled by the ideology of deregulation, we are setting about to restructure the electric service industry. The large users of electricity have been the driving force in this public policy decision. They feel they will benefit by having the freedom to negotiate directly with a choice of providers.

The freedom of an unrestrained market is understandably appealing to the large users whose ability to negotiate with suppliers is keen. The ability of individual households and small businesses to negotiate with suppliers is far less. Our self-governing democratic society is confronted with the challenge of working through this dilemma.

For more than 200 years we have nurtured a market economy within the structure of our democratic society. Now the challenge is: Can we, through democratic processes, devise new marketplace institutions which will give large users and providers their desired freedom and assure all citizens the necessity of electric service at affordable prices?

**Helen Ewing Nelson**
President, Consumer Research Foundation

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# Universal Service in a Restructured Electric Industry

## SUMMARY

For most of this century, electric power has been supplied to consumers by monopoly utilities whose rates and services have been subject to government regulation. State and federal policymakers are now considering an enormous change in this arrangement.

Large industrial customers are urging policymakers to restructure the industry to allow consumers to buy power directly from suppliers other than the existing electric utility. In states with high electric prices such as California and those in the Northeast, industrial customers have threatened to move their plants to other states, reduce investment or cut jobs unless policymakers act to allow them to buy power from cheaper sources. Not surprisingly, those states have been the first to move towards restructuring. In addition, policymakers in almost every other state and at the federal level are examining the need to restructure the electric utility industry.[1]

In general, restructuring would allow customers to purchase electricity from any number of competitive suppliers, brokers, aggregators or marketers. The electric utility would continue to deliver the electricity (referred to as transmission and distribution) and provide other services such as billing and metering. Under some proposals, the utility would be allowed to sell electricity in competition with non-utility providers through a separate affiliate. Because of their large loads and economic power, industrial customers are well positioned to benefit from a competitive market for electric power.

Of course, restructuring will affect more than just large industrial customers. Electricity is an essential service for residential and small business customers. Millions of residential customers depend on electricity for winter heating, summer cooling and lighting and cooking throughout the year. For residential customers with little economic power (such as low income customers and those in rural areas), restructuring could mean few, if any, choices, higher rates and poorer service.

[1] A survey of state activity on electric restructuring reports that 49 states are either actively considering or implementing electric restructuring proposals in varying degrees. Thirty-three states have opened regulatory inquiries or investigations, 23 states have introduced legislation, 15 states have conducted regulatory hearings and 11 either have implemented or are implementing pilot programs. ***Electric Industry Restructuring Box Score***, National Regulatory Research Institute. June 18, 1997, at http://www.nrri.ohio-state.edu. Several bills have been introduced in Congress which would mandate that customers have the right to choose among competitive providers of electricity.

This paper is intended for policymakers who are considering whether, and, if so, how to restructure the electric utility industry. The question it seeks to answer is: **How can policymakers preserve and advance universal service in an increasingly competitive environment?**

Universal service is a well established principle in the electric utility industry. It means that every person who desires to take electric service and pays or agrees to pay the reasonable price for such service and abide by the reasonable rules has the opportunity to receive such service on a non-discriminatory basis. Since pricing services at unaffordable levels is the equivalent of denying service, universal service means access to **affordable service**. Universal service does not mean free service nor does it guarantee every person electric service.

**THIS PAPER ADDRESSES THE ISSUE IN THREE PARTS.**

**Part I** examines the context for change in the electric utility industry and why policymakers need to be concerned about universal service in a restructured environment. In particular, it describes how:

- changing technology, public policy and market forces are driving the debate over restructuring;
- consumers in low cost states could see higher electric prices after restructuring;
- competition tends to exclude, provide poor service, or raise prices for consumers who are less profitable or more expensive to serve;
- deregulation in other industries such as natural gas, telecommunications and transportation have benefited larger customers while smaller customers and those in rural areas have experienced higher prices and deterioration in service;
- market forces can negatively affect reliability and customer service and
- consumers in rural areas could see higher rates after restructuring.

**Part II** examines the measures that are now used to promote universal service and why policymakers can no longer rely on those measures in a restructured electric industry. These measures include:

- the legal obligation of utilities to serve all customers,
- rules regarding customer deposits, denial of service and service shut-offs,
- support for high cost areas,
- federal assistance for low income consumers,
- lifeline rates, discounts, weatherization and other utility-based assistance for low income consumers, and
- fuel funds that provide private assistance to consumers.

**Part III** describes the actions that policymakers must take to promote universal service in a restructured industry. First, it describes how policymakers should adapt existing universal service mechanisms to competitive conditions. Second, it describes new measures policymakers should implement to promote increased choices, lower prices and improved service to all consumers in a restructured environment. These measures include packaging universal services to better meet the needs of low income consumers, leveraging the purchasing power of public entities, creating statewide purchasing groups to increase the economic power of small consumers and preventing excessive concentrations of market power.

This paper focuses on investor-owned utilities (IOUs). IOUs account for more than 75 percent of both utility sales to ultimate customers and total utility generation. It does not examine in any detail issues relating to publicly owned or cooperatively owned utilities, although restructuring obviously will have important universal service implications for customers served by these utilities as well. Nor does this paper examine issues relating to stranded costs, which have been the subject of numerous papers and articles. Of course, how those contentious issues are resolved will affect the cost and affordability of electric services for residential and small business consumers.

## RECOMMENDATIONS

### Adapting Existing Universal Service Mechanisms and Assistance

1. Policymakers should expressly declare that all consumers must have access to affordable electric service in a restructured industry.
2. Electric utilities must have an obligation to connect all customers in their service areas to electric service providers of the customer's choosing.
3. Both utility and non-utility electric service providers must be under an obligation to participate in providing service to residual customers.
4. Rules regarding customer deposits and denial of service must apply to both electric utilities and electric service providers.
5. Policymakers must ensure that electric utilities and electric service providers follow a standard set of rules that protect consumers against arbitrary or life threatening shut-off of electric service.
6. Policymakers must ensure that bill-related assistance is available to low income consumers.
7. Policymakers must ensure that consumers have sufficient information to make wise decisions in a competitive market.
8. Policymakers must ensure there is no deterioration in reliability or customer service.
9. Policymakers must provide sufficient funding for universal service.
10. Policymakers must ensure that regulatory agencies have sufficient resources to educate consumers, handle consumer complaints and protect consumers against abusive practices.

### Making Markets Work for All Consumers

1. Policymakers should encourage the development of experimental universal service packages which combine banking, telephone, electric, gas, water and other services in innovative ways that make these services more available, affordable and convenient for low income consumers.
2. Policymakers should leverage the state's purchasing power to make competition work for low income consumers.
3. Policymakers should experiment with statewide purchasing groups to increase the purchasing power of residential consumers.
4. Regulatory agencies must monitor concentration levels and other factors affecting competition in electric markets on a continuing basis and prevent excessive market power on the part of utilities or non-utility providers.

# Part One:
# The Context for Change

# Part One: The Context for Change

## A. BACKGROUND

The current public policy debate over restructuring is driven by three related changes in the electric power industry.

### 1. Technological change

In the past, large, central power stations were the most efficient methods for generating electricity. However, new technology has made smaller generating units competitive and, in some instances such as gas-fired turbines, a more efficient source of power. As a result, economies of scale are no longer controlling and some consumers are able to obtain power more cheaply from smaller independent sources. Technological advancements also allow for greater diversity in linking generating units to the transmission and distribution system with minimum line loss.

### 2. Changes in public policy

In addition to technological changes, two legislative actions furthered the movement towards a more competitive market in the electric industry. In 1978, Congress enacted the Public Utilities Regulatory Policies Act (PURPA) to increase the use of new technologies (especially renewable energy sources and cogeneration) by requiring major electric utilities to buy power from "Qualifying Facilities" using these technologies. PURPA led to dramatic growth in non-utility power generation particularly where regulators sought to encourage alternative energy by requiring utilities to enter into standard purchasing contracts.

In 1992, Congress passed the Energy Policy Act (EPAct). Pursuant to that legislation, the Federal Energy Regulatory Commission (FERC) adopted new rules requiring open access to utility transmission lines. Built originally to move power generated by **utility** power stations, the transmission lines were now available to move power generated by **non-utility** facilities to wholesale buyers across the country on a non-discriminatory basis.

## 3. Market forces

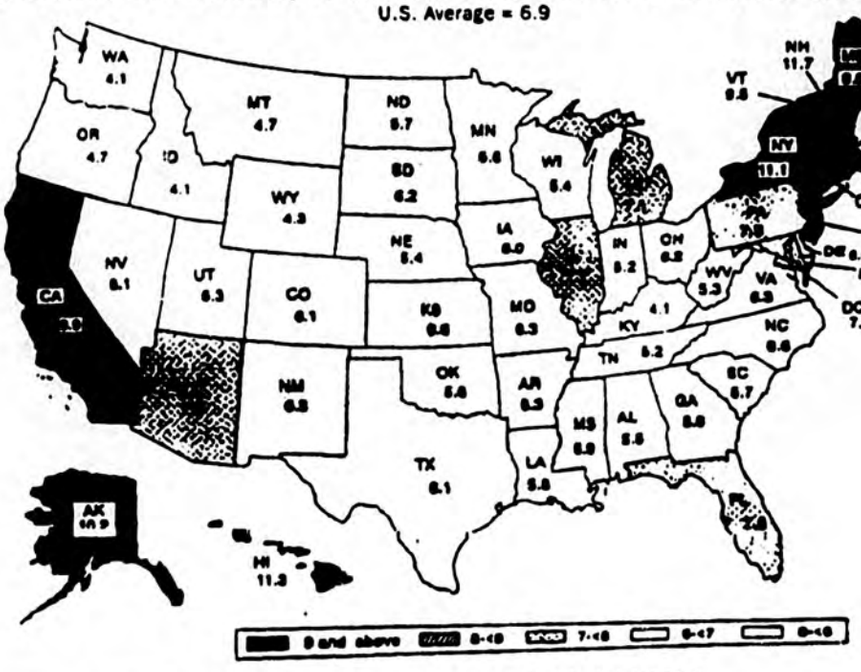
Even though electricity is a homogenous product, there are large differences in th prices currently charged to U.S. consumers.

Many factors have contributed to these price differences including differing levels investment in expensive nuclear power plants, commitments under long-term cor tracts with independent power producers qualifying under PURPA and access t lower cost sources such as hydroelectric power.

Because of these price differences, in some states, the price of electricity charged r utility consumers greatly exceeds the cost to generate and deliver electricity fro either new power plants or other low cost power sources in other parts of th country. In states with relatively high electricity prices, these cost differentials a strong incentives for large industrial customers to seek legislative and/or regulato changes that allow them to access cheaper power supplies. As a result, "Industr customers have been the most active and the best organized in promoting the kin of retail choice models that are emerging."[1]

**Average Revenue from Electricity Sales to All Retail Consumers, 1995 (cents per kilowatho**

U.S. Average = 6.9




Source: U.S. Department of Energy, Energy Information Administration

[1] Comments of Paul L. Joskow to Matthew W. White, "Power Struggles: Explaining Deregulat Reforms in Electricity Markets," ***Brookings Papers: Microeconomics***, 1996, 255.

## B. Policymakers must give special attention to Universal Service.

Restructuring the electric utility industry from a regulated, monopoly system to one driven by competitive market forces is a fundamental change that should benefit **all** electric customers. While industrial customers in high cost states are likely to be better off after restructuring, many residential customers (especially low income customers and those in high cost areas) could be worse off unless policymakers give special attention to universal service. There are a number of reasons why policymakers need to be concerned about universal service.

### 1. Low cost states could see higher rates after restructuring.

The supply of low cost power is not unlimited. Consequently, unless offset by substantial gains in efficiency, consumers who now benefit from low cost power will see higher rates if, after restructuring, that power is delivered to industrial customers in other states. Recently, the U.S. Energy Information Administration reported that consumers in Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming "may experience price increases under competition because they have an abundance of generating capacity with low operating costs."[1] Higher rates would exacerbate the affordability of electric service in what were formerly low-cost states.

### 2. Competitive markets tend to exclude, provide poor service and raise prices to consumers who have the least ability to pay.

Competitive markets are remarkable mechanisms. They can offer consumers broad choices in products and service, lower prices and greater efficiency. However, competitive markets do not serve all customers well. Markets allocate goods and services based on a consumer's ability to pay and tend to increase prices and provide poorer service to consumers who have little economic power.

For low income consumers, the operation of market forces has consistently resulted in a lack of choices, higher prices and poorer products and services. Examining the availability of basic services in neighborhoods in Los Angeles and Oakland, Consumers Union found:

- As with most elements of the consumer infrastructure in low income neighborhoods, food shoppers face enormous problems of unavailability, inconvenience, high prices and poor quality.

[1] ***Electricity Prices in a Competitive Environment: Marginal Cost Pricing of Generation Services and Financial Status of Electric Utilities***, U.S. Department of Energy, Energy Information Administration, August 1997, p. 46.

- The first housing problem low income consumers face is the sheer lack low income housing. . . . The second problem for low income renters is relative affordability, that is, rent as a percentage of gross income. . . . The third problem low income renters face is poor housing conditions, including state of repair, habitability, and crime.
- Because there are few or no conventional banking institutions in low income neighborhoods, residents must either travel great distances to reach a branch in a more affluent neighborhood, or patronize a nearby, more expensive, check casher. In either case, low income banking consumers pay higher fees and suffer greater inconvenience than middl income people.[1]

Other studies have documented how low income consumers are not well serve the markets for health care and health insurance,[2] automobile insurance[3] and b ing and credit services.[4] The same economic forces that produce a lack of cho higher prices and poorer service in these markets will be at work in a restruct electric industry.

Low income consumers face several obstacles to benefiting from a restructured tric utility industry. First, low income households use less electricity than the ave household.[5] Second, since most of their usage is for lighting, heating and coo

[1] David Troutt, ***The Thin Red Line: How the Poor Still Pay More***, Consumers Union, Wes Coast Regional Office, 1993, at pp. 8-9.

[2] See for example Nancy E. Adler, et al., "Socioeconomic Inequalities in Health: No Easy Solutions," 269 ***J.Am.Med.Assn.*** 3140 (1993), Helen R. Burstin, et al., "Socioeconomic Status Risk for Substandard Medical Care," 268 ***J.Am.Med.Assn.*** 2383 (1992) Randall R. Bovbjerg an William G. Kopit, "Coverage and Care for the Medically Indigent: Public and Private Options 19 Ind.L.Rev. 857 (1986). Eli Ginzeberg, ***Parallels, Differences and Prospects in Changin U.S. Health Care: A Study of Four Metropolitan Areas***, Westview Press: Boulder, CO (19 (finding a ten-fold or greater differential in the proportion of physicians to population betwe more affluent areas and low-income minority neighborhoods.)

[3] Jay D. Schultz, "An Analysis of Agent Location and Homeowners Insurance Availability, ***Journal of Insurance Regulation***," Fall 1995, pp. 65-89 (based on correlation and regressi analysis finds that placement of insurance agents and agencies is correlated with racial composition and income); Gary Williams, "The Wrong Side of the Tracks": Territorial Rating the Setting of Automobile Liability Insurance Rates in California," 19 ***Hastings Const. LQ***. 8 (1992).

[4] See for example, "Two-Tiered Banking System Found: Report on Check-Cashing Industry S Inequities, Authors Say," ***Milwaukee Journal Sentinel***, April 18, 1997, p. 1. ("A new report Milwaukee's check-cashing industry says that despite a recent increase in bank activity in the central city, a 'two-tiered banking system' has been created with one set of institutions for th poor and another for the middle class."

[5] Low income households use 20 percent less energy for all residential purposes than do no income households. On average, low income households consume about 15 percent less for space heating, about 23 percent less for appliances, and about 8 percent less for water heati than the average for non low income households. ***Low Income Home Energy Assistance Program: Report to Congress for Fiscal Year 1994***, U.S. Department of Health and Hun Services, Office of Community Services, March 1996, p. 17 and v.

low income households have limited ability to shift their usage to off-peak periods when electric rates are cheaper. Third, low income consumers can be more costly to serve because of more intensive use of customer services and higher collection and uncollectable expenses. Unless specific measures are adopted to overcome these obstacles, market forces will drive competitors in the electric industry to either (a) avoid low income consumers altogether or (b) provider poorer service to low income consumers at higher prices.

Some have suggested that restructuring will benefit low income consumers because electric service providers will aggregate their small, individual loads. Aggregation alone is not the answer to universal service. Aggregation does not change the fact that low income households have little ability to shift their usage to off-peak periods and that low income consumers can be more costly to serve.

Also, there are a number of important questions that still need to be answered about aggregation. For example, to what extent can we depend on the marketplace alone to spawn entrepreneurial aggregators to serve the full spectrum of consumers? Who will aggregate low income consumers? (Local governments, non-profit organizations already serving those consumers, member-owned cooperatives, or private, for-profit electric service providers?) What sort of rules will apply to aggregation? (Will consumers have to voluntarily sign up with an aggregator? If not, can they opt out? How long will consumers be committed to stay with an aggregator? What if the aggregator's power contracts turn out to be bad deals for consumers?)

## 3. Deregulation does not benefit all consumers.

Policymakers should not be reassured by the results of deregulation in other industries. Studies that focus on the overall benefits of deregulation mask the fact that these benefits are often unevenly distributed among customer groups. In general, larger customers (e.g., industrial customers, large businesses, major cities) have been the winners after deregulation, while smaller customers and those in rural areas have experienced higher prices and deterioration in service. In addition, in deregulated industries, often, there is an initial period of new entry and intense competition, followed by consolidation and oligopoly-like concentrations of market power. These developments have raised concerns about whether consumers benefit from competition in deregulated markets on an ongoing basis.

### a. Natural Gas

Beginning with the Natural Gas Policy Act in 1978 and followed by the Natural Gas Wellhead Decontrol Act in 1993, Congress deregulated price controls on natural gas. In addition, through successive orders, the Federal Energy Regulatory Commission began the unbundling process by separating the marketing function from the transmission function in gas pipeline sales to wholesale customers.

Following deregulation and unbundling, prices have diverged widely across customer groups. A recent study found that "The nominal price of wellhead gas declined by 27 percent over the period of 1985 to 1994. Over the same period, prices to industrial customers declined by almost 23 percent, prices to electric utilities declined by almost 26 percent; in comparison, prices to commercial customers decreased by a little over 1 percent, while **residential prices actually increased** by almost 5 percent."[1]

Recently, mergers among natural gas marketers have raised concerns among smaller wholesale customers. In comments to the FERC, these customers have stated:

> Mergers will likely lead to a decidedly less competitive supply industry than that which exists today. This is not mere speculation: the top ten marketers in 1994 accounted for 31 Bcf in average national daily sales, or about 42% of U.S. consumption. Following a series of proposed and completed mergers, this same percentage of sales would be provided by the four largest marketers. Smaller marketers will find themselves 'under increasing economic pressure as margins they earn from buying and selling gas become squeezed by the entry of large firms into the market.' If only a few dominant players control the price of supplies, and the terms and conditions under which they will be sold, the competitive supply market will cease to exist. The Commission will then be faced with the unenviable task of dealing with an oligopoly of unregulated suppliers.[2]

## b. Telecommunications

Similarly, while increased competition in telecommunications markets has clea benefited large business consumers, fewer benefits have flowed to residential cc sumers, especially low income consumers. Low income consumers still lag far b hind the rest of the population in basic telephone service. While overall 94 perc of households have telephone service, only 79.8 percent of low income househo in urban areas and 81.6 percent of low income households in rural areas have te phone service.[3] One study found that more than 40 percent of the households

[1] ***Deregulation-Restructuring: Evidence for Individual Industries***, National Regulatory Research Institute, May 1997, p. 7 (emphasis added).

[2] Remarks of Thomas C. Gorak on Behalf of the Northern Municipal Distributors Group and t Midwest Region Gas Task Force Association, FERC Docket No. PL971-000, May 29, 1997, p.4.

[3] ***Falling Through the Net: A Survey of the 'Have Nots' in Rural and Urban America***, U Department of Commerce, July 1995.

some census blocks in Camden, New Jersey are without telephone service.[1] Low income consumers are also at risk of being bypassed in the marketing of advanced telecommunications services.

Here too, there are concerns about high concentration levels and lack of competition. In long distance services, for example, the Federal Communications Commission and others have expressed concerns about evidence with regard to lock-step increases in basic rates among the three major carriers that suggests there may be tacit price coordination among AT&T, MCI and Sprint.[2]

### c. Airlines

In 1978, Congress enacted the Airline Deregulation Act, which phased out the federal government's control over airfares and service relying instead on competitive market forces to decide the price, quantity and quality of domestic air service. Recently, the General Accounting Office (GAO) found that while many communities particularly in the West and Southwest enjoyed lower fares and more flights, communities in the Southeast and Appalachia saw significant increases in fares. Smaller and medium sized communities in the East and upper Midwest saw a decline in the quantity and quality of service.[3]

GAO attributes these results to two causes. First, new low-fare airlines such as America West and Southwest Airlines avoid small and medium sized airports in the East and upper Midwest because of slower economic growth, harsher weather and airport congestion in those regions. Second, the routes to and from the communities not benefiting from competition are dominated by one or two established airlines.[4]

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1 See ***The Eligible Telecommunications Carrier: A Strategy for Expanding Universal Service***, National Regulatory Research Institute, October 1996, p. 72 at fn. 50 citing Mueller and Schement, "Universal Service from the Bottom Up: A Profile of Telecommunications Access in Camden, New Jersey."

2 Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrrier, 11 FCC Rcd 3271, 3314 (1995) and Paul W. MacAvoy, ***The Failure of Antitrust and Regulation to Establish Competition in Long Distance Telephone Services***, MIT Press and AEI Press: 1996.

3 ***Airline Deregulation: Addressing the Air Service Problems of Some Communities***, Testimony Before the Subcommittee on Aviation, Committee on Transportation and Infrastructure, House of Representatives, General Accounting Office, June 25, 1997, pp. 4-5.

4 Id. The GAO found that within 10 years of deregulation of inter-city bus service, the number of rural locations receiving regular route inter-city bus services had shrunk by more than 50 percent. ***Surface Transportation: Availability of Intercity Bus Service***, General Accounting Office, 1992, pp. 2, 29. GAO further found that low income consumers were disproportionately affected by the loss of service. Id. at p. 30.

## 4. Consumers in rural areas could also see higher rates.

In the mid-1930s, many homes, farms and ranches in rural areas were without electric service because it was too expensive for investor-owned utilities in cities to extend service into remote areas. In 1936, Congress enacted the Rural Electrification Act, which encouraged rural electric service by providing low interest loans and preferences to low cost power from federal facilities to customer-owned rural electric cooperatives (RECs). Currently, there are 939 RECs in 46 states serving approximately 30 million customers.[1]

RECs are concerned that in a more competitive environment, they could lose important industrial customers which, in turn, would result in substantially higher rates for the remaining residential customers.[2] In addition, RECs that currently depend on low cost federal power could see higher costs if these sources were lost to other customers. Higher rates would jeopardize access to affordable electric service in rural communities.

