

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2510 SCOM 109: JNT. COMM. ELEC. UTILITY RESTRUCTURING, 1998

electric utilities to compete within a market area but still be regulated to some degree by the appropriate utility commission [in this case, the Alaska Public Utilities Commission (APUC)]. The term is also used to refer to the separation of various utility functions into individually-operated and -owned utilities.³

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³ Ibid.

may be revised

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- a) power pooling and dispatch planning among the Railbelt⁵ electric utilities (DOCKET U-97-140, date of opening: September 1, 1994; decisions: September 10, 1997 started investigation. DOCKET is still open.)
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Alaska Structure of Electrical Utilities:

The structure of electric utilities in Alaska is such that consumers own over 90% of the companies (either through cooperatives which are owned by its members or through utilities owned by local governments which are owed by the citizens of that local government)⁶. This is opposite of the existing structure in the "Lower 48" states where a large percentage of electric utilities are investor-owned.

⁴ April 30, 1997 Letter from Office of the Attorney General, Department of Law, to Representatives Rokeberg and Sanders, page 1.

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⁶ October 10, 1997 letter from Eric P. Yould, Executive Director, Alaska Rural Electric Cooperative Association, Inc., to Representative Rokeberg

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Issues of Concern

Many concerns have been expressed in the testimony before the Joint Committee. Comments were received from pro-restructuring firms and individuals, from individuals opposing restructuring, and from individuals who were just concerned about the whole issue. Some of the concerns highlighted were:

Customer Choice

Are there enough competitors to be competitive? Some members of the committee are concerned that there is no apparent competition on the wholesale level while some members see some competition on the wholesale level. The level of wholesale competition might impact whether retail competition could exist. For example, in the Railbelt area, the major generator of electricity for sale to other utilities (including Golden Valley Electric Association, Matanuska Electric Association, Homer Electric Association, Seward Electric Association, Anchorage's Municipal Light and Power) is one entity: Chugach Electric Association⁷. If there is only one major power generator, how does this impact any wholesale or retail competition?

Revise Another major concern in the competition arena is how to address the long-term contracts currently in place. For example, if Company A has a long-term agreement (ending in 20 years) with Company B that calls for higher payments than would be had under competition, what happens? What would the "stranded costs" be in this area and how would they be addressed? Would the consumer eventually wind up paying to buy these contracts out or have the contracts renegotiated?

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It is interesting to note, however, that the mere threat of competition has forced some lowering of rates in the Railbelt area. For example, Matanuska Electric Association (MEA) reduced rates for small businesses in 1998. In 1997 Chugach Electric Association (CEA) has testified that it did not pass along \$3.5 million in fuel costs due to the fear of competition.⁸

"Cherry-picking"

"Cherry picking", the process of taking only the best or largest customers, is also of concern. If a competing utilities only offers services to the largest customers and leaves the remainder with the former utility, the former utility still has some fixed costs to pay and could spread those fixed costs over its remaining customers. The impact could be higher costs particularly to residential customers and would thus defeat one of the purposes of restructuring – lowering the cost of electricity.

Consumer Protection

Retail competition will bring about an entirely new system for the consumers to select a provider. Much like the old telecommunications system, where one used to go to the local telephone company and get all services (hookup, long-distance, local, etc.), an electric consumer would have more choices under a deregulated system. *ideally*

Items to be considered in this area are:

- b* ~~a~~. Consumer education
- a* ~~b~~. Consumer protection/*CONSUMER ADVOCACY***
- c. Consumer Bill of Rights

Universal Service

The concept that electrical service sufficient for basic needs should

⁸ Testimony of Eugene Borjstad, CEA, before the Joint Committee on August 8, 1998.

*** To Ensure that consumers obtain the lowest cost power consistent with safety, reliability, and long-term interest.*

be available to virtually all members of the population is known as "universal service".⁹ The question is whether there should be a mandate on those competing providers to meet the obligation of making services available. Currently there is no statutory mandate on "universal services"; however, there is an obligation to serve if the utility reaches that area. Cost of reaching a remote area may be borne by the residents of that remote area.

In the Alaska of today, electrical service is just as important as any other utility service – from heating to cooking to bathing to running electronic equipment, Alaskans depend on electrical service. Issues in the universal service area include:

- a. Obligation to Serve
- b. Provider of Last Resort

(NOTE: A "provider of last resort" is a utility which has a legal obligation to provide service to a customers where competitors have decided they do not want that customer's business.¹⁰)

Power Pooling

"Power pooling" involves an entity established to coordinate short-term operations to maintain system stability and achieve least-cost dispatch.¹¹

The APUC had a study conducted on Power Pooling/Central Dispatch Planning Study performed by Black and Veatch ("Power Pooling study"). The final report on this study was issued in October 1998 and the Joint Committee reviewed the executive summary of the study and heard testimony from Black and Veatch. The study analyzed potential benefits of a power pool with central dispatch among the Railbelt Utilities in Alaska¹². From the results of the Power Pooling Study, it appears that some power pooling is currently in place; however, the anticipated savings are at a disappointingly low level.

⁹ National Conference of State Legislatures, *ibid*.

¹⁰ *Ibid*.

¹¹ *Ibid*

¹² "Executive Summary", Power Pooling/Central Dispatch Planning Study, Docket U-97-140, page ES-1.

* water treatment, public safety, air traffic control, rescue operations, medical services, education

Four-Dam Pool and other State-owned Facilities

The State may have some exposure on the Four-Dam Pool and other power generation and transmission lines. The State also has contractual obligations to the utilities involved and some of these are long-term.

Stranded Costs

A stranded cost is an investment made under a regulated environment in order to meet certain requirements. For example, Utility Y might have built a facility required by APUC. This facility might have been financed over a long period of time. If competition were available and Y lost customers, who pays for the amount left due and owing on this facility (i.e., "stranded costs")? In the Lower 48 some stranded costs run into the hundreds of millions of dollars. There are again many different scenarios of addressing stranded costs. Alaska needs to determine what the exposure on stranded costs will be if competition is approved and how these costs should be recovered.

add reference to local issues Not only is the stranded costs a utility issue, it is also a State issue because the State owns and/or finances major transmission facilities

Also of consideration in the "stranded cost" area would be the long-term contracts in place for gas supply and wholesale power.

Reliability/Safety

There were some concerns regarding preserving reliability and safety under competition. Like many other northern climates, Alaskans want to be sure that their electrical provider is reliable and has the capacity to address the needs of all its customers in a safe manner. Additionally, the utility or power reseller needs to have access to increased power to meet peak load demands and/or unusual load demands caused by, for example, colder weather than normal.

Spinning reserves and standby capacities are two other issues of concern in this area.

Statutory Guidance

Policy issue: Whether Legislature should draft legislation in detail versus authorizing the APUC to act on this issue?

to be rewritten

Some members of the Joint Committee would prefer to see legislation establishing broad policy direction giving the APUC statutes from which to work to build the regulatory scheme. ~~This is a matter of constitutional prerogative of the legislative branch of government. The Joint Committee did not want to create a de facto grant of legislative authority to a regulatory body.~~ The regulatory body has the technical expertise to develop regulations but the Legislature should give it broad outlines as to what the Legislature wants accomplished. The legislative voice needs to be heard on items, such as, universal service, access, reliability, cost shifting, consumer education, etc.

Other members of the Joint Committee feel that minimal statutory guidance is needed.

Alaska Public Utilities Commission

rewritten

During the meetings there was some discussion as to the role APUC should play in any competitive electric market. The APUC also indicated a desire for more broad legislative guidance as to the state policy regarding competition for electrical utilities and providers.

Pilot Program

Some _____ other states have undertaken pilot programs on electrical utility restructuring to see if such a restructuring would benefit their consumers. Here again, the general consensus of the testimony before the Joint Committee was that a pilot program limited in nature, geographical bounds (i.e., that is all or a portion of the Anchorage area), time, and customers might demonstrate if restructuring would benefit all or some Alaskans.

Should a pilot program be developed for the Railbelt area to see if competition would work in the largest interconnected area in Alaska? Many were concerned that competition in the rural area could involve a power seller coming in and "cherry picking" off the largest customer in the community (i.e., the local school). This would mean that the local utility would be left with the rest of the load (probably mostly residential consumers) and prices might go up to cover the loss of a large customer. The same concerns are expressed by some of Alaska's larger electrical utility providers.

As the Railbelt is the only interconnected area, many felt that a pilot project should be limited in scope to either the Railbelt area or part of the Railbelt area. Part of the Study is development of a pilot program design.

