ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2500 SCOMM 109: JNT. COMM. ELEC. UTILITY RESTRUCTURING, 1998

Montana **S.B. 390**	
New Hampshire **H.B. 1392**	New England Power Pool should be reformed to compliment restructuring on a regional basis. Any pool structure should not preclude bilateral contracts and should not preclude ancillary pool services from being obtained from non-pool sources. (p. 8)
Oklahoma **S.B. 500**	Legislative task force is authorized to retain consultants to study the benefits of establishing a Power Exchange which would operate as a power pool allowing power producers to compete on common ground in the state. (p. 9)
Pennsylvania **H.B. 1509**	PUC to take all necessary steps to encourage interstate power pools. PUC and utilities to work with federal and state governments, regional reliability councils, and interstate power pools to ensure reliable service. (p. 37)
Rhode Island **96-H 8124 Substitute B**	By 1/1/97, electric licensing committee to submit recommendations to legislature for changes to regional power pool that would facilitate creation of voluntary power exchange. PUC shall establish regulations for non-regulated power producers selling into state that are necessary to meet operating and reliability standards of regional power pool. (p. 22)
Massachusetts **H.B.5117**	New England Power Pool should be used to provide strong coordination and enforceable protocols for all users of the power grid and to promote the use of the interconnected regional transmission systems.
Illinois H.B. 362	
Mandatory Rate Reductions or Rate Caps	
Nevada **A.B. 366**	Rates charged for residential services must not exceed the rate charged for the service on 7/1/97. The rate cap remains in effect until 2 years after the date the PUC repeals the regulations that established the pricing method for the service. The PUC may approve an increase in the rate for residential service in an amount that does not exceed the increase necessitated to ensure the recovery by the utility of just and reasonable costs. (Section 45, p. 18)
California **H.B. 1890**	Small customers receive at least 10 percent reduction on 1/1/98 and no less than 20 percent by 4/1/02. Can be financed with rate reduction bonds. (p. 5, 28, 49)

Maine **H-568** **(LD 1804)**	When retail access begins, PUC shall ensure that standard-offer service is available to all consumers of electricity. By 2/15/98, PUC shall provisionally adopt rules establishing terms and conditions for standard-offer service. If qualifying bids for standard-offer service in any service territory, when combined with the regulated rates of transmission and distribution service and any stranded costs charge exceed, on average, the total rate for electricity immediately before the implementation of retail access, PUC shall investigate whether implementation of retail access remains in the public interest or whether other mechanisms to achieve the public interest and to adequately protect consumer interests need to be put in place. PUC shall notify legislature of results of its investigation and its determination. (p. 17-18)
Montana **S.B. 390**	Rate moratorium during transition period: 7/1/98 thru 6/30/00, utilities may not charge more than rates in effect on 7/1/98; 7/1/00 thru 6/30/02, utilities may not increase the increment of rates normally allocated tc electric supply-related costs above those associated with such costs in effect on 7/1/98. From 7/1/00, utilities may propose increases to rate increments normally allocated to T&D costs. Increased costs related to universal system benefit programs greater than those in effect on passage are exempt from rate caps, as are increased costs necessary to implement full customer choice including metering, billing, and technology. Certain other exemptions are allowed in extraordinary cases. (p. 6-8)
New Hampshire **H.B. 1392**	
Oklahoma **S.B. 500**	
Pennsylvania **H.B. 1509**	Rates capped at 1/1/97 levels for 54 months or until stranded costs are recovered and all customers have retail access, whichever is shorter. Additionally, generation component of rates is capped for 9 years or until distribution utility has collected stranded costs and all customers have direct access, whichever is shorter. (p. 30-31)

Rhode Island **96-H 8124 Substitute B**	Within 3 months after retail access is available to 40 percent of the kW sales in New England and extending through 2009, distribution companies must arrange power contracts for their customers who have not contracted for their own power supply such that the average revenue per kWh received from the customer shall equal the price for the 12-month period ending 9/30/96, with certain inflationary adjustments. No customer who chooses this standard offer and subsequently contracts with their own supplier shall be required to pay an exit fee (p. 26)
Massachusetts **H.B.5117**	2.8 cent/kWh standard offer charge for generation offered by energy producers affiliated with established distribution companies. 10% rate reduction for all customers off rates in effect 8/97. Proceeds from securitization, if chosen and approved, can be used toward further reducing rates by additional 5%.
Illinois **H.B. 362**	<u>ComEd and IP residential rate reductions:</u> 8/98 15% 5/02 5% 10/02 0% <u>Other suppliers except CILCO's residential rate reductions:</u> 8/98 5% (2% CILCO) 5/02 Max. 5% 10/02 reflective of the Midwest avg. CILCO has had historically low rates compared to the Midwest avg, therefore, it doesn't have to offer as substantial rate reductions as ComEd and IP. Non-residential customers get no rate reduction.
Financing Rate Reductions and Stranded Costs	
Nevada **A.B. 366**	
California **H.B. 1890**	Provides for rate reduction bonds to finance rate reductions and stranded ("transition") costs. (p. 5-6, 75-87)

Maine **H-568** **(LD 1804)**	
Montana **S.B. 390**	PSC may authorize the imposition and collection of fixed transition amounts and the issuance of transition bonds. After 7/1/97, a utility may apply to the PSC for a determination that certain transition costs may be recovered through the issuance of transition bonds. If such bonds are not issued within 4 years of the PSC order, the order must terminate. A utility may apply for an extension or renewal of the order. Order must set forth the term over which transition bonds are to be paid—not to exceed 20 years. Upon issuance of transition bonds, the financing orders and fixed transition amounts must be irrevocable. Cost savings associated with and resulting from the bonds must benefit customers. Proceeds from bonds must be used to recover, reimburse, finance or refinance transition costs, and to acquire transition property. Bonds may not constitute an indebtedness or loan of credit against the state or a political subdivision thereof. Co-ops may fully recover transition costs approved by local governing body. (p. 2-3, 6-7, 10,16-21)
New Hampshire **H.B. 1392**	
Oklahoma **S.B. 500**	All transition costs shall be recovered by virtue of savings generated by increased efficiency in markets brought about by restructuring. All classes of consumers shall share in the transition costs. No later than 1/1/99, Commission shall commence study of financial issues related to restructuring. Study shall include but is not limited to examination of IOU financing and any other financial issues Commission deems appropriate. Final report shall be provided to legislative task force no later than 12/31/99. (p. 6-7)
Pennsylvania **H.B. 1509**	PUC may approve utility request for issuance of transition bonds for some or all of its stranded costs. If approved, the utility's rates or its CTC must be reduced by an amount equal to the revenue requirement of the stranded costs for which transition bonds have been issued. (p. 52-53, 69-84)
Rhode Island **96-H 8124 Substitute B**	
Massachusetts **H.B.5117**	As of 7/1/98, DTE will review purchase power contracts to determine if utility companies have made efforts to reduce or renegotiate them in order to reduce stranded costs. Non-mitigable stranded costs can be collected through a transition charge.

	Customers can only bypass transition charge if they have already notified utility company of intention to cogenerate. No exit fee would be charged that customer in that case.
Illinois **H.B. 362**	Utilities may use securitization to finance transitional costs or stranded costs. Commission must approve of securitization as long as the proceeds of sale will be used to: 1)refinance debt, equity or both reducing capital; 2)retire fuel contracts for nukes; or 3)fund debt services to pay for costs associated with above. Funding charges for securitization can only be collected until 12/31/08.
Divestiture of Generation Assets	
Nevada **A.B. 366**	A vertically integrated electric utility shall not provide a potentially competitive service except through an affiliate. The PUC shall establish limitations on ownership, operation, and control of the assets of a provider of an electric service to prevent anti-competitive conduct and ensure the development of effective competition. Such conditions and limitations may include limitations on the ownership, operation, and control of transmission facilities and any generation necessary to the reliable and economic operation of such transmission facilities. An affiliate may provide a potentially competitive service if PUC finds there is an arm's length transaction that will not adversely affect effective competition and the risk of anti-competitive behavior, and the regulatory expense to prevent such behavior, is minimal; PUC shall adopt procedure to process an affiliate request to provide potentially competitive service and shall make any required findings no later than 6 months before authorizing retail competition. (Section 39, p. 12; Sections 41-43, p. 15-16)
California **H.B. 1890**	Essential to separate monopoly transmission function from competitive generation operations by use of ISO. PUC must approve retention of generation assets in same corporation with distribution assets after market valuation. (p. 29, 61)
Maine **H-568** **(LD 1804)**	On or before 3/1/00, each investor-owned utility shall divest all generation assets and generation-related business activities other than contracts with QFs or demand side management providers, facilities located outside the U.S., or generation assets PUC determines necessary for the utility to perform its transmission and distribution obligations. No later than 1/1/99, each utility shall submit to the PUC a plan to accomplish divestiture. PUC

	shall review the plans and, by 7/1/99, issue an order approving or modifying the plan. Utility may apply for an extension beyond 3/1/00. PUC shall grant an extension if the extension would improve the sale value of the assets. If extension is granted, utility shall transfer generation assets to a distinct corporate entity by 3/1/00. After 2/28/00, each utility shall sell rights to capacity and energy from all generation assets except those necessary to perform its transmission and distribution obligations. PUC shall adopt rules governing the procedure for divestiture. PUC shall require distribution utility to divest an affiliated competitive provider if the utility or the affiliate has knowingly violated provisions of the Act and the violation resulted in or had the potential to result in substantial injury to retail consumers. If, after the effective date of the Act, 10 percent or more of the stock of a distribution utility is purchased by an entity, the purchasing entity and any affiliate may not sell or offer generation service to any retail customer and, if the PUC determines that an affiliated provider obtains an unfair market advantage as the result of such a purchase, the PUC shall order the distribution utility to divest the affiliate. If PUC orders a distribution utility to divest an affiliate, the distribution utility may not have an affiliated interest in a competitive provider after the divestiture. (p. 2, 7, 11-12)
Montana **S.B. 390**	To the extent a utility is vertically integrated, it shall functionally separate electricity supply, retail transmission, and distribution. PSC may approve functional separation but may not order divestiture or prohibit it. Utilities shall prevent undue discrimination in favor of own power supply and prevent any form of self-dealing that could result in noncompetitive electricity prices. Utilities must grant customers and suppliers access to the utilities' retail transmission and distribution systems on a nondiscriminatory, comparable basis. Utilities may satisfy these provisions if they adopt a code of conduct consistent with the FERC-approved code of conduct. Similar provisions apply to co-ops. (p. 2, 5, 9)
New Hampshire **H.B. 1392**	Restructuring should require at least functional separation of generation from transmission and distribution services. However, distribution companies should not be entirely precluded from owning small-scale distributed generation resources. PUC authorized to require that distribution and power supply services be provided by separate affiliates. (p. 2, 4, 11)
Oklahoma **S.B. 500**	A primary goal of a restructured electric industry is to encourage development of competition through separation of generation services from transmission and distribution services. Entities what own both transmission and distribution, as well as generation facilities, shall not be allowed to use any monopoly position in these services as a barrier to competition. Generation services shall be functionally separated from transmission and distribution services. No later than 1/1/98, Commission shall commence study of technical issues related to restructuring, which shall include but not

	be limited to examination of unbundling of generation, transmission and distribution services, and market power. (p. 2-4, 6)
Pennsylvania **H.B. 1509**	PUC may permit but cannot require a utility to divest facilities or reorganize its corporate structure. (p. 33-34)
Rhode Island **96-H 8124 Substitute B**	By 1/1/97, distribution companies must file plan with PUC to transfer ownership of generation facilities to separate affiliates. Every wholesale power supplier receiving contract termination fees must subject its generating facilities to market valuation through lease, sale, spin-off or other method. At least 15 percent of such facilities must be disposed of through this process. If company is subject to a higher requirement in another state's restructuring proceeding, same amount will apply in Rhode Island. Implementation methodology must be filed with PUC by 7/1/97. Employees of distribution company must function independently of affiliated non-regulated power company under detailed standards of conduct. (p. 17, 31-32, 35-38)
Massachusetts **H.B.5117**	Optional divestiture, although encouraged by DTE as a good way for utility to rid itself of nuclear related stranded costs. Non-nukes must be sold at auction or sale. Proceeds from sale of generation, net of tax effects, should be applied to reduce amount of transition costs. Affiliates must be separate entities.
Illinois **H.B. 362**	During the transition period to full competition, utilities are authorized to reorganize, retire generation from service, sell, lease, assign assets to affiliated or unaffiliated entities, enter into power purchase agreements as long as they will be approved of by the FERC, and/or use accelerated cost recoveries, without the approval of the Commission. Commission may investigate the need for and adopt rules for functional separation between generation services and delivery services. After 1/1/03, the Commission may investigate the need for separation between competitive and non-competitive services offered by a utility.
Treatment of Stranded Costs	
Nevada **A.B. 366**	When PUC determines an electric utility providing noncompetitive service cannot meet the conditions to also provide a potentially competitive service, utility has reasonable opportunity to recover previously incurred costs of those services it elects not to provide in future. The PUC shall determine the recoverable costs associated with assets and obligations documented in the

	accounting records of a vertically integrated electric utility that are properly allocable to a particular potentially competitive service as of the date alternative sellers begin providing such service in this state. Shareholders of the utility must be fully compensated for all such costs determined by the PUC. In determining the recoverable costs, the PUC shall take into account extent utility was legally required to incur cost; extent market value exceeds costs for assets and obligations; mitigation efforts; extent to which previous rates have already compensated shareholders for risk of non-recovery; tax effects; and, where utility had discretion to incur costs, its performance relative to similar utilities. PUC may impose a non-bypassable mechanism for recovery and determine time period for recovery. Such determinations and procedures must not discriminate against a market participant. (Section 43, p. 16; Section 46, p. 18)
California **H.B. 1890**	Fair opportunity to fully recover costs of PUC approved generation-related assets, including work force realignments and buyouts of certain existing power contracts. PUC to identify and determine costs and categories that may become uneconomic. Such costs are recoverable from all customers on a non-bypassable basis. Calculation based on book cost net against market value. Departing customers pay a severance fee; remaining customers pay a competitive transition charge (CTC) based on customer usage. CTC ends for most costs on 12/31/01; employee related cost recovery extends to 12/31/06. "Firewall" protects customers in one class from absorbing CTC exemptions granted in other classes. If local publicly owned utility elects not to allow retail competition, it cannot recover stranded costs. (p. 5, 31, 45-53, 60, 89-90)
Maine **H-568** **(LD 1804)**	Stranded costs are defined as a utility's legitimate, verifiable, and unmitigable costs made unrecoverable as a result of restructuring and determined by the PUC. For each utility, PUC shall determine the sum of the following to the extent they qualify as stranded costs: costs of utility's regulatory assets related to generation; difference between net plant investment associated with generation assets, and the market value of generation assets; difference between future contract payments and market value of the utility's purchased power contracts. When determining market value of generation assets and purchased power contracts, PUC shall rely to the greatest extent possible on market information. PUC may not include any costs for obligations incurred on or after 4/1/95, except: regulatory assets created after 4/1/95 and prior to 3/1/00, for amortization of costs associated with restructuring a QF contract; costs deferred pursuant to rate plans; energy conservation costs; obligations incurred after 4/1/95, and prior to 3/1/00, that are beyond the control of the utility; and obligations incurred after 4/1/95, to reduce potential stranded costs. Utility must pursue all reasonable means to reduce potential stranded costs and to receive highest possible value for assets and contracts. PUC shall consider utility's efforts to mitigate when determining amount of stranded costs. PUC shall provide utility a reasonable opportunity to recover stranded costs through rates of transmission and distribution. Nothing in the Act may be construed to give

	a utility a greater or lesser opportunity to recover stranded costs than existed prior to retail access. Before retail access begins, PUC shall estimate stranded costs of each utility. PUC shall use these estimates as the basis for a stranded costs charge to be charged by each transmission and distribution utility when retail access begins. In 2003, and every 3 years thereafter until utility is no longer recovering adjustable stranded costs, PUC shall correct any substantial inaccuracies in the estimates and adjust the charges to reflect the correction. Any change will be prospective only and may not reconcile past estimates to reflect actual values. PUC shall set an amount of recoverable, stranded costs after calculating the net aggregate value of all divested assets that had proceeds exceeding book costs against the aggregate value of all other stranded generation assets. Commission may not shift cost recovery among customer classes in a manner inconsistent with existing law. PUC shall conduct separate adjudicatory proceedings to determine stranded costs for each utility. In the same proceeding, PUC shall establish stranded cost charges for each utility. Customer who significantly reduces or eliminates consumption due to self-generation, conversion to alternative fuel or DSM, may not be assessed an exit or entry fee in any form. Absent other just cause, a layoff after 3/1/00 is deemed to be a result of retail competition. Each utility must file a plan with the PUC prior to the beginning of retail access providing transition services and benefits for eligible employees. Such benefits include programs to assist employees in maintaining fringe benefits, up to 2 years of retraining and out-placement services, full tuition for 2 years at the University of Maine or a comparable technical school at the discretion of the employee, 24 months of continued health care insurance, and severance pay equal to 2 weeks of base pay for each year of full-time employment. The plan may include provisions for early retirement benefits. PUC shall allocate the reasonable accrual incremental cost of such benefits to ratepayers through charges collected by the transmission and distribution utility. All charges must be transferred to a system benefits administrator in the transmission and distribution utility and used to provide the benefits and services provided for in the Act. (p. 13-15, 21-22)
Montana **S.B. 390**	PSC shall allow recovery of transition costs including unmitigatable costs of QFs such as reasonable buyout or buy down, unmitigatable costs of energy supply-related regulatory assets and deferred charges, unmitigatable transmission costs related to generation and other power purchase contracts, except recovery of those costs is limited to the amount accruing during the first 4 years after the PSC approves a transition plan. Value of generation-related assets must be reasonably demonstrable and considered on a net basis. Methods for determining value include estimating future market values, independent third-party appraisal, and competitive bid sale. Transition charges must be imposed within a transition cost recovery period approved by the PSC on a case-by-case basis. Certain transition costs may have varying transition cost recovery periods. (p. 3, 6-7, 10)