## 5. Restructuring could affect reliability and customer service.

Moving from a regulated, monopoly system to a market-driven competitive system could adversely affect current levels of reliability and customer service. Regarding reliability, the Energy Information Administration states:

> Potential changes in market behavior contribute to reliability concerns. Take, for example, the price differential between the Northwest and Southwest, which is capable of triggering huge shifts in energy that cannot be supported by the existing transmission system. It is pointed out that in the past utilities operated transmission and generation capacity according to preventive operating procedures to guard against system disturbances, including running sufficient generating capacity to provide operating reserves in excess of demand and limiting power transfers on the system to be able to handle a single contingency. Today, much of that excess is being sold on the market. As a result, the system is being taxed to the maximum in an effort to make profits.[3]

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[1] ***The Changing Structure of the Electric Power Industry: An Update***, U.S. Department of Energy, Energy Information Administration, December 1996, p. 96.

[2] Electric Utility Restructuring: The Perspective of Rural Electric Cooperatives, Remarks of the National Rural Electric Cooperative Association before the Science, Energy, and Environmental Resources Committee of the National Conference of State Legislators, December 12, 1996, p. 2.

[3] ***The Changing Structure of the Electric Power Industry: An Update***, p. 66.

Also, electric utilities may feel compelled to streamline their operations and reduce staff to improve their competitive position.[1] If poorly implemented, downsizing can seriously affect customer service. In telecommunications, for example, in 1995, US West, under similar competitive pressures, announced plans to reduce its workforce by 9,000 employees and consolidate 560 customer service centers in its 14-state region to 26 centers in 10 major cities.[2] Following this "re-engineering," customer service disintegrated to the point where state regulators were inundated with thousands of consumer complaints. Regulators in Colorado, Washington, Oregon, New Mexico, Arizona, Montana and Minnesota required that US West pay millions of dollars in fines, penalties and reparations for poor service.[3] Nor is the problem of deteriorating customer service limited to US West. In 1996, the New York State Public Service Commission ordered NYNEX to pay $4.1 million in rebates for poor customer service following the change to price cap regulation.[4] In 1997, the NYPSC ordered NYNEX to rebate an additional $22.6 million for its continuing failure to meet service standards.[5]

Cutbacks in customer service have a direct impact on universal service. Closing payment centers, reducing the number of customer service personnel, more stringent collection policies, ceasing to arrange payment plans to meet individual household budgets, accelerated shut-offs, and tightening requirements for reconnection restrict access to affordable electric service.

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[1] The Energy Information Administration states that "Many IOUs have significantly reduced their workforce and lowered their payroll expenses through attrition, early retirement and voluntary and involuntary severance. From 1986 to 1995, employment at major IOUs decreased by about 20 percent, a reduction of more than 100,000 employees. . . . In an increasingly competitive industry, staff reductions and downsizing are likely to continue. Many utilities have announced plans to revamp their organizational structure, streamline operations, and reduce staff." ***The Changing Structure of the Electric Power Industry: An Update***, p. 86.

[2] "US West Unit Laying Off 450: Cutbacks Latest in Restructuring," ***The Denver Post***, January 19, 1995, p. C-1.

[3] "US West Improves Service in Colorado But Other States Still Irked With Phone Firm", ***The Denver Post***, May 28, 1997, p. C-1. (The ***Post*** states that US West's failure to meet performance standards in its 14-state service territory has "cost it more than $29 million since 1995.")

[4] "NYNEX Fined $4.1 million for a Year of Poor Service", ***The New York Times***, August 23, 1996, p. B-2.

[5] "New York OSC Orders NYNEX to Pay $109.8 Million in Rebates", ***Communications Today***, February 13, 1997.

# Part Two:
# Existing Universal Service Mechanisms

# Part Two: Existing Universal Service Mechanisms

Until now, the goal of universal service has been promoted through legal doctrines, federal programs, state regulations, utility-based programs and private actions. Present universal service measures were developed under the monopoly system where a single utility was responsible for the generation, transmission and distribution of power for all customers in its service territory.

## A. THE OBLIGATION TO SERVE ALL CUSTOMERS

Historically, all public utilities including electric utilities have been under a legal obligation to serve all customers in their service area without unreasonable discrimination in rates and service. Derived from English common law, this obligation has been incorporated into many state utility statutes. One commentator has described this duty as follows:

> Within a market (service) area, and within the limit of its capacity (ability to serve), a public utility must be prepared to serve any customer who is willing and able to pay for the service. At times, this requirement means that a business must provide capital investment in rural areas where it is not profitable to do so or must maintain an unprofitable type of service. The price of service in such cases may not be based on cost but often is subsidized by other services offered by the company.[1]

This legal obligation to serve has assured all customers access to electric service. Until now, the electric utility's obligation to serve has extended to all of its bundled services: generation, transmission and distribution.

Policymakers will need to redefine the obligation to serve in light of retail competition. All restructuring proposals call for unbundling generation from transmission and distribution. Under some proposals, the existing utility would perform only transmission and distribution functions and customers would buy all of their power from non-utility electric service providers. Under other proposals, the existing utility would perform transmission and distribution functions and establish a separate affiliate to generate and sell power.

[1] Charles F. Phillips, Jr., ***The Regulation of Public Utilities***, Public Utility Reports, 1993, p. 118.

Under any of these scenarios, policymakers will need to address the following issues:

- Will electric utilities continue to have an obligation to serve all customers? If so, does this obligation extend to generation as well as transmission and distribution?
- Will non-utility electric service providers have an obligation to serve all customers or will their obligation be limited only to those customers with whom they have contracted?

The obligation to serve focuses on **access** to electric service and not its **affordability**. Recognizing that access to an unaffordable service is meaningless, policymakers have adopted additional measures to make service more affordable to all customers.

## B. LOWERING BARRIERS TO SERVICE

Another mechanism to promote universal service is lowering the barriers to obtain service. To this end, states have adopted rules regarding the circumstances under which regulated electric utilities may deny service to customers. For example, under monopoly regulation, a utility is allowed to collect customer deposits only pursuant to written rules and for reasonable amounts. The utility is required to pay interest on customer deposits and apply deposit rules in a nondiscriminatory manner.[1] Some states totally prohibit electric utilities from collecting customer deposits. Electric utilities also are prohibited from refusing service for debts owed on unrelated contracts (so called "collateral matters") such as for services provided by a separate business run by the utility. In developing rules for a restructured electric industry, policymakers will need to address issues such as:

- Should electric utilities continue to be subject to existing rules regarding customer deposits? If so, should these rules apply to deposits for competitive generating services as well as monopoly transmission and distribution services?
- Should non-utility electric service providers be subject to the same customer deposit rules as utilities?
- Should utility and non-utility service providers be able to refuse to serve customers because of collateral matters?

[1] See ***Access to Utility Services***, National Consumer Law Center, 1996, p. 81-89.

## C. SHUT-OFF SAFEGUARDS

Because of the potentially life-threatening consequences of a shut-off of electric service, state regulators have adopted a number of procedural and substantive protections for customers.[1] These protections include:

- prior notice to the customer (found in 39 states[2]) and, in some instances, to third parties (e.g., relatives, social service agencies);
- prohibition against winter shut-offs (31 states[3]);
- prohibitions against shut-offs during periods of high temperatures (16 states[4]);
- requiring Commission approval before shut-off (8 states[5]); and
- requiring utilities to offer a payment plan in lieu of shut-off (32 states[6]).

States also prohibit shut-off of electric service for disputed bills or for "collateral matters" and restrict the right of utilities to terminate service for undercharges in billing.[7] Policymakers will have to decide the extent to which these protections will remain in place after restructuring. In particular, they will need to address issues such as:

- Will non-utility electric service providers have the right to terminate service to customers during periods of extreme weather, for disputed bills, for collateral matters or with little or no notice?
- Does the right of a non-utility service provider to terminate service extend to ordering the utility to shut-off power to the customer?
- Will electric utilities be obligated to serve all customers terminated by non-utility providers? If so, under what terms and conditions?
- Will electric utilities continue to be required to provide service during extreme weather conditions, give notice to third parties and social service agencies, offer payment plans and alternatives and take other mitigating measures?

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1 For a state-by-state survey of these rules see ***Alternatives to Utility Service Disconnection***, National Regulatory Research Institute, May 1995, pp. 11-25.

2 Id. at p. 13.

3 Id. at pp. 13-16.

4 Id. at pp. 18-20.

5 Id. at pp. 20-22.

6 Id. at p. 27.

7 Access to Utility Service at pp. 125-140.

## D. RURAL ELECTRIC CUSTOMERS

As discussed above, if poorly implemented, restructuring could result in rural electr cooperatives losing large industrial customers and low cost power source Policymakers will need to ensure that electric service for residential customers these high cost areas is affordable in a competitive electric utility environment.

## E. AVERAGED RATES

For investor-owned utilities, averaged rates ensure that small customers in high cost areas are charged the same rates as similar customers in lower cost areas. Ave aged rates are possible only under government regulated monopoly conditions. I driving rates to cost, market forces will raise prices for some customers and low them for others.

Retail competition will mean that policymakers cannot rely on rate averaging for t generation portion of the customer bill. While transmission and distribution are s considered to be natural monopoly functions, further unbundling could make broa averaged rates for transmission and distribution impossible as well. Rates would lower for some customers, but would rise for others such as those in rural areas customers with higher levels of late or non-payment.

Unbundling of distribution functions (metering, billing, etc.) raises other issues well. How will unbundled services be offered to competitors? Will regulators requ electric utilities to sell unbundled services to non-utility service providers at a c count as required of incumbent local exchange carriers in telecommunications? W utilities and non-utility energy service providers be allowed to rebundle services target specific consumers markets? Should utilities and/or non-utility energy serv providers have the obligation to provide access to rebundled services to low inco and other consumers "marginalized" by the marketplace? Will adequate consur protection measures be in place to prevent unfair and deceptive marketing practic

## F. FEDERAL ASSISTANCE FOR LOW INCOME CONSUMERS

### 1. Low Income Home Energy Assistance Program

The Federal Low Income Home Energy Assistance Program (LIHEAP) was created 1981 to help low income households pay their fuel and utility bills. LIHEAP is a blo grant program where funding is allocated by the U.S. Department of Health a Human Services and administered by the states with each state having substan flexibility in directing program funds. States are allowed to use LIHEAP funds heating assistance, cooling assistance, energy crisis assistance, residential weath

ization and other energy-related home repair. Appropriated funding for LIHEAP has been declining from a high of $2.1 billion in 1985 to $1.3 billion in 1996 and there have been repeated efforts to terminate the program entirely.

### 2. Weatherization Assistance Program

Enacted in 1976, the Weatherization Assistance Program (WAP) provides federal funding for weatherization of housing owned or rented by low income households. WAP is administered by the states which contract with community action agencies, non-profit organizations and other local providers. In 1997, the program was funded for $120.8 million. WAP funds are often used in combination with funds from other programs (e.g., state or local programs, housing programs, utility-funded programs).

While providing critical assistance to many low income consumers, LIHEAP and WAP are far from meeting existing needs. LIHEAP covers only heating and cooling needs; cooking, lighting, etc. are not covered by the program.[1] In addition, only 21 percent of qualifying households receive assistance from LIHEAP.[2] Similarly, WAP does not serve many low income households, especially those with very low incomes. One reason is that landlords must agree to participate, if tenants are to benefit.

To the extent that restructuring results in higher rates, poorer service or abandonment of current universal service mechanisms for low income consumers, there will be even greater pressure on LIHEAP, WAP and other forms of energy assistance.

## G. UTILITY-BASED ASSISTANCE

At the direction of state regulators, utilities have adopted a number of methods of providing assistance to low income consumers. These include:

- lifeline rates that provide for a basic block of service at a lower rate (found in 7 states[3]),
- straight percentage discounts that reduce a customer's bill by a specified percentage (4 states[4]),

1 Space heating and cooling represent only about 42 percent of residential energy expenditures. FY 1995 Home Energy Data, U.S. Department of Health and Human Services, Division of Energy Assistance, <http://www.acf.dhhs.gov/programs/liheap/notebook.htm>.

2 Id. at p. 30.

3 ***Alternatives to Utility Service Disconnection*** at pp. 40-42.

4 Roger Colton, "Models of Low-Income Utility Rates," Fisher, Sheehan & Colton, June 1995, p. 2.

- percentage of income payment plans where the customer pays a pre-determined "affordable" percentage of his or her monthly income towards the energy bill (7 states[1]),
- budget billing which allows customers to spread payments evenly over the year so that higher seasonal heating or cooling do not disrupt household budgets (34 states[2]),
- deferred billing which allows customers with temporary payment problems to pay over time or at a later date (35 states[3]),
- arrearage forgiveness which forgives all or part of past bills (2 states[4]),
- financial assistance for installation of weatherization, conservation and other measures to reduce energy usage (e.g., 17 states have established weatherization programs for electric utilities[5]),
- information and education to enable customers to reduce their electric usage and thereby make electric service more affordable (approximately 24 states[6]), and
- budget counseling where utilities help customers budget for their utility and other costs (13 states[7]).

Many of these measures are used in combination. For example, since many low income customers have large outstanding bills, some form of arrearage forgiveness is often used in conjunction with regular and timely payment of current bills. While this type of program provides a strong incentive for customers with large unpaid bills to make regular monthly payments and assists customers with temporary financial problems, it does not address the issue of ongoing affordability, thus requiring other measures such as discount programs or financial assistance for installation of weatherization and conservation measures. Generally, utility-based assistance is funded by all utility customers.

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[1] ***Alternatives to Utility Service Disconnection*** at pp. 30-34.

[2] Id. at pp. 34-36.

[3] Id. at. pp. 36-38.

[4] Id. at pp. 38-40.

[5] Id. at p. 45.

[6] "Low Income Energy Client Education and Case Management: LIHEAP, WAP, and Utility Programs, 1994," LIHEAP Clearinghouse, October 1994, p. 4.

[7] ***Alternatives to Utility Service Disconnection*** at p. 50.

If these programs are to continue to exist after restructuring, policymakers will have to address questions such as:

- Should electric utilities be required to continue to maintain lifeline rates, discounts, budget billing, arrearage forgiveness, consumer education, budget counseling and other measures that help keep electric bills affordable to low income customers and avoid shut-offs?
- Should electric utilities continue to provide financial assistance for weatherization and conservation measures?
- Should non-utility electric service providers have any obligation to provide these types of measures?
- Who should pay for the cost of providing these services?

## H. FUEL FUNDS

Utility customers, employees and shareholders also provide assistance for low income consumers by making private financial contributions to fuel funds administered by local nonprofit agencies. There are approximately 286 fuel funds operating in 47 states and the District of Columbia. In 1993, fuel funds received $72 million in contributions for energy-related assistance.[1]

Fuel funds are usually designed as funds of last resort. More than 55 percent require a termination notice to get assistance. Some target senior citizens, some households with children; others focus on responding to a crisis such as unemployment or a medical emergency. Most fuel funds offer a flat grant to restore service or prevent termination up to a particular grant ceiling (81 percent have a grant ceiling of $300 or less). If the fuel fund grant is not enough to restore service, the client may need to seek funds from other sources, such as churches, relatives and friends. In some cases, customer co-payment is required or encouraged.[2]

Currently, utilities play a critical role in many fuel funds:

> Most fuel funds involve a working relationship between one or more utilities and one or more social service or charitable organizations. The utility partner is responsible for raising private donations for the fund through ratepayer and corporate contributions, and the social services partner administers the fund to provide energy assistance to low-income households. In many cases, utilities match customer contributions at least dollar for dollar.[3]

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[1] ***1994 Survey of Fuel Funds in the United States: Final Report***, National Fuel Funds Network, July 1994, p. 1.

[2] ***Meeting Basic Energy Needs: Public Policy Summit, "The Detroit Summit Report"***, National Fuel Funds Network, December 1996, pp. 29-30.

[3] ***Fuel Funds***, LIHEAP Clearinghouse, November 1995, p. 1.

Of 266 utilities responding to a National Fuel Funds Network survey, 159 made direct contributions to fuel funds and 214 allowed fuel funds to solicit customer contributions through the utility bill. Of the $72 million raised by fuel funds in 1993, $26 million came from utility customers and employees and another $19 million was contributed by utilities in the form of matching funds, utility corporate contributions or utility foundation grants. Bill-based solicitation is the most common method of fund raising for fuel funds and the single largest source of funds.[1]

Like other energy assistance programs, fuel funds fall far short of meeting existing needs. Many communities do not have a fuel fund and even where fuel funds exist, many do not have enough funds to meet local needs.[2]

Restructuring could affect fuel funds in several ways. First, by placing additional financial pressure on utilities, restructuring could result in lower direct contributions to fuel funds from utilities.[3] Second, financial pressures could also make it more difficult for utilities to make indirect (but nonetheless valuable) contributions to local fuel fund efforts. These contributions include assistance in implementing voluntary customer check-off programs to raise additional crisis assistance funds. Finally, for many fuel funds, the utility's billing process is the single most important method of soliciting voluntary contributions from customers. To the extent that non-utility electric service providers (rather than the utility) send customers a consolidated bill for generation, transmission and distribution services, this mechanism's effectiveness might be diminished.

Policymakers cannot assume that existing measures will promote universal service. Many of these measures (such as averaged rates, billing plans, shut-off protections and weatherization measures) were premised on regulated, monopoly utility service. Other measures (such as LIHEAP and fuel funds) will face even larger demands if restructuring results in higher rates or reduced levels of assistance for low income consumers.

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[1] ***1994 Survey of Fuel Funds in the United States*** at p. 16.

[2] The National Fuel Funds Network estimates that at least 18.7 million households (20 percent of all U.S. households) do not have access to a fuel fund. In 1993, 58 fuel funds (which together serve 16 percent of the total fund recipient households) stated that they stopped taking applications in 1993 because of a lack of funds. Id at p. 42.

[3] The National Fuel Funds Network reports that utility contributions to fuel funds are declining already. See ***Meeting Basic Energy Needs: Public Policy Summit, "The Detroit Summit" Report*** at p. 2 ("The 1993 NFFN Fuel Funds Survey found that utility contributions to fuel funds had decreased by 16% since 1991.") and ***1994 Survey of Fuel Funds in the United States*** at p. 16 ("The $19 million contributed by utilities represents a decrease from the $22 million contributed by utilities reported in the 1992 survey.").

Moreover, while existing measures provide critical assistance for many consumers, they fall far short of the goal of providing access to affordable service for all consumers. Millions of consumers still face electric bills that are unaffordable by any objective measure. Unaffordable bills often lead to unpaid bills which, in turn, result in interruption or termination in service.[1] Consequently, policymakers must improve on these measures to ensure that all consumers have access to affordable electric service after restructuring.

[1] In 1993, over 1 million LIHEAP eligible households had their heat interrupted because of inability to pay. Over 900,000 of these households were working poor or households with children. The mean number of hours of interruption was 207 (nearly 9 days). ***Low Income Home Energy Assistance Program: Report to Congress for Fiscal year 1994***, U.S. Department of Health and Human Services, Division of Energy Assistance, March 1996, p. 25.

# Part Three: Promoting Universal Service in a Restructured Industry

# Part Three: Promoting Universal Service in a Restructured Industry

In restructuring the electric industry, policymakers must bridge the gap between two seemingly conflicting goals: introducing competition in the retail electric market and ensuring access to affordable electric service for all consumers. As discussed above, these goals conflict because market forces drive competitors to serve attractive niche markets and leave other markets unserved.

To meet this challenge, policymakers must work on two levels. First, they must ensure that the measures that now help make electric service accessible and affordable to all consumers are adapted and improved to meet competitive conditions. Second, they need to encourage the development of a wide variety of new mechanisms to make the competitive market work for all consumers.

## A. ADAPTING EXISTING MECHANISMS AND ASSISTANCE

### 1. Policymakers should expressly declare that all consumers must have access to affordable electric service.

Policymakers should not abandon their long-standing commitment to the goal of universal service. In the Telecommunications Act of 1996, Congress expressed a strong commitment to competition in all telecommunications markets and, **at the same time**, directed the Federal Communications Commission (FCC) to adopt policies for the preservation and advancement of universal service based on a number of specific principles including "Quality services should be available at just, reasonable, and **affordable** rates."[1]

In defining the term "affordable", the FCC stated that regulators must take into account whether consumers are spending a disproportionate amount of their incomes on telephone service.[2] The FCC noted that "Because telephone service is considered

[1] 47 U.S.C. Section 254(b)(1) (***emphasis added***). The Act also requires that the Commission and the States should ensure that universal service is available at rates that are just, reasonable, and ***affordable***." 47 U.S.C. Section 254(j) (***emphasis added***).

[2] ***Report and Order***, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No 96-45, adopted May 7, 1997, para. 110

a modern necessity, some consumers may subscribe to telephone service irrespective of whether the rate charged imposes a significant financial hardship and therefore high subscribership rates do not ensure that rate levels are affordable."[1]

Similarly, from the outset, policymakers should expressly declare that quality electric service must be available to all customers (including low income customers and those in rural areas) at just, reasonable and affordable rates in a restructured electric utility industry. Moreover, like the FCC, policymakers should expressly recognize that because electric service is a necessity, in determining whether service is affordable, consideration must be given to the financial burden of electric service on households.

One objective method for measuring affordability is the concept of "energy burden" which takes into account the interplay between the price of energy, energy consumption and household income. The Department of Health and Human Services reports that the energy burden for low income households is three times that of non-low income households.[2] (Where non-low income households spend on average only 3.4 percent of their income on energy, low income households spend on average 14.1 percent of their income on energy.) Energy burden has been specifically applied to measure the affordability of electric service to low income consumers.[3]

## 2. Electric utilities must have an obligation to connect all customers to electric service providers of the customer's choosing.

After restructuring, the electric utility will continue to have a monopoly over the distribution of electricity. Therefore, the utility should continue to have an obligation to serve all customers in so far as distribution is concerned. Specifically, the utility should have a legal "duty to connect" all retail customers in its service area to energy service providers of the customers' choosing at reasonable rates and under reasonable conditions.

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[1] Id.

[2] Low income households have a much higher energy burden because while they use less energy than non-low income households, they have much lower household incomes. FY 1995 Home Energy Data, U.S. Department of Health and Human Services, Division of Energy Assistance, http://www/acf.dhhs.gov/programs/liheap//notebook.htm.

[3] ***Low Income Households and Their Need for Cooling: A State-by-State Analysis of Low-Income Summer Electric Bills***, Fisher, Sheehan & Colton, October 1994 (presenting data on the summer electric burdens of low income households).

## 3. Utility and non-utility electric service providers must be under an obligation to participate in providing service to residual customers.

All electric service providers (utility and non-utility) should be under an obligation to serve customers without discrimination. Redlining (refusing to provide service in geographic areas because of their racial, ethnic or economic composition) must be prohibited.

Policymakers will need to decide how electric service will be provided to:

- customers who have competitive choices available to them, but do not affirmatively choose a provider,
- customers who have no competitive choices available to them and
- customers who have had their service terminated by a provider.

To ensure continuous service to these customers, policymakers, as a transition measure, could require the utility to provide these customers with uninterrupted basic service at regulated rates.

As a long-term measure, however, requiring the utility to be the provider of last resort and imposing no similar obligation on non-utility service providers is likely to lead to a two-tiered market where customers who are considered profitable are served by a highly competitive "voluntary" market, while customers who are not considered profitable are served by the electric utility providing minimal basic service on an involuntary basis. Electric service would be similar to automobile and homeowners insurance where affluent customers in suburban areas receive highly competitive rates and service, while low income customers in inner-city areas are served by state-mandated Assigned Risk and FAIR plans which often provide poor products at high rates. Contrary to the goal of universal service, those customers who are least able to pay would pay the highest rates.