The design of a pilot program could be based on geographic and population limits (i.e., 150,000 or more consumers), with a split in the study of 50/50 between large users (including industrial, public institutions, etc.) and residential consumers. In addition to the population requirement, some percentage of the overall electrical market in that area would be established as a maximum level of participation and the pilot program would have a sunset date. Participants in the pilot program would have to provide baseline and quarterly reports to the APUC.

Study of Electric Utility Restructuring in Alaska

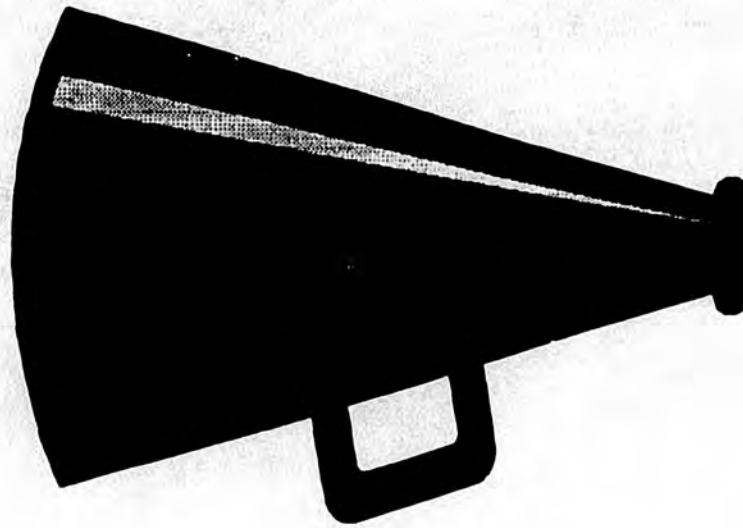
APUC offered the Joint Committee an opportunity to participate in a study on this complex and far-reaching issue – an issue that will affect every citizen in the state who pays an electrical bill. A Request For Proposal for a Study of Electric Utility Restructuring in Alaska ("the Study"). A letter of intent was issued to CH2M Hill on December 23, 1998. The protest period for that award expires on January 4, 1999. There is a start date of January 18, 1999 for the Study and the Study has two (2) deliverables:

- (1) The first deliverable is due on March 12, 1999, and is to be a pilot program design recommendation.
- (2) The draft report on utility restructuring is due to be delivered March 31, 1999, and it is anticipated that APUC and the Legislature will hold committee hearings on the report during

April 1999. The final report is due June 30, 1999. The consultant is required to be available until December 31, 1999, for consultations.

Conclusions

1. It is the general consensus that some form of electrical utility restructuring should be offered in Alaska if it can be demonstrated that there will be benefit to all consumers.
2. The Joint Committee is split on the major issue of whether or not the Legislature should provide more or less statutory guidance to APUC. While some members think it is a simple matter, some think it is a complex issue.
3. It was the Joint Committee's decision to join with APUC in authorizing the Study of the issue rather than make specific recommendations to the 21st Legislature.



RECOMMENDATIONS

The Joint Committee on Electric Utility Restructuring recommends to the 21st Alaska State Legislature:

1. The 21st Legislature should take up the issue of electrical restructuring based upon the body of testimony submitted to the Joint Committee and the 21st Legislature should hold informational hearings to formalize this as an issue of the 21st Legislature.
2. Upon receipt of the recommendation for a pilot program, the 21st Legislature should consider whether or not such a pilot program should be implemented in the State of Alaska.
3. Wait until the delivery of the final Study report to decide whether or not any changes are necessary in the scope of the statutes as to authority for APUC to implement electrical restructuring. The decision on whether or not electrical restructuring should be implemented for all or part of Alaska should then be made.

MEMBER COMMENTS

OK

Amendment # /

By: Rep. Rokeberg

Title Page

After "RECOMMENDATIONS" add

"ON"

Amendment # 2

OK

By: Rep. Rokeberg

Page 8, Discussion, paragraph 1, after "more than one provider." Add:

The ultimate goal is to foster greater freedom in the marketplace and yield lower cost to consumers.

OK

Amendment # 3

By: Rep. Rokeberg

Page 9, first full paragraph, after "state level" insert

, to address that state's unique circumstances, not by federal mandate

OK

Amendment # 7
By: Rep. Rokeberg

Page 9, paragraph 3, line 5, after "restructuring is inevitable." Add:

This results from the potential for "distributive generative technology", e.g. on-site micro-generator and alternate power sources, and consumer demand for more efficient energy generation and usage.

Amendment # 5

OK

By: Rep. Rokeberg

Page 12, paragraph 2:

Line 4, after "utility still has"

DELETE: "some"

Line 4, after "pay and"

DELETE: "could"

INSERT: "would"

Amendment #

6

withdrawn

By: Rep. Rokeberg

Page 13, line 3

AFTER: "services available"

INSERT: "such as providing low income assistance and energy conservation programs."

Amendment # 7

OK

By: Rep. Rokeberg

Page 14, before **"Four-Dam Pool and other State-Owned Facilities"** add new section as follows:

Green Power

Several states have allowed utilities to offer electricity generated by renewable energy, such as wind and solar power at premium rates to customers. In some states, particularly California, consumers are opting for green power as a matter of choice.

Amendment #

8

By: Rep. Rokeberg

Withdrawn
to be worked
on

Page 15:

Move **"Statutory Guidance"** section so it follows **"Alaska Public Utilities Commission"** section.

Then amend **Statutory Guidance** section as follows:

Paragraph 1: line one: Insert "the" between "Whether" and "Legislature"

Paragraph 2: line 2: after "direction" DELETE "giving" INSERT "to"
After "APUC", INSERT "in"
Change "statutes" to "statute."
DELETE: "from which to work" and INSERT: "The APUC would then draft"

Paragraph 2, line 3: DELETE: "to build"

NOTE: these first two sentences would now read: Some members of the Joint Committee would prefer to see legislation establishing broad policy direction to the APUC in statute. The APUC would then draft the regulatory scheme.

Paragraph 2, line 4, after: "government."

DELETE: "The Joint Committee did not want to"

INSERT: "This position would avoid"

Paragraph 2, last sentence: DELETE

Paragraph 3, after "is needed" add:

Clarification of APUC's power to develop retail restructuring is deemed sufficient.

Amendment # 9

OK

By: Rep. Rokeberg

Page 15, **PILOT PROGRAM**, first sentence:

DELETE: "Some _____ other"

INSERT: "A number of"

Amendment # 10

OK

By: Rep. Rokeberg

Page 16, paragraph 2, line 3

After: "the Study"

INSERT: "(see below)"

Amendment # 11

OK

By: Rep. Rokeberg

Page 16, Study of Electric Utility Restructuring in Alaska, line 1

DELETE: "offered"

INSERT: "invited"

Amendment # 12

OK

By: Rep. Rokeberg

Page 17. **Conclusions**, add following as last sentence of Conclusion 3:

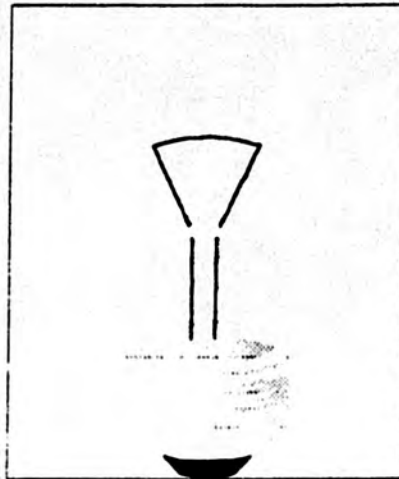
"This would allow the results of the Study to guide future legislation."

OK

My suggestion
Joren Juma
1/6/99

Loc. 2, p.18

2. Upon receipt of the recommendations ~~for~~
on March 1 for design of a ^{retail. access} pilot
Program in Anchorage, the 21st
Legislature should consider legislation
that may be necessary to implement
this program.



***REPORT AND RECOMMENDATIONS
ELECTRIC UTILITY RESTRUCTURING***

***From
Joint Committee on Electric Utility
Restructuring***

January 1999



Introduction

The Joint Committee on Electric Utility Restructuring was formed under House Concurrent Resolution 34. The Committee's pertinent task was to "provide to the legislature written recommendations on whether and how to implement electric utility restructuring in Alaska."

Committee members met and reviewed testimony (oral and written) from industry representatives, a consumer advocacy group, and concerned Alaskans and worked with the Alaska Public Utilities Commission to address the major issues concerning any plan for electric utility restructuring. Contained in this Report and Recommendation are: overview of the committee's work and recommendations to the 21st Alaska State Legislature concerning electric utility restructuring.