New Hampshire **H.B. 1392**	Defined as costs, liabilities, and investments utilities would reasonably expect to recover under existing regulatory scheme but which they will not recover in a competitive market. Such costs limited to existing, PUC-approved renegotiated, or new PUC-mandated, commitments. It is legislative intent to give PUC appropriate tools and guidance to address stranded costs. PUC shall balance interests of ratepayers and utilities. Nothing is intended to provide greater recovery than present law provides. Utilities should recover net nonmitigatable costs of environmental mandates and federally mandated QF contracts. Costs should be on net basis, verifiable, exclusive of transmission and distribution assets, periodically trued up. Recovery should be by nondiscriminatory, appropriately structured charge, fair to all customer classes, limited in duration, consistent with promotion of competitive markets, applied only to customers within the distribution utility's service territory. Entry and exit fees are not preferred mechanisms. PUC may establish interim recovery charge good for 2 years after compliance filing, to be netted against final recovery charges. Interim charge sets no precedent for amount of final recovery charge. (p. 4, 7-8, 10-11)
Oklahoma **S.B. 500**	A procedure shall be established for identifying and quantifying stranded costs and for allocating such costs. Mechanisms shall be proposed for recovery of an appropriate amount of prudently incurred, unmitigatable, verifiable stranded costs. Each entity must propose a recovery plan that establishes its unmitigatable, verifiable stranded costs and a limited recovery period designed to recover costs expeditiously, provided that the recovery period and amount of transition costs shall yield a transition charge that shall not cause total price, including transmission and distribution services, for any consumer to exceed the cost per kW hour paid on the date of this Act during the transition period. Transition charge shall be applied to all consumers including direct access consumers, shall not disadvantage one class or supplier over another, shall not impede competition, and shall be allocated over a period of not less than 3 nor more than 7 years. No later than 1/1/99, Commission shall commence a study of financial issues related to restructuring, which shall include but not be limited to the examination of stranded costs and their recovery, and a final report shall be provided to the legislative task force no later than 12/31/99. (p. 6-7)
Pennsylvania **H.B. 1509**	Fair opportunity to fully recover amount of stranded costs PUC determines to be just and reasonable. PUC determines level of each utility's stranded costs to be collected through a non-bypassable CTC applied to all customers accessing transmission and distribution systems. PUC must adhere to specifically enumerated principles in determining amount. Calculation based on utility's known and measurable net generation-related cost determined on net present value basis over life of asset that may become uneconomic despite mitigation efforts. Includes prudently incurred costs of work force realignments and power contract buyouts and excludes any costs previously disallowed by PUC as imprudent. (p. 21-22, 24, 26-27, 35-36, 49-52)

Rhode Island **96-H 8124 S·ıbstitute B**	Utilities should have a reasonable opportunity to recover prudently incurred transition costs. Distribution companies who purchase wholesale power under an all-requirements contract are authorized to terminate the contract and pay a termination fee. Such payments are recoverable from all customers through a non-bypassable transition charge. Charge may include costs of regulatory assets, nuclear obligations, buyout of above market power contracts, net unrecovered commitments, and capital costs of generating plants. Charge continues until liabilities are satisfied, with true up calculations. Recovery time for certain specified components is limited to period from 7/1/97 to 12/31/09. From 7/1/97 to 12/31/00, charge shall recover 2.8¢/kWh, thereafter in an amount set by PUC. (p. 3, 20, 28-30)
Massachusetts **H.B.5117**	Use of securitization by distribution company would require approval by DTE and is subject to achievement of mitigation efforts satisfactory to DTE. But, use of securitization may only be used if distrib. co. demonstrated that rate reductions stemming from securitization would not be financially viable without securitization.
Illinois **H.B. 362**	Residential Graduated transition chg. decreases annually during the period 2002-2006 Non-Residential .05 cents/kWh in '99 increases to .9 cents/kWh in 2006. Intangible transition assets can be securitized. Collection of transition costs can continue to 2008, 2010,if determined to be in public interest. The amt. Securitized cannot exceed 50% of total capitalization ($7 billion for ComEd, $1.8 billion for IP)
Reciprocity	
Nevada **A.B. 366**	PUC to issue a quarterly report to legislature evaluating, among other issues, opportunities to cooperate, formally or informally, with other states or with the Federal Government in the implementation of competition. (Section 53, p. 23)
California **H.B. 1890**	For a utility to sell to another utility's customers, it must allow access to its own customers. Out-of-state utilities must enter into a compact to adhere to enforceable reliability protocols to be allowed to sell to California retail customers. (p. 29, 90-91)

Maine **H-568** **(LD 1804)**	
Montana **S.B. 390**	All suppliers must be afforded open, fair, and nondiscriminatory access to customers and a comparable opportunity to compete. Distribution service providers or affiliates may not use another distribution service provider's facilities unless the first provider offers comparable, nondiscriminatory access to its distribution facilities. Co-ops that elect not to participate in retail access may not use utilities' distribution systems unless there is a pre-existing contract. (p. 11, 14)
New Hampshire **H.B. 1392**	
Oklahoma **S.B. 500**	Any municipal corporation may voluntarily become subject to the provisions of the Act through a non-revocable election. Any municipal corporation that elects not to participate shall be prohibited from extending retail electric distribution service beyond its corporate limits with the exception that it may continue to offer retail distribution service from lines owned on the Act's effective date. (p. 4, 9)
Pennsylvania **H.B. 1509**	No entity regulated by the PUC may use the transmission or distribution system of another PUC regulated entity to supply electricity to an end-use customer unless the first entity allows the other entity to sell to its customers. (p. 38-39)
Rhode Island **96-H 8124 Substitute B**	
Massachusetts **H.B.5117**	-All suppliers must be given open access to customers and the ability to compete. -The Commonwealth should enter into compact with other New England state and N.Y. that provides incentives to sell electricity to MA retail customers. But protects reliability of regional transmission and distribution
Illinois **H.B. 362**	Alternative suppliers may not: 1) deny service or offer different terms, rates, etc. to anyone or group 2) deny service based on locality or change rates etc. based on locality Electric Co. may serve customer outside service territory as long as customer is eligible for service from alternative and has expressed desire

	for alt. Service. They may also sell to customers previously served by municipal company. Municipal CO's are exempt from state jurisdiction.
Customer Aggregation	
Nevada **A.B. 366**	Customers may begin obtaining aggregation services from an alternative seller no later than 12/31/99, unless the PUC determines that a different date is necessary to protect the public interest. (Section 29, p. 11; Section 39, p. 12)
California **H.B. 1890**	All customer classes are entitled to aggregation on a voluntary basis. Can be done by private parties, or governmental entities. Puolic bodies acting as residential aggregators must offer to include everyone within the jurisdiction. (p. 43)
Maine **H-568** **(LD 1804)**	When retail access begins, consumers may aggregate in any manner they choose. If a public entity serves as an aggregator, it may not require consumers within its jurisdiction to purchase generation service from that entity. (p. 2-3)
Montana **S.B. 390**	Aggregators may be licensed by the PSC to aggregate retail customer purchases. Aggregators take title to electric energy as an intermediary for sale to retail customers. (p. 2)
New Hampshire **H.B. 1392**	
Oklahoma **S.B. 500**	
Pennsylvania **H.B. 1509**	Permits PUC licensing of aggregators, brokers and marketers as suppliers of electric energy, including municipal corporations selling outside their municipal limits, to serve all customer classes. (p. 24, 53-56)
Rhode Island **96-H 8124 Substitute B**	

Massachusetts **H.B.5117**	Municipalities can aggregate, but cannot solicit customers of municipal companies. Cities and towns can aggregate on behalf of citizens.
Illinois **H.B. 362**	Groups of customers can aggregate power needs and purchase electricity at bulk rates. However, customers included in aggregation must have become eligible for choice.
Unbundling	
Nevada **A.B. 366**	PUC to determine which electric services are potentially competitive using a set of specified criteria. Retail customers will have direct access to such services. (Section 39, p. 12-13)
California **H.B. 1890**	Each electric corporation shall propose a stranded cost recovery plan to the PUC, which must provide identification and separation of individual rate components. Bills shall disclose each component of the total charge. (p. 49, 62, 71)
Maine **H-568** **(LD 1804)**	Beginning 1/1/99, utility shall issue bills that state the current cost of electric capacity and energy separately from transmission and distribution charges and other charges for electric service. By 1/31/98, each utility shall file an unbundling proposal with PUC. Beginning 3/1/02, billing and metering services are subject to competition. PUC may establish an earlier date for competitive billing and metering services, but beginning date may not be prior to 3/1/00. (p. 3, 19)
Montana **S.B. 390**	Electrical bills must disclose each component of the electrical bill in accordance with the rules promulgated by PSC. Bills must disclose distribution and transmission charges, electricity supply charges, competitive transition charges, and universal system benefits charges. (p. 14)
New Hampshire **H.B. 1392**	Restructuring should require unbundling of prices and services. Customers should be able to choose options such as levels of reliability, real time pricing, and generation source. There should be clear price information on generation, transmission, distribution, and ancillary services. (p. 2, 4)
Oklahoma **S.B. 500**	A primary goal of a restructured industry is to encourage unbundling of prices. Consumer choice means retail consumers shall be allowed to purchase different levels and quality of electric supply. When consumer choice is introduced, rates shall be unbundled to provide clear price information on generation, transmission, distribution, and ancillary charges. Bills for all classes shall be unbundled, utilizing line itemization to reveal various component costs of services. Charges for public benefit programs

	shall be unbundled and appear in line item format for all classes of consumers. (p. 3-5)
Pennsylvania **H.B. 1509**	PUC must require unbundling of electric services, tariffs, and bills to separate charges for generation, transmission and distribution, and may require unbundling of other services. Customer bills must contain unbundled charges sufficient to enable consumer to determine basis for the charges. (p. 29-30, 47)
Rhode Island **96-H 8124 Substitute B**	On or before 1/1/97, and effective 7/1/97, distribution companies shall file unbundled rates separately stating transmission, distribution and transition charges. Customer bills shall conspicuously display specified information, including transition and conservation charges, taxes, number of kWh consumed, cost of power, cost of distribution, and other costs. (p. 27, 49)
Massachusetts H.B.5117	As of 1/1/98, unbundled bills were sent to customers.
Illinois **H.B. 362**	Three years from effective date of this Act, Commission will investigate the need for unbundling.
Consumer Education	
Nevada **A.B. 366**	The PUC shall establish minimum standards for the form and content of all disclosures, explanations, or sales information disseminated by sellers of competitive services to ensure that consumers receive adequate, accurate, and understandable information about the service that enables them to make an informed decision relating to the source and type of electric service purchased. Such standards must not be unduly burdensome, must not unnecessarily delay or inhibit competition, and may establish different requirements for disclosures, explanations, or sales information relating to different services or similar services to different classes of customers wherever appropriate. Before commencement of direct access, the PUC shall carry out an educational program for consumers to inform them of changes in the provision of electric service, inform them of the requirements relating to disclosures, explanations, or sales information, and provide assistance in understanding and using the information to make reasonably informed choices. The PUC shall expend up to $500,000 from its reserve account to provide education and informational services to educate and inform residents. The PUC shall contract with an independent person to provide such services. (Section 48, p. 19; Section 57, p. 24)

California **H.B. 1890**	Electric corporations, in conjunction with PUC, shall devise and implement a customer education program. (p. 72)
Maine **H-568** **(LD 1804)**	PUC shall establish standards for publishing and disseminating, through any means considered appropriate, information that enhances consumers' ability to effectively make choices in a competitive market. PUC shall adopt rules implementing a consumer education program including the immediate organization of a consumer education advisory board to investigate and recommend methods to educate the public about retail access and its impact on consumers. PUC shall ensure broad representation from all customer classes including public agencies on the advisory board. Members serve without compensation. The advisory board must address level of funding for adequate educational efforts and source of such funding; aspects of retail access on which consumers need education; most effective means of accomplishing education of consumers; appropriate entities to conduct education efforts; and any other relevant issue regarding education of consumers. PUC shall consider the recommendations of the advisory board when adopting rules to implement a consumer education program. (p. 5, 19)
Montana **S. B. 390**	Public utilities shall educate customers about choice so customers can make informed choices. The education process must give special emphasis to efforts during the transition period.
New Hampshire **H.B. 1392**	PUC should ensure customer confusion is minimized and consumers will be well informed about changes. (p. 4)
Oklahoma **S.B. 500**	Commission shall ensure that consumer confusion will be minimized and consumers will be well informed about changes resulting from restructuring and increased choice. (p. 4)
Pennsylvania **H.B. 1509**	Each distribution company, in conjunction with PUC, must implement a consumer education program. PUC shall establish regulations to ensure suppliers provide adequate and accurate information to enable consumers to make informed choices. Information must be in an understandable format that enables comparison of price and service on a uniform basis. (p. 47-48)
Rhode Island **96-H 8124 Substitute B**	Distribution companies to notify customers of retail options at least 90 days prior to eligibility for retail access. (p. 25)

Massachusetts **H.B.5117**	DOER will be primary agency in charge of consumer ed. DOER will provide a toll free hot-line for customers, and provide educational materials. Educational services will be approved by DTE to ensure they're not duplicative of educational/protection services provided by DTE's Consumer Division. Portfolio standards and disclosure of fuel sources, emissions etc. will be provided in standardized form for consumers to make supplier choices.
Illinois **H.B. 362**	-Commission of Consumer Education, through the Consumer Education Program, is responsible for consumer education. This Commission consists of a representational array of stakeholders in the restructuring process, such as utility representatives, consumer rights specialists etc. The Commission is charged with producing written materials on consumer education by 3/1/99 for residential customers and by 11/1/01 for commercial customers. Disclosure of energy fuel sources, emissions produced etc. on quarterly basis to all customers to help them choose their supplier. -Establishment of customer information centers. All suppliers will be required to maintain customer call centers where customers can get information and talk to a representative.
Consumer Protection	
Nevada **A.B. 366**	Any alternative seller must have a PUC license, which may be limited, suspended, or revoked to protect the public interest. By 1/1/99, PUC to establish conditions alternative sellers must satisfy before selling to retail customers. Conditions relate to safety, electric reliability, financial reliability, fitness to serve customers, billing practices, and terms for establishing and terminating service. PUC to establish and implement standards of conduct related to activities inconsistent with goals of Act, including appropriate penalties for violation and procedures for imposing such penalties and referring potential violations to Attorney General or Justice Department. PUC shall establish procedures to ensure no customer is switched to another seller without reliable confirmation. (Section 40, p. 14; Section 42, p. 15-16; Section 48, p. 19)