To avoid this situation, policymakers should move as quickly as possible to require that all electric service providers (utility and non-utility alike) participate in providing service to customers who have not chosen a provider, have no competitive choices or are terminated by a provider. One possible method would be, after a competitive market has had an opportunity to develop, for regulators to assign these residual customers to providers in proportion to each provider's market share. Providers should be obligated to serve these customers in non-discriminatory manner and subject to uniform consumer protection rules regarding customer deposits, shut-offs, billing and bill-related assistance.

### 4. Rules regarding customer deposits and denial of service must apply to both electric utilities and electric service providers.

Utilities and non-utility electric service providers should be subject to the same requirements regarding customer deposits. As currently required in all states, customer deposits should be collected only pursuant to written rules filed with regulators and for reasonable amounts. Customers should be paid interest on deposits and utilities and electric service providers should be required to apply customer deposit rules in a nondiscriminatory manner. In states that currently prohibit utilities from collecting customer deposits, the prohibition should be extended to non-utility providers. Like utilities, non-utility providers should be prohibited from refusing service for debts owed for services unrelated to electric service.

### 5. Policymakers must ensure that electric utilities and electric service providers follow a standard set of rules that protect consumers against arbitrary or life-threatening shut-off of electric service.

Procedural and substantive protections in shut-off situations should apply to both utilities and non-utility service providers. These protections include notice requirements, winter and extreme temperature moratoria, prior approval, prohibition against shut-off for disputed bills or for undercharges on past bills and mandatory offering of payment plans in lieu of shut-off.

### 6. Policymakers must ensure that bill-related assistance is available to low income consumers.

Policymakers must require that both utilities and non-utility electric service providers offer bill-related assistance to low income customers. These measures include lifeline rates, low income discounts, budget billing, deferred billing and arrearage forgiveness.

Discount programs should be restructured from flat percentage discounts to Income Based Percentage of Bill Plans where discounts are based on usage needs and the amount a household can reasonably be expected to pay. These plans reinforce bill paying, result in increased payments from participants, reduce collection and bad debt expense, encourage conservation, and target low income assistance to those who are most in need.[1] Discounts should be provided on the entire electric bill with any subsidy for such discounts fairly apportioned between the energy and distribution portions of the bill.

[1] See Roger D. Colton, "Models of Low-Income Utility Rates", Fisher, Sheehan & Colton, June 1995, p. 20 (describes strengths and weaknesses of 11 basic types of low income rates).

Policymakers should ensure that there is sufficient financial assistance for installation of weatherization, conservation, consumer education and other measures to reduce energy usage. Initially, utilities could continue to administer their existing programs. Eventually, policymakers might decide that a new entity devoted to this purpose would be a more effective means of delivering such assistance to low income consumers.

Currently, many fuel funds rely on the utility's billing process to solicit voluntary contributions from customers. Policymakers should require that non-utility electric service providers have similar mechanisms for soliciting voluntary contributions as a condition of licensure.

## 7. Policymakers must ensure that consumers have sufficient information to make wise decisions in a competitive market.

Policymakers must ensure that consumers have the information they need to function in a competitive marketplace. This includes information about:

- the restructured market for electric services,
- the choices available to consumers in that market,
- the specific protections afforded them as consumers,
- how consumers can protect themselves against unlawful, unfair and deceptive practices and where they should turn for assistance if they are subjected to such practices,
- programs that offer assistance to consumers with unaffordably high energy bills, and
- how consumers can reduce their home energy needs and thereby reduce the need for energy assistance.

Policymakers should ensure that this information is available to all consumers (including non-English speaking consumers).

The process of unbundling monopoly services and competitors rebundling those services with unregulated products and services creates a set of new problems for consumers. For example:

- How will consumers know what they are buying?
- How can they tell a good deal from a bad one?
- Can an energy service provider offer "free" or deeply discounted electric service only to make it up with other charges for billing and meter-reading or charges on the garage door opener, security system, time-of-use meter, energy efficiency devices or other products and services sold as part of an overall package?

The opportunity for abuse is obviously huge. Under similar circumstances following the unbundling of telecommunications services, consumers seeking basic telephone service were sold additional services such as call forwarding, call waiting and speed dialing that they did not want, did not know they had ordered and, in many instances, could not afford. In 1990, Pennsylvania Bell agreed to pay $42 million to settle complaints that it used deceptive practices to sell Optional Telephone Services to low income consumers.[1] "One investigator posing as a single welfare mother was hooked up for $28.55 a month, including extras like 38-number speed dialing, even though she could have gotten service for as little as $6.65."[2]

For competition to work and to prevent marketplace abuses, consumers, at the minimum, need to know how much they will be paying for electric service, what other products and services they are buying and the price for each of those additional products and services. Policymakers should require that utility and non-utility electric service providers clearly disclose this information in a form that will allow consumers to readily compare offerings.[3] Policymakers should also ensure that where electric service is bundled with other products and services, utility and non-utility service providers are prohibited from terminating electric service to a customer for collateral matters not related to the provision of electric service.

## 8. Policymakers must ensure there is no deterioration in reliability or customer service.

Policymakers must ensure that restructuring does not affect the safety or reliability of electric service to residential consumers. Before opening markets to widespread competition, transmission and distributions systems must be able to support the potentially large, rapid and complex shifts in energy that could result. Policymakers must also ensure the systems are operated with sufficient reserves and within prudent limits to assure reliability.

Policymakers must ensure that restructuring does not result in a deterioration of customer service for residential customers by monitoring customer service closely and acting quickly to address deterioration in customer service. Where performance-

1 ***Barasch, et al. v. Bell of Pennsylvania***, C-881727, 1990 Pa. PUC LEXIS 37 (May 21, 1990).

2 "The Baby Bells Misbehave," ***Business Week***, March 4, 1991, p. 22.

3 Finding that "Pilot retail access programs have shown that customer confusion and misleading claims are likely, the National Association of Regulatory Utility Commissioners has called for minimum, enforceable, uniform standards for disclosure and labeling that would allow retail and wholesale electric customers to easily compare prices, price variability, resource mix and environmental characteristics of electricity purchases." Resolution in Support of "Right to Know" and Product Labeling Standards for Retail Marketing of Electricity, November 20, 1996, p. 1.

based ratemaking is adopted, policymakers should include criteria that provide utilities with an incentive to avoid disconnection of electric service to low income consumers.[1]

## 9. Policymakers must provide sufficient funding for universal service.

Complying with the above requirements will impose costs on electric utilities and electric service providers. Policymakers should ensure there are sufficient funds to meet these costs on an ongoing basis. If such funds are not provided for, utilities and electric service providers will avoid and/or reduce services to low income customers.

Funds for universal service should be collected by distribution utilities in a competitively neutral manner through a non-bypassable "wires charge" on every kilowatt hour of energy. These funds should be administered by an impartial entity and distributed to utilities and electric service providers based on the services actually provided to low income consumers.

The mere creation of an external fund will not ensure universal service. Policymakers should expect ongoing pressure from industrial customers and others paying the wires charge to set the charge at the lowest level possible, reduce the charge or phase it out entirely. This, of course, would mean higher costs and/or poorer service for low income consumers.

Some have suggested that the cost of universal service should be funded through higher taxes. While taxes are more appealing to economists, they are unpopular with voters and an unrealistic source of funding universal service in most states. If taxes were politically feasible, again, there would be ongoing pressure to reduce the size of the fund or eliminate it entirely. (For example, funded almost entirely by federal taxes, LIHEAP is under continual attack in Congress and has suffered substantial cuts in funding over the years.)

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1 For a discussion on how customer service, collections and disconnection criteria can be incorporated into performance-based ratemaking see ***Alternatives to Utility Service Disconnection*** at p. 122, Roger Colton, "Performance-Based Evaluation of Customer Collections in a Competitive Electric Utility Industry," Fisher, Sheehan & Colton, July 1995, Barbara Alexander, "How to Construct a Service Quality Index", ***Electricity Journal***, June 1996. Recently, regulators in New York and Washington State have approved agreements that include use of a Customer Service Index to measure quality of service and assess penalties if the company's performance falls below certain levels. ***In re. Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corp.***, Case 95-G-1034, 1997 NY PUC LEXIS 218, (April 14, 1997) and ***In re. Merger of Puget Sound Power & Light Co, and Washington Natural Gas Co.***, Docket No. UE-960195, 1997 Wash.UTC LEXIS 6 (February 5, 1997). Tougher penalties have been proposed in England for regional electric companies that fail to meet stricter customer service standards. "Regulator Plans Tougher Fines for Power Cuts," ***The Observer***, August 18, 1996, Business Page 3.

In short, competition requires an explicit funding mechanism to support universal service. Whether this mechanism is a wires charge or taxes, pressures will mount to keep explicit funding low. Policymakers must withstand these pressures and ensure adequate funding for universal service.

## 10. Policymakers must ensure that regulatory agencies have the resources needed to educate consumers, handle consumer complaints and curb abusive practices.

Restructuring will not eliminate the need for regulation. Deregulated markets are fertile grounds for abusive practices. For example, in the increasingly competitive telecommunications marketplace, there has been widespread "slamming" by long distance companies, unfair marketing by "976" and "900" providers, price-gouging by providers of private coin-operated pay telephones and alternative service operators, sales of shoddy and defective hardware, cutbacks in customer service, and periodic raids by fly-by-night artists.

Consumers will face the same kinds of problems in a restructured electric utility industry.[1] Therefore, policymakers must ensure that regulatory agencies have the legal authority to license and regulate non-utility service providers as well as utilities. Restructuring legislation should expressly provide for such authority. In addition, policymakers must provide regulatory agencies with the resources needed to educate consumers, respond to consumer complaints and curb abusive marketing practices. This may mean adding staff to these agencies rather than cutting the number of positions.

[1] The electric utility industry is not immune to fraudulent practices. In Canada, B.C. Hydro recently warned its customers about a scheme where a company called British Columbia Energy Electric mailed energy services solicitations for $565 that resembled a B.C. Hydro utility bill. "B.C. Hydro Warns Customers Against Fraudulent Services Solicitations," **Energy Services & Telecom Report**, June 5, 1997, p. 2. Policymakers should expect similar schemes in a restructured electric market.

## B. MAKING THE MARKET WORK FOR ALL CONSUMERS

Preserving the effectiveness of existing universal service measures is of great importance. However, the greater challenge is to make competitive markets work for all consumers. With minimal but critical interventions policymakers can expand the competitive choices available to low income consumers.

### 1. Packaging Universal Services.

To date, public debate over universal service has focussed on individual industries (e.g., telephone, electricity, natural gas, banking, health care, auto insurance, airlines, etc.). This fragmented approach reflects how services historically have been provided to consumers and, in turn, regulated by federal and state authorities. Each service was provided by a different industry with its own separate set of regulators.

This basic premise is less and less true for affluent markets where increasingly companies through merger or alliances are offering bundled products which cross over traditional industry lines. Electric utilities, for example, already are forming alliances with long distance companies and home security firms to offer one-stop shopping for electric, natural gas, local telephone, long distance, Internet, home security and other services.[1]

Banks are acquiring securities firms in order to offer their customers stocks, mutual funds and other investment vehicles in addition to traditional deposit accounts.[2] By combining these services in new and innovative ways, companies offer convenience to their customers while taking advantage of efficiencies in marketing and delivering these services to customers.

Are there similar opportunities for low income consumers? For example, the Federal Debt Collection Improvement Act of 1996 mandates that all federal benefits be paid electronically by January 1, 1999. While this measure was enacted principally to save money for taxpayers, it is also an opportunity to bring many low income consumers

1 "UtiliCorp and Peco, Aided by AT&T to Launch One-Stop Utility Service," *Wall Street Journal*, June 24, 1997, p. A-3.

2 "Banks Look Afield to Satisfy Appetite for Expansion: Looser Regulations, Search for New Lines Drive Nonbank Acquisitions," *Wall Street Journal*, July 9, 1997, p. B6.

into the economic mainstream. Reporting to Congress on the Treasury Department's program to implement this legislation (dubbed "EFT-99"), Under Secretary John Hawke, Jr. recently stated:

> By far, the most complex and controversial policy issue confronting us in our efforts to implement EFT '99 is how to meet the needs of recipients without bank accounts. Under the existing Federal payment system, electronic payments may only be deposited into accounts at financial institutions. As a result, the population of Federal recipients without bank accounts is currently precluded from receiving the benefits of Direct Deposit. Secretary Rubin has made it one of his highest priorities to encourage people without bank accounts to move into the financial mainstream. Financial services providers offer many services that are critically important, if not essential, to virtually all American families. These may include access to federally insured deposits, the opportunity to earn interest on deposits, the availability of household credit, and access to home mortgages. Some 40 million American households with incomes under $25,000 need these services. Many payment recipients without bank accounts have told us that the lack of reasonably priced financial services currently prevents them from moving into the financial mainstream. As a result, Treasury has devoted significant effort to increasing the availability of low cost banking services. Treasury's "Direct Deposit Too" program is a model account, based on debit card access with no minimum balance requirement, that has been suggested to banks as a low cost alternative to traditional checking accounts.[1]

Low income advocates also see EFT-99 as an opportunity to expand banking services for low income consumers. Among other things, they recommend that payments to recipients without bank accounts be transferred electronically in bulk to banks that have agreed in advance to keep fees charged to recipients to a minimum and provide reasonable electronic access to funds in low income communities. The banks would benefit from the float on the deposits and economies of scale on these small accounts.[2] Utilities and non-utility service providers could benefit as well as

[1] Prepared Testimony of John D. Hawke, Jr. Treasury Under Secretary for Domestic Finance before the House Government Reform and Oversight Subcommittee on Government, Management, Information and Technology, June 18, 1997.

[2] Prepared Testimony of Margot Saunders, Managing Attorney, National Consumer Law Center, on Behalf of the Consumer Federation of America, National Community Reinvestment Coalition and Organization for a New Equality, Before the House Committee on Government Reform and Oversight, Subcommittee on Government Management, Information and Technology, June 18, 1997.

electronic payments from these accounts would reduce the cost of serving low income consumers by reducing payment processing costs, late payments and uncollectibles.[1]

Policymakers should encourage the development of experimental universal service packages which combine banking, telephone, electric, gas, water, and perhaps other services such as low-cost auto insurance and cable service in innovative ways that will make these services more available, affordable and convenient for low income consumers. These pilot projects should target specific groups of low income consumers such as participants in welfare-to-work programs, minimum wage workers, or low income consumers in rural areas.

## 2. Leveraging the state's purchasing power

Currently, states are major purchasers of electric service. States buy electricity in two ways. First, they buy power for their own facilities (e.g., universities, office buildings, highways, etc.). Second, states indirectly buy power through the LIHEAP program. After restructuring, like large industrial customers, the state will be able to negotiate directly with utility and non-utility providers for advantageous prices. The state could make maximum use of this opportunity by negotiating discounts for electric service to all participants in the state's LIHEAP program as well as its own facilities.[2]

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[1] ***Funding Fuel Assistance: State and Local Strategies to Help Pay Low-Income Home Energy Bills***, Fisher, Sheehan & Colton, May 1996, pp. 28-31. Insurance companies have found that the cost savings of electronic funds transfer (EFT) are significant enough to warrant offering cash incentives to customers who sign up for electronic payment of premiums from their bank accounts. "Electronic Funds Transfer Pays Off for Insurers," ***National Underwriter***, April 28, 1997, p. 3. Finding similar savings, telecommunications companies such as Southern New England Telephone are encouraging customers to pay their bills electronically instead of using paper checks or cash. "Future Currency to Take the Shape of Bits Instead of Bills," ***Hartford Courant***, October 13, 1996, p. A-1.

[2] With varying success, some states have negotiated with fuel vendors for discounts on fuel oil and other unregulated fuels on behalf of their LIHEAP clients. ***LIHEAP Negotiations With Non-Regulated Fuel Vendors: Discounts, Competitive Bidding, Fuel Cooperatives***, LIHEAP Clearinghouse, January 1997. For example, under Massachusetts Margin Over Rack Program savings are reported to average about 10 cents per gallon during the winter months. An important factor in the success of the Massachusetts program is that participating vendors are guaranteed payment by the State LIHEAP program. Id. at p. 3.

Policymakers should investigate whether the state's economic power as a large purchaser can be used in other ways to make the market work for low income consumers. For example, as a condition for bidding on the power needs of its own facilities, the state could require utility and non-utility electric service providers to submit competitive bids for the power needs of:

- all participants in the state's first-time homeowners program,
- all participants in the state's subsidized housing programs,
- all participants in the state's welfare-to-work programs, and
- nonprofit organizations providing health, housing, job-training and other social services to low income consumers under contract with state or local governments.

Winning bids could be selected in part on their overall benefits to the state. Local governments with large loads (e.g., from electrified rapid transit systems) could use similar strategies to use their economic power to benefit low income consumers and nonprofit organizations within their borders.

### 3. Creating state purchasing groups for residential consumers.

States could also encourage the formation of purchasing groups for residential customers. One possible model is the Health Insurance Plan of California (HIPC), a statewide purchasing group that leverages lower health insurance rates for small businesses with 2 to 50 employees. Since 1993, HIPC has enrolled over 7,000 small businesses and 100,000 people through 27 health plans. By negotiating with health insurance companies, HIPC has helped to lower health insurance rates and increase choices for small businesses participating in the program. Purchasing groups can have other benefits as well such as enabling members to compare different offerings, monitoring quality of service and reporting the results to members, and acting as an ombudsman to resolve inquiries, complaints or other concerns for members. Measures like these are necessary for a competitive market to work for all consumers.[1]

[1] Purchasing groups can supplement state and federal regulatory efforts to police the market. For example, purchasing groups for public employees such as the California Public Employee Retirement System (CALPERS) provide many of these benefits to its members and supplements regulation by the U.S. Department of Labor, California Department of Insurance and California Department of Corporations.

## 4. Preventing excessive concentrations of market power

In many deregulated markets, after the initial surge of new entrants, there, oftentimes, is a sharp increase in market concentration as a few large firms dominate the markets.[1] Good public policy requires that regulatory agencies continuously and objectively monitor concentration levels and other factors affecting competition in retail electric markets. Regulatory agencies must have the authority to collect data from both electric utilities and non-utility providers, publish and analyze that data and prevent or correct excessive market power on the part of either electric utilities or non-utility providers.

[1] Harry M. Trebing, "Adapting Regulation to Tight Oligopoly," ***NRRI Quarterly Bulletin***, Spring 1996, p. 1 ("Changing industry structures in electricity, gas, and telecommunications point toward tight oligopoly as the dominant characteristic rather than high levels of competition.")

*Meera Kohler*
*Municipal Light & power*
*HCR No. 34*

**Remarks of Meera Kohler**
**General Manager of Municipal Light & Power**
**Municipality of Anchorage**

**Before the**
**Joint Committee on Electric Utility Restructuring**
**Alaska State Legislature**
**(HCR No. 34)**

**September 16, 1998**

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## Introduction

- ML&P appreciates the opportunity to again provide information to the Joint Committee on the critical subject of electric industry restructuring in Alaska.[1]

- In the current hearings, ML&P offers analysis and draft materials focusing upon two essential matters:

  **A. The Absence of Wholesale Competitive Markets in the State.**

  **B. A Draft Legislative Report Addressing Electric Restructuring Issues.**

ML&P respectfully offers these materials to assist the Committee in moving forward with its work and to aid in its preparation of a report to the Legislature.

## A. The Absence of Wholesale Competitive Markets in the State.

### 1. Wholesale Competition Does Not Exist in Alaska.

- ML&P has already demonstrated that the greatest cumulative benefit to the public will be achieved by a sequential transition to deregulation and competition. This sequence requires focus on the following areas:

  **Power Pooling**
  **Wholesale markets**
  **Retail markets**

- Elsewhere in the country, competitive generation and the wholesale wheeling of that generation on the basis of "comparability" provide the foundation for analysis and implementation of retail competition.

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[1] ML&P has previously provided written and graphic materials to the Joint Committee in connection with its hearings of August 6 and 18, 1998. Copies of these submissions may be obtained from the Public Information Officer, Municipal Light & Power, 1200 East 1st Avenue, AK 99501-1685 (907/263 5277).

*Meera Kohler*
*Municipal Light & power*
*HCR No. 34*

- **The structures for wholesale market competition don't exist in Alaska.** The essential elements of a wholesale market, identified by the Federal Energy Regulatory Commission after extensive analysis and public debate, include the following :

Eligibility criteria for receiving non-discriminatory open access
Definition of services that must be offered by transmission providers
Definition of entities obligated to provide open access
Criteria for reservation of transmission capacity by customers
Criteria for capacity reassignment
Informational requirements vis-à-vis customers
Determination regarding functional unbundling of transmission services
Definition of ancillary services
Determination of obligations among various entities with respect to provisioning of ancillary services
Determination of scope of bundling and unbundling of ancillary services
Pricing of ancillary services
Accounting for ancillary service
Coordination and transition from existing structures among utilities
Tariff restructuring regarding pricing mechanisms
Prioritization of access and service delivery
Prioritization of curtailment
Stranded cost definition and evidential requirements
Quantification of stranded cost amounts
Recovery mechanisms for stranded costs
Accounting treatment for stranded costs
Reporting requirements
Provisions regarding non-utility market participants[2]

None of these matters has been subjected to policy review, analysis, or determination in Alaska. No party can point to any statutory or APUC regulatory structure that reflects provisions addressing these requirements.

**2. The absence of wholesale competition in Alaska is not the result of public policy decisions.**

- The absence of a wholesale market in Alaska results from FERC's lack of jurisdiction over the Alaska wholesale marketplace. As FERC noted in footnote 541of its Order No. 888:

> *Section 201(b)(1) [Federal Power Act] specifically exempts from Commission [FERC] jurisdiction facilities used for transmission in intrastate commerce and transmission of electric energy consumed wholly by the transmitter. As a result, we have no jurisdiction over retail wheeling that occurs in Alaska, Hawaii and the Electric Reliability Council (ERCOT) portion of Texas since transactions in those areas are intrastate.*

- Thus, no comprehensive public interest examination of the existing condition of wholesale competition has ever been conducted in this state.

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[2] A FERC-issued companion Order, No. 889, sets forth equally extensive requirements pertaining to creation of the Open Access Same Time Information System ("OASIS") and a code of conduct for utility employees. These structures, also, do not exist in Alaska and would have to be created for a functioning competitive wholesale and retail market.

- The Alaska wholesale market needs the same kind of examination and public policy decision-making that has already occurred elsewhere, prior to consideration of retail competition. ML&P believes the Legislature, as part of the transition to deregulation and competition, should authorize and direct the APUC to conduct an inquiry into the desirability of and conditions necessary for wholesale competition in the State.

**3. Chugach Electric is deliberately misleading the Joint Committee about wholesale competition.**

- CEA's assertions that wholesale competition exists are demonstrably false, particularly since CEA can point to no legislative or regulatory construct creating the mechanisms for such competition, as described above.

- Moreover, CEA has acted repeatedly to forestall a competitive wholesale market. For example, CEA has entered into long term contracts which lock out any competition. CEA's contract with MEA and AEG&T (April 5, 1989) reflects:

  A term extending to **December 31, 2014;**

  A requirement of **7 years advance notice** to convert to partial requirements (so as to purchase from other suppliers);

  A requirement of **5 years advance notice** before sources of energy other than CEA can be provided for use by MEA's retail customers.

Such restrictive CEA contracts have effectively monopolized major segments of the wholesale market in Alaska.