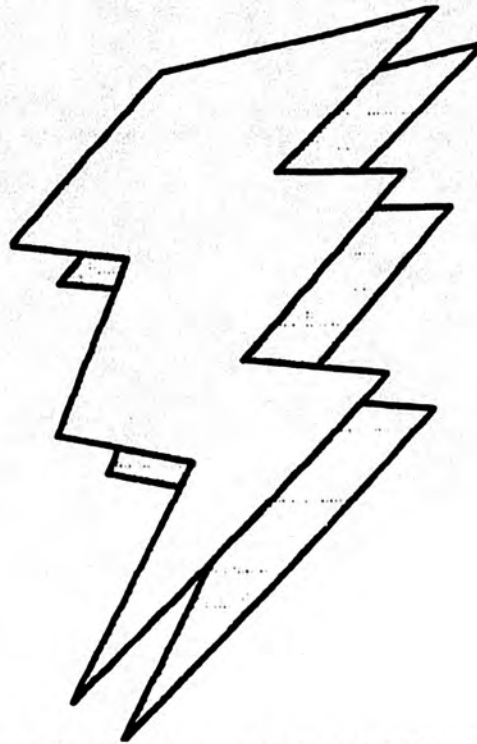
The backup documentation and files for the Joint Committee have been forwarded to the Legislative Reference Library for processing and storage. Those wishing to do further research regarding the Joint Committee's efforts may access files through that entity.

The Co-Chairmen wish to thank the committee members and all the interested Alaskans who took the time to participate in the hearings. We would also like to express our appreciation to APUC Chairman Commissioner Sam Cotten, Commissioner Dwight Ormquist, Commissioner Jim Posey and APUC staff members Bob Lohr and Paul Morrison who worked with the committee.

Senator Bert Sharp
Co-Chairman

Representative Norman Rokeberg
Co-Chairman

Joint Committee on Electric Utility Restructuring



**JOINT COMMITTEE ON ELECTRIC UTILITY
RESTRUCTURING
MEMBERS**

Senator Bert Sharp
Co-Chairman

Representative Norman Rokeberg
Co-Chairman

Senator Loren Leman
Senator Robin Taylor
Senator Al Adams

Representative Alan Austerman
Representative Fred Dyson
Representative John Davies

Committee Staff:
Committee Secretary:

Janet S. Seitz
Dianna Pree



MEETINGS

August 6, 1998	Anchorage
August 18, 1998	Anchorage
September 4, 1998	Anchorage (Subcommittee Meeting)
September 16, 1998	Fairbanks*
November 18, 1998	Anchorage
January 6, 1999	Anchorage

*The committee hearings were all recorded with the exception of the September 16th meeting in Fairbanks. The tape recorder malfunctioned at this meeting.

Teleconference sites on line for most hearings: Fairbanks, Juneau, Kenai, Matanuska-Susitna, Kodiak, Barrow (for September 16th hearing)



PERSONS TESTIFYING AT VARIOUS MEETINGS

Alaska Energy Associates: Robert Maxwell
Alaska Public Interest Research Group: Steve Conn
Alaska Public Utilities Commission: Commissioners Sam Cotten and Dwight Omquist; Staff: Executive Director Bob Lohr, Paul Morrison.
Alaska Regional Hospital: Ernie Meier, President, Chief Executive Officer
Alaska Rural Electric Cooperative Association: Eric Yold, Executive Director; Dr. Peter Fox-Penner of The Brattle Group
Alaska Sales and Service: Ann Robinson
Anchorage Baptist Temple: Glenn Clary, Assistant Pastor
Aurora Power: Mary Ann Pease, Vice President; Robin Brena of Brena. Bell & Clarkson
Ausman, Earl
Barry, Mike
Beltrami, Vince
Black & Veatch: Myron Rollins
Copper Valley Electric Association: Robert A. Wilkinson, General Manager
Chugach Electric Association: Eugene Bjornstad, General Manager; Don Edwards, Counsel;
Enstar Natural Gas: Dick Barnes, President
Four-Dam Pool Purchasing Utilities: Robert A. Wilkinson
Giuchici, John
Golden Valley Electric Association (Fairbanks): Mike Kelly, President and Chief Executive Officer; Robert Hanson, Chief Operating Officer
Growth Resources: Dave Lappi, Chairman
Homer Electric: Norman Story, General Manager; Jim Patras
International Brotherhood of Electrical Workers: Gary Brooks, Business Manager
Jewel, Barbara
Kodiak Electric Association: Ed Kozak

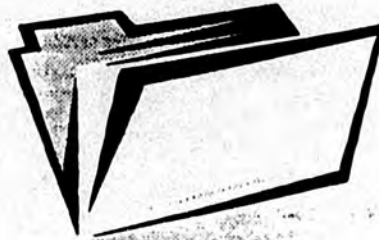
Matanuska Electric Association: Bruce Scott, Consumer Relations
McKee, Charles

Municipal Light & Power (Anchorage): Meera Kohler, General Manager; Donn
Wonnell, Attorney.

Signature Flight: Bruce Vergason, Plant Manager

Southeast Service Corporation: Ken Langsford, Facility Manager

Staudenmaier's Electric Merger Committee: Tom Staudenmaier



***PERSONS SUBMITTING WRITTEN
TESTIMONY (in addition to many of those
listed above)***

Anchorage Sand and Gravel Co., Inc.: Steven M. Lovs, Vice President/General
Manager
Best Western Barratt Inn: John J. Payne, General Manager
Bogan, Mary
Cartwright, Pierce Co., Inc.: Pierce Cartwright, Chairman
Davis, Paul
Doyle, Robert
Fancher, Will L.
Hallum, J. M.
Henke, Jerry
Henningsen, Richard S.
Hodge, Joseph
Indelible Ink: Stu Kingsley
International Brotherhood of Electrical Workers, Local 1547: Mike Notar,
Assistant Business Manager
Johnson, Alethea
Lang Consulting: Henry P. Lang, Electric Utility Engineer
Marathon Oil Company: John A. Barnes, P.E., Alaska Region Manager
Miller, S. L.
O'Brien, Chris
Smith, Darrell F.
Squiers, Richard
Visual Information System: Donald B. Cassas
Weeks, Nadine
Westbrook Associates: William J. Westbrook, P.E.
Whitesides, Byron

ISSUES

Should Alaska permit competition among electric utilities? If so, how should such competition be structured?

DISCUSSION

History: The electric utility industry is undergoing significant changes in the forty-eight contiguous United States. Changes have resulted in part from the Public Utility Regulatory Policy Act of 1978 ("PURPA"), the Energy Policy Act of 1992, and Order No. 888 of the Federal Energy Regulatory Commission (FERC) (*Note: Order No. 888 does not apply to Alaska*). While "wholesale wheeling" has been authorized by the federal government, retail competition has not. "Wholesale wheeling" involves a system in which a distributor of power would have the option to buy its power from a variety of producers, and the producers would be able to compete to sell their power to a variety of distribution companies.¹ "Retail competition" would involve a system where more than one electric provider can sell to retail customers, and retail customers are allowed to buy from more than one provider.²

The industry has begun to move away from its traditional form (vertically integrated monopoly regulated structure) to more competitive structures. At the federal level, new requirements for new services are promoting competition in general. Many states have adopted or are considering changes in the way consumers receive electric service. (As of the first part of July, 13 states have passed restructuring legislation.) Although FERC Order No. 888 does not apply to Alaska, Alaska is interested in new business structures and benefits that might arise out of restructuring.

What is "restructuring" and what does it mean as opposed to "deregulation"? "Restructuring" is a term used to describe a method of allowing

¹ "Glossary", National Conference on State Legislature accessed through NCSL Web Site.

² Ibid.

electric utilities to compete within a market area but still be regulated to some degree by the appropriate utility commission [in this case, the Alaska Public Utilities Commission (APUC)]. The term is also used to refer to the separation of various utility functions into individually-operated and -owned utilities.³

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It is interesting to note, however, that the mere threat of competition has forced some lowering of rates in the Railbelt area. For example, Matanuska Electric Association (MEA) reduced rates for small businesses in 1998. In 1997 Chugach Electric Association (CEA) has testified that it did not pass along \$3.5 million in fuel costs due to the fear of competition.⁸

"Cherry-picking"

"Cherry picking", the process of taking only the best or largest customers, is also of concern. If a competing utilities only offers services to the largest customers and leaves the remainder with the former utility, the former utility still has some fixed costs to pay and could spread those fixed costs over its remaining customers. The impact could be higher costs particularly to residential customers and would thus defeat one of the purposes of restructuring – lowering the cost of electricity.

Consumer Protection

Retail competition will bring about an entirely new system for the consumers to select a provider. Much like the old telecommunications system, where one used to go to the local telephone company and get all services (hookup, long-distance, local, etc.), an electric consumer would have more choices under a deregulated system.