California **H.B. 1890**	Every entity offering power to small customers must register with PUC. All offers of service must include written notice of price and terms, including amount of CTC and right to rescind contract. Consumers can recover actual and punitive damages, including attorney's fees, for violations. No residential or small commercial customer's account can be switched to another provider without confirmation by an independent third party verification company. (p. 6, 43-44, 72-73)
Maine **H-568** **(LD 1804**	PUC shall establish minimum standards to protect consumers. PUC shall license competitive electric providers. To issue a license, PUC must receive evidence of financial capability, ability to enter into binding interconnection arrangements with transmission and distribution utilities, disclosure of all pending legal actions and customer complaints filed during the prior 12 months, evidence of ability to satisfy the renewable resource portfolio standards, and disclosure of names and corporate addresses of all affiliates. PUC may also require a bond as evidence of financial ability to withstand market disturbances. PUC shall establish rules governing information disclosure for competitive providers. As a condition of licensure, provider supplying customers with a demand of 100 kW or less may not terminate generation service without 30 days' prior notice, must offer service for a minimum period of 30 days, must allow customer to rescind selection of competitive provider within 5 days of initial selection, may not telemarketing services to a customer who has filed a written request not to receive such services, and must provide a customer with specified disclosure information within 30 days of contracting. PUC may limit the duration and scope of a license or may revoke a license in the public interest. PUC shall establish by rule consumer protection standards to protect and promote market competition and to prevent fraud or other unfair and deceptive business practices. PUC may impose a penalty of up to $5,000 for each violation of any consumer protection rule. Each day of a violation constitutes a separate offense. If PUC has reason to believe that utility has violated any provision of law for which a criminal prosecution is provided or has violated any antitrust law of the state or the US, PUC shall notify the attorney general. Attorney general shall promptly institute any appropriate actions. A distribution utility may not release any proprietary customer information without the prior written authorization of the customer. Employees of a distribution utility may not state or provide any customer or potential customer opinion regarding reliability, experience, qualifications, financial capability, managerial capability, operations capability, customer service record, consumer practices, or market share of any affiliated competitive provider or nonaffiliated competitive provider. (p. 4-6, 9-10, 12)
Montana **S.B. 390**	Public interest requires continued protection of consumers through licensure, provision of information, and a process for investigating and

	resolving complaints. Utilities shall maintain standards of safety and reliability of the electric delivery system. PSC may require proof of financial integrity, adequate reserves, and a license bond. PSC may revoke or suspend a license of an electric supplier or impose a penalty or both. If the supplier intentionally provided false information to PSC, switched electricity customer without written permission, failed to provide reasonably adequate supply of electricity, committed fraud, or engaged in deceptive practices, fine is not less than \$100 or more than \$1,000 for each violation. Each day of each violation constitutes a separate violation. PSC shall promulgate rules establishing procedures to prevent unauthorized switching of customers. Transitional advisory committee shall file annual report in 2000 that addresses the need, if any, for additional consumer protection including protection from abusive or anti-competitive practices. (p. 1, 11, 13-14, 16)
New Hampshire H.B. 1392	Retail suppliers who do not own transmission and distribution facilities should at a minimum be registered with PUC. (p. 5)
Oklahoma S.B. 500	Appropriate rules shall be promulgated ensuring that reliable and safe electric service is maintained. Minimum residential consumer service safeguards and protections shall be ensured. No later than 1/1/98, Commission shall commence study of technical issues related to restructuring including but not limited to reliability and safety. Final report shall be provided to legislative task force no later than 12/31/98. No later than 7/1/99, Commission shall commence study of consumer issues related to restructuring including but not limited to examination of consumer safeguards and licensing of retail suppliers. Final report shall be provided to legislative task force no later than 8/31/00. All retail suppliers shall be required to meet certain minimum standards designed to ensure reliability and financial integrity and be registered with Commission. There shall be no customer switching between distribution providers from the date of this Act until 7/1/02, except by mutual consent of all affected parties. (p. 4-7, 9)
Pennsylvania H.B. 15	Each generation supplier required to obtain PUC license and post bond or other security to ensure financial responsibility. PUC to establish regulations to prevent customer account transfer without direct oral confirmation or written consent. PUC to monitor market for anti-competitive conduct; investigate complaints or potential violations and refer them as necessary to the appropriate state or federal prosecutors; deny proposed mergers, acquisitions, dispositions, or other transactions that are anti-competitive or discriminatory. (p. 21, 47, 53, 67-69)

Rhode Island **96-H 8124 Substitute B**	By 1/1/97, electric licensing committee to submit proposals to legislature for consumer protection. All non-regulated power producers must file registration application with division listing specified information and showing evidence of financial soundness such as surety bonds or other mechanisms specified by division. On request, distribution company must release names and addresses of customers to power producers who will be eligible for retail access within next 60 days, unless customer has requested in writing that information not be released. (p. 22, 24, 26)
Massachusetts **H.B.5117**	DTE's Consumer Division will continue to protect consumers and ensure that distribution companies adhere to rules and regulations concerning billing and termination procedures. Alternative supplier can only serve customers after receiving a Letter of Affirmation stating that the customer desires the alternative supplier.
Illinois **H.B. 362**	Utility companies retain obligation to serve residential and small commercial customers. -If a customer leaves and returns to be served by initial utility company, that company must serve the customer at the market price and guarantee service for up to 24 months. -Supplemental low-income Energy Assistance Fund will be established from surcharge on bills ($.40/mo for residentials, $4.00/mo for non-residentials and $300/mo for large industrials). -Energy Assistance Program Design Group will design low-income energy efficiency programs.
Universal [illegible]ice/Low-Income Assistance Program	
Nevada **A.B. 366**	An electric distribution utility shall provide all noncompetitive services within its territory unless the PUC authorizes another entity to provide the noncompetitive service. PUC to establish minimum terms and conditions under which any customer not using an alternate seller will receive electric service. PUC shall designate utility to provide service to customers who do not elect or are unable to obtain alternative seller. Procedures may include, but are not limited to, requiring utility to serve such customers, requiring each alternative seller to serve a share of such customers, competitive bidding to select one or more providers. If the provider is an electric utility, the service shall be provided through an affiliate whose sole business is provision of basic service. (Section 44, p. 17; Section 45, p. 18)
California **H.B. 1890**	Such programs must continue to be funded at not less than the 1996 authorized levels. (p. 6, 65-67)

Maine **H-568** **(LD 1804**	The policy of the state is to ensure adequate provision of financial assistance. In order to continue existing levels of financial assistance for low-income households and to meet future increases in need, PUC shall receive funds collected by all transmission and distribution utilities at a rate set by the commission in periodic rate cases and set initial funding for programs based on an assessment of aggregate customer need. If legislature appropriates financial support for households and individuals receiving assistance from the general fund, PUC may not terminate the assistance provided by transmission and distribution utilities unless the general fund source has completely replaced such assistance. On or before 1/1/98, PUC and state planning office shall provide the legislature with recommendations to fund assistance to low-income consumers through the general fund or through a tax on all energy sources in the state. (p. 19-20, 26)
Montana **S.B. 390**	Universal system benefits programs include cost effective local energy conservation, low-income customer weatherization, renewables and low-income energy assistance. Programs are paid for by a non-bypassable universal system benefits charge assessed at the meter. Programs are established to ensure continued funding of, and new expenditures for, conservation, renewables, and low-income assistance during the transition period and into the future. From 1/1/99 through 7/1/03, 2.4 percent of each utility's annual retail sales revenue for the calendar year ending 12/31/95 establishes the minimum annual funding level. Utilities receive credit for internal programs or activities that support renewables, conservation, or low energy assistance. Credits can be carried forward to future years. Minimum annual funding for low-income and weatherization is established at 17 percent of the utility's annual universal system benefits funding level. The utility's transition plan must describe proposals for benefit programs, including methodologies such as cost effectiveness and need determination used to measure the utility's level of contribution to each program. Customers with loads greater than 1000 kW pay a charge equal to the lesser of $500,000, less credits, or .9 mills per kWh x the customer's kWh purchases, less credits. Utilities must submit an annual summary report relating to system benefit programs to the PSC and the transition advisory committee. Co-ops may collectively pool statewide credits to satisfy annual funding requirements. On or before 7/1/02, transition advisory committee and PSC shall reevaluate system benefits programs and make recommendations to the legislature regarding future need for such programs. On or before 11/1/98, the transition advisory committee shall make recommendations to the governor and legislature regarding low-income assistance programs. Recommendations may include assignment of agency or private nonprofit entity to administer fund. (p. 2-4, 11-12, 16)

New Hampshire **H.B. 1392**	Distribution utility has obligation to connect all customers and to maintain minimum residential service safeguards, including low income assistance. A non-bypassable, competitively neutral system benefits charge applied to distribution may be used to fund low income programs. (p. 5)
Oklahoma **S.B. 500**	"Public benefit programs" means all social, economic, and environmental programs currently funded through rates charged to consumers. Entities providing distribution services shall be relieved of their traditional obligation to provide electric supply but shall have a continuing obligation to provide distribution service to all consumers within existing service territories. Firm service territories shall be fixed by a date certain if not currently established in law. Minimum residential consumer service safeguards and protections shall be insured including programs and mechanisms that enable residential consumers with limited incomes to obtain affordable essential electric service and the establishment of a default provider for any distribution customer who has not chosen an alternative supplier. Commission shall consider establishment of a distribution access fee assessed to all consumers to cover social costs, capital costs, and operating costs. No later than 1/1/99, Commission shall commence study of financial issues related to restructuring including but not limited to stranded benefits and their funding. Final report shall be provided to legislative task force no later than 12/31/99. No later than 7/1/99, Commission shall commence study of consumer issues related to restructuring including but not limited to examination of service territories, obligation to serve, and obligation to connect. Final report shall be provided to legislative task force no later than 8/31/00. (p. 3, 5, 7)
Pennsylvania **H.B. 1509**	State must at a minimum continue current protections and policies to assist low-income customers. PUC shall ensure that universal service is appropriately funded in each distribution territory and shall encourage the use of community-based organizations with necessary experience to be direct providers of programs that assist low-income customers. PUC shall establish an appropriate cost recovery mechanism for each utility to fully recover universal service costs. Distribution company remains provider of last resort unless PUC approves alternative. While distribution company collects CTC, or until there is 100 percent direct access, company has full obligation to serve, including connection, delivery, and acquisition of power. After transition period, PUC shall adopt regulations defining obligation to serve. (p. 20, 22, 28, 34-35, 48-49)

Rhode Island **96-H 8124 Substitute B**	Current special rates and protections shall continue. Within 3 months after 40 percent of kWh sales in New England are available for retail access, distribution company shall arrange a last resort power supply for customers unable to receive power under the standard offer or elsewhere. Company shall periodically solicit bids for power at market prices plus a fixed contribution from the company, subject to PUC approval. Company's fixed contribution is recoverable in rates charged all other customers. Company can terminate for nonpayment pursuant to PUC regulations. Authorized performance-based rate increases for distribution companies between 1/1/97 to 12/31/98 cannot be applied to low-income customers. (p. 3, 27-28, 35, 43)
Massachusetts **H.B.5117**	Default service will ensure that customer will be served by incumbent supplier. Rate shall never exceed the avg. monthly market price of electricity. Payment options and rates charged for default service will remain uniform for up to 6 months. Ratepayer Parity Trust Fund will be established to subsidize low-income rates from monthly benefits surcharge on customers' bills.
Illinois **H.B. 362**	Utility companies retain obligation to serve residential and small commercial customers. -If a customer leaves and returns to be served by initial utility company, that company must serve the customer at the market price and guarantee service for up to 24 months. -Supplemental low-income Energy Assistance Fund will be established from surcharge on bills ($.40/mo for residentials, $4.00/mo for non-residentials and $300/mo for large industrials). -Energy Assistance Program Design Group will design low-income energy efficiency programs.
Renewable Energy, Conservation, and Environmental Issues	
Nevada **A.B. 366**	The PUC shall establish portfolio standards for domestic energy that set forth the minimum percentage of the total electricity sold during each calendar year that must be derived from renewable energy resources. The portfolio standards must require two-tenths of 1 percent of the total amount of electricity annually consumed by customers in this state as of 1/1/01 to come from renewables. This standard must be increased biannually thereafter by two-tenths of 1 percent of the total annual electric consumption until the standard reaches a total of 1 percent of the total amount of electricity consumed. The electricity must be derived from not less than 50 percent renewable energy resources and be derived from not less than 50 percent solar renewable energy systems. Tradable renewable energy credits are allowed. Reporting requirements are established to ensure that all providers comply with the standards. A vertically integrated

	electric utility that has 9 percent of its electricity furnished by renewable energy resources on 1/1/97 is deemed to be in compliance until 1/1/05. Between 1/1/05 and 12/31/09, such a utility shall reach a total of one-half of 1 percent of the annual amount of electricity consumed, in annual increments of one-tenth of 1 percent, from solar energy resources. (Section 52, p. 22-23)
California H.B. 1890	PUC must require each electric corporation to identify a rate component to fund energy efficiency, public interest research and development, and demand side management in specified yearly amounts that total $540 million through 3/31/02. The funds are to be held by the Energy Commission until further legislative action. Consumers can make voluntary contributions through their monthly bills to support such programs. (p. 6, 61-67)
Maine H-568 (LD 1804)	Renewable resources are defined as total power production capacity not exceeding 100 mW and relying on fuel cells, tidal power, solar, wind, geothermal, hydroelectric, biomass, or municipal solid waste generators. Each competitive provider must demonstrate that no less than 30 percent of its portfolio of supply sources is derived from renewable resources. PUC shall review the 30 percent requirement and make a recommendation for any change to the joint standing legislative committee no later than 5 years after the beginning of retail competition. PUC shall require utilities to implement energy conservation programs. (p. 15-17)
Montana S.B. 390	Public interest requires continued protection of consumers through funding for public purpose programs for energy conservation, weatherization, and renewable resource projects and applications. Such programs are paid for with a universal system benefits charge assessed at the meter. Beginning 1/1/99 through 7/1/03, 2.4 percent of each utility's annual retail sales revenue for the calendar year ending 12/31/95, is the minimum annual funding level for total system benefits programs, and 17 percent of that minimum must be used for low-income assistance programs, including weatherization. The balance may be used for other benefit programs such as energy conservation and renewables. Customers with loads greater than 1000 kW pay a system benefit program charge equal to the lesser of $500,000, less credits, or .9 mills per kW hour x the customer's kWh purchases, less credits. Credits can be carried forward into future years. Customers are entitled to credits for expenditures on renewable energy or conservation-related activities that are part of internal utility programs or activities. Utilities must submit an annual summary report to PSC and transition advisory committee detailing activities relating to all system benefit programs. On or before 7/1/02, PSC and transition advisory committee shall reevaluate ongoing need for such programs and make future needs recommendation to legislature. (p. 2-4, 11-12, 16)
New Hampshire H.B. 1392	Overall policy goal is to implement restructuring with minimum adverse consequences to environment. Continued environmental protection and

	long-term environmental sustainability should be encouraged. A non-bypassable, competitively neutral system benefits charge applied to distribution may be used to fund energy efficiency, research and development, and investments in new technologies, as determined by the PUC. Increased future commitments to renewables should be consistent with existing state energy policy and be balanced against impact on rates. Over the long term, renewables can have significant environmental, economic, and security benefits. Customers should be able to pay a premium for renewables. Incentives should be provided for demand side management. (p. 2, 5-7)
Oklahoma **S.B. 500**	
Pennsylvania **H.B. 1509**	
Rhode Island **96-H 8124 Substitute B**	From 1/1/97 until 12/31/01, each distribution company must include a 2.3 mills per kWh charge to fund demand side management and renewables. PUC shall determine allocations of funds between the two categories. PUC, at its own discretion, may increase the sums after notice and public hearing. City where a generation plant has been proposed may request builder to fund study of environmental effects of proposed facility, up to lesser of $100,000 or .1 percent of estimated capital cost of project. (p. 43, 52-53)
Massachusetts **H.B.5117**	Energy efficiency benefits charge assessed to all by muni electric company customers for DSM over five years starting 3/1/98 ($.0033/kwh in '98, to $.0025/kwh by 2002). Competitive procurement process must be used. DOER will oversee and coordinate energy efficiency programs. Renewables will be funded by vacillating annual rate of $.00075/kwh to $.0005/kwh by 2002. Funds would be deposited in "Massachusetts Renewable Energy Trust Fund". Renewables portfolio will be established by DOER. DOER will oversee and coordinate ee programs. Customers purchasing renewable energy in excess of minimum requirements under renewables portfolio standard, can take tax deduction of 50% of above market price. Business customers get 25% tax deduction. Individual or business purchasing energy efficiency equipment will be eligible for a 20% deduction up to $10,000. Businesses will be eligible for 10% up to $50,000.