- As CEA recently admitted, its contracts generally entail large penalty provisions for early termination, thus effectively deterring other utilities from seeking more favorable terms from other energy producers. Such contracts lock out competition for long periods of time and saddle consumers of such utilities as MEA and HEA with non-competitive, fixed rates for electric energy.

- Introducing retail competition has no legal effect on these contractual constraints, which can be modified only with CEA's consent (a point CEA repeatedly makes). Thus, retail competition could do nothing to promote wholesale competition or the reduction of costs to customers of utilities locked in by such contracts.

**4. An appropriate Legislative policy can open the door to wholesale competition.**

- As CEA admits, these lock-out contracts are subject to regulatory approval and oversight. As CEA is a regulated entity, the Commission retains jurisdiction over its activities, as well.

- ML&P agrees that contracts cannot be set aside or defeated in an arbitrary or capricious way. However, they can be altered if the appropriate legal protections are recognized.

  Deregulation in California, for example, clearly altered contractual relationships among the participants, including those affecting utility generation contracts.

In telecommunications, the Federal Communications Commission has implemented the "fresh look doctrine" in defined circumstances to permit re-examination of long term contracts in the context of competitive market changes.

- ML&P agrees that there can be "no free lunch" regarding past investment and contractual expectations. But that is why stranded cost recovery exists – to ensure that investment (in this State, by the consumers themselves) is fully protected under law. As deregulation progresses, ML&P will also insist on protection of its owners' investment. But that is very different from saying that no changes can be made to existing wholesale contracts.

- Many of the issues implicated by wholesale competition – creation of an ISO, inter-entity power sales, dispatch priorities – already arise in the current, ongoing power pooling study. This reinforces the desirability of proceeding in regular order, starting at the beginning rather than the end of the process. As ML&P has previously noted, a sequential transition focusing in turn on power pooling, wholesale competition, and retail competition maximizes the public benefit at each stage of transition, while minimizing the chance for mistakes and unintended consequences acutely injurious to the public interest.

**B. A Draft Legislative Report Addressing Electric Restructuring Issues.**

**1. Other states have proceeded in a sequential, deliberate way.**

- Alaska has only recently commenced a process which has appropriately required some time for examination, debate, and determination in other jurisdictions. For example, California, which has produced the most comprehensive plan to date, required about 5 years to arrive at its current competitive structure:

| | |
|---|---|
| Yellow Book | February 1993 |
| Blue Book | April 1994 |
| Proposed CPUC Decisions | May 1995 |
| Final CPUC Decision | December 1995 |
| Assembly Bill 1890 | September 1996 |
| New Market Implementation | April, 1998 (as scheduled) |

- Even in that minority of the states which has adopted competitive retail policies, ample time for experiment and transition is often encountered. For example, in Montana, residential and small load customers need not be transitioned to competitive markets before July 1, 2002. Further, the Montana Commission is authorized to defer such competition until July 1, 2004, where residual reliability and availability issues exist (See Montana Statutes 69-8-201.)

**2. MLP recommends a first report to Legislature addressing the matters raised in HCR No. 34.**

- House Concurrent Resolution No. 34 did not request or authorize competitive retail markets. It asserted that electric restructuring deserved "detailed, careful and informed decision making by

- the Alaska Legislature." CEA's attempts to circumvent this approach have already failed twice this year – once before the Legislature and once before the APUC. Other than self-interest, neither CEA nor any other party has provided a reason for departing from reasoned review of the many issues raised by restructuring.

- ML&P has respectfully attached hereto a detailed outline of what it believes the Joint Committee could report to the Legislature in January, 1999. This report would achieve several goals concurrently:

  **Satisfy the Joint Committee's charge and duties under HCR No. 34;**

  **Provide a concrete recommended course of further Legislative action;**

  **Provide a rational, defined, and controllable basis for making further public policy decisions in a matter the Legislature has already defined as "essential to the daily functions, safety, and economic well-being of Alaskans."**

ML&P believes the Joint Committee has done an admirable job to date of resisting privately motivated pressure and disinformation. The goal of public policy should be public benefit. In pursuing the consideration of deregulation and competition, which ML&P supports, the Legislature must continue to recognize that these are means for achieving the goal of public benefit, not the goal itself.

*Meera Kohler*
*Municipal Light & power*
*HCR No. 34*

*[DRAFT of September 16, 1998, as proposed by ML&P]*

# ALASKA ELECTRIC UTILITY RESTRUCTURING

an analysis of issues raised by the prospect of electric restructuring in Alaska

## Report of the
## Joint Committee on Electric Utility Restructuring
## HCR No. 34

## January __, 1999

Representatives:

Norman Rokeberg, Co-Chair
Alan Austerman
John Davies
Fred Dyson

Senators:

Burt Sharp, Co-Chairman
Al Adams
Loren Leman
Robin Taylor

*Meera Kohler*
*Municipal Light & power*
*HCR No. 34*

*ML&P Draft Outline*

# ALASKA ELECTRIC INDUSTRY RESTRUCTURING REPORT [Outline]

## I. Introduction – Origins and Purposes of the Report

A. Recent activities related to electric industry
- Proposed state legislation (1998)
- APUC proceedings
- State involvement in generation and transmission

B. Purpose of Report
- HCR No. 34 (scope and directions)
- Public policy import of electric restructuring issues

## II. Executive Summary and Recommendations

A. Findings of the Joint Committee
- Absence of federal mandates; applicability of federal precedent
- Complexity of the industry
- Premature and inconclusive experience in the lower-48
- Specific unique characteristics and vulnerabilities of the Alaskan market
- Inadequacy of information concerning impacts on Alaska economy and public benefits

B. Recommendations to the Legislature
- Adopt a basic set of principles to govern electric restructuring:
  - Sustainable, equitable competition
  - Maintenance or improvement of service
  - Anti-discrimination in availability, scope, and cost of service to all Alaskans
  - Modification of lower-48 experiences and paradigms to reflect unique Alaskan circumstances and considerations
- Procure neutral, comprehensive study of potential restructuring impacts on State;
- Direct the Alaska Public Utilities Commission to conduct regulatory proceedings over a defined period of time, addressing the following subject areas:

  - Power pooling and resource utilization/integration
  - Wholesale wheeling and competition
  - Retail wheeling and competition

- Conduct regulatory proceedings in sequence, in the recommended order, to the ends of:

Avoiding premature implementation of market changes without appropriate adjustment and protection mechanisms, especially for consumers;

Exercising maximum control over evolution of markets to deregulation and competition, to avoid inadvertent adverse impacts to consumers, industry participants (incumbents and new entrants alike), and the State economy as a whole;

Ensuring adequate opportunity for evaluation and fine tuning of restructuring changes at each stage, before proceeding to next stage;

Minimizing irreversible damage to the industry and the economy as a whole.

## III. Description and Analysis of Basic Operating Structure – Alaska Electric Industry

A. Overview of Electric Industry Segments
- Generation
- Transmission
- Distribution
- Ancillary Services

B. Alaska Electric Industry Profile
- Service suppliers
  - Publicly owned
  - Municipally owned
  - Private entities
  - Bush service providers
- Generation suppliers and facilities
  - Owners/operators
  - Fuel sources
- General system profile and statistics

C. Current regulation of electric industry in Alaska
- Absence of federal (FERC) jurisdiction
- Current Alaska Public Utilities Commission oversight
  - Existing statutes (AS 42.05)
  - Docket U-97-201 (ML&P v. CEA)
  - Docket U-97-140 (Power pooling study)

D. Current consumer rates
- Description of rates charged throughout state
- Comparison to lower-48 rates

## IV. Sources of Electric Industry Restructuring in the Lower-48

A. Post-World War II Conditions

B. Major Transitional Events

a report on December 31, 2000, detailing the current status of wholesale competition proceedings and issues and a description of the Commission's further proposed course with respect thereto.

Retail Competition: If warranted by the power pooling and wholesale competition procedures and implementations, initiate proceedings after July 1, 2001, but no later than December 31, 2001. Allowing for pragmatic results of power pooling and wholesale competition implementation, require (i) implementation of retail competition by December 31, 2002 or, in the alternative (ii) submission to the Legislature of a report on December 31, 2002 detailing the current status of retail competition proceedings and issues and a description of the Commission's further proposed course with respect thereto.

Adoption of such a sequential approach will ensure adequate opportunity for evaluation and fine tuning of restructuring changes at each stage, before proceeding to next stage. The Joint Committee believes this is essential to minimize irreversible damage to consumers, the industry, and the economy.

4. In its future actions and enactments, the Legislature should avoid premature implementation of market changes without appropriate adjustment and protection mechanisms for consumers and utility owners.

5. The Legislature should continue to exercise active control over the evolution of electric markets to deregulation and competition, in order to avoid inadvertent adverse impacts on consumers, industry participants (incumbents and new entrants alike), and the State economy as a whole.

Testimony

Mary Ann Pease
Aurora Power

# RFP for Electric Restructuring in Alaska

All issues raised by the various utilities as well as Aurora Power lead to one undisputed fact, electric restructuring will come to Alaska. The question is when and under what form. The benefit of conducting a study without the benefit of a working pilot program or limited test case is based on the difference between hypothetical classroom studies versus actual data unique to Alaska.

As we have said numerous times, there is a requirement to separate urban from rural issues. The consumers in Anchorage are beneficiaries to a semi-competitive generation system between ML&P and Chugach as it currently resides today. The establishment of a pilot program will enhance the competitive nature of both these utilities and bring down the cost of electricity to all consumers. ML&P acquired a one-third interest in the Beluga River Field to best position itself for the onset of competition. Because of existing long-term contracts for natural gas, ML&P would have been disadvantaged should competition come to Anchorage. By lowering the price of a key element of electricity pricing, ML&P has established itself, as a viable contender in competition should it so choose. The rural consumers of electricity are confined to remote non-connected diesel generation that has been subsidized by the state through power cost equalization (PCE). The benefits to rural Alaska will come in the form of technological advances rather than retail competition. So, discussions by ARECA, which represents all of rural Alaska, should be segregated from the issue of competition in urban Alaska.

Fundamental Principles that should guide the Joint Committee on Restructuring:

- The needs and desires of Consumers to CHOOSE their energy supplier should be met.
- All consumers should have access to reliable, safe and reasonably priced power.
- There is an opportunity to replace regulation with market conditions for the competitive pricing of generation services.
- The transition from a regulated monopoly electric system to competition in the urban areas should be timely and accompanied by a limited scope pilot program.

Specific areas of concern in the " Guidelines for Request for Proposals for a proposed study:

- It is interesting to note that ML&P did not choose to participate in the analysis on the RFP process. The issues raised by ARECA are very valid, but they represent the rural point rather than the urban perspective.
- Many of the reliability/Safety issues have been addressed in great detail by other commissions. We should not reinvent the wheel, since lengthy documentation and research has already been accomplished.
- The Brattle Group recommendations are quite lengthy and would provide a plethora of work for consultants around the country. To quote Mr. Fox-Penner directly ... " I believe what I have outlined here is more than a one-shot RFP for a one-shot study. Although the process I suggest here is more complex, and could take a little more time, I believe the results will repay the effort." What we need to do is to simplify the process rather than make it as complicated as possible.

- The focus on the study should be on the immediate question of competition in Anchorage on a test or limited scope basis. The recommendation that needs to be presented back to the legislature in January should be tightly structured to address near-term issues. Aurora Power believes that the consumers and constituents in Anchorage should be given the opportunity to choose their electric service provider now. The lack of response from retail consumers does not negate the interest in reducing the cost of electricity. As an interesting aside, the average savings for switching telephone provider are 3-5% and that is on approximately $25 dollars a month average bill. Commercial users have spoken out and do desire to see competition immediately. Residential customers would enjoy some of the pass through benefits of reduced operating costs to these commercial and business consumers.
- Everyone has said "Alaska is different." This assumption does no allow us to ignore what is happening in the lower 48, but it does give Alaska strong incentive to establish a pilot program and test the market on a limited basis. We may be surprised to see what the residential consumers reaction is here as compared to the lower 48. ATU could easily attest to the fact that residential customers here are very in tune to competition in the telephone wars and as a result ATU has lost approximately 20% of the residential market to competitive forces.
- Competition at the Wholesale level will be enhanced by retail competition. We should not assume that the "Sequential approach" proposed by certain utilities is necessary. The start of retail competition will enhance wholesale competition at all levels and will bring pressure on MEA, HEA and even Chugach to ensure that the provision of low cost reliable power is achieved.

In conclusion, Aurora Power is very interested in bring competition to Alaska in the last regulated monopoly of electricity. We have been able to hear one general theme in all these legislative hearings and that theme is a consensus that competition is good. What the legislature needs to do is provide the impetus in the form of a policy statement to move"Competition" from the theoretical discussion to an actual test case. The study is necessary and will prove beneficial, but the study needs to be accompanied by a Pilot Program in the Anchorage area!

# MEA rates reduced again

Matanuska Electric Association's (MEA) rate for small businesses will be lower than that of its power supplies – and a potential competitor – under a rate decrease now in the works.

MEA General Manager Wayne Carmony said this is the second rate reduction this year and the fifth since April, 1996. The effect of the one-quarter of a percent decrease "is to make MEA's electric rates for small businesses lower than those offered by Chugach Electric Association in Anchorage," he said in a press release announcing the rate filing.

Small commercial businesses that would benefit are "mom and pop" or "mall stores." Carmony said those businesses make up the overwhelming majority of MEA's commercial accounts.

He gave examples of a travel agency that would pay $132 to Chugach and $131.50 to MEA, a savings of 50 cents for the use of 1,250 kilowatt hours (kwh). A restaurant would save $44.34, however, on 4,500 kwh, paying Chugach $442.70 and MEA $398.36.

"The savings are greater or lesser, depending upon the amount of electricity used, but in every case, MEA's small commercial customers pay less than they would if served by Chugach," the general manager said.

For residential users, Carmony said while some of MEA's customers pay less for electricity than Chugach's customers, some still pay more. "MEA is committed to closing that gap," he said.

The Alaska Star
10 Sept 1998 p 3

Author: kzdoyle@alaska.net (Karen Z. Doyle) at CC2MHS1
Date: 9/15/98 7:08 PM
Priority: Normal
TO: Representative Norman Rokeberg at LAA_TRANS
Subject: Deregulation

SEP 16 1998

I support full deregulation as a homeowner. MEA is my provider, but has made no attempt to sell eletricity a cheaply as possible. Our power is generated at Beluga (same as Anchorage), is transmitted thru the valley and sold in Anchorage cheaper. It is even transmitted to Fairbanks and sold cheaper than right here in the valley. MEA has not supported alternative energy programs such as fuel cells. Allowing Chugach to compete or MLP is the right thing to do. The arguments about stranded costs and cherry picking do not come from homeowners but from the vested interests: unions, APUC commissioners, and salaried administrators who may lose their jobs if monopoly practices end. The MEA Board of directors fight among themselves sueing each other with our money. MEA tells members of the cooperative there is no way to lower fixed costs. MEA states there is no way to lower school district costs or homeowners bills for electricity. We could save money and pass it on to consumers if the Board hired less lawyers, less overhead, and had to compete for consumer loyalty. I have talked to APUC about this and the commissioners are not interested. I read today about one commissioner having his third DWI so maybe they are pre occupied. This is America, let free enterprise work in utilties. That includes electricity telecommunications, and garbage service. --Robert Doyle.

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Wasilla, AK
99654

Author: paul@davis-company.com (Paul H. Davis) at CC2MHS1
Date: 9/15/98 10:38 PM
Priority: Normal
TO: Representative Norman Rokeberg at LAA_TRANS
Subject: Electric Utility Restructuring

SEP 16 1998

This is in response to your Compass piece in the 15 September 1998 ADN.

I am presenting this opinion as a private citizen, representing no one other than myself. I am a residential electricity consumer, a member of Chugach Electric Coop, an Alaskan since 1973 and an Anchorage homeowner since 1989.

As a matter of general principle I believe that utility regulation, like most other government interferences into the marketplace, does not in the long run serve the public interest and should be completely abolished. Tradition has a way of enshrining things, be they useful or not, and the traditions we have been handed from the now completely discredited socialist ideas of the early part of this century in the form of needless, useless regulatory bureaucracies need to be challenged at every opportunity.

I won't dwell on that larger question because I realize it's not within the limited scope of the testimony you're seeking. But the USSR, being such a wonderfully extreme example, served us all in its utter, dismal failure. It is now crystal clear to all but the most starry-eyed dreamers that the laws of economics are just as immutable as the law of gravity; you can try to cheat and you can pretend all you want, but the thrown ball always eventually comes back to the ground. Similarly, (as the USSR demonstrated so well) we can see that skewing the marketplace with economic regulations, even if it's for the most laudable purposes ... such as making the world a better place for the less fortunate, always has the end result of raising costs, diminishing service, and making life worse for everyone.

Now that the USSR is gone it's time we started cleaning house and getting rid of the vestiges in our country which sprang from the same roots. Obviously the APUC didn't exist back in the early part of the twentieth century when these socialist institutions were created elsewhere, but its creation came with statehood as an automatic part of getting our state in step with the national traditions. Now we should lead the country back to sensibility by getting rid of it and the others like it.

By this time you've no doubt anticipated the nature of my remaining testimony regarding the narrower question of electric utility restructuring. Obviously I'm all for competition. Yes, I realize that a competitive marketplace might cause some "cream skimming" and, yes, I realize that theoretically that could raise my electric rates. And, no, I'm not worried about it. Why? Because I know it's bunk.

My business is a telecom agency, a type of business which would have been inconceivable 30 years ago when we were all being "protected" by the federal government's designated monopoly, AT&T. When the wraps were taken off and we were all exposed to the "dangerous" telecom marketplace ... guess what happened. A phone call from Los Angeles to London, which cost about $3 a minute in 1960 (with a three-minute minimum), now sells ... to Joe Blow, not large corporations ... for about 12 CENTS a minute with a thirty SECOND minimum! A 1998 dollar was worth about $10 in 1960, so, in effect, the cost of a one-minute call has dropped about 99.9% since the government "help" was removed! Think of it ... having the government "help" the consumer was costing the consumer $999 out of every $1000 he spent on this service! Some help.

My business works just like a travel agency. Now there are so many choices

in the telecom marketplace, not only long distance but many other related services, that consumers, both small businesses and individuals, are finding a need for our kind of specialist company to help them sort through all the choices and come up with real value. As with a travel agency we don't charge the end user, working by commission from the many companies we offer. Just imagine, people now have so many choices they need someone like me just to help them choose! And I can help them without costing them a cent. Unlike the government.

So let's go back to the power companies. Here were are again. I wonder if there are others like me to which all these arguments about how the politicians need to step cautiously to be sure "the public" is "protected" sound like some very tiresome deja vu. The show's over, folks! We've been there, done that! Let's get on with it, let's clean house, and the sooner the better.

I know there are lots of people around still chanting the old socialist mantras of "government help". They're a coalition made up of people who either are truly inept or lack the courage to test their abilities to produce real value, but who have nevertheless found strength by banding together and shouting loudly. And of course they're joined by the inevitable coterie of bureaucrats who have grown up feeding on the fruits of their past successes.

But I submit to you that they're a dying breed. Their roots were exposed when the tree fell over, and now we see there were no roots at all. Let's not worry about those inept shouters and whiners. They'll finally find something useful to do when everyone stops listening. Real work may not achieve as much for them as they got by the shouting and whining, but they'll contribute a lot more to society and themselves when a free marketplace forces them to do something real and productive.

So let's move on, let's get the government out of the way of business and let competition do what it does best, providing the most goods and services at the lowest TRUE cost.

Thank you for this opportunity to comment.

Paul H. Davis
5711 Jordan Circle
PO Box 230708
Anchorage AK 99523
Ph: 1-907-337-6886
Fax: 1-310-734-1727

John A. Barnes, P.E.
Alaska Region Manager

Marathon Oil Company

P.O. Box 196168
Anchorage, AK 99519-6168
Telephone 907/564-6400
Facsimile 907/564-6489

September 9, 1998

The Honorable Norman Rokeberg
Co-Chair Joint Committee on Electric Utility Restructuring
716 West 4th Avenue, Suite 640
Anchorage, Alaska 99501-2133

SEP 14 1998

Dear Representative Rokeberg:

Marathon is in favor of the electric utility restructuring efforts in the State of Alaska. I would offer these comments in support of this position.

As you know, independent merchant plants, co-generators, and Public Utility Regulatory Policy Act (PURPA) plants have introduced a new breed of competitors that demonstrate that electric generation service is no longer a natural monopoly and should be open to competition. As a result, there have been serious federal legislative proposals to promote restructuring that, if implemented, would complete a transition to competitive generation, customer choice and open access in the next few years. The anticipated cost savings that consumers and the economy are expected to realize are significant and are predicated on the basis that providing customer choice and increasing competition for traditional utility services will improve efficiency and lower costs.

Marathon agrees with this premise and supports both federal and state initiatives to accomplish these objectives. However, it is vitally important to ensure that legislative and regulatory changes to the structure of the industry provide the opportunity for all competitive market participants to respond on fair terms. Such changes must include non-discriminatory access to unbundled transmission and distribution systems and must fully support customer choice of suppliers and services. In addition, such changes will also require the identification and implementation of existing and new regulatory policies that will protect consumers and competitive suppliers from familiar and possibly new types of monopoly behavior.

Marathon supports Alaska's movement towards a competitive electricity marketplace and looks forward to the opportunity to perhaps participate in a deregulated power market with open access and direct competition.

Sincerely,

John A. Barnes

JAB:bjh

...rex Corporation

ANCHORAGE DAILY NEWS 15 Sept 1996 p. B-8

# Public's voice missing in electrical restructuring debate

By REP. NORMAN ROKEBERG and SEN. BERT SHARP

The Legislature's Joint Committee on Electric Utility Restructuring is considering whether Alaska should permit competition among electrical utilities, that is, a modified form of deregulation similar to the competition now permitted among telecommunication providers.

What is "electric utility restructuring"? How does it affect the Alaska consumer? Everyone who receives an electrical bill could be largely affected through changes in how electrical service is delivered. Currently, each Alaska electric utility has an exclusive service area granted to it by the Alaska Public Utilities Commission.

A wholesale competition restructuring model would permit the electric industry's structure to change over time. A full-scale retail competition model under which customers would be offered a choice of purchasing electricity from "X" or "Y" utility, or from an electricity marketer (a company that purchases electricity from one place and resells it to a consumer), would be a more radical restructure. Companies owning transmission lines would have to allow all electrical suppliers to use those transmission lines for a fee.

COMPASS

**■ LEGISLATURE'S JOINT COMMITTEE ON ELECTRIC UTILITY RESTRUCTURING** will meet at 10 a.m. Wednesday at the Fairbanks Legislative Information Office.

The result, hopefully, would be lower cost to the consumer and a competitive market encouraging more efficient management of utility companies. A disadvantage is the potential for "cherry-picking," which means electrical utility company "X" may offer lower rates to a big commercial consumer of electric utility company "Y" to gain market share. That situation has the potential of making company "Y's" electrical rates increase to cover the lost revenue, thus negatively affecting all of "Y's" remaining consumers.

Full-scale restructuring could mean that an Anchorage customer could receive services from any utility or provider along the Railbelt grid.

Alaska's Joint Committee is to make its recommendations by January 1999 and to address whether Alaska should implement some form of restructuring. The committee is in the process of holding hearings, and two meetings were held in August where the committee heard from many interest groups and took public testimony. A number of Anchorage businesses (i.e., representatives from shopping malls, private schools, large-building owners, etc.) testified in favor of deregulation and rated receiving lower electrical rates a high priority. Only a few individual consumers testified and most expressed some serious concerns about the impact of restructuring on residential electrical rates.