Items to be considered in this area are:

- a. Consumer education
- b. Consumer protection
- c. Consumer Bill of Rights

Universal Service

The concept that electrical service sufficient for basic needs should

⁸ Testimony of Eugene Borjstad, CEA, before the Joint Committee on August 8, 1998.

be available to virtually all members of the population is known as "universal service".⁹ The question is whether there should be a mandate on those competing providers to meet the obligation of making services available. Currently there is no statutory mandate on "universal services"; however, there is an obligation to serve if the utility reaches that area. Cost of reaching a remote area may be borne by the residents of that remote area.

In the Alaska of today, electrical service is just as important as any other utility service – from heating to cooking to bathing to running electronic equipment, Alaskans depend on electrical service. Issues in the universal service area include:

- a. Obligation to Serve
- b. Provider of Last Resort

(NOTE: A "provider of last resort" is a utility which has a legal obligation to provide service to a customers where competitors have decided they do not want that customer's business.¹⁰)

Power Pooling

"Power pooling" involves an entity established to coordinate short-term operations to maintain system stability and achieve least-cost dispatch.¹¹

The APUC had a study conducted on Power Pooling/Central Dispatch Planning Study performed by Black and Veatch ("Power Pooling study"). The final report on this study was issued in October 1998 and the Joint Committee reviewed the executive summary of the study and heard testimony from Black and Veatch. The study analyzed potential benefits of a power pool with central dispatch among the Railbelt Utilities in Alaska¹². From the results of the Power Pooling Study, it appears that some power pooling is currently in place; however, the anticipated savings are at a disappointingly low level.

⁹ National Conference of State Legislatures, *ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² "Executive Summary", Power Pooling/Central Dispatch Planning Study, Docket U-97-140, page ES-1.

Four-Dam Pool and other State-owned Facilities

The State may have some exposure on the Four-Dam Pool and other power generation and transmission lines. The State also has contractual obligations to the utilities involved and some of these are long-term.

Stranded Costs

A stranded cost is an investment made under a regulated environment in order to meet certain requirements. For example, Utility Y might have built a facility required by APUC. This facility might have been financed over a long period of time. If competition were available and Y lost customers, who pays for the amount left due and owing on this facility (i.e., "stranded costs")? In the Lower 48 some stranded costs run into the hundreds of millions of dollars. There are again many different scenarios of addressing stranded costs. Alaska needs to determine what the exposure on stranded costs will be if competition is approved and how these costs should be recovered.

Not only is the stranded costs a utility issue, it is also a State issue because the State owns and/or finances major transmission facilities

Also of consideration in the "stranded cost" area would be the long-term contracts in place for gas supply and wholesale power.

Reliability/Safety

There were some concerns regarding preserving reliability and safety under competition. Like many other northern climates, Alaskans want to be sure that their electrical provider is reliable and has the capacity to address the needs of all its customers in a safe manner. Additionally, the utility or power reseller needs to have access to increased power to meet peak load demands and/or unusual load demands caused by, for example, colder weather than normal.

Spinning reserves and standby capacities are two other issues of concern in this area.

Statutory Guidance

Policy issue: Whether Legislature should draft legislation in detail versus authorizing the APUC to act on this issue?

Some members of the Joint Committee would prefer to see legislation establishing broad policy direction giving the APUC statutes from which to work to build the regulatory scheme. This is a matter of constitutional prerogative of the legislative branch of government. The Joint Committee did not want to create a de facto grant of legislative authority to a regulatory body. The regulatory body has the technical expertise to develop regulations but the Legislature should give it broad outlines as to what the Legislature wants accomplished. The legislative voice needs to be heard on items, such as, universal service, access, reliability, cost shifting, consumer education, etc.

Other members of the Joint Committee feel that minimal statutory guidance is needed.

Alaska Public Utilities Commission

During the meetings there was some discussion as to the role APUC should play in any competitive electric market. The APUC also indicated a desire for more broad legislative guidance as to the state policy regarding competition for electrical utilities and providers.

Pilot Program

Some _____ other states have undertaken pilot programs on electrical utility restructuring to see if such a restructuring would benefit their consumers. Here again, the general consensus of the testimony before the Joint Committee was that a pilot program limited in nature, geographical bounds (i.e., that is all or a portion of the Anchorage area), time, and customers might demonstrate if restructuring would benefit all or some Alaskans.

Should a pilot program be developed for the Railbelt area to see if competition would work in the largest interconnected area in Alaska? Many were concerned that competition in the rural area could involve a power seller coming in and "cherry picking" off the largest customer in the community (i.e., the local school). This would mean that the local utility would be left with the rest of the load (probably mostly residential consumers) and prices might go up to cover the loss of a large customer. The same concerns are expressed by some of Alaska's larger electrical utility providers.

As the Railbelt is the only interconnected area, many felt that a pilot project should be limited in scope to either the Railbelt area or part of the Railbelt area. Part of the Study is development of a pilot program design.

The design of a pilot program could be based on geographic and population limits (i.e., 150,000 or more consumers), with a split in the study of 50/50 between large users (including industrial, public institutions, etc.) and residential consumers. In addition to the population requirement, some percentage of the overall electrical market in that area would be established as a maximum level of participation and the pilot program would have a sunset date. Participants in the pilot program would have to provide baseline and quarterly reports to the APUC.

Study of Electric Utility Restructuring in Alaska

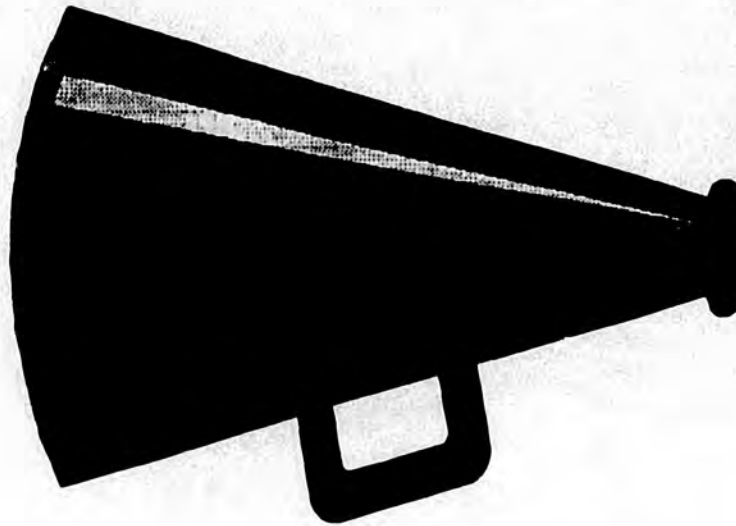
APUC offered the Joint Committee an opportunity to participate in a study on this complex and far-reaching issue – an issue that will effect every citizen in the state who pays an electrical bill. A Request For Proposal for a Study of Electric Utility Restructuring in Alaska ("the Study"). A letter of intent was issued to CH2M Hill on December 23, 1998. The protest period for that award expires on January 4, 1999. There is a start date of January 18, 1999 for the Study and the Study has two (2) deliverables:

- (1) The first deliverable is due on March 12, 1999, and is to be a pilot program design recommendation.
- (2) The draft report on utility restructuring is due to be delivered March 31, 1999, and it is anticipated that APUC and the Legislature will hold committee hearings on the report during

April 1999. The final report is due June 30, 1999. The consultant is required to be available until December 31, 1999, for consultations.

Conclusions

1. It is the general consensus that some form of electrical utility restructuring should be offered in Alaska if it can be demonstrated that there will be benefit to all consumers.
2. The Joint Committee is split on the major issue of whether or not the Legislature should provide more or less statutory guidance to APUC. While some members think it is a simple matter, some think it is a complex issue.
3. It was the Joint Committee's decision to join with APUC in authorizing the Study of the issue rather than make specific recommendations to the 21st Legislature.



RECOMMENDATIONS

The Joint Committee on Electric Utility Restructuring recommends to the 21st Alaska State Legislature:

1. The 21st Legislature should take up the issue of electrical restructuring based upon the body of testimony submitted to the Joint Committee and the 21st Legislature should hold informational hearings to formalize this as an issue of the 21st Legislature.
2. Upon receipt of the recommendation for a pilot program, the 21st Legislature should consider whether or not such a pilot program should be implemented in the State of Alaska.
3. Wait until the delivery of the final Study report to decide whether or not any changes are necessary in the scope of the statutes as to authority for APUC to implement electrical restructuring. The decision on whether or not electrical restructuring should be implemented for all or part of Alaska should then be made.