	Performance standards for fossil fuel plants will be drawn up by EPA with adoption by at least 3 other northeast states. Assessment against all nukes will be at least $90,000 to be used for radiation control program.
Illinois **H.B. 362**	Renewable Energy Resources Program will be administered by Dept. of Commerce and Community Affairs. Grants, loans and other incentives for investment in renewable energy resources. Report will be made to the General Assembly on the use and potential of renewables. As of 1/198 "Renewable Energy Resources and Coal Technology Development Assistance Charge" will be assessed customers. $.05/mo for residential, non-residential and gas customers; $37.5/month for non-residential electric and gas customers. <u>Environmental protection</u>: $100 million over 10 years for development of renewable energy resources and coal technology. $10 million in annual funding through surcharge on bills. <u>Energy Efficiency Trust Fund</u>: As of 1/1/98, this trust fund will consist of the pro-rata share of $3 million based on kWh sales from each supplier. By 4/1/99, every supplier with nuclear generation must file a tariff indicating the kWh sales for those facilities for decommissioning expense purposes.
Treatment of Transmission and Distribution (T&D)	
Nevada **A.B. 366**	A public entity does not become subject to the provisions of Sections 28-53 solely because the entity provides transmission or distribution service to an alternative seller except that the public entity shall provide such transmission and distribution services on an open and nondiscriminatory basis to alternative sellers in accordance with standards the PUC may establish by regulation. The PUC shall require each provider of a noncompetitive service that is necessary to the provision of a potentially competitive service to make its facilities or services available to all alternative sellers on equal and nondiscriminatory terms and conditions. The PUC may establish standards of conduct to prevent anti-competitive activities and such standards of conduct may include limitations on the ownership, operation, and control of transmission facilities and any generation necessary to reliable and economic operation of such transmission facilities. The PUC shall adopt regulations ensuring that a person who owns a transmission or distribution facility makes the facilities available on equal and nondiscriminatory terms and conditions to all alternative sellers or customers of alternative sellers. The Colorado River Commission may sell electricity or provide transmission or distribution service to customers who it was not serving or with whom it did not have a contract on the effective date of the relevant provisions of the Act, if the Colorado River Commission allows its system for transmission and

	distribution to be utilized by other alternative sellers pursuant to such terms and conditions as the PUC may establish. PUC may conduct an investigation of the effect on the market of transmission congestion or constraints. (Section 40, p. 14; Section 41, p. 15; Section 42, p. 15; Section 44, p. 17; Section 50, p. 20)
California **H.B. 1890**	Continues to be regulated. All customers and suppliers to receive open, nondiscriminatory, and comparable access. (p. 29-30)
Maine **H-568** **(LD 1804)**	Upon request from a competitive provider, PUC shall provide load data on a class basis that is in the possession of a T&D utility, subject to reasonable protective orders to protect confidentiality. Except as otherwise permitted, on or after 3/1/00, an IOU T&D may not own, have a financial interest in, or otherwise control generation or generation-related assets. After commencement of retail access, a large investor-owned T&D utility serving more than 50,000 retail customers may not sell electricity to any retail customer. An affiliated provider may sell to retail customers outside the service territory of the distribution utility with which it is affiliated and within the service territory of the distribution utility with which it is affiliated, except that the affiliate may not sell more than 33 percent of the total kWh sold within the service territory of the distribution utility. No later than 1/1/05, based on its evaluation of the development of the competitive retail sales market, PUC shall complete an evaluation of the need for the market share limitation and shall report its findings to the legislature. A distribution utility may not engage in joint advertising or marketing programs of any sort with its affiliated competitive provider. Employees of a distribution utility may not be shared with and must be physically separated from those of an affiliated competitive provider. A distribution utility and its affiliated competitive provider must keep separate books and records. All regulated products and services offered by a distribution utility, including any discount, rebate, or fee waiver, must be available to all customers and competitive providers simultaneously and without undue or unreasonable discrimination. (p. 3, 8-12)
Montana **S.B. 390**	Distribution services providers must make distribution facilities available to all suppliers, providers, and customers on a nondiscriminatory, comparable basis; and be the emergency supplier of electricity and related services. When a distribution services provider acts as emergency supplier, the supplier that should have provided the power must reimburse the distribution company according to a prescribed formula. Distribution services providers are not required to purchase reserve supply to fulfill emergency obligations. Transmission services must also be available on a nondiscriminatory, comparable basis. If a co-op offers electricity competitively to customers using a utility's distribution facilities, the co-op must create an affiliated for-profit entity to serve those customers that allows the entity to be taxed at the same level as other for-profit suppliers. PSC shall regulate retail transmission and distribution services including

	designed to modify the Act consistent with the public interest. The joint standing legislative committee having jurisdiction over utility and energy matters may report out legislation concerning electric energy restructuring to future legislative sessions. (p. 22, 26)
Montana **S.B. 390**	Transition advisory committee consists of eight voting members, equally balanced by party: 4 appointed by Speaker and 4 appointed by Senate President. Non-voting advisory members include: the director of dept. of environmental quality; one public utilities appointee; and 1 representative each from consumers, cooperatives, and PSC. Governor appoints 1 each non-voting member from: industry, non-industrial consumers, organized labor, environmental/ conservation, low-income program provider, Indian tribes, power market industry. PSC, legislative counsel, and agencies provide staff. Committee meets quarterly and dissolves on earlier of date full transition is completed or 12/31/04 and shall: provide an annual report on or before 11/1/01 to governor, speaker, Senate president, and PSC; provide quarterly reports to legislature thru 1/1/99; analyze and report on transition to effective competition. Annual report in 2000 must evaluate pilot programs with loads under 1000 kWh and include legislative recommendations about best means to further encourage choice, market access, and need for additional consumer protection revisions. Criteria for evaluating effective competition are specified. On or before 7/1/02, committee and PSC shall reevaluate need for ongoing universal system benefits programs and make recommendations. On or before 11/1/01, committee shall determine whether Montana utilities have an opportunity to market outside the state comparable to the reverse. On or before 11/1/98, committee shall make recommendations to governor and legislature regarding low-income assistance programs. (p. 4, 12, 15-16, 27)
New Hampshire **H.B. 1392**	Establishes 14-member legislative oversight committee, seven from each house, with 2-year terms. Committee to report annually on or before 11/1 to governor, legislature, and PUC. In conjunction with PUC, report shall address new legislation and proposed amendments to existing law to promote restructuring. (p. 12)
Oklahoma **S.B. 500**	Act creates Joint Electric Utility Task Force composed of 14 members of the legislature, 7 each selected by Senate President and House Speaker. Task force may appoint advisory councils made up of representatives of interested parties. Task force shall direct and oversee studies by the Commission and the Tax Commission. Task force shall remain in effect until termination, which shall be no later than 1/1/03. Commission shall make reports to task force on independent system operator issues, technical issues, financial issues, and consumer issues no later than 2/1/98, 12/31/98, 12/31/99, and 8/31/00, respectively. Task force may make final recommendations to the governor and the legislature. The task force is authorized to retain consultants and experts to study the creation of an ISO and the benefits of establishing a Power Exchange, which would operate as a power pool. All

	studies and recommendations relating to the ISO shall be submitted to the task force on or before 2/1/98, and shall conform to FERC Order No. 888. (p. 8-9)
Pennsylvania **H.B. 1509**	
Rhode Island **96-H 8124 Substitute B**	On 1/1/98, and annually for next 4 years, PUC to file report with governor and legislature detailing developments in competitive supply market, estimated savings from retail competition, progress towards regional transmission agreement, reforms instituted by regional power pool, and status of restructuring in surrounding states. (p. 23)
Massachusetts **H.B.5117**	Legislature will be reported to on an annual basis, or as necessary, by DTE, DOER and any other agencies, task forces involved with the restructuring process.
Illinois **H.B. 362**	-On or before 12/31/99, and once every three years thereafter, the Commission shall monitor and analyze patterns of entry and exit to the market and report its findings to the General Assembly. During 2001 through 2006, the Commission will prepare annual reports regarding the development of electric markets. -Utility companies must report annually to legislature on their collection of transition charges, efforts to mitigate stranded costs and use of transition funding mechanisms. A Policy Advisory Council, established by the legislature, will analyze restructuring and ensure that requirements of the Act are met and advise legislature on the spending of the Fund monies.
Taxes	
Nevada **A.B. 366**	If two or more persons perform separate functions collectively needed to supply electricity to final customer and the property would be centrally assessed if owned by one person, it shall be centrally valued and apportioned. Proportion of the tax levied by each county shall be determined according to valuation of contribution of each person to aggregate valuation of property. However, this provision does not apply to QFs built before 7/1/97. Not later than 1/1/99, Department of Taxation shall report to legislature on effect of Nevada's tax policies on potential for effective competition, effect of competition on state and local tax revenues, and recommend new legislation to advance Act in competitively neutral manner with minimum impact on state and local tax revenues. (Section 278, p. 114-116; Section 335, p. 148)

	establishment of just and reasonable rates, which may include performance-based rates. (p. 2, 6, 9-10, 12-13, 22)
New Hampshire **H.B. 1392**	T&D should remain regulated for the foreseeable future. PUC to take necessary measures to ensure nondiscriminatory, comparable, and open access to T&D, (p. 4-5)
Oklahoma **S.B. 500**	A primary goal of a restructured industry is to enable suppliers to engage in fair and equitable competition through open, equal, and comparable access to T&D systems. Entities which own both T&D as well as generation facilities shall not be allowed to use any monopoly position in these services as a barrier to competition. Generation shall be functionally separated from T&D services, which shall remain regulated. Comparable access for retail suppliers competing with affiliates of entities supplying T&D shall be assured. Commission shall monitor companies providing T&D and take necessary measures to ensure no supplier of such services has an unfair advantage in offering and pricing such services. Benefits associated with implementing an independent system planning committee composed of owners of electric distribution systems to develop and maintain planning and reliability criteria for distribution facilities shall be evaluated. No later than 7/1/99, Commission shall commence study of consumer issues related to restructuring including but not limited to examination of service territories, obligation to serve, and obligation to connect, as well as rates for regulated services. Final report shall be provided to the legislative task force no later than 8/31/00. (p. 3-7)
Pennsylvania **H.B. 1509**	Continues to be regulated as a natural monopoly. Distribution company remains provider of last resort unless PUC approves alternative. PUC shall require all transmission and distribution facilities to provide comparable open access to all customers and suppliers. There is a rebuttable presumption the distribution company can accommodate all requests for service from suppliers but does not have to install nonstandard equipment unless customer pays full cost of such facilities. While distribution company collects CTC, or until there is 100 percent direct access, company has full obligation to serve, including connection, delivery, and acquisition of power. After transition period, PUC shall adopt regulations defining obligation to serve. Company must accept returning customer on same terms and conditions as new applicant. Distribution company shall implement procedures to require suppliers to deliver sufficient power to meet supplier's customer obligations. Subject to PUC approval, company may require customer to pay for enhanced metering capability. (p. 22, 28, 34, 46, 48-49)

Rhode Island **96-H 8124 Substitute B**	T&D companies must provide nondiscriminatory access on reasonable terms consistently applied to all customers. Distribution companies must terminate all requirements contracts with generators no later than 3 months after 40 percent of the kWh sales in New England are available for retail access and can only own or operate generation or transmission facilities through affiliates, with some specific exceptions. (p. 6, 17-19, 21)
Massachusetts **H.B.5117**	-T&D companies must provide nondiscrimination access on reasonable terms for all suppliers and customers. –Transmission and distribution assets as of 12/31/96, or acquired thereafter, shall be transferred to transmission or distribution companies, respectively. Distribution companies will be prohibited from selling electricity at retail and from owning or operating transmission services. As of 3/1/98, DTE will designate service territories for distribution companies.
Illinois **H.B. 362**	To ensure system reliability, the Commission, within 180 days of the Act must adopt rules and regs for T&D that establish the procedures for restoring T&D to customers.
Legislative Oversight	
Nevada **A.B. 366**	PUC shall issue a quarterly report to the legislature assessing developments in electric industry in Nevada. Report shall evaluate, at a minimum, effectiveness of competition, compatibility of direct access with environmental goals, impacts of competition on each customer class relative to present structure, and opportunities to cooperate with other states or the Federal Government in implementation of competition. In the quarterly report for the first quarter of 1999, the PUC shall provide a comprehensive evaluation of the development of the markets for potentially competitive services since 7/1/97. Not later than 1/1/99, Department of Taxation shall report to legislature on effect of Nevada's tax policies on potential for effective competition, effect of competition on state and local tax revenues, and recommend new legislation to advance Act in competitively neutral manner with minimum impact on state and local tax revenues. (Section 53, p. 23; Section 335, p. 148; Section 336, p. 148)
California **H.B. 1890**	Five-member oversight board composed of three gubernatorial appointees, one Senator, and one Assemblyman. Board oversees the ISO and Power Exchange and serves as the appeal board from ISO decisions. (p. 5, 34-36)
Maine **H-568** **(LD 1804)**	On December 31 of each calendar year, PUC shall submit to the joint standing legislative committee a report describing the PUC's activities in carrying out the requirements of the Act, and include draft legislation

California **H.B. 1890**	
Maine **H-568** **(LD 1804)**	On or before 1/1/98, the PUC and the state planning office shall provide the legislature with recommendations concerning funds to assist low-income consumers through general fund appropriations or through a tax on all energy sources in the state. (p. 26)
Montana **S.B. 390**	During 4-year transition period, utilities may accelerate amortization of accumulated deferred investment tax credits associated with T&D and general plant if earnings fall below 9.5 percent earned return on average equity. Revenue oversight committee shall analyze state and local tax revenue derived from previously regulated electricity suppliers that will enter the competitive market and report to legislature annually on how revenue to state and local government is changed by restructuring and competition. On or before 11/30/98, revenue oversight committee shall recommend legislative changes, if any, to address comparable state and local taxation burdens on all market participants. (p. 8, 10, 16, 21-22)
New Hampshire **H.B. 1392**	
Oklahoma **S.B. 500**	The Tax Commission shall study and fully assess the impact of restructuring on state tax revenues and all other facets of current utility tax structure both on the state and all other political subdivisions. Study shall include feasibility of a uniform consumption tax or other method of taxation. Tax Commission is expressly prohibited from promulgating any rule or order without prior express authorization from the legislature or legislative task force. In the event a uniform tax policy, which allows all competitors to be taxed on a fair and equal basis, has not been established on or before 7/1/02, effective date for customer choice shall be extended until such time as a uniform tax policy has been established. (p. 8)
Pennsylvania **H.B. 1509**	Restructuring to be accomplished in a revenue neutral manner at a level necessary to recoup losses that may result form restructuring. (p. 57-66)
Rhode Island **96-H 8124 Substitute B**	By 1/1/97, retail electric licensing committee shall submit plan to legislature for taxing and/or assessing distribution and transmission companies and non-regulated power producers. (p. 22)
Massachusetts **H.B.5117**	Requires parent, affiliate, subsidiary to pay transition payments to municipality impacted by devaluing of power plant in which generation

	facility is located. Transition payments are calculated on a declining rate from 1998-2009 (percentage difference between local property tax value of the property as of 1/1/96 and the fair cash value of the property as of 1/1 of the year previous to the year during which calculation is made). Generation facilities would be subject to the full fair cash valuation by localities. Tax payment would be a payment-in-lieu-of-taxes.
Illinois **H.B. 362**	-Sale, pledge, assignment or other transfer of intangible transition property shall be exempt from state and local taxes. -A per/kWh use tax will be implemented, except for municipal corporations owning and operating a local transportation system for public service.
Performance Based Rates (PBR)	
Nevada **A.B. 366**	PUC shall adopt regulations permitting innovative methods of pricing noncompetitive services upon a finding that such methods would improve performance or lower costs. (Section 44, p. 17)
California **H.B. 1890**	
Maine **H-568** **(LD 1804)**	
Montana **S.B. 390**	PSC shall establish just and reasonable rates, through established rate making principles, for distribution and transmission services and shall regulate these services. PSC may approve performance-based rate making on a demonstration by utilities that the alternative methods comply with the utilities' transition plans. (p. 13)
New Hampshire **H.B. 1392**	Performance-based or incentive regulation should be considered for transmission and distribution services. (p. 4)
Oklahoma **S.B. 500**	
Pennsylvania **H.B. 1509**	PUC has authority to approve flexible rates, including negotiated, contract-based tariffs and to use performance based rates. (p. 45)

Rhode Island **96-H 8124 Substitute B**	It is in the public interest to establish performance based rate making. To hold overall rate increases to the level of inflation, for the period 1/1/97 to 12/31/98, distribution companies shall implement a PBR plan in accordance with specified provisions, subject to PUC approval. However, rates for low-income customers cannot increase. (p. 3, 33-35)
Massachusetts **H.B.5117**	-DTE has authority to promulgate rules and regs to establish and require PBR for each distribution, transmission, and gas company organized and doing business in the Commonwealth. Service quality standards will be established for customer service performance. Each company will file a report with DTE by 3/1 of each year comparing performance during the previous year to DTE's standards. DTE will be able to levy a penalty against any company failing to meet standards up to 2% of revenues for the previous calendar year.
Illinois **H.B. 362**	An Electric Utility Property Tax Assessment Task Force will be established. From the 1997 assessment year through the 1999 assessment year, fair cash value for any electric generating plant shall be determined using original cost less depreciation, and depreciation rates shall be equal to those in effect on 11/1/97.

Residential Electricity Rates (¢/kWh)
(Source: Resource Data International, Inc.)