We are concerned that the general public's voice has not been heard on this matter. Our third meeting is scheduled for Wednesday, beginning at 10 a.m., at the Fairbanks Legislative Information Office. We encourage statewide participation. Teleconference hookups will be available at the Anchorage, Kenai, Kodiak, Matanuska-Susitna and Juneau Legislative Information Offices. Other sites may be added as interest warrants.

Alaska faces a unique and complex situation regarding restructuring. Unlike the Lower 48, we are not tied into any national transmission grid. Alaska's interconnected transmission grid basically covers the Railbelt area (Fairbanks to Homer). Electric utilities in Alaska are mostly consumer-owned or municipal-owned (which means that Alaskans own most of the electric utilities in Alaska) and consideration must be given to the impact on those consumer-owned facilities, including their bonding capacity.

We also face questions regarding reliability (when it's 50 degrees below zero, Alaska consumers want to know their electrical company can meet the demand), stranded investments (investments made to meet peak demand periods and provide for future growth), for capital credit accounts (for member-owned cooperatives), consumer education (explanations to each consumer so that an informed choice can be made) and the role of the APUC in defining a competitive electric market.

Other issues that need to be considered are universal service (who supplies electricity to a more remote location), "power pooling and economic dispatch" (which can provide more efficient and cheaper generation), wholesale competition, preventative maintenance, rate restructuring, etc. Cost shifting is also an issue — would this be a "zero-sum" game benefiting large users vs. the residential consumer?

The Legislature needs to clearly address the issue in statute. Alaskans are already receiving the benefit of the threat of electric competition as utilities recognize that some form of competition is on the horizon, particularly in the form of new technology, which will allow "stand-alone" generation by mic roturbines, fuel cells, solar panels and other methods. In order to benefit the retail customers, including residential customers, the Legislature has to give direction to the APUC and has the constitutional obligation to set policy. Discussions have been held about an independent, third-party study addressing Alaska's situation. Other proposals include a pilot program limited to a defined geographic area, or to go ahead and allow full competition and address problems as they appear.

What do you think? The committee would like to hear from Alaskans concerning this matter. Written comments may be sent to the Joint Committee, c/o Rep. Norman Rokeberg, 716 W. Fourth Ave., Anchorage, 99501, or faxed to 258-2916, or e-mailed to Representative Norman_Rokeberg@legis.state.ak.us.

We encourage your participation in this process.

---

J Rep. Norman Rokeberg, R-Anchorage, and Sen. Bert Sharp, R-Fairbanks, are the the co-chairmen of the Alaska Legislature's Joint Committee on Electric Utility Restructuring.

# Fax

**To:** Rep. Norman Rokeberg SEP 14 1998

**Fax:** 258-2916

**Pages:** 1, including this cover sheet.

**Date:** September 11. 1998

Dear Mr. Rokeberg,

I am sending you this fax to let you know how I feel about the possible deregulation of our electric utilities in the State of Alaska. I live in a single family home with one single electric meter. With deregulation the power companies will certainly not be fighting to get, or to keep my service or any of the other single meter electric services in the state. That's not where the money is. The money is of course in the large usage commercial and industrial load customers. The utilities will be fighting over them and once again the little guy will end up paying the price. The large demand costumers will get price breaks so the utilities can win them over and the residential costumers will have to make up the difference.

Also with deregulation will come a reliability factor. Down in America where deregulation has been tried the power companies are in the midst of cutting cost any way they can. In doing so they are not doing the maintenance on the electrical system that is necessary for reliable, uninterrupted power distribution. Up here in Alaska that is of more importance I would think. Also of great importance are the people of Alaska that reside in the rural areas served by a utility, they will certainly take it in the pocketbook if deregulation comes to Alaska.

As I hope you can surmise Mr. Rokeberg I am very much opposed to the deregulation of our electric utilities in Alaska. Thank you very much for your time.

Sincerely,

Richard Squiers

Richard Squiers
208 Stewart Street
Anchorage, AK 99508

SEP 10 1998

From: Byron Whitesides <THECHILLY@worldnet.att.net>
To: Representative_Norman_Rokeberg_@legis.state.ak.us <Representative_Norman_Rokeberg_@legis.state.ak.us>
Cc: Senator_Bert_Sharp@legis.state.ak.us <Senator_Bert_Sharp@legis.state.ak.us>
Date: Wednesday, September 09, 1998 6:48 PM
Subject: Letter to the Honorable Co-Chairman about electric deregulation

Honorable Sirs,

I am a lifelong Alaskan, born and raised, 50 years old. For the past 20+ years I have been employed in the electrical industry.

I have very serious concerns about the pending electric deregulation, and how it is going to affect the largely rural Alaska.

My feelings about this at the present time are, the little people who can least afford it are going to have large rate increases, that they will be unable to afford, and can't pass along to someone else. That the cost of electricity to the small consumers will rise greatly, and that the reliability of service will decrease.

If "for-profit" companies are allowed to use another utilities plant, and transmission and distribution lines, to come in and take the utilities largest and most profitable customers in highly populated areas, who will be left to pay the costs of maintaining service to sparsely populated areas that have high costs associated with installation and maintenance of service? The cost of electrical service to sparsely populated areas, already high, will become excessive if cost are allowed to shift from the large industrial customers, to the small residential users.

Most of Alaska has been developed by municipal utilities and member owned CO-operatives, who by hard work and sacrifice, built the transmission and distribution systems into remote and unprofitable areas, so that Alaskans could have electric power at an affordable rate, and enjoy the higher standard of living and increased quality of life that comes with it. Are we now to see the fruits of our sacrifice and hard labor stolen and given to Companies who have done nothing to help raise the standard of living, and who's only motives are to put the profits of someone's else's labors into their pockets? Are we to stand by and see what belongs to these communities, stolen by people who have built no plant and done nothing to help, be allowed to suck the profitable customers from those utilities and leave the small customers with all the expense?

I urge you to be very conservative in your actions, and to

very carefully consider the consequences of making mistakes on this matter, as the potential for irreparable harm to Alaska is enormous.

As I see deregulation, it is all philosophy and theory, with no proven benefits to the general populace. Until such time as benefits to the general populace are proven, I urge you to respect and protect the people who have built Alaska, by not allowing these small municipal utilities to be destroyed and have their assets stolen with no regard as to the best interests of the majority of the consumers. Please use patience and caution, take the time to examine how these changes have affected similar areas in the lower 48. and do not allow any changes unless they are proven to benefit the general population, not special interests!! I can think of nothing else going on in Alaska at this time that has the potential to adversely affect the standard of living and quality of life of the weakest part of our society, as electric deregulation!! Let us not be rash in accepting unproved theory and philosophy. Maintain the present *Proven* system, and any changes should be carefully considered and proven to be beneficial to majority of the *general populace* before any implementation.

Thank you for your careful consideration on this matter, and for your service to the people of Alaska.

Byron Whitesides
PO Box 9200
Ketchikan, Alaska
99901

9/9/98

To Rep. Norman Rokeberg -

I am "against" the Electric Utility restructuring in Alaska! -

Thank You!

S. L. Miller

SEP 09 1998





SEP 09 1998

Rep. Norman Rokeberg
716 W. 4th Ave
Anchorage, AK. 99501

Author: jmh@alaska.net at CC2MHS1
Date: 9/8/98 9:19 PM
Priority: Normal
TO: Representative Norman Rokeberg at LAA_TRANS, Senator Bert Sharp at LAA_SSHA
Subject: Deregulation

Hello:

I am writing in opposition to deregulation for electric utilities. Leave it as it is , as now it is for the best interest for the power consumers and also for the employees of the utilities.

A concerned 25 year Alaskan.

J. M. Hallum
13330 Brant Way
Anchorage, Alaska
99515-4022

SEP 09 1998

September 3, 1998

Rep. Norman Rokeberg
716 W. 4th Ave.
Anchorage, Alaska 99501

Dear Representative Rokeberg,

I have heard that a legislative task force is considering the issue of electric utility restructuring and that there may be deregulation of the system. I am concerned that without regulation, power companies will cut corners and not make necessary improvements and upgrades to provide the best services to customers and the best working environment for employees. Regulation helps ensure reliability and universal access to electricity for all citizens. Please do not support the deregulation of electric services in Alaska.

Sincerely,

Alethea Johnson

Alethea Johnson
PO Box 1299
Ward Cove, Alaska 99928

SEP 08 1998

AUG 2 6 1998

August 24, 1998

NORM ROKEBERG
716 W. FOURTH AVE., SUITE 640
ANCHORAGE, ALASKA 99501-2133

DEAR MR. ROKEBERG,

YES I WANT THE RIGHT TO CHOOSE WHICH ELECTRIC UTILITY COMPANY TO USE.

I FEEL THAT MEA'S RATES ARE OUTRAGIOUS.

RESPECTFULLY,

DARRELL F. SMITH
P O BOX 521341
BIG LAKE, ALASKA 99652
(907) 892-8454

# COPPER VALLEY ELECTRIC ASSOCIATION, INC.

P.O. BOX 45. GLENNALLEN, ALASKA 99588
(907) 822-3211 FAX 822-5586 VALDEZ (907) 835-4301 FAX 835-4328

August 24, 1998

E-mail: wilkinson@cvea.org

Ms. Janet S. Seitz, CPS, PLS
Representative Norman Rokeberg's Office
714 W. Fourth Avenue
Anchorage, Alaska 99501

SUBJECT: Legislative Committee Testimony

Dear Janet:

As indicated, I have enclosed a copy of remarks I made on behalf of Copper Valley Electric Association at the Legislative Committee Hearing on August 18, 1998.

I would request a copy of the transcript of the hearing when it becomes available. Thank you.

Sincerely,

Robert A. Wilkinson
General Manager

Enclosure

w:\word\raw\98-187nh.doc

Testimony before Joint Committee on Electric Utility Industry Restructuring
August 18, 1998
Robert A. Wilkinson, General Manager
Copper Valley Electric Association, Inc.

I was here on August 6 on behalf of 4DP, now I am here on behalf of CVEA
About CVEA

- 480 miles of transmission. distribution, 2 diesel plants, Solomon Gulch
- area the size of West Virginia, 23000 square miles
- 25 feet of snow/year in Valdez, 60 below in Copper Basin
- reliability is a big concern for our 3300 customers
- very high rates

Most important issue ever to face the industry
Proposing to change the rules of the game
The 50 year promise of doing business as a regulated monopoly may be withdrawn
Important to distinguish between coops and investor owned utilities

- Coop purpose is to maximize the wealth of our member-owners not our shareholders

Why are we concerned?

- Stranded investment for rural Alaska utilities is huge
  - 50% of our energy sales are to commercial customers, every one is a target
  - Recent attempts by APS reveal the serious competitive threat of cherry picking
  - APUC has not dealt effectively with the issue
  - Conduct by ASTF in awarding grants and ignoring the industries concerns has been shameful
  - Chugach has repeatedly contacted our largest industrial customer-25% of energy sales with offers to serve leaving CVEA and our other customers out of the deal
- Limitations of AS 10.25 on the powers of electric and telephone cooperatives
- Concern that in a competitive environment utilities will not be able to
  - Invest in infrastructure projects with potential future economics
    - Who can invest $70 million in an intertie for 3300 customers
    - Who can build a $2 million 16 mile line extension to Lake Louise with the threat of dispersed generation to cherry pick those lodge customers
    - Who can invest $700,000 in a substation in Thompson pass to support winter tourism with the threat of losing customers
  - Will not be able to invest in community as we have done in the past
  - Every transaction and investment will rise and fall on the question of can we afford, for competitive reasons, to do this?
  - The bottom line is good bye ball caps, key fobs, annual meeting prizes, sponsorship of community events and activities because in a competitive environment we will no longer be able to afford it. For Copper Valley that will include the Prince William Sound Community College theatre conference, the World Extreme Skiing Championships and support of our 2 local ARDORS just to name a few

Is competition good?
Maybe if you can afford to shop at the company store but the majority of customers cannot
Who is pushing competition? Those that plan to profit from it

- Chugach-if my variable cost to produce a kwh was 17 mills I'd be pushing it too
- Aurora Energy-plans for shareholders and managers to profit at others expense
- The bottom line is that this is a zero sum game and when the big dog eats the rest may go hungry
- Be careful what you ask for or you may wind up with a real monopoly which I think you don't want

Is the threat of competition good? I think it has been so far
What is CVEA doing to prepare to be competitive in the face of industry change?

- We are trying to inject the profit motive into our not for profit electric cooperative. Profits will be returned to members in the form of lower power rates
- Strategic plan November 1996, tabled the intertie as not cost justified, in the face of the changing industry it gets further away every day, pursuing least cost options
- Remote control generation project January 1998
- Reduced rates April 1998 by 11% for residentials and 13% for small commercials
- Waste heat project for Copper River Glennallen schools studied, funding obtained
- Combustion turbine cogeneration project with Petro Star probable development in 1999
- Divestiture of Solomon Gulch and 4DP
- Surveyed membership on diversification opportunities, preparing business plans

In closing

- What rural Alaska needs a lot more than competition in the electric utility industry is some support from Juneau to help us with building some infrastructure which will lead to economic development thus promoting a supporting healthy economies
- What we need is an understanding about the uniqueness of the problems of rural Alaska and some effort put in to developing creative solutions for those problems
- What we don't need is a rush to find a solution on industry restructuring before we adequately define and study the problem if in fact there is one
- On behalf of ratepayers from Sheep Mountain to Glennallen (mp 109-189) on the Glenn highway, from Alyeska pump station 12 to Hogan's Hill (mp 62-156) on the Richardson highway, from Valdez to Thompson Pass (mp 0-10) on the Richardson highway, from mile 0-12 on the Tok cuttoff and from mp 0-17 on the Edgerton highway toward Chitina, I ask you to
  - Proceed deliberately
  - Study the issues, define the problems
  - Observe what others in America are doing with the issue
  - Consider that Alaska is indeed different
  - Develop a solution that is in the best interest of all Alaskans

Thank you for allowing me the opportunity to testify

From Karen Baker
3742 W 42nd
Anchorage, AK 99517
Ph. 243-2474
Fax 243 3201

SEP 1[illegible] 1998

To Rep. Norman Rokeberg.
Re: Restructuring of the Electric utilities.

I am opposed to the deregulation of these utilities.

Everyone thinks deregulation will result in lower rates. HA! I pay utility bills in Seward, which is deregulated. I have no where to go to complain except to the city council. I did! I requested "If you don't like it Move." That was the final word.

Competition was allowed in Anchorage between commercial Refuse Co's. It resulted in an increase from Anchorage Refuse from $79 to $123 a month. I switched to Norwaste for a rate of 83 a mth. It did not result in lower rates or better service.

Utilities are a very complex issue.

Please don't allow this deregulation as all the consumer can only lose. Thank you
Karen

Author: chriscam@alaska.net at CCIMHS1
Date: 9/15/98 6:45 PM
Priority: Normal
TO: Representative Norman Rokeberg at LAA_TRANS
Subject: Electric Utility Restructuring

SEP 16 1998

Honorable Senators Rokeberg and Sharp:

I would like to thank you both for your thoughtful and well-reasoned article which appeared in the Anchorage Daily News on September 15, 1998. I very much appreciate your request for input and comment from the general public.

I must state that I am opposed to Electric Utility Restructuring in Alaska for the following reasons. Reliability of electric service will be severely compromised due to reductions in the maintenance and operating budgets of the utilities. This will be driven by efforts to reduce costs to the bare minimum and beyond in an effort to edge out the competing utilities/service providers.

Also, it is my belief that the remaining maintenance dollars will be heavily skewed toward providing higher levels of service and reliability to the high-use industrial and commercial users. The residential and small commercial users will pay a higher rate for less reliable service. I believe that this will be a gradual process once the deregulated environment is in place and the hype diminishes and reality sets in. Utilities and providers will do everything within their power to cater to the most lucrative accounts - it makes good business sense but is bad for the average Alaskan. This is particularly critical in Alaska where the climate mandates safe and reliable power to all citizens.

I agree that this is a zero sum game in Alaska, with the only losers being the average customer. Over time, the deferred maintenance will take its toll on the existing system, and the average customer will be called upon to pay the costs for rebuilding the system. The electrical system is in a constant state of flux - it needs repair and upgrading on a continual basis to meet the changing needs of the community. It violates my sense of fairness that the average customer will pay for the benefit of the large users. Cost of electric service is inversely proportional to reliability - that is the ultimate zero sum game. Our rates are now among the lowest in the nation, so how much lower can they go? My calculations indicate that I may save one or two dollars on a $50 monthly bill - it is not worth it to me.

In reality, I see this as a tax of the worst sort - a tax on the working Alaskan of us to provide yet another government subsidy to corporate interests. Deregulation has not worked out quite as well as planned in the communications industry, and it is not working out well in the electric industry in the lower 48. What starts out as competition quickly moves toward consolidation and monopoly.

This is not good for Alaskans, and I respectfully request that any move toward electrical utility deregulation be taken with great caution and reserve.

Sincerely,
Chris O'Brien

ANCHORAGE DAILY NEWS WEDNESDAY, March 4, 1998

# Alaska Power under siege

## Creditors clamor for payment from state-backed company

By HELEN JUNG
Daily News reporter

An Anchorage power company that received state money to develop new technology is under siege from creditors that haven't been paid for loans and supplies.

But the Alaska Science & Technology Foundation, the state agency that last September authorized a $1.5 million grant to Alaska Power Systems, maintains that the Anchorage company's financial problems don't necessarily jeopardize the state's investment.

An Alaska Power subsidiary has spent about $300,000 of the grant to develop software that lets operators in Anchorage run electric generators in far-flung communities. The grant occurred over the objections of some Alaska Power suppliers, customers and competitors that argued the state should not give money to the financially shaky company.

Now, six months after the grant was approved, Alaska Power has handed over its office building and at least 10 power generator units in several communities to National Bank of Alaska, which financed the units' construction. And unable to make payroll, the company last week laid off its remaining five or six employees, said Steve Hartung, a consultant to Alaska Power and former chief financial officer.

Hartung referred further questions to Alaska Power chief executive Scott Thompson or general manager Brian Chronister. Neither man returned messages left at their office and homes this week. Thompson is traveling.

Meanwhile, the state has hired an expert to evaluate how close

Please see Page F-3, POWER

# POWER: Company under siege

Continued from Page F-1

the new software is to being finished, said Jamie Kenworthy, ASTF executive director.

The state formed ASTF in 1988 to provide seed money for innovative technological projects. The Alaska Power proposal drew support from ASTF because it offered a creative concept for providing cheap electricity for rural communities throughout Alaska, where electricity can cost five times as much as in urban areas.

But Alaska Power's financial status and high employee turnover concerned ASTF, Kenworthy said. In 1997 and 1998, more than 20 parties sued the Anchorage company, many over unpaid debt. A former employee also filed a wage claim with the state Department of Labor.

"We knew this was a high-risk deal," Kenworthy said. "We thought the value of the technology was worth it."

To protect the state's investment, ASTF insisted that Alaska Power spin off software development into a new company called Diversified Solutions. It also required financial audits of how DS spends the money and decreed that no state money pay the parent company's operating costs.

The state money is to be released over time as DS reaches benchmarks the state set. Alaska Power has not met its Jan. 1 benchmarks yet so has not received more than the grant's initial $500,000.

The grant is still active, and ASTF is waiting for its consultant's report, which is due at the end of the month, Kenworthy said.

Alaska Power's generator units are in Chenega Bay, Akhiok, Nelson Lagoon and other communities around Alaska. By foreclosing on the company headquarters in South Anchorage and on the units, NBA is exercising its legal right to repayment, said bank vice president Jim Brinker. He declined to say how much Alaska Power owes, but said the bank expects full recovery of its loan.

The bank is seeking utilities or others to purchase or take over maintenance of the generator units, Brinker said. "We're not in the power business. We're not knowledgeable or experts in that area," he said.

In the meantime, the communities where the generation units are installed are responsible for maintenance, Brinker said.

Alaska Power customer Park Kriner of Glennallen bought two systems for a small shopping center he owns called Park's Place. The system has been running well, he said, and he wasn't worried about Alaska Power's financial problems.

He plans to work out a deal with NBA to purchase the systems, he said.

Legislative auditors plan to review ASTF's grant-approval process and other issues at the request of House Speaker Gail Phillips, R-Homer, and Rep. Con Bunde, R-Anchorage, said Pat Davidson, acting legislative auditor. Phillips specifically cited questions about the Alaska Power grant in her request, she said.

# CURRENT CONNECTION

ELECTRIC CONSUMERS' ALLIANCE



FIRST INDIANA PLAZA ■ 135 NORTH PENNSYLVANIA STREET ■ SUITE 2700 ■ INDIANAPOLIS, IN 46204
1-800-585-8206 ■ (317)684-5346 ■ (317)684-5173 FAX


*March 1998*

## PENNSYLVANIA AND CALIFORNIA TAKE ACTION AGAINST CONSUMER SCHEMES

**Pennsylvania Attorney General Mike Fisher (R) has filed a lawsuit against Provo, UT-based Nu Skin International for allegedly operating an "illegal pyramid scheme" to sell electricity and related services without the ability to provide them, according to the *Phildelphia Inquirer*.**

**In a classified ad in the *Philadelphia City Paper* last month, the company said would-be sales agents could make "big money" from electricity deregulation, which a recorded message falsely told callers was federally required by 2002. A spokesperson for Fisher added that Nu Skin has neither a license to sell power in Pennsylvania nor power-purchase agreements with any generators.**

**Nu Skin spokesperson Kamille Thorne said the company was not aware of any public complaints from the state and had not received prior notification of Fisher's concerns. But she said the company "is fully cooperating ... to resolve the issues at hand."**

**The attorney general's office began investigating Nu Skin's newest venture, Big Planet, after a Public Utility Commission attorney saw an Internet ad promoting the venture. Big Planet spokesperson Mark Calkins acknowledged the company had no contracts with electric suppliers and would not offer the service "in the immediate future."**


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Pyramid schemes are illegal because they only recruit new investors and do not sell any goods or services, causing those at the bottom of the pyramid to lose their investment "when the pool of potential recruits dries up," according to Fisher. Fisher warned consumers and investors to be wary of such "scams in [the] newly created competitive market" of electricity deregulation.

In separate cases, state and federal regulators have taken action against two power companies in California for alleged marketing fraud, according to the *Los Angeles Times*.

The California Public Utilities Commission revoked the registration of Harrisburg, Pennsylvania-based Boston-Finney Inc. and set a hearing to consider a fine of up to $97 million for making fraudulent claims and operating a pyramid scheme to sell electricity distributorships. California Attorney General **Dan Lungren** filed a lawsuit against the company last month for a scheme in which individuals were charged $295 each for the right to recruit other sales agents.

Meanwhile, the Federal Trade Commission filed suit against Valencia, California-based FutureNet, an Internet-service provider which recently branched out into electricity marketing. The charges also involve an alleged pyramid scheme. A federal judge in Los Angeles on February 23 issued an injunction against the company's sales activities, froze its assets, and appointed an FTC lawyer as a receiver.

State Senator **Steve Peace** (D), who coauthored the state's deregulation legislation, criticized the PUC for lax oversight. In response, the PUC has tightened the rules and is increasing its scrutiny of potential power marketers.