MEMBER COMMENTS

(NOTE: This section is for individual members to make comments that they want to have included in the report. There are two sections – pilot program and competition. Included are some of the written comments I received from members. Please have any comments you wish included in this section to Rep. Norman Rokeberg, Attn: Janet, Room 24, Capitol Building, Juneau before NOON on 15 January 1999.)

Pilot Program

The 21st Legislature should wait until the March 1999 Study report is received. This report should provide answers to some questions regarding structure of a pilot program.

The Committee recommends that a pilot program be implemented if the consultant's recommendations are positive. It is important that the pilot program should include all classes and types of customers (large, small, residential, commercial, etc.). The pilot program should also have sunset provisions.

The proposed Chugach Electric pilot program, in my opinion, would only jeopardize the basic utility rate making fundamental of cost causer – cost payer philosophy. (Sharp)

Competition

As the threat of competition has decreased electrical costs, the restructuring of electrical utilities could also benefit consumers. We recommend that the 21st Legislature review and implement competition in Alaska; however, we would also recommend that the 21st Legislature wait until the Study of Electric Utility Restructuring is in its final form (June 1999).

We would further recommend that any legislation proposing to accomplish this restructuring be broad in nature, giving an outline to the Alaska Public Utilities Commission (APUC) as to the restructuring and that the day-to-day details be left in the hands of the APUC. While APUC currently has the authority to implement restructuring, we believe, apparently APUC needs a stronger statement from the Legislature as to legislative wishes on the issue. Any legislation should make clear the desire of the Legislature to authorize competition to make the Legislature's wishes plain to APUC.

The Committee feels that free market competition is the best protection for consumers because it generally maximizes value to the consumer. Retail competition should be allowed and promoted consistent with standards of safety, economy, reliability, universal availability and recovery of stranded costs due to competition. (Leman's language)

Any effort to move ahead with restructuring in Alaska at this time is very premature. There are a variety of thorny issues that need to be solved before restructuring can be implemented in a safe way. Alaska may not even approximate the conditions required to foster this kind of competition. (Davies language)

The Committee should not recommend any legislative action on mandating competition of electrical rates between electric utilities. I think it would result in prejudicial rates not only within classes, but would result in extreme cost shifting to the residential customers. (Sharp)

Energy alliance fizzles

Palm Springs: Project falls far short of participation needed by Jan. 1 for city's electricity partner to proceed with venture.

By JENNIFER LIEBRUM
The Desert Sun

PALM SPRINGS — Lack of interest has short-circuited the city's plan to offer cut-rate power to residents through a cooperative called Palm Springs Energy Services.

"We needed 25 percent of the (city's) population signed up by Jan. 1, 1999," said Art Lyons, Palm Springs energy consultant and five-year champion of the project.

"We have 8.5 percent," Lyons said the plan's future is largely in the hands of Enron, the utility that is the city's partner in the venture.

"We are under negotiations. They already said the rates would not be as good as original offerings, but they would try for better than Southern California Edison," he said.

"OFF-RAMP": It appears Enron is veering toward the "off-ramp" clause in the contract that allowed either party to withdraw from the plan if the agreed upon 25 percent of the population had not been secured as power customers by Jan. 1. PSES reported 2,780 customers in October. Those customers — including City Councilwoman Jeanne Keller-Spurgin — were satisfied, reporting savings of hundreds of dollars on electricity this past summer.

Palm Springs Energy Services'

To learn more

For information about the changes call (800) 975-5573.

Introductory rates in April were 10.6 cents per kilowatt hour, compared to SCE's plan of 10.8 cents for a limited amount, then 12.7 per kilowatt hour thereafter.

Lyons said if rates cannot be negotiated that are lower than Edison's, "The city will likely pull the plug."

The offices rented by Enron California for PSES at 2825 East Tahquitz Canyon Way were permanently shut down Tuesday in what City Manager Rob Parkins said was an effort by the corporation to reduce overhead. According to a report prepared by the Assistant City Manager Dallas Flick for the City Council on Wednesday night, in spite of the fact that this experiment has been more successful for Enron in Palm Springs than anywhere in the state, the company is losing money.

RATE GOAL: In the proposal, it said that the city's Finance Department would be asked to handle customer walk-in payments and that rates would increase to be market compatible Jan. 1, with a working goal of a two-tier rate less than Edison's.

The considerable financial boon to local charities — who have shared a total of \$156,167.41 in Enron donations under the agreement — will evaporate as well due to the company's losses. If the utility had worked, the charities would have received \$90,000 annually for the next four years.

Lyons blamed public protes-

See ENERGY/B2

PALM SPRINGS

8 a.m. Commercial burglary, 3600 block of North Indian Canyon Drive.
9:05 a.m. Commercial burglary, 200 block of North Palm Canyon Drive.
12:24 p.m. Grand theft, 600 block of South Palm Canyon Drive.
12:46 p.m. Commercial burglary, 1700 block of East Vista Chino.
1:17 p.m. Stolen vehicle, 600 block of East Tahquitz Canyon Way.

RANCHO MIRAGE

4:06 p.m. Grand theft, 34-100 block of Rebecca Way.
6:49 p.m. Driving under the influence, Highway 74 and Cahulla Road.

IRVINE

8:48 a.m. Grand theft, 46-200 block of Harrison Street.
11:16 a.m. Burglary, 91-400 block of Seventh Street.
11:32 a.m. Grand theft, 41-600 block of Maroon Town Road.
12:58 p.m. Burglary, 75-600 block of Highway 195.
1:46 p.m. Burglary, 16-400 block of Bubbling Wells Road.
4:17 p.m. Burglary, 32-900 block of Guadalupe Drive.
6:28 p.m. Stolen vehicle, 65-100 block of Coahuilla Street.
6:28 p.m. Battery, 80-600 block of Highway 86.
8:42 p.m. Stolen vehicle, 73-400 block of Country Club Drive.
9:56 p.m. Stolen vehicle, Country Club Drive and Monterey Avenue.
11:40 p.m. Assault, 31-300 block of Calle Helene.

— Compiled by Kristin Storey

Blood bank

The Community Blood Bank is at 39,000 Bob Hope Drive in Rancho Mirage. For information on donating blood: 773-4190.

The Community Blood Bank has a permanent donor site inside Desert Regional Medical Center in Palm Springs. The entrance is off Via Miraleste and Paseo El Mirador. Hours: 1-7 p.m. Thursdays; 9 a.m.-3 p.m. Fridays.

Cohen said after the meeting it was clear the City Council — which did not directly respond to the appeals — is moving ahead as planned.

She said the speakers were encouraged to continue the discussion with city officials who will be on hand at 7:30 a.m. today at the Main Street Board Meeting, 109 Indian Canyon Drive.

"We aren't finished yet," she said.

ENERGY

Continued from B1

tion for the shortfall, but said customer satisfaction has spurred recent interest.

Also, an advertising push this fall brought about 500 more interested customers. But they could not be signed so close to the end of the year with the future rates unsecured.

Like Lyons, customer Jim Jones was stunned at the lack of interest.

"My savings were considerable. I was surprised that people didn't sign up," said Jones, who said he tried recruiting others.

But customer Dick Sroda, who opposes a city government owning a utility, said even though he saved some money, "You don't get something for nothing. The taxpayers will end up paying for this."

He later implored the City Council to drop the issue, calling it a dead horse.

"People didn't come. They don't trust government in a private enterprise."

Parkins said before the City Council meeting that negotiations with Enron will continue as long as it appears citizens are interested in saving money on their electricity and an affordable alternative can be offered.

Hiking safety

If you're going hiking in mountains or canyons, emergency officials offer these safety tips:

- Bring and drink plenty of water.
- Wear proper foot gear.
- Make an itinerary and stick to it.
- Make sure someone knows when you are to return, and tell that person to call authorities if you're late.

Detectives speculate

Is your business worth two hours?

TOMA

Survivor Judith's grandchild Buck or James C. Privy the director of the hospital fund, 51 this, TN

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the LEAP Letter

from the
**July-August
1998 Edition**

(for a full listing of available files, refer to [this document](#))

The California Ballot Issue: A Pro and Con
[html-16K]

"Comparison of Selected Electric Restructuring Legislation" [pdf-283K]
and **"Comparison of Proposed Federal Electric Restructuring Legislation"** [pdf-127K].

Both compiled by Scott Young, Principal Research Analyst, Research Division of Nevada's Legislative Counsel Bureau. (Revised July 1998)

September-October 1998

Volume 3 Number 5

35 State Legislative Studies .

..
... 13 Restructuring Laws Later

Guide to State Legislative Committees Studying Electric Industry Restructuring

The appointive authority, leaders, membership, meetings, reports, websites and other information are highlighted in the LEAP Letter Guide to 35 State Legislative Study Committees on Electric Industry Restructuring, 1993-1998 (pp. 40-49). Since early 1996, the LEAP Letter has featured these "laboratories of democracy."