	1991	1995
Nevada **A.B. 366**	5.89	7.11
California **H.B. 1890**	10.79	11.61
Maine **H-568** **(LD 1804)**	10.45	12.51
Montana **S.B. 390**	7.39	7.26
New Hampshire **H.B. 1392**	10.38	13.50
Oklahoma **S.B. 500**	7.03	6.82
Pennsylvania **H.B. 1509**	9.58	9.72

Rhode Island **96-H 8124 Substitute B**	10.99	11.61
Massachusetts		11.3 (1996)
Illinois		10.4 (1996)

Compiled by the Research Division of Nevada's Legislative Counsel Bureau
Portions added by the National Conference of State Legislatures
S.Com.Lab:August.27Rev.StateComparison

August 5, 1998

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

AUG 03 1998

Dear Representative Rokeberg:

I had intended to testify in person on the following points but cannot. I am submitting this letter as written testimony. I would appreciate your consideration of the following points and I would encourage your committee to recommend immediate restructuring in the Anchorage Bowl

- Alaska businesses are not able to achieve savings to our electricity costs because we are not being allowed to exercise our rights to choose our electric power provider.
- Alaska businesses large and small make every effort to hold down overhead costs while still providing the best products and services.
- As a business organization in one of the most competitive areas of the economy I know that competition helps keep prices down and it keeps us on our toes to meet customer needs.
- We have a choice on every product and service we buy EXCEPT electricity.
- Government has some necessary functions but it should not be in a position to tell the private sector business community who they can or cannot buy electricity from.
- We would like the opportunity to choose our electricity provider.
- Gas costs have been cut because of the competitive market on the large commercial gas level.
- In a deregulated environment the lowest cost provider could serve us.
- Restructuring will insist that service levels rise and products available will be increased.

Thank you for your consideration about a product/service that affects all of us in almost every facet of our lives every single day.

Sincerely,

Gail Chambers
REGIONAL PROPERTY DIRECTOR
WEIDNER INVESTMENT SERVICES
561-5211

Governmental decisions are being made which will affect your electric service for decades to come.

Voice your concerns!

YOU CAN MAKE THE DIFFERENCE!

Will Deregulation Short-Circuit North America's Electric Power Supply

How the coming deregulation of the electric power industry may impact consumers,

Did You Know?

There's a battle being waged right now that could jeopardize your electric service and drastically impact the quality of your life. It's a fight over the future structure of the deregulated electric power industry. You must get involved now to ensure that an equitable structure prevails. If you don't actively voice your concerns —

your rates could rise,

your electric service could become less reliable, and

environmental and conservation programs could vanish.

Consider the Following:

- In the summer of 1996, two massive power system failures in the transmission grid covering at least 12 Western states caused blackouts affecting millions of customers, some for extended periods.
- In June 1996 thousands of doctors and other citizens in Connecticut were notified that electric power may not be guaranteed 24 hours a day.
- Outages seem to be longer and more frequent.
- Electric power companies are shedding thousands of employees.
- Merger activity is on the rise, leading to fewer companies having greater control.
- Some electric power companies are threatened with bankruptcy in the face of a deregulated industry.

Rapid, Radical Deregulation May Cause ...

... electric power companies to cherry-pick their rivals' most attractive customers who buy large quantities of power, to the detriment of the local company, its rate payers and the community;

... electric power companies to neglect to maintain equitable service to smaller customers (residential, small business and rural); and

... electric power companies to continually restructure their business functions, resulting in constant anxiety in the work force and financial instabilities in the industry and communities.

There are many vital issues at stake concerning rapid, radical deregulation.

ISSUE 1: Reliability – Electric power companies are cutting costs, resulting in systems so overstretched they may not be able to operate efficiently in times of peak demand or during storms.

ISSUE 2: Cost to Consumers – Electric rates may increase due to profiteering, temporary shortages and the shifting of costs from large industrial users to small commercial and residential energy users.

ISSUE 3: Societal Impacts – Valuable community-based programs currently funded by local power companies are likely to disappear. These programs include lighting for playgrounds and athletic fields, holiday lighting, lifeline energy assistance, and wildlife preservation.

ISSUE 4: Universal Access – Deregulated electric power companies may not be obligated or motivated to serve customers needing electricity in remote areas or in regions suffering economic trouble.

ISSUE 5: Tax Revenues – Currently, your local electric power company contributes significantly to your local tax base. In a deregulated industry, this tax revenue may dry up as power companies located outside the community serve local customers but pay taxes elsewhere.

ISSUE 6: Stranded Costs – Because of prudent government regulations, companies built generating plants to meet projected electrical demand in their areas. Under rapid, radical deregulation, some companies may not be able to recover those investment costs, thus threatening local economies.

ISSUE 7: Mega-Mergers and Market Dominance – Ongoing consolidation of existing electric utilities and other energy industry companies will create opportunities for the abuse of economic power and manipulation of energy markets to maximize profits at the expense of consumers.

ISSUE 8: Environment – Environmental and conservation programs voluntarily implemented by electric power companies could be dropped in a deregulated industry. Emissions from power generation will be geographically redistributed, adversely affecting states and regions currently in compliance with clean-air policies.

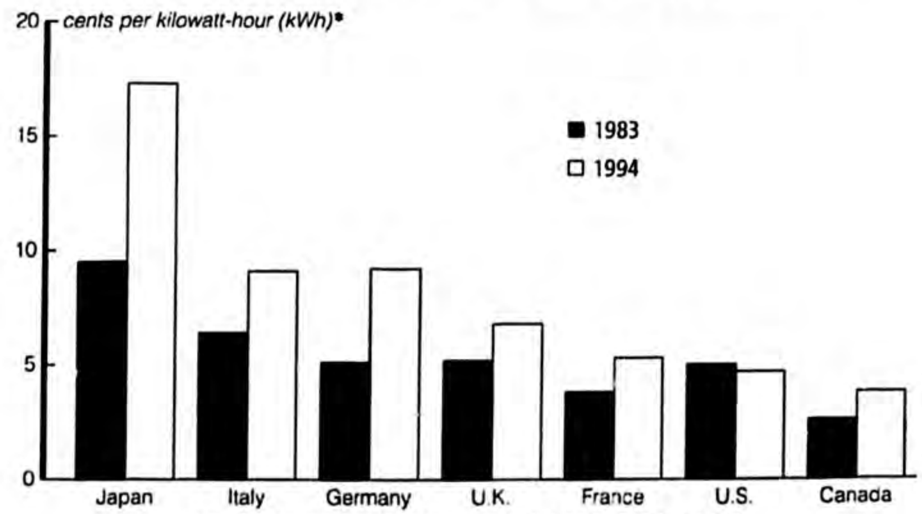
ISSUE 9: Safety and Employment – Cost-cutting measures and work force reductions are being implemented throughout the electric power industry. As a result, the existing work force and the electric systems are stressed to a point that threatens worker safety and public safety.

This booklet provides you with background on the issues at stake now and on the context of regulation and competition in the industry.

At the back of the booklet is a list of practical guidelines to help you get involved in ensuring the continuation of affordable, safe, reliable and secure electric power service.

Many of us take for granted the electric power industry's history of providing universal, quality service. Currently, the North American system is the best in the world, with industrial rates lower than those of the largest industrial countries, the highest level of service reliability and a tremendous safety record. Fast-paced abandonment of the current electric power system and the reckless overturning of responsible regulation in pursuit of greater profits will put all of this in jeopardy.

Worldwide Industrial Electricity Prices



Source: OECD, International Energy Agency Statistics, *Energy Prices and Taxes* (Fourth Quarter 1995).
* Prices converted to 1990 U.S. dollars.

Industrial electric prices in North America are the lowest of the world's leading industrial countries. Electric prices have increased in every major industrial country except the United States.

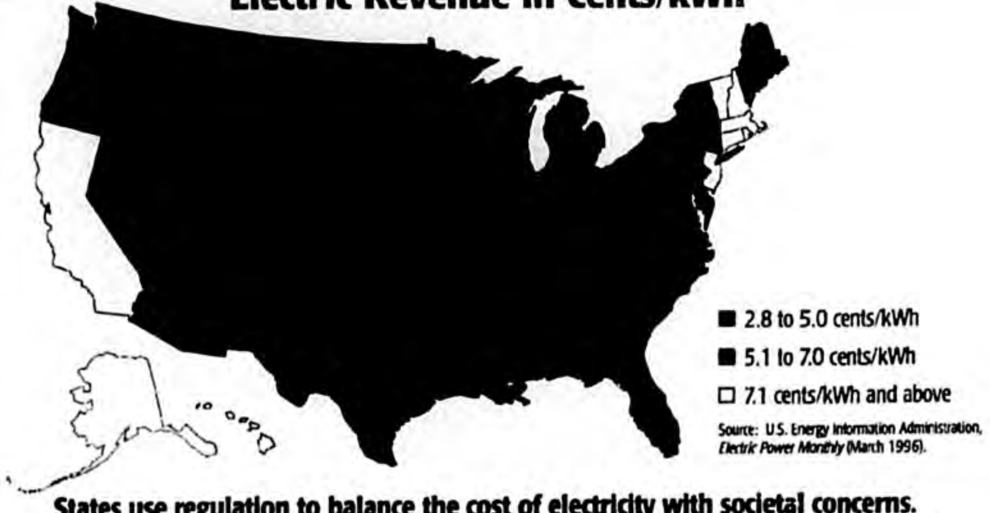
Who Wants Rapid, Radical Change?

There are only a few groups responsible for the push toward rapid, radical change to the electric power industry structure. The most influential and outspoken are the large industrial consumers of electric energy who are motivated by the lure of increased profits; a few utilities which may benefit financially from the proposed radical changes; power marketers; and a coalition of certain politicians and special interest groups that reject government rules and regulation in favor of a private, free-market philosophy that is completely profit-driven.

Large industrial consumers are pushing for rapid deregulation because electric rates vary substantially across regions of the United States. and they want access to the cheapest rates. There are many economic, political and social reasons for these rate disparities. The rates in each area reflect the regulations of its citizenry in trying to reach the proper balance among the interests of all stakeholders.

Commodity traders want to radically change the electric power industry to create a new market for their services. These Wall Street traders seek to profit by merely buying and selling contracts that anticipate the movement of electric prices. Similarly, power marketing companies want rapid, radical change so they will have the ability to act as middlemen in the buying and selling of electricity at the wholesale level.

Disparity in 1995 Average Industrial Electric Revenue in Cents/kWh



States use regulation to balance the cost of electricity with societal concerns. Examples are universal access to all residents, the research and development of energy-efficient products, maintaining environmental standards such as air quality, and determining what kinds of fuel should be used to generate electricity.

The economists and politicians who call for the dismantling of the current electric power industry base their arguments on theory and questionable economic models rather than real-world experiences. These advocates maintain that society's interests are hampered by government rules and regulations and are best served by completely open markets.

Rapid, Radical Change Is Shortsighted.

Advocates of rapid, radical deregulation neglect to address numerous issues, such as the risks involved, who will actually benefit and who will end up paying. Similar deregulation in other industries has resulted in a tremendous increase in customer complaints, harassing and sometimes misleading telemarketing schemes, cost shifting, and cost-cutting measures that threaten safety and quality. The irony of unbridled competition has been the evolution of a few dominant, mammoth corporations through mergers and takeovers, thereby eliminating competition and the benefits it was supposed to create. Unquestionably, the remaining companies and their shareholders benefit. Unfortunately, consumer concerns such as service, safety and reliability are sacrificed to market pressures. For example, deregulation in the airline industry has produced some cheaper fares but at a significant cost to safety and quality. Some cities have suffered loss of service and significantly higher airfares.

Consumer groups, as well as energy conservation and environmental groups, fear that completely opening access to all electric power companies will simply bring about a reallocation of costs that will benefit large industrial users to the detriment of smaller commercial and residential customers. Competitive pressures may make it difficult for electric power companies to take the long-term perspective; and failure to do so may lead to inappropriate resource choices and higher power supply costs, particularly to residential customers. Further, deregulation may end comprehensive planning for energy consumption and conservation programs.

As electricity consumers, we need to remind ourselves of the fundamental reason for industry regulation: to ensure that a fair balance exists between customers and the companies that provide the service. If we hastily implement radical changes to the regulations governing the electric power industry, we will also radically change who and what has priority in our system.

ISSUE 1: Reliability

When electric power companies are subject to prudent local and federal control and regulatory oversight, they are responsible for operating and maintaining a reliable, efficient electricity system. The incentive to invest in reliability protections becomes less likely when profits are the primary consideration. In fact, the incentive to cut costs may result in systems so overstretched they may not be able to operate efficiently in times of peak demand or during storms.

Electricity, unlike goods, cannot be stored or inventoried; it must be used when produced. Mechanisms must be developed to provide financial incentives to ensure that capacity will always meet demand. ***Electricity is an essential service, not merely a commodity.*** Customers will not tolerate less reliable service.

Reliability of electric service is also a public safety issue and a matter of national security. Society relies on the smooth operation of electrically based technologies. If power brownouts or blackouts occur more often, will civil unrest and rioting become the price for such periods of unreliable power?

ISSUE 2: Cost to Consumers

No one can predict with certainty what will happen to the price of electricity in an open market. Supporters of radical deregulation speculate prices will fall, yet they do not take into account some factors particular to electric power:

- With fewer operating reserves, temporary shortages may become more frequent. This will make prices vulnerable to fluctuating demands.
- It takes several years to plan, design and build new generation capacity. As a result, companies will lose the ability to adjust prices quickly in response to a shortage.

Most educated observers claim that customer choice will be of little or no value to residential consumers or small businesses in terms of the price of electricity. Large industrial consumers will command any or all lower-cost electricity, leaving higher-cost supplies to residential and small business users.

ISSUE 3: Societal Impacts

Local utilities currently support a number of beneficial community programs. In an environment motivated solely by profits, many of these programs will disappear as costs are cut.

Lifeline energy assistance programs, community activities, and numerous conservation and economic development activities are funded through electric rates, mainly because of strong identification between the local electric power company and its community. The ability and desire on the part of companies to voluntarily cooperate to achieve state-level social objectives will be impaired under an environment motivated solely by profit.

ISSUE 4: Universal Access

Under deregulation, electric power companies may not be obligated or have an incentive to serve those customers who are considered a financial risk. Electricity is a necessity, and methods will have to be found to assure that these customers still have electric power companies to serve them at reasonable prices.

ISSUE 5: Tax Revenues

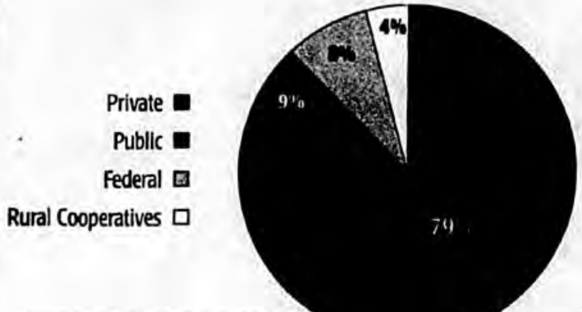
The electric power industry currently pays billions in state and local taxes. What will be the impact of deregulation on these vital revenues, particularly in states and localities where power plants may be shut down when power is brought in from distant areas? Residential consumers and small businesses might be expected to pay more in taxes to make up the shortfall.

ISSUE 6: Stranded Costs

The electric power industry is the most capital-intensive industry in North America. Hundreds of billions of dollars have been invested in plants and facilities. In response to prudent government regulations, private utilities built large generating plants to provide universal service and meet projected demand for electric power. Companies expected to recover the costs of these long-term investments through rates paid by a defined customer base. In a deregulated industry, these electric power companies will be unfairly burdened with those investment costs, compared to other providers who were not required to make similar investments. Who will compensate the companies for these stranded costs?

*Since the 1930s the United States has greatly benefited from a decentralized electric power industry consisting of four distinct types of ownership systems: **private** (investor owned); **public** (municipals, power districts, irrigation districts, state authorities and other state organizations); **rural cooperative** (consumer owned); and **federal** (primarily hydroelectric projects such as Tennessee Valley Authority, Bureau of Reclamation, Bonneville Power Administration, etc.). This structure has provided safe, reliable, affordable service to all customers and has allowed flexibility for communities to address their local concerns and preferences.*

1993 Net Electricity Generation in U.S. by Type of Utility



Source: U.S. Energy Information Administration

In general, private serve large, consolidated markets; public serve communities and nearby customers at the lowest possible cost; rural cooperative serve people in rural areas; and federal sell most of their power to non-profit preference customers for resale.

ISSUE 7: Mega-Mergers and Market Dominance

Numerous mergers have occurred since restructuring and deregulation initiatives first surfaced in the industry. Many more mergers can be expected. In a recent industry survey, 93% of surveyed power companies anticipated greater consolidation. A key consumer concern is the potential for abuse of market power by energy behemoths to manipulate prices. With almost 90% of generating capacity provided by the largest 200 systems, can competition grow with deregulation, or will there be merger mania to gain an even higher percentage of the electric generation market?