## EFFORTS OFF TO SLOW START

Despite "inundat[ing] homes and businesses with pitches for cheaper and more efficient power delivery," California officials have not been able to get consumers "excited" about electricity deregulation, the New York Times reports.

After a three-month delay due to computer problems, California's electric power market will be opened to competition on March, 31. But so far only 25,000 customers out of a possible 9.9 million have decided to switch providers.

**Mike Spilsbury**, Vice President of the Union Bank of California: "We see deregulation as destabilizing and potentially confusing. We have to get better educated before we get tied into a four-year deal."

# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095
Web Site: http://www.akrepublicans.org/Leman.htm Email: Senator_Loren_Leman@legis.state.ak.us


## MEMO

TO: Senator Bert Sharp, Co-Chairman
Representative Norman Rokeberg, Co-Chairman
Members of the
Joint Committee on Electric Utility Restructuring

FROM: Senator Loren Leman, Chairman
Subcommittee of the Jt. Committee on Electric Utility Restructuring

DATE: September 11, 1998

RE: Subcommittee Recommendations

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You directed the subcommittee to provide to the full committee recommendations for a proposed study on electric utility restructuring in Alaska.

Attached are a set of guidelines for a proposed study, and the subcommittee's draft Request for Proposals (RFP). The subcommittee recommends that the Alaska Public Utilities Commission enter into a government to government contract with the National Regulatory Research Institute, established at Ohio State University, for the purpose of finalizing this RFP.

There are at least three basic policy questions the committee must decide:

- What is the timeframe for the study?
- Who will pay for the study?
- Should the group that prepares the RFP be allowed to submit a bid to do the study?

The most important element of the Guidelines and the draft RFP is what electric utility restructuring will mean for Alaska. These sections address that question:

- in the Guidelines under "Scope of Study"
- in the third paragraph of the "Synopsis" portion of the draft RFP
- in the Objectives portion of the draft RFP

The Guidelines and the draft RFP were sent to Subcommittee members (Representatives Dyson and Davies) and to APUC Commissioners Cotton and Ornquist for review and revision before distribution to the full committee.

# Guidelines for Request for Proposals
# For a Proposed Study
# On Electric Utility Restructuring in Alaska

## Background of Consultant:

Extensive experience with electric utility restructuring (international, national or state)
Engineering and economic backgrounds available in personnel
Neutral on issue of electric utility restructuring
Able to perform in short time line
Open to considering partnership with Alaskan businesses, if not an Alaskan business
Licensed to do business in Alaska

## Scope of Study:

The main question to be addressed with various scenarios is: the risk/reward and cost/benefit of wholesale and/or retail competition in the electric utility industry in Alaska.
***NOTE: APUC suggests that the scope be the interconnected "Railbelt" region, rather than statewide.**

## Issues/Scenarios to be Addressed:

ALASKA

- Assess Alaska's unique situation regarding transmission grid.
- Assess competition potential on wholesale level.
- Assess competition potential on retail level.
- Review cooperative nature of ownership of Alaska utilities with the people owning nearly all of the utilities either on a cooperative member basis or a municipally-owned basis - and its impact on restructuring.
- Review and compare benefits/advantages/status of restructuring efforts in other states and countries and then assess what might happen in Alaska.
- Assess impact and benefits that may accrue as result of restructuring, including changes that may eliminate or decrease the State subsidy provided under the Power Cost Equalization program.
- Assess State's exposure on Four-Dam Pool, and other power generation and transmission lines, and contractual obligation State has to these projects.

STRANDED INVESTMENTS

- Describe investments in Alaska that may be stranded by competition and how to recover same.
- Identify State-owned and State-financed transmission facilities.
- Assess impact of State's ownership of some major transmission facilities and what impact would be on state.
- Assess the impacts on existing gas supply contracts and wholesale power contracts in a competitive wholesale market.

RELIABILITY/SAFETY

- Assess how to preserve reliability and safety under competition scenarios.
- Assess possible handling of peak period load times (particularly in the winter) and how these times would be addressed under competition.
- Assess spinning reserves and standby capacities in current and any restructured system.

AFFORDABILITY

- Assess low-income protection, universal service provisions, including provider of last resort, obligation to serve, and how these should be structured; e.g., telecommunications within Alaska is required to provide universal service.
- Define and assess potential problems related to cherry picking.
- Assess potential for mergers and acquisitions, and consolidation of various market segments (winding up with one major player in the area).

PILOT PROGRAM

- Assess whether one would work in Alaska, or in specific areas of Alaska.
- Suggest how one might be structured so that meaningful data will be available at the end of the program.

***APUC has a concern that there is currently a request before it on the issue of a pilot program.**

CONSUMER EDUCATION

- Assess the issue of how to educate consumers under any restructuring plan and the anticipated cost of such a program.

FINANCIAL ISSUES

- Bonds: Assess any potential restructuring problems with tax-free and municipal bonds and/or outstanding federal loans.
- Taxes: Assess tax implications facing local and/or state government.
- Cost to state government: Assess anticipated costs of instituting restructuring on state government.
- Cost to local government: Assess anticipated costs of restructuring on local governments.
- Consumers: Assess potential bottom line for consumers, what percent of eventual savings to consumers will result from each of the options.
- Wholesale contracts: Assess how to deal with current long-term power purchase contracts.
- Reliability: Assess cost of maintaining spinning reserves and standby capacity and how payment for these systems should be addressed.

ALASKA STATE LEGISLATURE

- Outline policy issues, possible statutory changes the Legislature may need to address.

ALASKA PUBLIC UTILITIES COMMISSION (APUC)

- Assess role of APUC in restructuring.
- Outline what regulatory measures the agency may need to address (e.g., transitional issues)
- Assess whether statutory changes are required to provide oversight of market players, i.e., currently power marketers may not be required to be certificated or registered with the APUC.

OTHER

- Incorporate, but not duplicate the work transpiring from APUC Docket U-97-140, specifically the Black & Veach study.
- When reviewing existing system, be specific that there may be more than one competition scheme for the entire State of Alaska.
- Look at whether or not existing regulatory scheme is adequate to address any suggested direction for each market segment.
- If existing scheme is not adequate to address a change of direction, assess what kind of regulatory oversight would be needed after restructuring.
- Look at how to make performance-based regulations.
- For each scenario assess the impact new technology has had, does have and could have on electrical systems.
- Discuss implied vs. explicit ratepayer subsidies: What are they? How are they impacted by restructuring?

The final report should include written analyses, publishable reports, and ancillary materials, all of which become the property of the State of Alaska. The report will be provided in electronic format for WEB distribution. As a part of any contract, the consultant should be available to present the report to the Joint Committee, and to testify before the Joint Committee and other committees of the Alaska Legislature on this matter through December 1999. ***APUC suggests presenting the results at an APUC-sponsored conference with the conclusions reached at the end of the conference synthesized into a report by the consultants under the direction of the APUC.**

# DRAFT RFP

## SYNOPSIS:

The Alaska Legislature represents all classes of electric consumers in the State of Alaska. The Alaska Public Utilities Commission (APUC) is the primary state regulatory agency whose decisions regarding electric utilities can affect all classes of electric consumers. Consumer-owned electric utilities provide electric service to most of the state's more than 600,000 residents.

The electric system in Alaska is physically isolated from those of the contiguous states; the social, economic and political considerations underlying electric industry restructuring initiatives in other states have begun to be considered in Alaska. APUC and the Legislature are examining the present condition of and possible alternatives for the electric industry in the state. The APUC has before it Docket U-97-140 that will result in a preliminary study of power pooling and central dispatch planning for the integrated portion of Alaska's electric network (the "Railbelt" area). The Legislature has appointed a Joint Committee on Electric Utility Restructuring to recommend to the 21st Alaska Legislature (convenes January 19, 1999) whether and how to implement electric utility restructuring in Alaska.

The Legislature and the APUC seek to retain the services of a qualified professional consultant or consulting firm to assist in evaluating the risk/rewards and cost/benefits associated with competition in the electric utility industry in Alaska. Familiarity with current industry structures, practices and technology, and with ongoing developments in electric restructuring at the state and federal level is essential. Deliverables include written analyses, publishable reports, ancillary materials and presentations to the Alaska Legislature. Because of the aggressive timeline established by the state, time is of the essence with respect to milestones and deliverables.

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I. Alaska Background

II. Objectives

III Scope of Services

IV. Consultant Capabilities

V. Ownership

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## I. ALASKA BACKGROUND

The electric utility industry is undergoing significant, evolutionary changes in the Lower 48 states. These changes have resulted in part from the Energy Policy Act of 1992 and Order No. 888 of the Federal Energy Regulatory Commission (FERC) in derivative proceedings (Note: Order No. 888 does not apply to Alaska). The industry has begun to move away from a vertically integrated monopoly regulated paradigm. At the federal level, new requirements for "comparable" transmission access and non-discriminatory availability of real-time network information are promoting competition in general. Concomitantly, approximately half of the states have adopted or are considering changes in the way consumers receive electric service, including the introduction or examination of retail competition and consumer choice. Although FERC Order No. 888 does not cover Alaska, Alaska is interested in new business structure and benefits that might arise out of restructuring.

Whether such restructuring efforts will produce sustained, sustainable consumer benefits is unresolved. The form, scope, and substance of the individual state programs vary widely from state to state, as does the relative degree of enthusiasm for large-scale restructuring of the industry. To the extent states have adopted programs, those programs are for the most part in the inception stage. Inadequate time has elapsed to provide an empirically sound basis for assessing long-term public interest benefits available from any particular restructuring effort.

Against this backdrop, issues concerning competition and deregulation have come before the Legislature and the APUC. Though not physically interconnected to the Lower 48 grid, Alaska is not insulated from the social and political forces driving review and revision elsewhere in the country. These forces have begun to move policy makers in the State to review and consider the present condition of the electric industry in Alaska, the possibilities of change in the industry structure here, and the prospects for public interest benefits flowing from whatever course might be chosen.

It is imperative that Alaska's utility structure be properly evaluated in comparison to the more cohesive infrastructures, technology options, and generation providers available in the Lower 48. In short, if beneficial to Alaska in all or in part, it is important to establish a restructuring template for Alaska that ensures economic benefits to its citizens while ensuring against harm to consumers who don't have the market strength to protect their financial interests.

APUC, which has formal jurisdictional oversight over all electric utilities and utility services in the state, has been engaged for several years in various adjudications, which to some degree have impacted electric industry and market restructuring issues. More recently, the APUC inaugurated dockets focused on:

- a) power pooling and dispatch planning among the Railbelt electric utilities (DOCKET U-97-140); and
- b) a more general rulemaking inquiry into electric restructuring issues (DOCKET R-97-10).

Both dockets raise a wide range of issues with broad potential impacts upon the public as well as industry. APUC activity is now paralleled by legislative action. Pursuant to House Concurrent Resolution 34, the Legislature has established a Joint Committee on Electric Utility Restructuring (Joint Committee) to examine various restructuring and competition issues. The Joint Committee must complete its review and submit its recommendations to the 21st Legislature by January 1999.

## II. OBJECTIVES:

The State's primary objectives in proposing a study include the following:

1. **Obtain an unbiased third-party perspective:** The State wants to retain an informed, experienced, and unbiased consultant to ensure that the positions ultimately taken in any proceedings reflect consideration of the interests of all potential consumers.
2. **Identify options:** The positions considered and adopted by the State should result from a broad ranging review and analysis, conducted for the express purpose of identifying all plausible, relevant issues, as well as options for addressing those issues.
3. **Produce a cost/benefit analysis:** Working with the specific options identified, the State seeks to evaluate the cost/benefit and risks/reward of each approach in terms of consumer interest, current and potential industry participants, and overall economic, environmental and social effects on the state.
4. **Quantify impacts:** The State seeks quantification of the economic costs and benefits of each identified approach, to the end that a common basis for evaluation of each option can be established.
5. **Rank alternatives:** As a result of the foregoing analysis and evaluation, the State desires a comparative evaluation of the options, resulting in an ordering of those options (potentially under more than one set of criteria).
6. **Select and pursue an optional course:** If found to have merit for Alaska, the Legislature and the APUC anticipate adopting suitable approaches to the issues and incorporating them into a comprehensive regulatory and legislative program on electric restructuring.

The methodologies employed by and the deliverables obtained from the consultant must reflect and prove consistent with these objectives.

## III. SCOPE OF SERVICES:

The Legislature and the APUC have determined to seek the aid of an outside consultant. The consultant will perform all work necessary to:

- Conduct an economic assessment of the risk/reward, cost/benefit and impacts of wholesale and retail competition in Alaska
- Formulate positions on issues relevant to electric industry matters in Alaska
- Contrast the differences among Alaska, the Lower 48 states and other countries from an electric utility perspective and then evaluate which benefits and risks might accrue should various restructuring scenarios evolve from legislative or regulatory efforts.
- Review and compare benefits/advantages/status of restructuring efforts in other states and countries - how effective have they been to date, how well have the efforts been received by suppliers and customers? Which features would be a liability to Alaska?
- Incorporate, but not duplicate the results of APUC Docket U-97-140, specifically the Black & Veach study.
- Review the current electric system to determine the generation available, the market structure for the sale and purchase of electricity and how the system is currently operated.
- Become familiar with the sensitive economic balance prevailing in each of the isolated satellite utility system communities throughout rural Alaska.
- Become familiar with the engineering, operation, financial and regulatory conditions attending the current electric industry structure in Alaska.
- Assess Alaska's unique situation regarding transmission grid.
- Assess competition potential on the wholesale level and what percent of eventual savings to consumers will result from this competition.
- Assess competition potential on the retail level and what percent of eventual savings to consumers will result from this competition.
- Identify and analyze alternatives for addressing the conditions, issues and factors examined from multiple perspectives including, but not limited to current and anticipated industry engineering and operational parameters, first and continuing/operating costs, consumer welfare and impact, public interest benefits, public "goods," potential regulator issues (state, federal, electric and other), and other matters related to electric industry restructuring. The consultant is expected to draw upon the restructuring experiences of jurisdictions outside of Alaska and to integrate such experiences on a comparative basis for further reference and evaluation.
- Review cooperative nature of ownership of Alaska utilities with the people owning nearly all of the utilities either on a cooperative member basis or a municipally-owned basis - and its impact on restructuring.
- Assess impact and benefits that may accrue as result of restructuring, including changes that may eliminate or decrease the State subsidy provided under the Power Cost Equalization program.
- Assess how to deal with current long-term power purchase contracts (wholesale contracts).

- Assess State's exposure on Four-Dam Pool, and other power generation and transmission lines, and contractual obligation State has to these projects.
- Describe investments in Alaska that may be stranded by competition and how to recover same.
- Assess impact of State's ownership of some major transmission facilities and what impact would be on the state.
- Assess how to preserve reliability and safety under competition scenarios.
- Assess possible handling of peak period load times (particularly in the winter) and how these times would be addressed under competition.
- Assess low-income protection, universal services provisions, including provider of last resort, and obligation to serve and how these should be str..ctured.
- Define and assess potential problems related to cherry picking.
- Assess potential for winding up with one major player in the area.
- Assess whether pilot program would work in Alaska, or in specific areas.
- Suggest how a pilot program might be structured so that meaningful data will be available at the end of the program.
- Assess the issue of how to educate consumers under any restructuring plan and the anticipated cost of such a program.
- Assess any potential restructuring problems with tax-free and municipal bonds and/or outstanding federal loans.
- Assess tax implications facing local and/or state government.
- Assess anticipated costs of instituting restructuring on state government.
- Assess anticipated costs of restructuring on local governments.
- Assess potential bottom line for consumers, what percent of eventual savings to consumers will result from each of the options.
- Assess how to deal with current long-term power purchase contracts (wholesale contracts). Assess which contracts will result in stranded costs for energy suppliers and utilities. What wholesale competition can exist within the existing wholesale contracts.
- Assess role of APUC in restructuring.

As directed by the State, produce a final and comprehensive written report reflecting the processes of the above requirements. The final report should include written analyses, publishable reports, and ancillary materials, **all of which become the property of the State of Alaska.** The contractor shall assemble and consult with a peer group, whose members are not employees, contractors, or otherwise connected with the consultant, regarding the written report. The State shall approve all members of the peer review team. The contractor shall provide the State with a copy of written remarks from members of the peer group and background information on each member of the peer group. As a part of the contract, the consultant must be available to present the report to the Joint Committee, and to testify before the Joint Committee and other committees of the Alaska Legislature on this matter through December 1999.

## IV. Consultant Capabilities

When evaluating responses to its solicitation, the State will consider demonstrated capabilities and skills in the following areas, among other matters:

- **Neutrality:** Consultant must be neutral on the issue of electric utility restructuring (no published points of view or lobbying contracts advocating or opposing restructuring).
- **Alaska Hire:** Consultant should be open to considering partnerships with Alaska businesses (if not an Alaska business) and be licensed to do business in Alaska.
- **Analysis:** Consultant must have sufficient resources (personnel, software and hardware) to effectively process, analyze and evaluate significant amounts of raw data. Multiple sources of data may be offered and disparate forms, protocols, etc., can be anticipated. Some data may be proprietary, confidential or otherwise privileged in source or character, requiring the ability to handle such data in a conforming manner and to effectively control and limit the exposure or dissemination of such data.
- **Experience:** The State seeks a consultant with experience in electric industry matters, generally, and with knowledge of the current condition of restructuring elsewhere. Economic or engineering experience is helpful, but not mandatory. The consultant must be familiar with all aspects of policy formulation, from data gathering, to data analysis, to evaluation, to policy development and exposition.
- **Presentation/Support:** A written, publishable report will be a required deliverable of the contract, in sufficient quantities and forms necessary to achieve the objectives. The report shall also be provided in Adobe Acrobat electronic format for distribution on the WEB. Additionally, support of the published report in terms of public or private presentation, explanation, or testimony before the Joint Committee or other committees of the Legislature is also required. The State reserves the right to make as many additional copies of the report and supporting documentation as it deems necessary (NOTE TO COMMITTEE: THIS SEEMS IRRELEVANT IF THE STATE GETS POSSESSION OF THE REPORT AND ALL ANCILLARY DOCUMENTS - See Previous page)
- **Availability:** The consultant must be readily available to the Legislature and the APUC during the course of the project for discussion and advice. This includes formal and informal meetings and may involve consultation with the Joint Committee from time to time. The consultant may be required to interact with individual legislatures, but will not be required to engage in individual member's projects or other matters outside the scope of this contract. The consultant must be free of conflicts of interest at inception of work on this project and must remain so at all times until after termination of the contract.
- **Timeliness:** The anticipated magnitude of the work effort and the limited, defined time period available to respond to the scope of the contract, places a premium on responsiveness to schedule. The consultant will be expected to meet all deadlines and milestones established without sacrificing the accuracy, completeness and quality of the work product.

- **Subject Matter Expertise:** The consultant must be familiar with the technical aspects of the engineering, operations, and financial aspects of the electric utility industry, including generation, transmission, distributions, and energy/ancillary services. Additionally, familiarity with emerging technical, operational and financial issues (e.g., ISO functionality, securitization, power marketing, etc.) is required.
- **Consumer Education:** The consultant will provide the Legislature and the APUC with suggestions for conducting consumer education campaigns designed to inform Alaska consumers about electric utility restructuring.

V. OWNERSHIP:

The ownership of the work product and all documentation and ancillary documents accomplished under this contract rests with the State of Alaska.

VI. SELECTION PROCESS:

Responses to this request for proposals should be made in writing and directed to the following:

(Policy call for the Jt. Committee and the APUC)

Consistent with the matters discussed above, the State intends to rapidly evaluate providers of consulting services. Accordingly, early and complete submissions of interest would be appropriate. **A committee comprised of members of the Jt. Committee and the APUC will review qualifications of prospective bidders and then request those bidders to submit a full response to the RFP.** Those responses should address the matters set out above, particularly those items detailed in Sections II, II and IV.

**Five(?) copies of the response to this request for proposals must be submitted by _____, 1998. Responders are welcome to submit a complete response, but the committee will initially only consider whether the respondents are qualified to conduct the study.**

Any response, to be considered, must be signed by a duly authorized representative of the consultant and must be valid for a period of 30 days following transmission to the above.

Interviews or negotiations, if any, will be conducted only with a potential consultant or consultant's representative legally authorized to represent and to bind the consultant.

End of Document

**Alaska Energy Associates**
126 Boaters Lane
Fairbanks, Alaska 99709

August 28, 1998

Sen. Loren Leman
716 W. 4th Ave, Suite 520
Anchorage, AK 99501-2133

RE: Electric Industry Restructuring Study

Dear Sen. Leman

We appreciate the opportunity to provide these comments on the content of the proposed study. Alaska obviously has very unique conditions in this area not found in the lower 48 states where this process has been going on for some time. The largest obstacle there has been the stranded costs issue, which is virtually non-existent here. We are cautiously optimistic that an open market could result in lower utility costs for all Alaskan rate payers.

We would request that any study looking at a new paradigm for the electric utility industry be statewide and not limited to the Railbelt. We think that a study should review market potential for independent power producers wherever there are opportunities to provide electricity at a lower cost.

We also strongly feel that any restructuring be developed in accordance with the following principals adopted by the National Association of regulatory Utility Commissioners in July of 1996:

NARUC Principles to Guide the Restructuring of the Electric Industry, July 1996

**Reliability**

Safety, reliability, quality, and sustainability of electric service should be maintained or improved in a restructured electric system

**Customer Choice**

Consumers should have the opportunity to make informed choices among providers and services. It is for the States to determine the extend of and pace for expanding choice for consumers under their regulatory oversight

**Universal Service**

Universal service at reasonable rates, including adequate protections for low-income customers, should be maintained

**Public Benefits**

The public benefits of energy efficiency, renewable resources technologies and research and development should be maintained through existing or new mechanisms.

**Stranded Costs**

Existing commitments of utilities arising from past decision made pursuant to historical regulatory and legal principles should be addressed in a fair and reasonable manner by States

**Consumer Protection**
Consumers should be protected from anti-competitive behavior, undue discrimination, poor service and unfair billing and disconnection policies
**State Decisions**
States and State commissions should determine retail electric policies, including restructuring policies
**Environment**
Structural changes to the electric industry should maintain or improve the quality of the environment.
**PUHCA**
Changes to PUHCA should be maintain in the context of broader industry changes. Regulation should be reduced only as competitive becomes effective at preventing monopoly abuses.
**PURPA**
PURPA should be reformed generally consistent with the following: goals of PURPA should be affirmed; mandatory purchase requirements not applicable for utilities in a State that has determined acquisition of generation is subject to competition
**Shared Benefits**
All classes of customers should benefit from improvements due to structural changes in the industry.
**Public Participation**
Industry restructuring policies should be developed in public processes with participation open to all

Thank you again for this opportunity to provide comments.

Sincerely,

Robert A. Maxwell




Alaska
Rural
Electric
Cooperative
Association, Inc.

703 W. Tudor Rd., #200
Anchorage, AK 99503-6630
(907) 561-6103
FAX (907) 561-3547

Electric Service for 357,000 Alaskans

August 27, 1998

| Post-it® Fax Note 7671 | Date 8/27 | # of pages ▶ 2 |
|---|---|---|
| To Jon Leman | From Eric Wood | |
| Co./Dept. | Co. ARECA | |
| Phone # | Phone # | |
| Fax # 258-3768 | Fax # 561-3547 | |

Senator Loren Leman
Alaska State Legislature
716 W. 4th Avenue
Anchorage, AK 99501

Dear Senator Leman:

You have requested input regarding the proposed Request for Proposal (RFP) for the Electric Utility Restructuring independent study. I appreciate the opportunity to respond. As an addition to this letter, you will also be receiving input from Dr. Peter Fox-Penner on behalf of ARECA.