Election Results: California & Massachusetts Voters Uphold Laws After Massive Utility Effort Nov. 4 Election Day unofficial returns for the ballot issues seeking to repeal parts of the California and all of the Massachusetts laws on electric industry restructuring were:

California Proposition 9:
1,839,944 (27%) YES 5,055,618 (73%) NO

Massachusetts Referendum Question 4
389,762 (29%) NO 960,973 (71%) YES

Utilities reportedly spent \$30 million in California and \$6.5 million in Massachusetts compared to proponents spending of \$1.3 million in California and \$250,000 in Massachusetts on the ballot battles.

Guest Perspective: Electric Competition in Pennsylvania: Progress & Problems by John Hanger

Bills Active in New Jersey & Michigan

NEW

(for a full listing of available files, refer to [this document](#))

Electric Competition in Pennsylvania: Progress & Problems, by John Hanger
[html-10K]

New Jersey and Michigan legislators were still considering restructuring bills into the Fall, as most state lawmakers were involved in election campaigns. Ohio legislators also continued to seek consensus on a restructuring measure as a post-election session approached. A number of other state legislative study committees were winding up with recommendations for the 1999 session.

Bills & Reliability As Congress Winds Down

As more restructuring bills filled the hopper, the 105th Congress wound down its session with hearings on the summer's power shortages and possible federal remedies. Independent system operators, market power, and mergers continued interaction between federal and state regulators.

Competition for Small Customers Rare

Competition appeared in PECO Energy territory, but green marketing - usually above the shopping credit - was the primary residential offering in Pennsylvania and California.

- Bill Spratley, Margaret Ann Samuels,
Melissa Stanford, Jim Van Heyde, Faye
Spratley, Karen Park Spratley & Bill W.
Spratley
October 28, 1998

Last modified:
9/12/98

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FROM THE
SEPTEMBER-OCTOBER 1998 EDITION OF THE LEAP Letter
AS SEEN ON **LEAPNet**

Electric Competition in Pennsylvania:

Progress & Problems by John Hanger

By March 1999, more Pennsylvania retail consumers will have switched to new electric suppliers than in the rest of the country combined. That may seem like a bold prediction. Yet, it really is not. Pennsylvania, where Benjamin Franklin discovered electricity by flying a kite in a lightening storm, has the largest and most successful electric competition market in the country.

Presently, Pennsylvania has 220,000 customers, including 170,000 residential customers who have switched to a new supplier. These customers use 1300 MW, an amount of electricity equal to about the total demand of Vermont. These customers switched starting on Nov., 1, 1997 when Pennsylvania opened its electric markets to 5% of each customer class. During the last year, these customers have cut their electric bills by between 5% -15%, despite paying a considerable amount of stranded costs.

Starting Jan. 1, 1999, another 4.3 million electric customers will have the right to choose their electric supplier, as Pennsylvania dramatically increases its electric competition program. All 5.2 million Pennsylvania electric customers will have choice of suppliers by Jan. 2, 2000.

Pennsylvania is implementing retail electric competition in a manner that distinguishes it from the approach taken in California, Massachusetts, and Rhode Island where real competition has taken a back seat to stranded cost recovery for utilities and mandated rate cuts. By contrast, the heart of the Pennsylvania approach is creation of a robust electric marketplace that features many suppliers of electricity and many buyers. To do this, Pennsylvania has mandated the biggest shopping or generation credits in the nation, while also providing many consumers with limited rate cuts of 2.5%-8% and all with rate caps that extend to 2005. On a system average basis, Pennsylvania's shopping or generation credits range from a low of 3.16¢ - 4.46¢/kWh, while the generation credits in California and Massachusetts are less than 3¢.

Pennsylvania's unique course was set on Dec. 11th, 1997, when a 3-2 majority of the Pennsylvania Public Utility Commission rejected a PECO Energy Petition that was inaccurately labeled a partial settlement. The majority found that the so-called partial settlement that was opposed by environmentalists, some consumer groups, and competitive electric generation suppliers gave PECO Energy too much stranded cost recovery. The majority also found that the partial settlement would kill competition for at least 5 years by setting a ridiculously low, system average shopping credit of 2.80¢/kWh. Instead the majority cut PECO Energy's stranded costs as well as the return allowed on its stranded costs. Most importantly, it ordered a 4.46 ¢/kWh PECO system average and a 5.09¢ residential shopping credit.

Nothing is more important to the success or failure of competition during the transition period between generation monopolies and full competition than the size of the shopping credit. The size of the shopping credit determines whether customers can save money by switching suppliers and whether market entry by competitive suppliers is economic. High shopping credits create competition. Low shopping credits kill competition.

As Pennsylvania's embarks on a major expansion of electric competition, now is a good time to ask, what has gone right in Pennsylvania. What has not worked well, and what lessons does Pennsylvania offer other states? While definitive answers to these questions will not be possible for another 18 months

as many important events like the generation divestitures of 3 large utilities have not yet been completed, some tentative responses can be made and early trends can be described.

Much has gone right in Pennsylvania. The stranded cost claims of utilities have been reduced from more than \$18 billion to about \$11 billion. The return on stranded costs has been cut from about 15% to less than 11% on a pre-tax basis. Three major utilities are divesting their generation plants that should reduce further stranded costs.

Total consumer savings from rate cuts and competitive savings from shopping will likely exceed \$1 billion in 1999. Some commercial and industrial customers that annually spend \$6 billion for electricity are cutting their electric bills by as much as 25%. Some residential customers are reducing their bills by as much as 15%. At worst, for most non-shopping customers, rates will be capped until 2005.

Pennsylvania has also implemented retail competition in a manner that helps the environment and increases protections for low-income consumers. Three companies are offering green power products that allow customers to support renewable energy, after consumers were denied this option for more than 60 years by monopoly regulation. Funds are being made available through a one mill transmission charge to support other environmental initiatives. Solar power pilot projects and net metering improvements have been ordered. Customers and suppliers are focusing more than ever on energy efficiency and reducing peak usage as means of further reducing bills and increasing profits. And that is not all.

Universal service protections have been greatly improved, with spending for low-income assistance increasing by 2 to 4 times as compared to pre-competition levels. More than 200,000 low-income households will now be able to participate in percentage of income customer assistance programs and energy conservation programs that have proven to reduce energy usage by as much as 20%.

Pennsylvania's electric utilities are learning how to compete, and some are becoming major national companies with operations across America. Finally, 8,000 MW of new generation is planned within just the PJM power pool, with all the financial risk on the investors and none on the former captive ratepayers.

Given this enormous record of success, what are the problems?

Competition in Pennsylvania's \$4 billion residential market has proven to be closely related to the size of the shopping credit. In the PECO Energy service territory, the home of the highest, residential shopping credit in America, 10 companies are competing for residential customers. Of these 10 companies, 9 were offering customers savings. Combined with the 8% rate cut all PECO customers will receive, competitive offers to PECO's residential customers could allow savings of up to 15%.

Yet, in the PP&L service territory where the residential shopping credit in 1999 is just 3.87¢, only one supplier has offered service below the residential shopping credit. The PP&L residential shopping credit increases to 4.2¢ in 2000.

Consequently, the most important lesson from Pennsylvania is that genuine electricity competition for residential customers depends on establishing large shopping credits of more than 4.2¢. It is that simple!

In the wholesale market, competitive market approaches and mechanisms are not fully formed. Installed capacity requirements are imposed in some but not in all service territories. Where installed capacity obligations exist, competitive capacity auctions for a full range of capacity products either do not exist or are just starting. Transmission rate pan-caking limits the size and intensity of competitive markets. The absence of independent system operators, and the approval of Swiss cheese ISOs or toothless ISOs exacerbate market power problems.

In fact, the most serious challenges to Pennsylvania's transition to competition fall under the heading of market power abuses. These challenges will only be overcome if the PUC is a faithful steward of competition. For until stranded costs are removed from the bills of customers, the government is massively intervening in the free market to tax the competitive price of electricity to allow utilities to

recover their stranded costs. Of course, in those states that have not begun the transition to competition, consumers are paying 100% of their utilities' stranded costs and will continue indefinitely to do so as all such costs are in present monopoly rates.

At least in states like Pennsylvania that have begun the transition to competition, consumers are on the road to freedom and the happy day when all stranded costs are taken off their bills and when all future generation investments-good or bad-are the sole responsibility of investors.

*[Please refer to Comparing the Electricity Providers and Their Rates, updated at:
<http://business.phillynews.com/powerplay/compare.asp>.]*

(John Hanger, Partner in the firm of Adels & Hanger, previously served as Pennsylvania Public Utilities Commissioner from 1993 to June 1998. He is Senior Research Fellow at the Center for Competitive Markets. Tel. 717.303.2065, e-mail HANGER@paonline.com.)