Electric power companies play a unique role in state and local communities. They are often engines of economic development, and they have traditionally maintained local offices to ensure customer contact and quality service. Much of this regional involvement may be lost when the local company merges with another which has no historical concern for the community. Governmental policymakers have made little effort to effectively analyze and protect communities against the potential adverse effects of mergers.

ISSUE 8: Environment

Through their control over local utility rates, states have been able to meet numerous environmental goals through stringent pollution controls, mandatory use of renewable sources of energy, energy-saving programs, etc. The present balance of environmental concerns associated with electrical energy is threatened, and environmentally beneficial programs may ultimately be dropped.

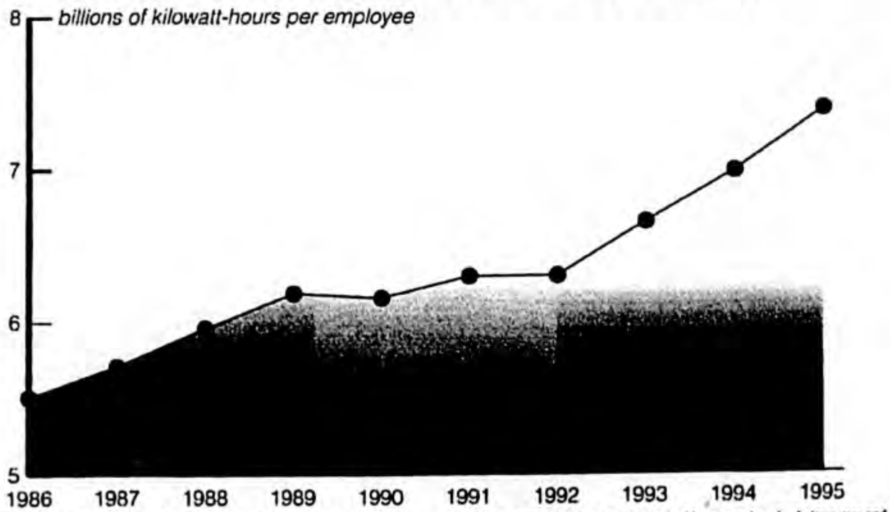
Effective energy-saving programs provide customers with direct financial incentives to invest in measures and equipment to promote energy efficiency. Successful programs have encouraged installation of reduced-flow shower heads, additional insulation, heater wraps and load-control devices. These energy-saving programs have been shown to be highly cost-effective, allowing the sponsoring company to save fuel, cut transmission and distribution costs, and generate capacity reserves. As a trade-off, the company sacrifices increased sales and related earnings. In an environment motivated solely by profits, the electric power supplier will have no reason to conduct these energy-saving programs.

ISSUE 9: Safety and Employment

Electricity must be transmitted in relatively close proximity to the general public and can be extremely dangerous unless properly produced, delivered and used. In general, workers, management and regulators in the existing industry have achieved an exemplary safety record. This is due to a long history of proper training and appropriate investments in public safety and worker safety.

Staffing levels and training programs have been the first areas cut where deregulation has occurred in other industries. Quality of work life has declined, and employees have found themselves in a race to the bottom on wages and benefits.

U.S. Electric Utility Worker Productivity



Source: Calculations based on data from the Bureau of Labor Statistics and the Energy Information Administration. The economy had been growing slowly for a year and a half before the recession, which lasted from approximately September 1990 through March 1991. Slow economic growth resumed in the final three quarters of 1991.

The electric power output per employee in the United States has been steadily increasing. What will be the effect on worker safety and service reliability if the work force continues to be overstretched as a result of downsizing?

Evolution of the U.S. Regulatory Framework

For more than 60 years, regulation of the electric power industry in the United States has been based upon a **"compact"** between electricity customers and companies which generate, transmit and distribute electric power. The regulatory compact has tried to ensure that a fair balance exists between the interests of the companies, which want to maximize profits, and their customers, who want safe, reliable, affordable power while respecting environmental concerns. This compact is managed at both federal and state levels. Legislative and regulatory changes have periodically altered this regulatory compact, dramatically affecting the balance of interests between companies and customers.

THE REGULATORY COMPACT

OBLIGATIONS OF PUBLIC UTILITIES

- *To provide safe, reliable, affordable power within their service area.*
- *To serve all customers throughout the authorized service area.*
- *To charge fair rates for power.*

RIGHTS OF PUBLIC UTILITIES

- *To invest in plant and equipment necessary to provide safe, reliable, affordable power.*
- *To operate exclusively within an authorized area.*
- *To expect a fair rate of return for providing service.*

Public Utility Holding Company Act (PUHCA) of 1935

Congress Creates Regulated Monopolies

Prior to regulation the industry comprised a network of operating electric power companies controlled by about 15 large holding companies. They were so massive and powerful that they were able to ignore customer needs. Companies dictated price and refused service to any customer not willing to pay that price. Essentially, these companies were unregulated monopolies in their areas of operation.

In 1935 Congress restricted utility holding companies through PUHCA and other legislation which established a mechanism for interstate regulation of electricity and gave states greater power and authority to regulate utilities. The act granted utilities regulated monopoly control of their service areas, but required them to serve customers in the public interest. In return, state boards or citizen regulatory bodies ensured a reasonable rate of return for utilities at a reasonable cost to the customer.

FEDERAL ENERGY REGULATORY COMMISSION
regulates wholesale power and transmission sales between utilities and between utilities and nonutility generators.

STATE UTILITY COMMISSIONS
regulate power sales and services to retail customers.

Public Utility Regulatory Policies Act (PURPA) of 1978

Congress Introduces Wholesale Competition

In the 1970s large industrial consumers lobbied Congress to introduce electric power competition at the wholesale level. PURPA required utilities to purchase power from "qualifying facilities," regardless of their location. Qualifying facilities include nonutility generators (NUGs) and independent power producers (IPPs) which generally build near a factory or large commercial business. Industrial consumers may use power generated by these facilities instead of power produced by the local utility. The number of qualifying facilities subsequently surged. By 1995 nearly 60% of new electricity generation came from nonutility generators.

Energy Policy Act (EPAct) of 1992

The Move to Rapid, Radical Deregulation

In the 1980s corporate interests (not necessarily within the electric power industry) pushed for access to the vast, lucrative markets and huge capital assets accumulated by the traditional power companies. These markets and assets were off-limits—unless the regulatory system were dismantled. Citing the advantages of increased "consumer choice" and lower electricity prices, these corporate interests lobbied for rapid deregulation of the electric power industry.

Congress obliged, in part, by enacting EPAct, which removed many regulatory functions from federal oversight and in many ways rendered PUHCA obsolete.

- EPAct relieved the Securities and Exchange Commission of many of its obligations to restrict certain practices of retail utilities and to monitor mergers and acquisitions. These changes helped create the destabilizing merger mania prevalent in the power industry. Aggressive companies, many with little interest in supplying power to the public, are now drawn to this industry by the promise of huge profits to come.

- EPAct authorized the Federal Energy Regulatory Commission (FERC) to set conditions for wholesale wheeling and to mandate utilities owning transmission systems to open such systems for use by other utilities, exempt wholesale generators and other entities. In addition, EPAct opened the door for FERC to assert broad authority to establish rules for the operation and pricing of open transmission systems.

- States are now considering whether and how to implement retail wheeling. Retail wheeling allows retail customers to bypass the local utility and purchase from the energy supplier of their choice. This issue is being debated in almost every state. The changes permitted by EPAct and the prospect of customer choice have spawned a new industry, power marketing, through which electric power suppliers hope to lure retail customers from the local utility. Telemarketing is one method power marketers will use to solicit retail customers.

Can There Be Equitable Deregulation?

Problems will surely arise in a new environment. We will have to find solutions.

Consider the Following:

- Electrical service must remain reliable, safe and efficient. There must be assurances that there will be sufficient operating reserves for crisis situations.
- The price of electricity in a competitive market must remain stable for all classes of customers, and the quality of the power must remain high.
- Societal and community programs should not be abandoned as local government revenues decline due to utilities paying less tax.
- Universal access must be preserved, because electricity is a necessary service.
- Individual consumers and local communities should not be expected to bear the full burden of making up for lost tax revenue.
- Utilities should be compensated for their stranded assets. They invested in plants and equipment based on the current regulatory framework, which included oversight by local communities.
- Mechanisms should be put in place to protect against the potential adverse effects of mergers and acquisitions which will result from new competitive pressures.
- Environmental protections and conservation programs must not be abandoned for the sake of enhanced profits and competitiveness.
- Public safety and worker safety must be maintained, as electric power companies cut staffing levels to enhance profitability.

What Can You Do?

The issues that have been highlighted should inspire all electric power consumers to get involved in the process to voice their concerns within their communities.

You can get involved in many ways at the grass-roots level to protect yourself from rapid, radical deregulation.

Write a letter to, or telephone, your local elected officials, state legislators or federal senators/congressional representatives to voice your concerns.

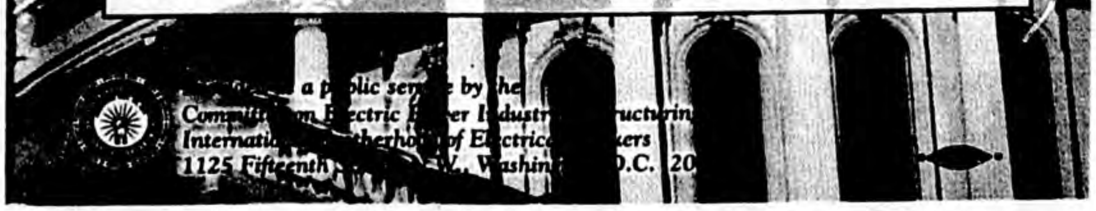
Network within your affiliations (e.g., church/synagogue, civic groups, professional associations, recreational activities, educational programs, social groups, etc.) to voice your concerns and help educate others.

Meet one-on-one with your neighbors to discuss implications for your community.

Submit an opinion piece or letter to the editor of your local newspaper to express your concerns or respond to those advocating radical change.

Attend public meetings and political rallies to challenge all candidates to clarify their positions on these issues as they campaign for upcoming elections.

Every electric consumer has an opportunity to influence the outcome of electric power deregulation, but only if we get involved at the local, state and national levels. It is important to act now. Governmental decisions are being made which will affect everyone for decades to come. It is important that your concerns be heard. When all is said and done, the electric power industry must continue to provide safe, reliable, affordable service to all consumers.



August 5, 1998

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

AUG 03 1998

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Thank you for your consideration about a product/service that affects all of us in almost every facet of our lives every single day.

Sincerely,

Gail Chambers
REGIONAL PROPERTY DIRECTOR
WEIDNER INVESTMENT SERVICES
561-5211

REGAL ALASKAN HOTEL

August 3, 1998

AUG 03 1998

Representative Norm Rokeberg
Fax 258-2916

Dear Representative Rokeberg,

I had intended to testify in person on the following points but cannot. I am submitting this letter as written testimony. I would appreciate your consideration of the following points and I would encourage your committee to recommend immediate restructuring in the Anchorage Bowl.

- <u>Alaska businesses are not able to achieve savings to our electricity costs because we are not being allowed to exercise our rights to choose our electric power provider.</u>
- Alaska businesses large and small make every effort to hold down overhead costs while still providing the best products and services.
- As a business organization in one of the most competitive areas of the economy I know that competition helps keep prices down and it keeps us on our toes to meet customer needs.
- We have a choice on every product and service we buy EXCEPT electricity.
- Government has some necessary functions but it should not be in a position to tell the private sector business community who they can or cannot buy electricity from.
- We would like the opportunity to choose our electricity provider.

A REGAL INTERNATIONAL HOTEL.
4800 Spenard Road • Anchorage, Alaska 99517-3236
Phone 907.243.2300 • Fax 907.243.8815 • Worldwide Reservations 800.222.8888
www.regal-hotels.com/anchorage • e-mail: regal@alaska.net

REGAL ALASKAN HOTEL

- Gas costs have been cut because of the competitive market on the large commercial gas level.
- In a deregulated environment the lowest cost provider could serve us.
- Restructuring will insist that service levels rise and products available will be increased.

Thank you for your consideration about a product/service that affects all of us in almost every facet of our lives every single day.

Sincerely,

Max J. Lowe

Max J. Lowe, CHA
General Manager

MJL:ta

Alaska Electric Utility Restructuring

Joint Committee on Electric Utility Restructuring

Alaska State Legislature

HCR No. 34

Donn T.Wonnell, *Counsel for*

Municipal Light & Power

Municipality of Anchorage

August 6, 1998

Alaska Electric Utility Res

- ***Basic Principles***
- Industry Restructuring Outside
- Alaska Is Different
- Additional Problems
- mendations

1. Basic Principles

- Competition
  - Public interest test (sustainable; demonstrable)
  - Non-discrimination
  - Deregulation (asymmetry)
  - Competition v. competitors

1. Basic Principles

"Second only to the temptations on regulators to show results in the form of quick rate reductions is the temptation to produce some competitors, even competitors less efficient than the incumbents, by extending to them special preferences or protections and restraining efficient responses by the incumbents."

Alfred E. Kahn

"Deregulation: Micromanaging the Entry and Survival of Competitors"

The Edison Electric Institute

Washington, D.C. (February 1998)

MLP

1. Basic Principles

- Change = Improvement
  - Ubiquitous effects
  - Continuous effects
  - Safety, reliability, and availability
  - Unintended consequences
  - Enhancing consumer benefits

1. Basic Principles

"Power Trader's Default Sends Tremors Through Markets

...That default caused a chain reaction of fears and unmet promises that on June 23 drove Midwest electricity prices to as high as $3,200 a megawatt-hour, 125 times the average price last year. The Federal Energy story shows how changes in the buying and selling of U.S. electricity have created a wild-fire market filled with new dangers for the power industry."

AOL, July 8, 1998

1. Basic Principles

- Change = Nondiscrimination
  - Effects of market forces
  - Consumer benefits/absence of detriments
  - "Windfall" benefits, other inequities
  - Availability and affordability

MLP

1. Basic Principles

- Alaskan Issues/Solutions
  - "We don't care how they do it outside."
  - Unique internalities and externalities
  - Programs elsewhere are new
  - Results elsewhere are mixed
  - Limited ability to absorb policy failures

MLP

Alaska Electric Utility Res

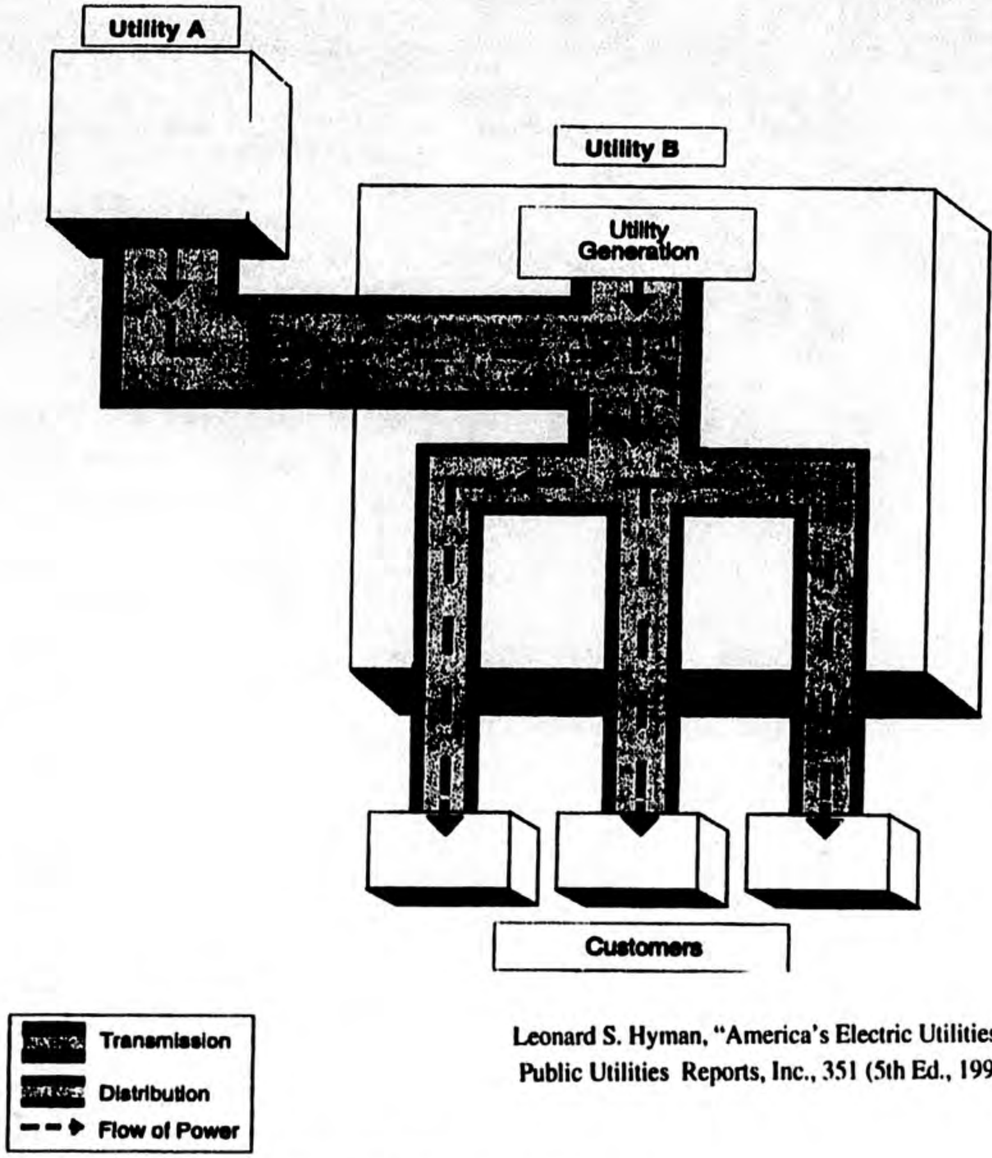
- Basic Principles
- ***Industry Restructuring Outside***
- Alaska Is Different
- Additional Problems
- Recommendations