As you are aware, ARECA presented the Legislative Subcommittee with a proposed RFP for your consideration. This is a proposal that the utility industry was considering executing, but we ultimately concluded that such a study may be better conducted by a third party such as the Legislature or the APUC. We also endorse the concept of a joint effort by the Legislature and the APUC as well. We would certainly encourage the use of our proposed RFP for the independent study, but also encourage its use as a basic framework within which to include relevant input from all of the stakeholders.

In addition to our proposed RFP, we would like to reiterate our desire to see the Legislature adopt a set of principals that would guide the restructuring process. If we can agree on the principals, than I think that the results of the ultimate study stand a much better chance of attaining universal support. Principals that the electric utility industry would like to see adopted are as follows:

- Alaska's unique features must be considered: small market size, lack of interconnection, consumer-ownership
- Uniform standards must be developed and applied to all energy providers
- Exclusive distribution service areas must be maintained to prevent duplication of facilities and protection of the consumers
- Universal access to affordable electric service should remain a primary goal
- Stranded costs must be addressed
- The issue of wholesale contracts must be addressed

Although Dr. Fox-Penner's letter will more fully address the study process, I would like to encourage the adoption of a peer-review panel to ensure that the study remains balanced and considers the input of all stakeholders.

Finally, given the complexity of the issue and the potential impact that may accrue, particularly in the Anchorage area, I would encourage the Legislative Subcomittee to adopt a considered approach to the issue at hand and to not be averse to making a recommendation to the next Legislature that specific restructuring recommendations be held in abeyance pending completion of the study. I am particularly concerned about AML&P's ability to freely compete and the potential impact that open competition may have on the $300,000,000 in bonded indebtedness of the utility. Given the nature of AML&P's customers, I don't think that it would take much to "tip the scales" and start a rapid downward spiral. We then might end up with cheap electrical rates, but high taxes to preserve our credit rating.

Please call upon me if ARECA can be of further assistance in the RFP process.

Sincerely,

Eric P. Yould
Executive Director

cc: Dr. Peter Fox-Penner
Sam Cotten
Rep. Rokeberg
Sen. Sharp

*The Brattle Group* *Economic, Environmental & Management Counsel*

CAMBRIDG

WASHINGTO

LONDO

August 26, 1998

*VIA FACSIMILE*

Senator Loren Leman
Alaska Legislature
State Capitol
Juneau, Alaska 99801

Dear Senator Leman:

In this letter I provide my thoughts on a possible means of structuring an analysis of the comparative costs and benefits of retail electric competition in Alaska. As I said when I appeared before the Joint Committee on Restructuring ("JC"), I applaud the legislature's desire to study this in a thorough and objective fashion. As I also noted, a study of this nature is an extremely ambitious undertaking for any state, and will require many months and hundreds of thousands of dollars to perform correctly. Upon reflection, my thesis in this letter is that the study should be done in several distinct stages to improve both the quality of the research and to obtain all-important buy-in from critical stakeholders.

Changing the electric industry's structure is an enormous undertaking, with extremely long-lived and difficult-to-foresee impacts. Long-range forecasts will be accurate only under the best of circumstances, and only then when many assumptions and modeling approaches turn out to be accurate. Nonetheless, as the EIA report I passed out at the hearing proves, analysts are forecasting industry structure and prices as far out as twenty years.

Every good study must begin with a carefully formulated objective. In this instance, I suggest a study objective something like the following:

> The objective of this analysis is to compare, according to a set of criteria carefully specified in advance, several well-specified scenarios that describe alternative future structures of Alaska's electric utility industry. In this context, industry "structure" includes the number, type, and organization of the firms involved in all portions of Alaska's electric supply, as well as the state laws and regulations governing these firms.

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Voice 202.955.5050 Facsimile 202.955.5059 email office@brattle.com

Note that this objective embodies several ideas. First, it is necessary to specify the criteria that will be measured in the study. Are we concerned only with the future average level of electricity prices, or is it important to understand the time profile of prices each hour and price differences between customer classes? Is it important to measure the impact of restructuring on job creation or economic development, and if so, how should it be quantified?

I therefore suggest that the first phase of the effort be the development of specific criteria that will be used to compare industry scenarios. The study will be much more useful if the Joint Committee members, its Alaska Public Utility Commission (APUC) partners, and key stakeholders, understand how each criterion used to evaluate scenarios will be defined and measured. The science of measuring most of the impacts of electric restructuring is still evolving, and many methodological issues are themselves controversial. For example, measuring the impact of restructuring on important public goods -- universal service, reliability, energy efficiency and renewable energy, and environmental improvement -- can be difficult. For each criteria, I recommend that agreement be reached before the main study is scoped and the RFP issued, as no competent researcher will be able to estimate their cost of performing the research well without such information.

In attachment 1, I provide a preliminary list of possible evaluation criteria and make observations as to definition and measurement options. However, these are only suggestions. Selection of the criteria by which the Joint Committee evaluates industry change is one of the most important decisions the Joint Committee will make, and it is a decision to be made by elected representatives of the people.

As noted above, I recommend that these important decisions be made prior to the final scoping and issuance of the main study RFP. However, the process of understanding and evaluating the methods of measuring the kind of impacts set forth in attachment 1 requires significant work, probably more than can be done by the limited staff available to the JC and APUC. I therefore suggest that the Committee and its APUC partners proceed with what the consulting industry calls a scoping study. This preliminary study would pay a research firm to search the literature and develop a list of criteria similar to attachment 1 and present alternative definitions and measurement methods for each criteria, with a discussion of the pro's and con's of each measurement approach. The scoping consultant should understand the ultimate objective of the main study, and should be instructed to estimate the impact of alternative measurement approaches on the cost of the ultimate study.

As an example, there are many alternative ways of gauging the impact of restructuring on Alaska's environment. You may wish to limit the assessment of environmental impacts to air emissions, which is not uncommon. Even then, measuring the impact of air emissions changes can employ any of several approaches: quantification of differences in criteria pollutants, economic measurement using damage functions, particular focus on localized air quality issues

such as ground level ozone or particulates, or some other approach. These approaches will require significantly different levels of effort in the ultimate study, and will also help encourage only those bidders with the requisite skills to bid on the final study.

An additional advantage of proceeding with this scoping study is that it will allow the JC and others to learn much about how studies of restructuring are conducted. An early introduction to the jargon, methods, data, and assumptions researchers use will greatly improve the JC's understanding of the final report.

The second element embodied in the overall study's objective is the creation of what I would call the study's framework, i.e. the key assumptions and parameters the JC wishes to specify in advance as guidance to the researchers. Before going any further, allow me to discuss the concept of framework a bit more carefully.

Every study has a time horizon and a geographic scope, and these are the primary foundations of a study framework. For a study of industry structure, it will also be necessary to create a large set of assumptions and scenarios in order to explore the subject properly. For example, one key assumption will involve the technical performance of distributed generation technologies. Will they become reliable and cost-effective five, ten, or twenty years from now? Similarly, will natural gas prices rise, fall, or remain steady relative to the rate of inflation in Alaska?

In attachment 2, I provide a list of assumptions that are likely to be important in the study and some observations on the usual ranges these assumptions can cover in studies of this nature. The list is somewhat long, and the Committee probably will want to examine the impact of many of these assumptions on study results. This presents a critical issue in the design of the study's framework.

For each element in Attachment 2, and perhaps others the Committee wishes to add to the list, the Committee must decide whether a single assumption will do or whether a range is to be explored. I suspect there will be some of both.

Where a single assumption is sufficient, this assumption becomes part of the study framework, and should be communicated to bidders as part of the RFP for the study. Where a range of assumptions is needed, this too must be decided and communicated, but the effort does not end there.

Suppose a study has three key assumptions to make, each of which can take on three values. All other assumptions are fixed. Suppose we define a "scenario" as any unique combination of these assumptions. If each scenario produces a different final answer with respect to the criteria for judging the outcome of the study, we may want to perform a complete analysis of

nine scenarios.

Due to the long time period involved and the difficulty in predicting the results of industry structures, I cannot rule out the need to examine multiple scenarios for the Alaska utility industry. I simply don't know enough to determine whether the impacts of possible restructurings in your state, judged according to the methods and criteria set forth in the scoping study, will change depending on the factors in Attachment 2 for which I suggest ranges.

If the Committee decides that multiple scenarios need to be examined, then it must consider whether and how to limit the number of scenarios in the ultimate study. Generally speaking, I think there are two approaches. The first is to specify a matrix of scenarios much like the simple example above: for each key assumption, specify the number of cases to be run against every other combination of assumptions. This produces a lot of material to digest, but it has the advantage of illuminating precisely which assumptions turn out to influence important outcome criteria and which do not.

The second approach is to create several pre-selected *scenarios* for analysis and discard many of the rest, limiting the study to a careful comparison of a few cases rather than a global exploration of all possible future states of nature. For example, you might consider creating the following six scenarios:

0. Reference Case: no change in any policies or laws.

1. Incremental Retail Improvement. Continue with APUC regulation and customer ownership at retail, but add incremental improvements.

2. Incremental Retail Improvement Plus Open Access. Same as scenario one, but with improved wholesale open access policies made to emulate world class best wholesale open access.

3. Scenario 2, with partial retail choice in the railbelt.

4. Scenario 2 with complete retail choice in the railbelt.

5. Scenario 2 with complete statewide retail choice.

Creating scenarios with these descriptions immediately raises questions as to what's in them. What, for example, do we mean by incremental improvement in Scenario 1, or by "partial"

retail choice?

Believe it or not, one of the most important advantages of the creation of these scenarios is that it forces all stakeholders to work together to define scenarios thoroughly enough that:

- everyone understands in advance what exactly is being examined;
- everyone agrees that these alternatives represent outcomes that could occur, whether or not they are desirable;
- stakeholders will gain a far greater appreciation of the number of decisions and assumptions inherent simply in formulating a scenario to be studied, and make these decisions and assumptions themselves, rather than having researchers do this largely at their discretion.

As with the specification of criteria, scenario development is a substantial task unto itself, and also merits engaging the services of a consultant in a scoping study or perhaps delegating this task to the APUC. Here the consultant's objective would be to interview each of the key stakeholders in Alaska, including members of the IC and the APUC, examine the literature, and facilitate a small series of workshops in which the participants flesh out a series of scenarios that will be included in the RFP. Realistically, this will take several months however you choose to do it.

Upon completion of the two scoping efforts, the stage is set for a thorough and objective analysis. The benefits of the scoping studies will be realized not only in the knowledge and "buy-in" among policymakers and stakeholders, but also in the fact that the final RFP for the full study can be written with far greater specificity. In effect, the final RFP will ask for bids to compare the agreed-upon set of scenarios according to criteria and methods set forth in the first scoping study. I believe consulting experts bidding on this basis will be able to more accurately gauge the work, build research teams that can perform the work well, and will produce the most usable product at the best price if this overall approach is employed.

I recognize that what I have outlined here is more than a one-shot RFP for a one-shot study. Although the process I suggest here is more complex, and could take a little more time, I believe the results will repay the effort.

Finally, here are a few administrative suggestions that accompany my proposed study outline. First, the scoping RFPs should specify whether the entity that performs the scoping study is eligible to perform the final study. There are pro's and con's to either alternative, but decide this in advance. Second, if Alaska procurement rules allow it, accept the next-to-lowest bid, not the lowest. Third, I would not require an Alaska firm to be a part of the bid. I think there are many firms outside the state that can do an excellent job, and you should go for highest

quality.

My final and most important administrative plea is make sure that you engage a panel of recognized, independent experts to serve as paid peer reviewers for the study. The peer review panel need not be large, but it should incorporate a variety of views, and it should be contracted independently by the JC and the APUC, and report directly to them. Keep in mind that the group doing the ultimate study will want to interact with the peer reviewers periodically from the outset of their effort, not just after the study is completed. Both the peer reviewers and the study performers should budget for pre-scheduled periodic interactions from the study outset.

As I noted during the hearing, in the interests of preventing even the appearance of a conflict, the Brattle Group hereby recuses itself from bidding on either the scoping studies or the final study. However, with the consent of ARECA I would be happy to help develop the RFPs and study plan further and/or serve as one of the peer reviewers.

I very much enjoyed my brief trip to Alaska and the congenial atmosphere at the Joint Committee's hearing. I sincerely hope the Committee is successful in its mission to conduct a careful, unbiased look at one of Alaska's most important and complex industries.

Sincerely,

Peter Fox-Penner
Principal and Director

cc: Eric Yould, ARECA
Sam Cotton, Chair - APUC
Representative Norm Rokeber
Senator Bert Sharp

PFP:mg

**Attachment 1**

**Preliminary Suggested Possible Criteria for Evaluating the Impacts of Electric Utility Industry Structural Change (all measured over the study's time horizon)**

1. Industry Structure Impact – Likely number and type of entities functioning in each stage of the industry

   *Measurement: descriptive and qualitative (but see no. 2 following)*

2. Price and Bill Impacts

   A. Impact on average prices by time of day, season, load factor, and customer class
   B. Impact on average bills

   *Quantitative, though possibly not based on a single calculation or model, but rather on literature searches and actual results observed in similar situations.*

3. Impact on Reliability

   A. By industry stage (generation, transmission, distribution, unbundled retail services (if any)).
   B. By customer class

   *Same as No.2*

4. Impact on Public Interest Objectives

   A. Energy efficiency
   B. Fuel mix and diversity
   C. Renewable energy
   D. Low-Income customers
   E. Universal Service
   F. Technological Advancement
   G. Environmental Protection

a. Air emissions, localized and state or national
b. Water
c. Land use/disposal

*Measurement notes: All except G are same as 1 and 2 above; G should be quantitative and analytical.*

5. Transition Costs

A. Generation Stranded Costs, by entity existing today
B. Transmission and Distribution Stranded Costs, by entity existing today
C. Customer Education and associated costs
D. Increased Costs of Regulatory Institutions

*Measurement notes: A and B can be estimated from Alaska-specific stranded cost models; C and D estimates similar to 1 and 2 above.*

**Attachment 2**

Key Assumptions and Scenario Parameters – Preliminary Suggestions

| Assumption or Parameter | Comments |
|---|---|
| Time Horizon | Accuracy diminishes dramatically as period extends; suggest 5-15 years. |
| Inflation and Real State Product | Set single consensus assumptions; results probably not sensitive to these parameters. |
| Interest and Discount Rates | Pick two or three values as parameters; may or may not be important |
| Fuel Prices | Probably worth doing high/medium/low scenarios |
| Technology Parameters<br><br>(For each major generating technology, including DG; capital cost, operating costs, heat rate, environmental performance, etc, over time) | Probably very critical. Alternative assumptions available for many technologies from Energy Information Administration or Electric Power Research Institute, as well as private sources. |
| Demographic and Geographic Development Patterns in Alaska | ? |
| Tax Treatment of Public Power Investments | ? |
| Tax Rates for Public and Private Alaska Industry Participants | ? |
| Electricity Demand and End User Technology Development | Readily parameterized by variables such as average use per customer, typical load profiles by customer class and price elasticity by time period and customer class. |

# Homer Electric Association, Inc

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August 28, 1998

The Honorable Senator Loren Leman
716 W. 4th Ave., Suite 540
Anchorage, AK. 99501-2133

Dear Senator Leman:

Re: Investigation of Electric Utility Restructuring in the State of Alaska

Thank you for the opportunity to comment on the scope of study undertaken to examine the feasibility and desirability of restructuring the electric industry in Alaska. This is a subject of vital importance to all electric utility consumers in the state. We urge a careful and deliberate approach to this subject to ensure that all views and relevant points are examined before any recommendations are formulated for possible action.
In brief, the following points should be considered:

- Industry restructuring policies should be developed through public processes with participation open to all interested parties.
- The investigation should recognize the uniqueness of the Alaska electric utility industry. One size will not fit all.
- Evaluate the realistic level of competition available to consumers in all segments of the market and potential for abuses of market power.
- All classes of consumers should benefit, or at least not be harmed by, structural changes in the industry.
- Review the status of restructuring efforts by other states that are further along in the process. Evaluate their effectiveness, benefits and problems.
- Review the current regulatory processes in the state and their changing roles in any restructuring plans.
- Review the environmental effects of any restructuring plans.
- Evaluate stranded cost issues and possible solutions.
- Include results of the present Power Pooling study recently completed by Black and Veatch under guidance of the APUC.

It is understood that this investigation and subsequent report and recommendations are intended to be a basis for legislative action during the 1999 session. This makes for a rather short schedule for a subject of this importance, complexity and breadth to be addressed.

We would recommend an interim report at the beginning of the session outlining the progress to that point in time and laying out a schedule for completion of the project. We would urge that adequate time be allowed for a thorough investigation and deliberation, even if it means not finishing in time for legislative action during the 1999 session.

This subject is simply too important to risk hasty actions that have the potential to cause major problems and costs if not implemented properly.

We appreciate the opportunity to provide comments on this important subject and stand ready to assist in pursuing this project to a successful conclusion.

Sincerely,

HOMER ELECTRIC ASSOCIATION, INC.

N.L. Story
General Manager

C: Sam Cotton APUC
Eric Yould ARECA

F:\GM\NLS98LTR\LEMAN.LTR\tr

# International Brotherhood of Electrical Workers
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[illegible]
PRESIDENT





August 24, 1998

Representative Norm Rokeberg
PO Box 221721
Anchorage, AK 99502-1721

Dear Representative Rokeberg,

I am writing today in response your request for specific criteria recommendations for a deregulation study now being contemplated by your Task Force and the APUC. The IBEW is concerned that the working title we have heard for this study; "the effects of deregulation in Alaska" implies that the policy question of **whether to proceed with deregulation** has been replaced with **how to proceed with deregulation**. In part this can be attributed to the lack of clearly articulated opposition from the Alaskan utility community.

The reticence on the part of the utilities can be in part ascribed to the perceived public relations dilemma that would presumably befall the utilities that took an anti-deregulation stance. Rather, hoping to avoid being labeled anti-choice, the majority of Alaskan utilities have crafted cleverly ambivalent position statements that are followed up with detailed reasons to oppose deregulation of the electric utility industry in Alaska.

The IBEW feels no such compunction and forthrightly opposes deregulation in Alaska. We would further caution the committee that assuming consensus on this issue misreads the position of the utility community. As you yourself have repeatedly cautioned, any legislative approach must enjoy the support of all the stake holders, or the very nature of this complex issue will cause it to fail if opposed by any sector.

Notwithstanding the above comments, we would urge the following criteria be included as policy questions that must be included in any study addressing changes to the currently structured utility industry in Alaska:



PROUDLY SERVING 586,000 SQUARE MILES ON TOP OF THE WORLD

**Any restructuring of the electric utility industry in Alaska should not proceed without guaranteed lower rates for residential and small business consumers. Is this possible, and what is the probability of attracting new competitors to the marketplace?**

**Equitable benefit of any restructuring must ensure that rural, remote and less profitable customers are not adversely impacted. What assurances for universal access would be required as a result of restructuring in Alaska?**

**Restructuring should not proceed until stranded cost and debt recovery issues are adequately addressed so that all classes of consumers benefit equally, those remaining on the system as well as those leaving the system.**

**Because of our extreme weather conditions, power outages that last for days and even weeks at a time are unacceptable and consumers must be protected from unreliable service. What regulatory protections would be required to insure no system reliability compromise and no unacceptable interruptions of service?**

**Safeguards for worker and public safety and strict reliability standards must be built into any restructuring scheme in order to protect the public's best interests. What are the implications of such regulatory requirements?**

**If the Alaska market is deregulated, what regulatory provisions should be enacted to protect the market from giant holding companies and mergers, in order to avoid a reduction in the number of service providers and the elimination of meaningful choice?**

**Will electric utility restructuring result in compromised response time, maintenance standards, and system reliability through workforce reductions. Estimate the cost of providing adequate provisions for voluntary severance or retirement options, job retraining and outplacement assistance for adversely affected utility employees.**

**Safeguards should be enacted that ensure energy efficiency, and clean energy technologies. How can these important issues be addressed through regulatory reform?**

As you can see by this list, the concerns that must be mitigated before any meaningful restructuring of the electric provider industry in Alaska should be undertaken are vast, we would submit, if not insurmountable, at least do not meet the cost/benefit test.

I remain, as always, ready to answer any questions you may have about this very important issue and stand ready to provide your committee with any information or research you may find necessary.

Sincerely,

Gary Brooks
Business Manager

GB/cea

Aurora Power

www.aurorapower.com

August 24, 1998

Senator Loren Leman, Chairman
Subcommittee, Joint Committee on Electric Utility Restructuring
Alaska State Legislature
716 West 4th Avenue, Suite 540
Anchorage, Alaska 99501-2133

AUG 24 1998

Dear Senator Leman:

At the August 18th meeting of the Joint Committee on Electric Utility Restructuring, Representative Norman Rokeberg requested that we provide your subcommittee with key issues to be examined during a joint study by the Legislature and APUC.

Aurora Power would like to offer the following recommendations for the study:

- **PILOT PROGRAM**
  Allow a limited scope and limited time frame pilot program to be initiated to the Anchorage area. This pilot program would accompany the study to provide actual data on technical issue resolution, utility coordination and customer satisfaction back to the decision-makers.

- **CUSTOMER PROTECTION**
  Develop Customer protection rules by the APUC. This is a fairly straightforward recommendation to be incorporated as part of the study. Currently Michigan has an extensive docket U-11290 that addresses Customer Focus Issues and Recommendations. Many of the issues and concerns that were raised in the two hearings, as well as the ARECA conference have already been addressed in this document. The staff of the Michigan Commission recommended that the Commission or Legislature consider developing a formal summary of those rights essential to electric consumers. The list would be used as the foundation for guaranteeing consumer protection for all electric consumers.( **Copy Attached – Electric Consumer Bill of Rights)**

- **SUPPLIER OF LAST RESORT**
  Each of the states (California, Maine, Massachusetts, Montana, Nevada, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont) that have adopted or are implementing restructuring programs have provided for a "supplier of last resort." This has been accomplished by establishing a default service or a standard offer provision, or both. In each of these states, the Distribution Company is required to provide basic service to all customers in its service territory:
  1) Who choose not to contract directly with a supplier;
  2) Who cannot obtain power in the open market; or
  3) Whose supplier fails to provide generation service.
  The objective is to ensure that no customer goes without electricity.

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Customers not electing the option to choose an alternative supplier for power generation may retain total service from their host utility. If the customer chooses to remain sales customers of the existing utility, they will not be harmed by the change brought about by restructuring.

- **OBLIGATION TO SERVE**
  For transmission and distribution service, the obligation to serve remains relevant in a competitive generation market since it is expected that these will continue as natural monopoly functions. The natural gas industry moved through a similar transition in the 1980's. In that industry, the issue was resolved by restricting the utility's obligation to serve to those customers who choose an alternative supplier. In those instances, the utility maintains an obligation to deliver the gas the customer procured, but is under no obligation to procure new or additional supplies for the customer. A similar approach could be applied to electricity. Under this approach, the obligation to serve, which by historical definition includes the requirement to supply electricity, would be changed to the "obligation to connect" and deliver electricity for those customers who choose an alternative generation supplier. The utility would no longer be under an obligation to procure and sell electricity to such a customer although it could if it chose to do so.