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Electric Power: Cheap or Green?



AS THE SUN descends farther south toward the winter solstice, my Trombe wall has begun gathering heat all day long and slowly releasing it to my workspace. It's simple enough: basically a concrete block wall tucked inside tall windows and painted black on the outside to soak up as much solar energy as possible. If this turns into a typical New Mexico high-desert winter, I won't even need the backup electric floorboard heater except on a few cloudy days.

A solar wall is just a sensible concept that's bound to save some money on my monthly gas and electric power bill. It was cheap enough to be worth building without any encouragement from government energy policies. Of course, not everybody lives or works where there's enough sunshine and space to take advantage of "passive" solar architecture. But state and local officials need to be careful that they don't discourage other promising alternative energy technologies in their eagerness to cut energy costs by deregulating electric power.

California, Illinois, Pennsylvania, Massachusetts, Rhode Island and eight other states already are well on their way to opening electric utility markets to retail price competition. Their reasoning is sound enough: ending electric utility monopolies will give local industry the chance to buy energy at cheaper rates as aggressive power-generating companies vie for customers. Under pressure to cut rates, however, utilities will be tempted to rev up their cheapest and dirtiest coal-fired generation plants that federal law exempts from the toughest air quality standards.

The lower electric power rates go, on the other hand, the less incentive utilities and their customers presumably will have to invest in expensive solar, wind, geothermal, landfill gas and similarly unconventional energy technologies that don't take such a heavy toll on environmental quality. Since the 1970s, federal and state regulators have been promoting renewable energy by ordering electric utilities to pay premium prices for power produced by innovative power-generating facilities. Trend-setting California now gets 11 percent of its electric power from alternative sources. Those incentives cost utility customers money, however, and they've gotten tougher to defend politically in states where skyrocketing energy bills have been blamed for the loss of jobs and industry. Moreover, regulatory mandates by and large haven't prepared alternative energy suppliers to compete with old-fashioned fossil-fuel generating stations as utility regulations are lifted. And as conventional power becomes an even better bargain, homeowners will have less financial incentive than ever to shell out \$12,000 for a rooftop photovoltaic power-generating system.

It's not impossible, however, that deregulation could actually

give governments a better shot at encouraging alternative technologies. To replace regulatory mandates, California and Massachusetts are tacking surcharges onto competitive retail power bills to finance renewable-energy experiments. Massachusetts and Maine have imposed a "renewable portfolio" standard requiring electricity suppliers to buy part of their power from alternative facilities. Vermont and California have also approved "net metering," which gives customers credit on utility bills for the power they generate themselves with solar panels, windmills, fuel cells or methane from agricultural wastes.

Already, there's surprising evidence that the public is willing to pay more for cleaner electricity as deregulation lets them choose who supplies their power needs. In California and Pennsylvania, 10 energy marketing firms expect to profit on deregulated electricity markets by selling business and residential customers certified "green" power. Vermont-based Green Mountain Energy Resources has begun offering three different "coal- and nuke-free blends" of power in both states generated by different mixtures of natural gas, hydropower, landfill gas and windmill farms. About 60,000 California residential customers have switched to new power suppliers since restructuring began earlier this year, and roughly half of those picked "Green-e" power certified by the Center for Resource Solutions in San Francisco.

Center officials say homeowners are willing to pay \$5 to \$15

The lower electric power rates go, the less incentive there will be to invest in alternative energy technologies.

more on monthly electricity bills for environment-friendly power. Big California utilities have begun selling renewable-power packages, and Sacramento's municipal utility is offering a "Greenery" option for its customers. Santa Monica officials have proposed buying clean electricity for local government operations, and San Jose and Palm Springs are considering buying green power in bulk for city residents.

Kirk Brown, the center's assistant director, predicts that "this is a lot like recycling" because the public has begun insisting that local officials give them the chance to buy cleaner forms of energy. Most current green-energy packages rely heavily on hydroelectric power, however, and there's a lot of room for debate over how much good damming streams does for the environment. I've also got my doubts that alternative energy, like top-of-the-line curbside recycling programs, will make economic sense for lots of communities anytime soon. Still, I'd also like to think that my Trombe wall makes a small contribution to preserving the environment.

ARECA

"Keeping Alaska's Future Bright"



**December 1998
Happy Holidays!**

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US Senate Looking to States to Implement Restructuring

ARECA Meets with Energy Committee.

An ARECA delegation recently met with key staff members of the U.S. Senate Energy and Natural Resources Committee in Washington DC regarding two important issues to Alaska. The delegation, lead by Executive Director Eric

Yould, discussed federal restructuring legislation and electric reliability legislation that, if adopted in its present draft form, would impose "one-size-fits-all" national electric reliability standards on all of the interconnected states including Alaska.

continued on page 2

Pooling Study Predicts Savings

Members Question if it is Sufficient to Move Forward

The Alaska Public Utilities Commission released the final report of the year-long Black and Veatch Power Pooling/Central Dispatch Planning Study in October. The report concluded that potential savings of pooling Railbelt generation and transmission activities could be, at best, 1.7 percent or \$25 million over 20 years. Of the four possible scenarios considered, two predicted savings and the other two showed increased costs.

The study evaluated the economic benefits that could be expected by implementing a tight pool of generation and transmission facilities. The two pooling scenarios examined were: 1) a "pooled case" which assumes each generating utility meets its own capacity requirements and 2) a "joint

case" where new capacity additions are jointly planned and owned. Both cases would centrally dispatch generation to meet load.

The study also estimated the costs for setting up and operating a pool. Pools require a system operator, which oversees commitment and dispatch of generation and transmission. Under a Railbelt Utility Operator (RUO) where an existing utility would provide dispatch and other services, savings for the "joint case" were 1.7 percent. In the "pooled case", the study estimated savings at 0.5 percent. There would be no savings under an Independent System Operator, where the pool was operated completely independently.

Interpretations of the numbers were mixed from utilities. Anchor-

age ML&P General Manager, Meera Kohler said she thinks the level of savings reported in the study indicates that the current Railbelt systems are well-managed. Homer Electric, however, said the savings were significant specifically if the Railbelt utilities jointly plan all future generation and transmission needs.

In presentations to both the APUC and the Joint Legislative Committee on Electric Utility Restructuring on November 18, Black and Veatch Project Manager Myron Rollins said that the scenarios would need to be evaluated further to determine the actual costs of implementing a formal power pool in Alaska. The APUC has not taken any additional action on the study docket as yet.

Currents

Chugach Stays in ARECA

Chugach Electric's Board of Directors voted to retain their membership in ARECA for 1999 at their November 18 board meeting. Chugach Board Member and ARECA representative Ray Kreig supported staying in ARECA saying it was important that Chugach continue to be a part of the debate that occurs at ARECA.

The Alaska Rural Electric Cooperative Association, Inc. (ARECA) is a utility trade association in Alaska. Forty electric and telephone utilities are members of the association. Most Alaskans get the electricity they use from one of our members. ARECA is a newsletter published monthly to inform ARECA members about the organization and about activities within and issues pertaining to electric and cooperative utilities in Alaska.

Submissions are welcomed and will be considered for publication. ARECA reserves the right to edit submissions. Commentaries, news items and letters to the editor should be addressed to:

Editor, ARECA,

703 West Tudor Road, #200, Anchorage, AK 99503
Telephone 907/561-6103

Eric Yould, ARECA Executive Director
Mary Fisher, ARECA Newsletter Editor

ARECA Board of Directors

Ken Lancaster, President
Alaska Electric Generation & Transmission Cooperative
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Pamela Jones, Cordova Electric Cooperative
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Timmy Hedlund, DNN Electric Cooperative
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Jim Taylor, Nome Joint Utility System
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Dave Calvert, City of Seward
Randy Cornelius, City of Sella
Vernon Rauscher, Tlingit-Haida Regional Electrical Authority
Bob Foote, Unalakleet Valley Electric Co-op

Chugach had given notice of their intention to withdraw in February citing a difference in philosophy on deregulation as the primary reason.

Restructuring Study Moves Forward

The Alaska Public Utilities Commission in conjunction with the Legislature's Joint Committee on Electric Restructuring issued a request for proposals in November for a third party study of the potential benefits of restructuring in Alaska. The commission received 10 proposals as of the December 9 deadline date. An evaluation committee made up of APUC staff and legislators is expected to award a contract for the study by January 12. The timelines call for a draft report to be presented to the legislature on April 19 with the final report due by June 30, 1999.