MLP

2. Industry Restructuring Out[illegible]

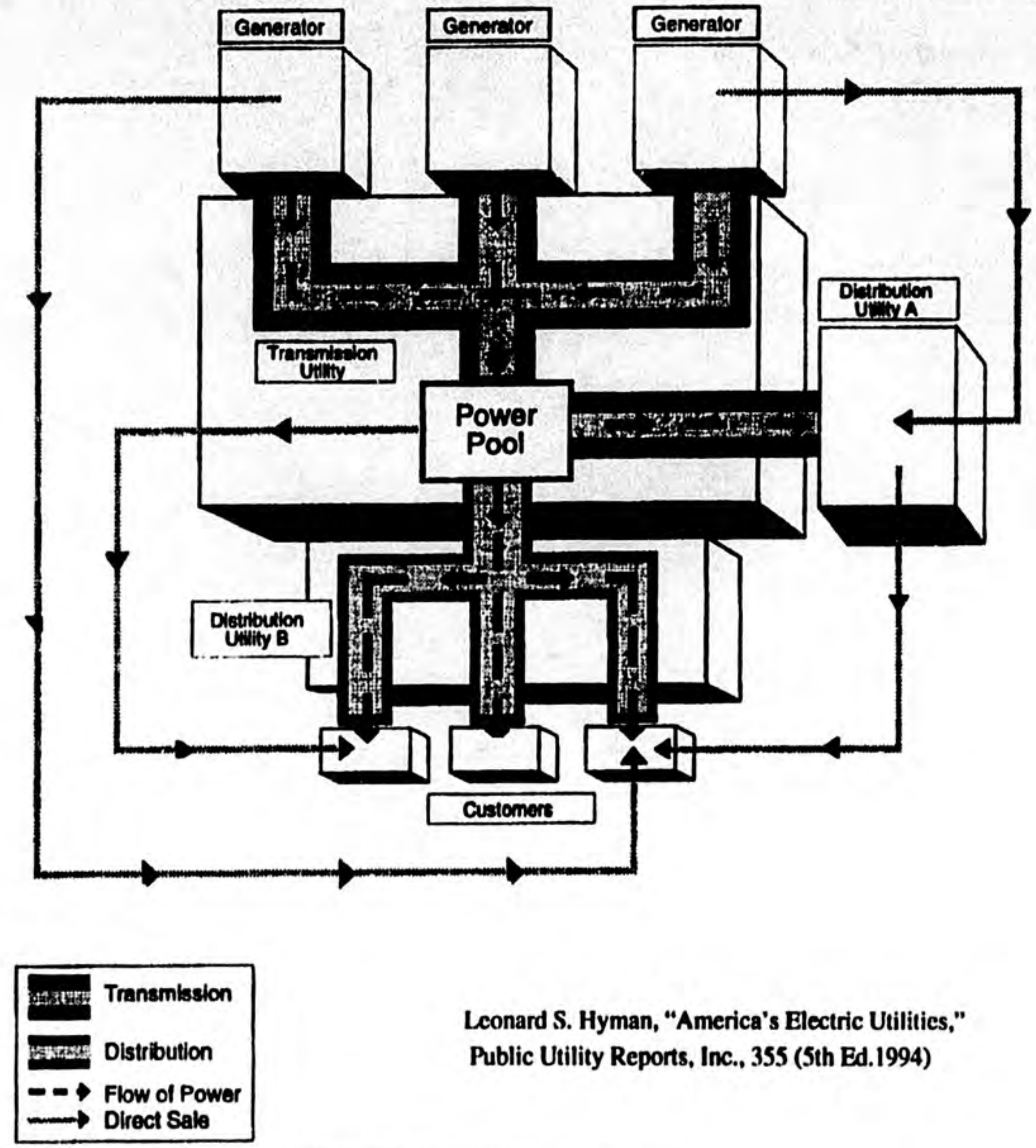
- Generation
  - Multiple sources
  - Physically interconnected
- Transmission
  - "Bottleneck facilities"
  - Comparable access
  - Comparable information
- Local Distribution
  - Bundled service
  - [illegible] issues

2. Industry Restructuring Outsi[...]



Leonard S. Hyman, "America's Electric Utilities," Public Utilities Reports, Inc., 351 (5th Ed., 1994)

2. Industry Restructuring Outside



Leonard S. Hyman, "America's Electric Utilities," Public Utility Reports, Inc., 355 (5th Ed.1994)

Alaska Electric Utility Restructuring

- Basic Principles
- Industry Restructuring Outside
- *Alaska Is Different*
- Additional Problems
- Recommendations

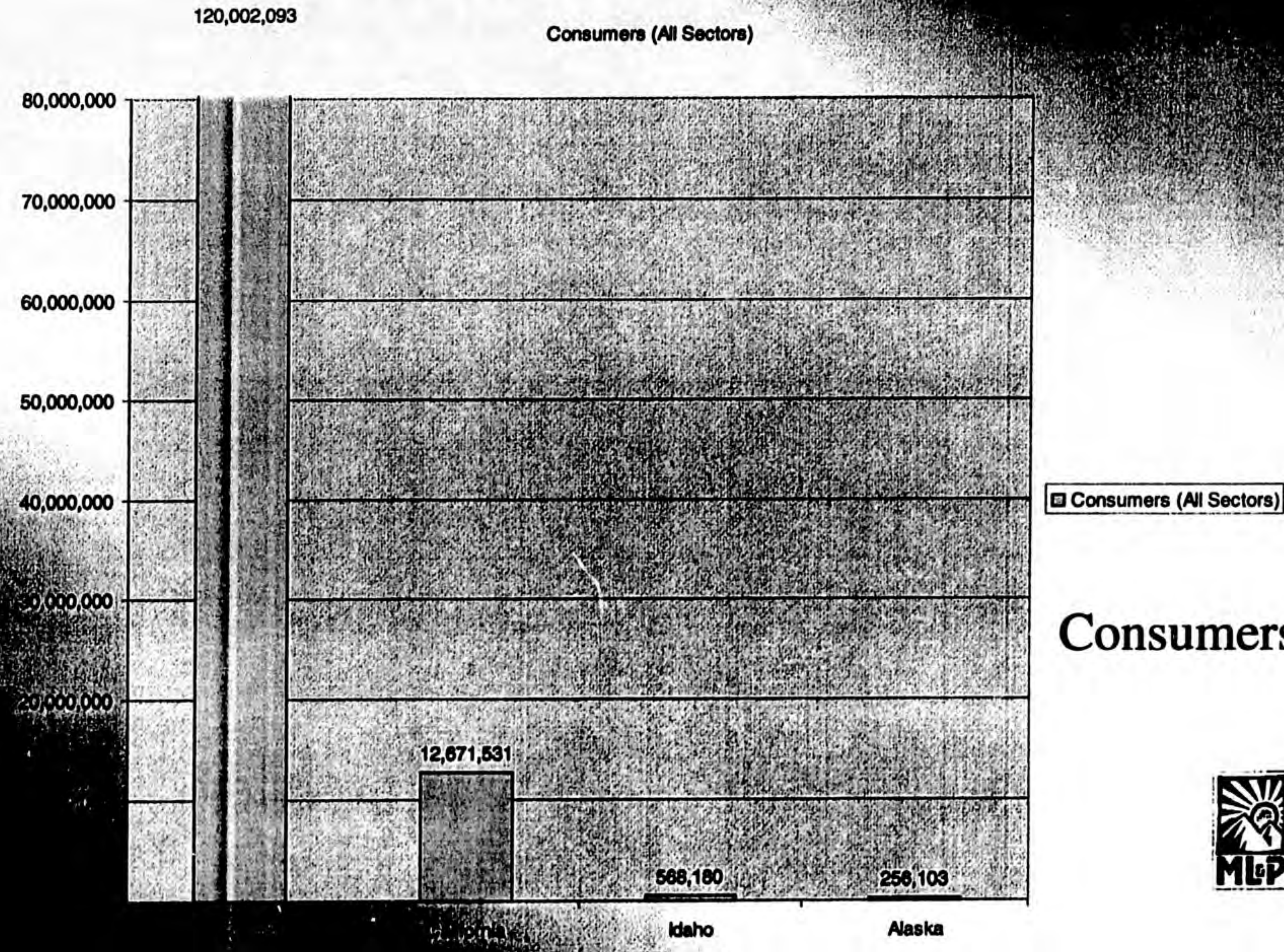
MLP

3. Alaska Is Different

- Total market is extremely small
- Physical isolation from lower-48
- Grid limitations
- Insignificant non-utility generation
- No competitive wholesale market structure

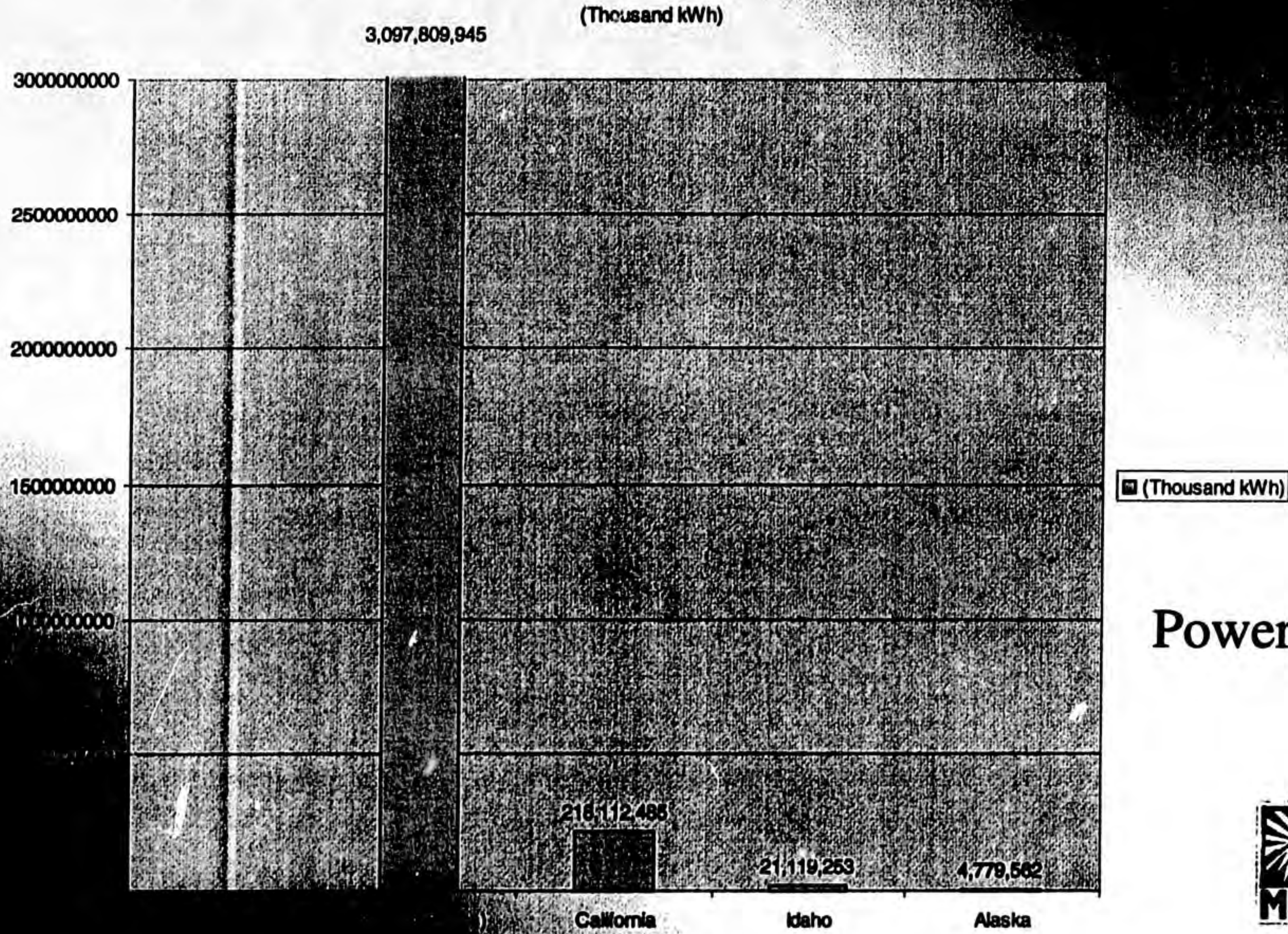
MLP

3. Alaska Is Differen



Consumers

3. Alaska Is Differen



Power

Alaska Electric Utility Restructuring

- Basic Principles
- Industry Restructuring Outside
- Alaska Is Different
- ***Additional Problems***
- Recommendations

4. Additional Problems

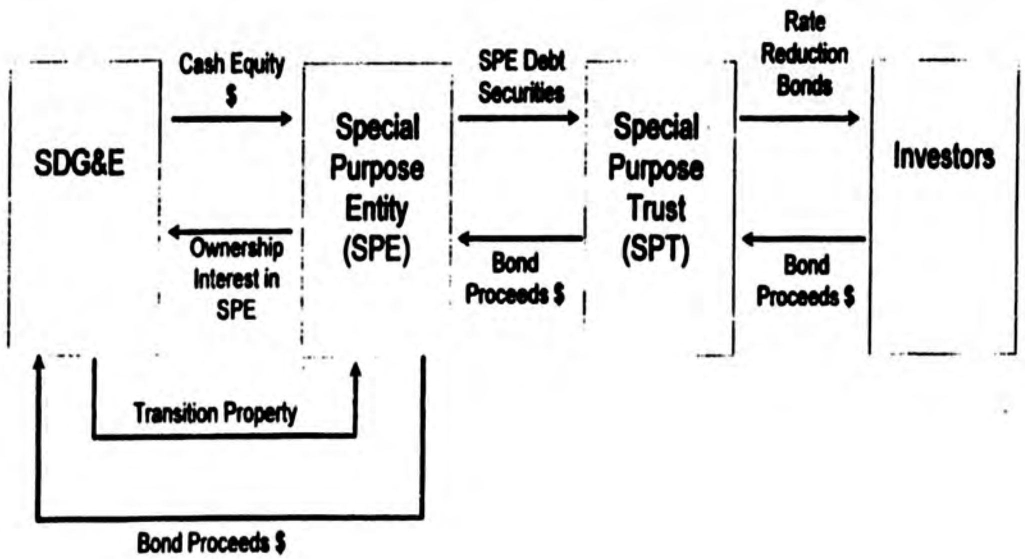
- Stranded Investment
  - Defining, measuring, verifying, and collecting
  - $30- 40 million/year for railbelt
- Consumer-owned utilities
  - No IOUs in railbelt
  - ML&P is capitalized through MOA-issued revenue bonds
  - Privatization as precondition for divestiture
- Rate Impacts
  - Discrimination
  - Universal availability

ML&P

4. Additional Problems

Rate Reduction Bonds

Transaction Structure



Frank H. Ault, San Diego Gas & Electric 19
NARUC Presentation, Subcommittee on Accounts
San Diego, California (March 16, 1998)

Alaska Electric Utility Restructuring

- Basic Principles
- Industry Restructuring Outside
- Alaska Is Different
- Additional Problems
- ***Recommendations***

5. Recommendations

- Study economic impacts
- Take steps in an orderly sequence
  - Stage 1: Power Pooling
  - Stage 2: Wholesale Competition
  - Stage 3: Retail Competition
    - Retail demonstration projects
    - Broader measures, if warranted
- Utilize APUC expertise
- 97-140
- communications experience
- ers, not combatants

Preliminary Comments of Municipal Light & Power
Concerning the Commission Inquiry into Electric Restructuring Issues

(APUC Docket R-97-10)

Meera Kohler, General Manager
Daniel B. Helmick,
Financial Services Manager
Donn T. Wonnell, *Counsel for*

Municipal Light & Power
1200 East 1st Avenue
Anchorage, Alaska 99501

April 24, 1998

Preliminary Comments Concerning Alaska Restructuring Issues
Re: APUC Docket R-97-10

The following outline presents the initial comments and observations of Municipal Light & Power (ML&P) concerning the process to be followed in considering Alaska electric industry restructuring issues. These remarks respond to the invitation of the Alaska Public Utilities Commission (APUC or Commission) to address six matters concerning the process to be invoked in Docket U-97-10, upon which comment is sought (see **Attachment B**).