Aurora Power believes that the aforementioned issues are important implementation decisions to be resolved by the APUC. The list of issues that need to be studied could become quite elongated if a company were to follow the goal of postponing Customer Choice for as long as possible. Aurora's intent is to keep the process simple and enable customer choice in a timely and beneficial manner. The decisions made by the APUC, which will hopefully include implementation of pilot program, will benefit the consumers and provide a valuable stepping stone to full retail wheeling in the Railbelt.

Thank you for your time and consideration of this matter.

Sincerely,

Mary Ann Pease

Mary Ann Pease
Vice President

Cc: Rep. Norman Rokeberg
Senator Bert Sharp
Senator Robin Taylor
Senator Al Adams
Rep. Alan Austerman
Rep. Fred Dyson
Rep. John Davies

# Electric consumer Bill of Rights

1. **Right to Know** – Customers should be assured access to free (or easily affordable) and accurate information and education materials, which enable comparison of price. quality, supplier service records, and terms of service offered.

2. **Right to Choice** – Customers should have the ability to choose from among service providers competing in an open market. All customers should have the ability to aggregate efficiently on a nondiscriminatory basis.

3. **Right to Fair Dealing** – All classes of customers should have access to choices and pricing options without discrimination.

4. **Right to Redress** – There should be a neutral, prompt, effective, no-cost or low-cost forum for resolving customer complaints against electricity suppliers, aggregators, and distributors.

5. **Right to Privacy** – Consumers should be able to control release and use of sensitive personal information and records. Marketing should not be unduly intrusive.

6. **Right to Service Quality** – All choices offered to customers should meet minimum safety standards and service criteria, and must fulfill advertised terms and conditions. Unreasonable terms and conditions (e.g. blanket requirements for service limiters) should not be forced on any customers as a precondition for providing service.

7. **Required Code of Conduct and Oversight** – All suppliers and aggregators should meet minimum standards for certification as a condition of market entry and adhere to a standard code of conduct.

8. **Right to Universal Electric Service** – Electric service is a basic necessity, which should be accessible to all residential consumers/properties. Universal service includes the right to firm generation, transmission, and distribution services, and such metering as is necessary to allow customers to participate fully in a competitive power market.

CHUGACH ELECTRIC
ASSOCIATION, INC.

EUGENE N. BJORNSTAD, P.E.
General Manager

August 27, 1998

Senator Loren Leman, Chair of the Study Subcommittee
Through Representative Norman Rokeberg, Co-Chairman
Alaska State Legislature
Joint Committee on Electric Utility Restructuring
716 West 4th Avenue, Suite 640
Anchorage, Alaska 99501-2133

Dear Senator Leman:

The Joint Legislative Committee on Electric Utility Restructuring has asked for input from Chugach and other utilities on appropriate topics for consideration in a possible study to be conducted by the Alaska Public Utilties Commission. We offer here our views and suggestions on the steps needed to move toward allowing customers to choose their electric power service providers.

## I. Focus the study on the immediate question of competition in Anchorage on a test case basis

HCR-34 requires a recommendation to the 21st Legislature when it convenes in January. This will require that any study be very tightly focused only on the most important near-term question. Chugach recommends that the study focus on a single important question:

> **Are there compelling reasons the State of Alaska should prevent Anchorage customers from choosing their retail electric service provider on a test case basis beginning as soon as possible?**

Chugach strongly urges the Joint Committee to recommend legislation to allow Customer Choice in Anchorage immediately. This can be permitted on a test basis, if necessary, and if later oversight or further study is conducted, the Anchorage test case should be an integral part of that effort. Pinpointing the focus of the near-term study on recommendations with respect to an immediate Anchorage test case will set the stage for later consideration by providing real experience for further study and oversight.

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## II. Study something real over the longer term

We all know that the Alaska situation is different from that in the contiguous lower 48 states. This does not license us to ignore lessons from lower 48 efforts. However, it does counsel us to gain experience with actual competition here in Alaska if we are to make real progress toward customer choice for Alaskans. For this reason, Chugach urges that the Joint Committee's course of action include strong policy guidance to the Public Utility Commission to immediately establish a customer choice test case in Anchorage without any regulatory reconsideration of this policy determination.

Without such a pilot, any study will yield sterile academic results with little assurance that its conclusions are reliable. While Chugach does not see special benefit in an abstract study, Chugach can support a pilot beginning immediately in Anchorage with oversight, study and reporting on that experience.

## III. There is no need to wait

It is important to note that Chugach has proposed merely to sell to several customers across town and to pay for access over ML&P's existing system at a fair rate set by the Commission. That is all there is to it. We propose to pay for access according to established ratemaking principles and using cost data already being used as the basis of ML&P's charges to its own customers. We do not propose any significant change in physical plant. There is no need to solve every imaginable problem just to sell to a few customers across town on a test case basis.

If customer choice brings downward pressure on prices as it has for virtually every other restructuring industry, delay is costing Anchorage citizens a lot. If customers were to achieve overall savings of just 2%, this would result in savings of over $3 million annually in the ML&P and Chugach service territories. This means that if 2% savings were to result from customer choice, every month of delay would cost ratepayers a quarter of a million dollars. And this says nothing of the stimulative effect of redirecting those dollars to other areas of the local economy.

Attached to this letter are answers to questions which have been raised by participants in this debate. These answers demonstrate that there are no compelling reasons for further delay which denies Anchorage customers the benefits of choice.

In an earlier submittal to the Committee, Chugach articulated its view of the key Legislative Building Blocks as follows:

- **Clear legislative policy favoring retail competition in the electric industry.**

•**Pilot Program for large densely populated distribution service territories.** This could involve, for example, requiring access to the transmission and distribution facilities of a certificated electric utility for the provision of retail electric service if the electric utility has annual electric power sales over 200 million kWh and more than thirty customers per mile of distribution lines.

•**Broad outline of stranded investment recovery guidelines.** These should include protections for the consumers against inclusion of costs not truly stranded as result of competition. Any utility being paid for stranded generation capacity should make the capacity available for use by those paying these costs.

•**Consumer protection.** This can include a provision establishing consumer protection bonding requirements for unregulated power marketers and a directive that the APUC ensure universal service. Any additional consumer protections can be provided under existing APUC authority.

Simple legislation based on these building blocks should be recommended to the legislature for passage during the first session of the next legislature. The pilot established by this legislation will provide invaluable information which can be considered as part of any study the legislature undertakes to study customer choice in Alaska. Indeed, Chugach urges that a customer choice program established by legislation be used to provide the Alaska experiential basis for any study of customer choice in Alaska.

## IV. Hear expert advice on what and how to study the issues

Chugach is arranging to have Dr. Frank Wolak, Assistant Professor at Stanford University attend the Joint Legislative Committee's next meeting in Fairbanks on September 16. Dr. Wolak is the Chairman of the California Independent System Operator (ISO) Oversight Committee. The ISO Oversight Committee is in charge of overseeing the emerging market in California. Dr. Wolak is very knowlegable about the progress of implementing competition in the lower 48 states and California in particular. Dr. Wolak is also familiar with the processes followed by Australia, New Zealand and Britain. Dr. Wolak's academic emphasis is on Industrial Organization, including the transition of non-competitive regulated businesses to competitive, less-regulated forms. Dr. Wolak's knowledge of the successes and mistakes of efforts in other parts of the world (including the lower 48 states) offers us the opportunity to benefit from advice and suggestions about how to begin allowing customers a choice of electric suppliers. We hope that the Joint Committee will hear what Dr. Wolak has to say and carefully consider his recommendations on how best to proceed.

## V. Conclusion

Chugach acknowledges that there are a few issues which must be addressed in progressing toward customer choice. The good news is that we do not lack for solutions. There are relatively simple solutions to any issues which have been raised. The problem is that the various stakeholders are having motivational problems. Motivation is what is needed and what the legislature can quickly and easily provide. Until the legislature sets a policy clearly favoring customer choice, studies, debates, confusion and coloquy will triumph over solutions. Simple and clear legislative policy guidance will prime the pump. Once the legislature sets a clear course toward customer choice, even if only to create a pilot and companion study, solutions to remaining issues will quickly develop.

Sincerely,

Eugene N. Bjornstad

Eugene N. Bjornstad
General Manager

Attachment

**Customer Choice**
**Questions and Answers**

## I. Competition issues

***Shouldn't wholesale sales be made competitive first?***

1. Wholesale sales have always been competitive so no further action to allow wholesale competition is needed. ML&P knows this perfectly well as they have actively competed with Chugach for better than a decade for sales to Fairbanks. ML&P has been especially vigorous lately:

- 1994 ML&P offers lower rates to MEA,
- 1994 ML&P offers economy energy to Fairbanks,
- 1995 ML&P attempts to contract with CVEA in a joint venture,
- 1996 ML&P attempts to get Seward as a customer,
- 1997 ML&P signs contract to sell energy to GVEA.

It is true that competition is sporadic because the market is small and because several contracts are long term. However, it is simply incorrect and misleading to insist that wholesale competition does not exist. The long term contracts can be altered only by the parties so the best way to bring about change in the wholesale market is through competitive pressure brought about by retail competition.

2. The key to stimulating greater wholesale competition is to allow retail competition. For example, Chugach has a long term power sale agreement with MEA. However, allowing MEA's retail customers to choose a supplier other than MEA (such as ML&P) will pressure both MEA and Chugach to make sure they are both delivering good value. This will stimulate greater competition at the wholesale level as well as the retail level.

3. The increased competitive pressure of retail choice will stimulate fuel supply competition. All three generating utilities (Chugach, ML&P and GVEA) purchase fossil fuel for generation (natural gas, coal and fuel oil). So long as each utility can rest assured that its retail customers have no choice of supplier, the competition for lowest cost fuel supplies is less intense. We can see the potential for competition benefits in the economy energy market for sales to the Fairbanks area. Fuel supplies for Chugach retail loads under long term supply contracts are one price but for some incremental sales to Fairbanks, Chugach was able to obtain lower cost fuel. Why? Because it is necessary for both Chugach and the gas producer to effectively compete with ML&P and its gas suppliers. Without the competitive pressure, these lower costs would not have been achieved. A simple clear policy statement by legislative policy makers in support of the immediate start of competition in Anchorage will unleash these powerful forces on behalf of consumers at both the retail and wholesale levels.

***How do we make sure there is a "Level Playing Field?" Shouldn't Chugach be required to give up its contracts with its wholesale customers?***

1. Chugach believes that as a matter of law, competition is already allowed at the retail level. Although the APUC disagrees with us, this point is nevertheless very important because, in our view, ML&P could be competing at retail for MEA's customers. There is no need to set aside any contracts in order to compete at retail. Chugach does not seek to reargue legal issues here but rather to make the point that in our view (with which the Commission disagrees) there already is a very level playing field on which anyone can play. It is Chugach's view that unless the APUC explicitly restricts competition, it is permitted anywhere already so the field is level.

2. Chugach won the competition for its wholesale contracts fair and square. ML&P was never prevented from making a long term contract with either MEA or HEA. Contracts with wholesale customers were arrived at in a competitive environment with a level playing field. No one made wholesale customers buy power from Chugach. Chugach's wholesale customers had the realistic option and the actual ability to build their own supply sources. The governing bodies, the APUC and REA approved the contracts.

3. ML&P frequently asserts that the AEG&T/MEA/Chugach contract should be set aside because MEA has no option for its power supply. On the contrary, the contract clearly allows MEA to change from all requirements status to net requirements or partial requirements. It would be more accurate and more conducive to productive discussion to say that stranded investment provisions in the contract make it expensive for MEA to convert to the different status. These provisions protect Chugach's potentially stranded investment which Chugach made based on MEA's long term agreement to pay for its share of the system costs. It would be completely irresponsible for Chugach to consent to setting them aside. However, Chugach has repeatedly advised its wholesale customers that it is willing to negotiate changes or early termination. There is no free lunch. The wholesale customers promised to pay costs on the system Chugach built to serve them and Chugach expects them to honor that promise.

4. Chugach has protected itself against stranded investment through its power sales contracts. Setting them aside would create a stranded investment, not to mention deny Chugach the benefit of its bargain. It would not do any good to legislatively void those contracts. For one thing, it would not withstand legal challenge. But more importantly, it would simply mean that Chugach would be entitled to stranded investment payments. It would solve nothing.

5. Chugach has repeatedly offered to discuss amending or buy out of these contracts. To date they have not taken us up on this. If our wholesale customers want competition in their service territories, it is not for us to force that on them. They can speak for themselves. If they want it, they can so indicate and we are willing to work with them toward a mutually beneficial transition – with or without contract changes.

***Shouldn't we wait for the Black and Veatch Power Pooling study to be completed?***

The Black and Veatch Power Pooling study is not designed to answer the question of whether competition will work better than a managed collective pool of resources. To the extent that the study results are trustworthy (and there are some serious flaws in the study) the study will show savings from operating the system more efficiently. The question is what method of managing resources will achieve the greatest efficiencies; competition or government directed collectivization. Black and Veatch will merely confirm that there may be benefits from operating the system more efficiently. It will not address whether it is better to encourage competition or collectivization. This is a policy choice to be made by the legislature.

***If the ultimate goal is to lower consumer prices for electricity, is it true that deregulation and competition will be the method?***

Certainly the experience in the airline, natural gas, telephone, trucking and other industries has demonstrated competition is the surest route to savings. It is perhaps the greatest (and most painful) lesson of our century that competition generally is the most efficient and wealth producing economic structure. One need only look to the old Soviet Union for evidence that the old collectivist, planned structures have failed. Most of the rest of the world is busy removing the heavily regulated structures which have failed to produce highest value for consumers.

***What happens if Chugach drives ML&P out of business? Won't that leave Chugach as a full monopoly?***

1. Chugach expects ML&P will be a very capable competitor at the retail level just as they have been at the wholesale level. ML&P thinks so too and recently stated: "The transition to competition holds an enormous challenge and opportunity for electric utilities. Like any new development change can be profitable if you're positioned to take advantage of it. ML&P is!" (1996 Annual Report – Published 1997)

2. Chugach will not be allowed to combine generation with ML&P for antitrust reasons.

3. Competition is not a game that can be won and the game declared over. If ML&P fails to provide the value customers demand, some other entity will take its place which is capable of serving customers at the level they demand. This new entity will take up competition where ML&P leaves off.

***How do we solve the rural/urban problems?***

Rural areas may not be large enough to sustain competition for central station power but they are now and will continue to be exposed to increasing competition from self-generation and cogeneration as those technologies become more efficient. Nothing has changed legally in this

regard although technological changes are resulting in greater competition. Development of competition in the Railbelt will not affect rural consumers. Rural competition will certainly present different issues for consideration. Certainly under existing statutes (A.S. 42.05.221(d)) utilities beset by harmful competition can apply to the Commission for protection.

Unquestionably, the main difference is that many utilities in Alaska are not connected to a grid. From the standpoint of the development of competition, this means that competition for isolated rural communities will come from self-generation and cogeneration as it always has. The Railbelt, on the other hand, looks much more like the lower 48 states. In the Railbelt, where several systems have developed to be quite well interconnected, competition already exists not only in the form of self-generation and cogeneration but also potentially from independent power producers. Competition has been occurring at the wholesale level for at least a decade. The last bastion of non-competition is at the retail level within traditional service territories. This will involve both central station providers and power marketers (load aggregators) which claim to be exempt from regulatory oversight and are already active.

***Can the state control the level of "cherry picking or cream skimming" and accomplish increased competition at the same time without eliminating competition?***

The best way to ensure that "cherry picking" does not harm the little guy is to make sure the small customer has a choice. Generally speaking, government has a hard time when it tries to directly control, direct or plan commerce. We believe it is best for government to implement a structure with good incentives built in and allow it to run without direct intervention. If <u>all</u> customers are given the ability to choose their suppliers, the pressures of the competitive market will provide strong incentives for the suppliers not to abuse one group of customers by pushing costs onto them.

***Is it a problem that Aurora is planning to lose $100,000 to $150,000 during their proposed pilot period?***

As a small player in the market, Aurora's losses are not a problem. In the unlikely event it uses predatory pricing, anti-trust laws are available as a remedy.

***ENRON pulled out of California. Does this show that competition is failing there?***

1. Competition for retail customers in California is lukewarm because of the elaborate mandated 10% discount and stranded investment recovery mechanism that the legislature set up. The result is that if a supplier is able to offer lower costs, the resulting sales price is boosted up to the cap so that it is no different than the incumbent utility price. It is great for the incumbent utility and benefits the residential customer <u>in the short run</u> but it clearly stunts competition for residential

customers. Competitors there are holding back and waiting for the legislated transition period to pass so they can compete.

2. Note the last observation in the Brookings Study executive summary: Legislators should resist the temptation to elaborately plan and structure competition. To the extent we want to learn from past experience, the simpler, the better.

## II. Consumer protection issues

***Won't "Cherry Picking" make rates go up for residential and small commercial customers?***

1. This is unrealistic. The assumption underlying this argument is that a utility will always have customers who do not have a choice and onto which costs can be heaped at will. Take away that assumption and the argument fails. The key to preventing "cherry picking" is in ensuring that even the smallest customers have a choice of suppliers.

2. If we keep firmly in mind that even the smallest customers can choose a new supplier (by aggregating themselves in to a large block, if necessary) then the belief that competitors will heap left over costs onto them is unrealistic. It would not be rational for a utility faced with price competition to decide that because it is losing business to competitors it should raise prices to its remaining customers.

3. This argument demonstrates how we are prisoners of our patterns of thought. It has so long been the assumption that prices for electric power are cost driven that utilities facing competition still have difficulty thinking first of cost cutting and efficiency and last about price increases.

4. You should be suspicious of people who say that their marketing strategy will be to raise prices to combat price competition. That is simply not believable.

***How do we make sure reliability won't suffer?***

1. This is a red herring. The bottom line is that nothing will change which has any real potential to affect reliability. It is a measure of the desperation of opponents of competition that they raise this issue as if it were serious.

2. For the foreseeable future, the same generators run by the same people will produce the power.

3. For the foreseeable future, the same people will operate the transmission and distribution systems and will have every incentive they currently have to operate and maintain the system in good repair.

4. The competition between ML&P and Chugach for sales to Fairbanks has not affected reliability. The GVEA annual reports state the service is there 99.999% of the time.

***Who will provide Universal Service?***

We think the supplier of last resort obligation should reside with the Distribution Service Provider. We have said so. We have never heard anyone object to that. It is not a problem as far as we are aware.

***Do consumers need protection and, if so, how shall they be protected?***

1. The Commission's authority to protect consumers will not be altered by consumers being given the choice of suppliers. Customers will be able to choose to buy from regulated suppliers of last resort (presumably the distribution access providers) with all the consumer protections provided by Commission regulation or to buy from unregulated power marketers. Chugach does not believe that customers need to be prevented from choosing out of fear that they may choose poorly. Rather, assuring availability of a supplier of last resort strikes the right balance by giving customers the ability to choose suppliers while assuring that customers can always receive electric service from regulated suppliers under rules set by the Commission.

2. It is noteworthy that consumers safely purchase a number of "essentials of life" (e.g. home heating oil, motor fuels and even food) from sellers which are not subject to heavy consumer protection regulation. There is every reason to believe that a similar approach will work for electricity too. It would seem that so long as there is the safety net of suppliers of last resort that back up the system, there should be no problem; customers can choose whether they want more or less protection. Suppliers of last resort may wish to propose special rules or rates for taking back customers which have been dropped by unregulated power marketers.

***Who will protect against inequities between customer classes?***

There will be no change. Consumers will continue to have the same protections available that they now have. The Commission remains fully empowered to provide this protection and any additional protections may be appropriate. Furthermore, Chugach is prepared to commit to a residential base rate freeze for the three years of full retail competition beginning in 1999. That ought to be protection enough.

***Won't the tax payers suffer if ML&P is driven out of business because of bond indebtedness?***

No, not unless the municipal assembly steps in to bail them out, in which case it is a political choice. ML&P bonds are revenue bonds, not general obligation bonds. The bond holders are paid to take the risk of ML&P defaulting on the bonds. The risk correctly falls on bond holders.

***How should the state assure that residential consumers reap the same benefits as large commercial customers?***

Again, experience in the airline, natural gas, telephone, and other industries has demonstrated that where **competition is allowed to operate for all levels** of customers, even small customers benefit from greater choice and competition among service providers. It is a myth that cherry picking causes harm to smaller customers so long as all customers are free to choose. Any provider who tries to load costs onto small customers will find load aggregators forming them into "cherries" (larger aggregated loads) to be picked. Aggregated loads will find willing suppliers and reasonable prices just like other large loads.

***How much will rates go down if customers get to choose?***

1. It is reasonable to believe that prices will fall because they have in other industries: trucking, airlines, telephone, natural gas.

2. We cannot say exactly what savings price competition will produce. But, certainly this is no worse than under old cost of service rates because we could not predict exactly what rates would be either because they depended on costs.

3. We also cannot say who will benefit the most and in what amounts but if electricity is like other industries which have move toward competition, all levels of customers will benefit in the long run.

## III. Protections for existing utilities

***What shall we do about "Stranded Investment?"***

1. There may or may not be stranded investments. We won't know until we examine it. Chugach might even have some.

2. Let the Commission sort it out. The Commission has indicated it does not need any additional authority. The legislature may choose to include a broad outline of stranded investment recovery guidelines in legislation establishing a pilot program. In either event, however, if a competitor has a problem, they can bring it to the PUC for resolution.

3. We are very lucky in Alaska. Not only is our system simple but we have:

- No nuclear power plants
- No huge over-built coal plants
- No hyper-expensive regulatory mandated contracts
- In Anchorage we have no regulatory mandated systems for subsidies

We simply do not have the problems of a state like California.

4. Chugach has carefully protected itself from some of its stranded investment exposure through contracts with its largest customers. We hear ML&P has been doing this as well. It is a smart move. Chugach entered into agreements in which we promised to make the investment in the system to meet their electric power needs. In return our wholesale customers promised to get specified amounts of power from us. They promised to be there and not strand our investments. Unless we negotiate a different contract (which we have repeatedly suggested we are willing to discuss) we expect them to live up to their promise just as we have lived up to ours.

## IV. Other implementation issues

***When electrical service areas overlap how do we preserve competition without duplication of capital investments?***

A.S. 42.05.221(d) addresses this by empowering the Commission to restrict duplication of physical plant (lines running down both sides of the street) when it finds that it is not in the public interest. 3 AAC 52.110 et. seq. contains regulations providing procedures for quickly resolving disputes over allocation of facilities and services between competing electric utilities. The boundary settlement agreement between Chugach and ML&P divides service territories to prevent duplication of distribution plant. A.S. 42.05.311 requires utilities to provide access over existing facilities. The statutes are in fairly good shape. The only real need is for a broad policy statement embracing competition.

***The APUC may not be able to handle the work load of restructuring.***

This depends on how complicated the policy makers allow it to become. If the legislature sets policy and leaves implementation to the APUC, there should be no problem. The APUC may be overwhelmed if it is asked to make policy judgments about whether customer choice is wise public policy. If, on the other hand, the APUC need only set an access charge over the Chugach and ML&P systems that will not overwhelm regulators. Setting access charges involves only traditional ratemaking which must be considered within the core expertise of regulators.

***Are there problems with metering?***

Not significant ones. We have proposed that at least initially, the utility currently doing the metering continue to have the obligation to continue to do it. This would involve no change to the status quo. If, however, the customer wanted someone else to do it, they should have that option.