ML&P appreciates the opportunity to provide input for the Commission's consideration on this important subject. The scope of electric restructuring issues can be extremely broad. It has proved to be so in the many state and federal proceedings transpiring to date in the lower-48. That breadth places additional importance on the process to be employed in this docket. Of necessity, ML&P's points here must be general and preliminary in nature. Commission consideration of these matters, however, will promote a comprehensive review of the relevant issues and lead to reasoned consideration of the public interest issues implicated by any restructuring proposal.

A. Basic Principles.

ML&P recommends that the Commission embrace four basic principles in assessing whether, to what degree, and how to restructure the electric industry in Alaska.

1. Competition: ML&P favors the principle of competition. Competition promotes diversity of service offerings, stimulates efficient production, and tends toward reduced market prices for goods and services. Competition, however, requires that certain economic and legal conditions exist in order to be sustainable. Further, in the context of a pre-existing monopoly market structure, competition is unlikely fully and fairly to develop without at least some transitional structure and period. Such a transition promotes a level playing field and prevents an inadvertent, asymmetrical distribution of burdens and benefits among both industry participants and energy consumers. Inquiry into both the conditions necessary for competition and, if competition is indicated, the structure necessary to transition to competition should be a part of this process.

2. Universal service: The introduction of competition into the industry should benefit consumers in a non-discriminatory fashion. It should not disadvantage those in the rural areas of the state, nor should it provide windfall benefits to specific classes of customers, at the expense of other classes of customers. Further, under competition, price is driven in the direction of cost. To the extent existing rate structures and cost recognition mechanisms are based upon factors other than cost (for example, implicit subsidies in current rate designs), those subsidies may evaporate. As a result, some consumers could well face rate increases rather than reductions, which could impose severe financial burdens on those customers. Quality service, at affordable rates, should remain available or become available universally within the state.

3. System safety, reliability, and quality: The Commission should ensure that industry restructuring does not become the occasion for degradation in the quality and reliability of electric power. Further, competition, if adopted, must function within the bounds of incentives and/or minimum mandatory standards necessary to secure the safety of the system, for customers and employees alike.

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4. Unique Alaskan conditions: The experience of the lower-48 states provides a wealth of precedent and insight into the issues implicated by Alaska electric restructuring. ML&P believes the Commission should take advantage of this knowledge and incorporate it into the proposed process. But ML&P also believes that many conditions inherent in the lower-48 experience do not obtain here. Consequently, the Commission's process should ensure that all relevant aspects of Alaska's unique circumstances are developed and recognized in any final plan adopted by the Commission as a result of this process. Since the current market structure is meeting extant needs in a satisfactory manner, the Commission should resist special interest pressures to implement any particular market change for the sake of change, alone.

B. ML&P Responses to Identified Issues.

1. Determining whether there should be competition in the electric industry in Alaska.

To date, state and federal agencies have taken a variety of positions on and approaches to the issue of introducing competition. They generally have not decided, and the Commission should not decide a priori for or against competition without reference to the public interest. In assessing whether to introduce competition into the Alaska electric industry, the Commission should consider the following course:

a. **Identify segments of the electric industry potentially subject to competitive service provisioning.** This could include subdividing the industry into operational or economic segments for further analysis; e.g.,

    Generation
    Transmission
    Distribution
    Ancillary services

b. **Identify the conditions necessary to promote and to sustain competitive markets in one or more segments.** Competition at the federal level currently exists in wholesale generation because of the existence of multiple, alternative power sources. Open access to transmission facilities (but not distribution facilities) is an indispensable part of such competition. In some states, competition in energy sales at the retail level is being initiated or studied. Such retail competition involves related issues of independent system operation, power exchange creation and management, regulation of new industry participants, and so on. In virtually all cases, state implementation of restructuring has been preceded by a prudent, thoughtful analysis of the problems and solutions implicit in each restructuring proposal under consideration. It would prove instructive to examine such precedent, e.g., FERC Order No. 888, to determine what conditions or issues impact the creation and maintenance of competitive markets.

c. **Identify the public interest issues and benefits attending alternative market structures.** Identification of the public interest issues inherent in restructuring must be a core concern of the Commission in any proposed process. That interest can be analyzed, and the prospective benefits of any particular course identified and quantified. In this manner, the Commission can begin to determine whether the introduction of specific changes to the existing structure are, in fact, likely to promote the public interest.

d. **Establishing the procedural context for developing these and other issues related to the desirability of industry restructuring.** ML&P believes that this docket provides an appropriate vehicle for Commission inquiry into the fundamental issues of restructuring. The process for developing these issues is addressed in the following section.

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2. Educating the public, the industry, and the Commission on possible issues.

ML&P supports both Items A and B of the outline of issues, and recommends the following matters for Commission consideration:

a. **The Commission should establish a substantive agenda.** This agenda would identify the substantive issues, such as those suggested in 1, above, concerning which industry and consumer input would be sought. The Commission should propose a basic list of such issues and afford any interested party an opportunity to comment upon or add to that list.

b. **The Commission should establish a procedural agenda.** In parallel with the foregoing, the Commission should establish a timetable for advancing the development, analysis, and evaluation of restructuring alternatives. This procedural agenda would incorporate such matters as:

Public notices identifying issues and opportunities for participation;
Public forums for presenting issues to the public and for soliciting public concerns and perspectives;
Industry workshops to pool knowledge and ideas of industry participants;
Multi-party (staff, industry, and public) workgroups to address specific issues identified by this process, as the Commission finds appropriate;
Record hearings to develop the statutory basis for further Commission action.

ML&P commits to being an active participant in these proceedings. It is our desire to utilize the knowledge and expertise of our employees to assist the Commission in developing and evaluating possible alternative industry structures. We believe the above approach follows useful precedent in the lower-48, particularly with regard to the formation of workgroups. Such workgroups would address and seek consensus on as many issues as possible, thereby minimizing both the burden on staff and the Commission and the amount of time required to reach decisions on essential points for restructuring.

c. **The Commission should coordinate related proceedings.** The APUC has current, and will likely have additional future proceedings which involve issues related to or impacted by the process here. ML&P recommends that such proceedings be coordinated with this one, in order to

Minimize the burden on Commission and staff resources;
Minimize duplication and waste of participant time and resources;
Minimize public confusion concerning the nature and focus of Commission activity on this subject.

This would be particularly appropriate with respect to the proceedings concerning the prospects for a railbelt power pool (Docket U-97-140), since that matter is implicated in review of competitive issues set out in 1, above. Other pending matters likewise should be coordinated with this process to ensure congruity of the ultimate findings in each.

3. **Deciding on a market structure, including draft regulations.**

a. **Regulations:** This step logically flows from the preceding actions. Based on public input, the industry workgroups, and the formal record developed at hearing, the Commission would be positioned to determine basic public interest issues. These could be reflected in draft changes, if any, to current regulations. The drafting burden could be shared through the solicitation of the participants in the proceeding for drafts of proposed regulations.

b. **Legislation:** As a collateral matter, ML&P would also recommend that the Commission consider the possibility that its process may also lead it to conclude that additional or changed statutory authority is required. In that case, the record developed through the process will permit the Commission to make an intelligent, documented presentation to the legislature on any such needed legislation. ML&P believes that such consideration and documentation is necessary to secure the public interest in any proposal for legislative consideration.

c. **Substantive issues:** Electric industry restructuring is not a one-dimensional proposition. The multiplicity and overlay of potential issues creates a complex fabric from which the Commission must create a functioning, beneficial market structure. A very basic, initial outline of substantive matters implicated in any market restructuring is attached hereto for Commission consideration as **Attachment A.** ML&P respectfully directs the Commission's attention to this list during its consideration of the likely scope of activity required by this proceeding.

4. **Developing a transition plan, including draft regulations.**

As noted in its basic principles, above, ML&P believes a transition plan will prove essential to ensure that all classes of consumers will benefit equitably from any changes proposed in the electric energy marketplace. Equally, such a plan will provide a level playing field for all competitive entities. As with matters addressing basic market structure, such a transition plan should be set out in proposed regulations, with the drafting burden eased through solicitation of draft regulations, as above. Specific issues for transition appear in **Attachment A.**

5. **Issue draft regulations (market structure and transition plan) for review, comment and adoption under normal rulemaking procedures.**

This step also proceeds logically from the course pursued above. That process will have focused Commission attention on the main public interest issues involved; will have isolated those not amenable to resolution on a consensus basis; and will have provided part of the record upon which final Commission action can be taken. These factors should ensure a rulemaking that is comprehensive in scope; comprehensible by the public; based upon a sound record; and efficient in terms of utilization of Commission resources. Further, the rights of the public and the interested parties are protected from a due process perspective, making subsequent legal challenge to the regulations less likely.

6. **Adopt and implement regulations as finally approved.**

ML&P supports the above sequential process as the best way to fully develop and address the issues relevant to any proposed electric market restructuring. In tandem with the four basic principles set out above, this process should ensure an articulation of all public interest issues and result in a reasonable and effective balance of public and private interest. It represents the appropriate way to address a matter of such vital importance to consumers and to the economy of the State, as a whole.

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ATTACHMENT A

Outline of Substantive Issues
Implicated by Electric Industry Restructuring

1. **Vertical Integration and Anti-Competitive Concerns**
   a. Basic economic considerations
      - Scope
      - Scale
      - Market characteristics

   b. Essential facilities issues
   c. Product tying and rate unbundling
   d. Imputation and "comparability"
   e. Degrees of separation
      - Divestiture issues
      - Fully separated affiliates
      - Accounting safeguards
      - Integrated system operation (negotiated pools, ISO, etc.)

   f. Integrated system operators (contract-based, ISO, etc.)
   g. Open market sales (spot market, power exchange, etc.)

2. **Transmission Restructuring**
   a. Open access requirements
   b. Monopoly regulation
   c. Open access tariffs
   d. Operating information systems
   e. Costing and pricing
   f. Control area functionalities

3. **Distribution Restructuring**
   a. Identification/demarcation of facilities
   b. Operating issues
      - Open access tariffs
      - Costing and pricing
      - System reliability and safety
         - Spinning reserve

4. **Generation Issues**
   a. Cost classifications
      - Fixed v. variable
      - Sunk v. marginal
      - Demand v. energy
      - Book v. economic
      - Pricing issues

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b. Stranded cost theories
   - Social compact
   - Confiscation
   - Basic business risk
   - Adverse competitive impacts
   - Public policy
   - Sharing principles
   - Forced costs

c. Stranded cost characteristics
   - Prudently incurred
   - Legitimate
   - Verifiable
   - Accurately calculated
   - Sunk in prior period
   - Stranded by transition to competition
   - Not marginal in nature

d. Stranded cost types
   - Utility-owned generation
   - Purchase power contracts
   - Regulatory assets
     - Deferred taxes
     - Post-retirement employee benefits
     - Plant decommissioning
     - Demand-side management

e. Stranded cost measurement
   - Revenues lost
   - Market valuation
   - Cost of service valuation
   - Auction bid price

f. Stranded cost mitigation
   - Future efficiencies
   - Buydowns of existing obligations
   - Mitigation sales
   - Stranded "benefits"
   - True-up
   - Recovery period

g. Stranded cost recovery mechanisms
   - Exit fees
   - Non-bypassable surcharges
   - Accelerated depreciation
   - Price cap/incentive regulation

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5. **Other Issues**
   a. Defining the "public" in public interest
   b. Rate structure issues
      Customer classifications
      Rate classifications
      Cost classifications (methodologies, assumptions)
      Implicit subsidies
   c. Competitive neutrality and asymmetrical regulation

6. **Universal Service**
   a. Provider of last resort
   b. Current subsidy mechanisms
   c. Basic services package
   d. Cost support mechanisms
   e. Competitive neutrality

7. **Financial Market Issues**
   a. Municipal bond issues
   b. Uncompensated takings
   c. Impairment of contracts
   d. Transitional uncertainty and foreseeability
   e. Securitization and monetization

8. **Consumer Protection and Education**
   a. Misperceptions arising from prior market condition
   b. Identification of issues, impacted parties
   c. Scope of protection and educational programs
   d. Monitoring and enforcement mechanisms

9. **Relevant Law**
   a. Current State statutes
   b. Current APUC rules
   c. Current state case law
   d. Current federal statues
   e. Current FERC rules
   f. Current federal case law
   g. Proposed legislation
      State
      Federal
   h. Subject matter areas
      Electric energy
      Antitrust
      Environmental (water, emissions, species)
      Consumer rights (capital recovery sharing)

Before the

JOINT COMMITTEE ON ELECTRIC RESTRUCTURING
ALASKA STATE LEGISLATURE
(HCR No. 34)

Remarks of

Donn T. Wonnell
Counsel for Municipal Light & Power
Municipality of Anchorage

August 6, 1998

Remarks of Donn T. Wonnell
Counsel for Municipal Light & Power
Municipality of Anchorage

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

August 6, 1998

Introduction

- As ML&P has elsewhere noted, the scope of electric restructuring issues is extremely broad, as demonstrated by the issues which have arisen in other state and federal proceedings to date in the lower-48.

- The Legislature obviously recognizes the magnitude of the Committee's task and the import of its review. In establishing the Committee, the Legislature clearly and correctly set the tone for the legislative inquiry into this topic:

  > "...adequate, reliable, and reasonably priced electrical energy is essential to the daily functions, safety, and economic well-being of Alaskans..."
  >
  > "...electric utility restructuring is a highly complex issue, carrying with it profound implications for all classes of electrical consumers..."
  >
  > "...restructuring deserve[s] detailed, careful and informed decision making by the Alaska Legislature..."

- ML&P's presentation outlines some of the considerations contributing to that complexity. The presentation is organized into 5 topics to promote an appropriate focus on the more important issues, and consists of:

  1. **Basic Principles**: A statement of underlying requirements which any restructuring activity should take into account;
  2. **Industry Restructuring Outside** An outline highlighting the most significant aspects and assumptions attending the evolution of electric industry restructuring in the lower-48;
  3. **Alaska is Different** An analysis comparing certain conditions and factors in Alaska to those in the lower-48;
  4. **Additional Problems** A discussion of three of the many additional matters implicated by electric restructuring; and
  5. **Recommendations**: A listing of specific issues and directions which the Committee and the Legislature may wish to consider.

1. Basic Principles

- **Competition:** Competitive principles should be developed and applied wherever sustainable and wherever the public interest is demonstrably and equitably served thereby.
  Competition can promote positive consumer benefits when neutrally applied.
  Competition, however, does not automatically provide particular benefits nor distribute such benefits equitably among all classes of consumers.
  Competition and deregulation are interrelated, but not necessarily the same thing. No industry is wholly free from regulation.
  Competition is a means, not an end. Public policy must distinguish between competition and individual competitors.

- **Change must be synonymous with improvement.**
  Electricity affects health, education, and the economy 24 hours a day, 365 days a year.
  Safety, reliability and availability are critical issues, easily impacted by the law of unintended consequences.
  Alaskans currently enjoy safe, reliable, and available power and have not yet experienced the market-created shortages that have already begun to dot the lower-48 marketplace.
  Change should only be undertaken where improvements benefiting the public will result without detriment to particular consumers groups or market segments.

- **Change must not result in discrimination.**
  The introduction of change (particularly competition) should benefit consumers in a non-discriminatory fashion.
  Changes should not disadvantage those in either remote, rural, or suburban areas, nor provide windfall benefits to specific classes of customers at the expense of other classes of customers.
  Quality service, at affordable rates, should remain available or become available throughout all serving areas.

- **Alaskan issues require Alaskan solutions.**
  On the one hand, "we don't care how they do it outside" ignores useful experiences and data from other states.
  On the other hand, other states do not share Alaska's unique internalities and externalities.
  Therefore, the interpretation of and reliance upon lower-48 experience and precedent should be tempered.
  The results elsewhere have been mixed, frequently falling short of expectations.
  Alaska's ability to absorb the negative impacts of such public policy failures is limited.

2. Industry Restructuring Outside

- Electric industry restructuring in the lower-48 developed in a sequential, cause-and-effect way, from changes affecting electric generation (non-integrated sources), to those impacting transmission (wholesale competition), to those now being considered with respect to local distribution.