Chugach Rejects Proposal -MEA Files Complaint

The Chugach Electric Board rejected Matanuska Electric Association's (MEA) October 12 proposal to take over Chugach

Electric and, in a statement issued November 12, urged its members not to sign the petition being circulated by MEA calling for a vote on the proposal. In other action, MEA filed a complaint with the APUC, asking the commission to investigate why Chugach has not taken action to refinance its long-term debt. No hearings have been scheduled on the complaint.

Roberts Resigns From CEC

Jim Roberts resigned as General Manager of Cordova Electric Cooperative (CEC) on November 16. The Cordova Times reported that Roberts resigned amid controversy stemming from a sexual harassment complaint by a CEC employee. No lawsuit has been filed, however the board is currently investigating the allegations. According to a statement from CEC board president John Stavig, Roberts resigned for personal reasons and to pursue other interests. Roberts has been general manager since 1990.

Restructuring

continued from page 2

Under the latter legislation, FERC would gain jurisdiction in Alaska similar to what it has in other states, and would delegate its system standards authority to the newly formed NAERO (North American Electric Reliability Organization). The ARECA delegation was given

assurance that the Senator is not in favor of Alaska being included under either of the federal organizations and efforts will be made to preclude Alaska from the legislation prior to the next session.

Senator Murkowski will be intro-

continued on page 3

Homer Electric Achieves Safety Accreditation

Homer Electric Association (HEA) was awarded its 1998 Rural Electric Safety Accreditation from NRECA's Rural Electric Safety Accreditation Program on October 28. HEA is one of three utilities accredited in Alaska. The other two are Golden Valley Electric Association and Matanuska Electric Association.

NRECA's Safety Accreditation is a peer review program for which accreditation guidelines are established by certified Job Training and Safety Professionals and affiliates of the rural electric community. The program requires constant attention at all levels of the cooperative. HEA management support, along with the team effort led by Safety Coordinator Gerry Willard and the valuable assistance of Carol Humbyrd, directly contributed to HEA's achievement.

To earn accreditation, HEA underwent two separate evaluations based on a three-year review period. The evaluations consisted of an on-site field observation and a committee evaluation process of its safety policies and procedures. In August, a team of observers, including David Gardner from GVEA, Sterling Larson from MEA and Garry Christopherson from Dairyland Power Cooperative in Lacrosse, Wisconsin, visited the utility and looked at equipment and

operations in Kenai, Homer and Bradley Lake. Additionally, HEA submitted a major packet of information containing safety policies and procedures and other documentation

save on ARECA Insurance Exchange premiums because the accomplishment shows that a utility functions in a way that reduces risk. A utility might save as much as 20

percent on some premiums said ARECA's Insurance Underwriter, Tonya Lamothe.

ARECA congratulates the HEA safety team for their commitment to achieve and maintain higher standards in safety for its employees and the communities it serves.

NRECA just released a video explaining the Safety Accreditation program. The tape is available by contacting Melissa Grant at

ARECA at 907-561-6106.



Gerry Willard of Homer Electric Association with Louie the Lightning Bug at HEA's booth at the Homer Safe Kids' fair.

which was evaluated at the fall NRECA Safety Accreditation meeting on October 27. The process addressed everything from board participation with safety policies and procedures to operations and maintenance.

Safety accreditation helps utilities insure that their safety practices meet or exceed industry and regulatory standards. "Homer Electric has demonstrated to their employees that they are committed to providing a safe and healthy work environment," said Tom Johnston, the Alaska Administrator of the Safety Accreditation program.

Accreditation's main benefits are loss control and avoidance of employee injuries. Accredited utilities

Restructuring

continued from page 2

ducting electric utility restructuring legislation early in the session, but a key element is that there will be no state mandate. Rather, the Senate would look to each state to craft legislation that would address the unique circumstances of their state. Included in the ARECA delegation were Norm Story, Meera Kohler, Charlie Walls, and lobbyist Larry Markley. The delegation presented a list of issues to the Senate Energy Committee that the Senate should consider in crafting the national restructuring legislation. 7



The ARECA building is sporting a new look this Christmas. ARECA is participating in the Anchorage City of Lights program, a community-wide program initiated by the Anchorage Chamber of Commerce in 1983 to warm up winter and beautify Anchorage by decorating thousands of homes and businesses city-wide with miniature white lights. The program runs from October to March.

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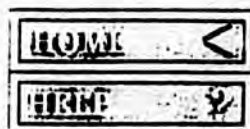
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Boston Edison in \$950 million utility deal

By Ross Kerber, Globe Staff, 12/07/98

The parent company of Boston Edison Co. plans to announce today it will acquire Commonwealth Energy System for \$950 million in stock and cash, the first of many combinations expected among electric utilities as they adapt to a new era of competition in Massachusetts.

As part of the purchase, a new holding company would be created to operate Boston Edison and Cambridge-based Commonwealth Energy, executives of the companies said last night. The holding company, as yet unnamed, would be New England's largest utility based on stock market value, they said. It would serve about 1.3 million electric and gas customers, and would bring Boston Edison's parent, BEC Energy, closer to its goal of reaching 2 million customers by the end of 2000.

Executives said about 300 jobs would be shed from the two companies through attrition and employee buyouts, out of a work force expected to total about 3,900 when the deal is completed in mid-1999.

For BEC Energy, the deal marks a major step in its growth strategy to compete under new state rules that are reshaping the utility landscape. Under those rules, initiated in March, businesses and eventually consumers will be able to select an electric supplier much like they choose a long-distance telephone company. Investor-owned utilities agreed to cut rates by 15 percent for consumers in return for selling their generating plants under favorable accounting terms.

In the past 18 months out-of-state companies, including PG&E Corp. and Southern Co., have rushed to buy generating assets from New England's large utilities. They are betting they can exploit lower costs and new technology to supply energy more cheaply to distributors like Boston Edison and commercial customers. BEC Energy last month completed the sale of its generating facilities when it agreed to transfer its Pilgrim nuclear plant in Plymouth to Louisiana-based Entergy Corp.

The proposed merger's effect on ratepayers won't be known for at least a month until the companies file plans with various government agencies, but both pledged to continue to meet the mandated 15 percent rate reduction.

With BEC Energy, Commonwealth Energy, and New England Electric System stripped of their power plants, Wall Street analysts had doubted they would try to compete alone as power-distribution companies. New England Electric, the state's other big utility, has said openly it wants to grow bigger through acquisitions.

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The Globe reported previously that BEC Energy was eyeing Commonwealth Energy, whose service territory in Cambridge and Central Massachusetts borders much of BEC's district. Last night, BEC Energy's chief executive, Thomas May, described the fit between the two companies as so tight the deal constituted "virtually an in-market" transaction.

"It's become apparent that bigger is better, and in this sense the new company will be able to compete effectively and become the service leader," May said.

Russell Wright, president and chief executive of Commonwealth Energy, said the agreement would give the smaller utility access to BEC Energy's technical services and transmission resources.

"Employees will become part of a larger, more vibrant energy delivery company," he said.

BEC Energy currently provides electricity to 670,000 customers in Boston and 39 other municipalities in Eastern Massachusetts. Commonwealth Energy serves about 600,000 customers through subsidiaries including Commonwealth Electric Co., Cambridge Electric Light Co., Canal Electric Co., and Commonwealth Gas Co.

Under the terms of the complex agreement, holders of BEC's existing 47.2 million shares may exchange each of them for one share in the new holding company or for \$44.10 in cash, a 5 percent premium over BEC's closing price on Friday. Holders of Commonwealth Energy's 21.5 million shares may exchange them for 1.05 shares in the new company or for \$44.10 in cash, a 17 percent premium to the company's closing price Friday.

BEC will allot \$300 million in cash to cover the costs of stock buybacks, and will effectively issue new stock worth \$650 million, bringing the total value of the agreement to \$950 million, said BEC's May. Looked at another way, BEC's stockholders will receive about 42.6 million shares in the new company and \$200 million in cash, while Commonwealth shareholders will receive about 20.2 million shares and \$100 million in cash.

May will become chairman and chief executive of the new holding company, while Wright will become president and chief operating officer.

Both men will also serve on the combined company's board of directors, which will initially comprise all members of the two separate boards, or about 20 people altogether.

The two companies said they expect cost savings of about \$500 million over 10 years by eliminating management positions and through efficiencies of scale.

Both companies said they plan to seek approvals from shareholders at their regular meetings in the spring. The agreement also requires approvals from the state's Department of Telecommunications and Energy, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and the Nuclear Regulatory Commission.

This story ran on page A01 of the Boston Globe on 12/07/98.
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Published Friday, December 11, 1998, in the Herald-Leader

Utility officials don't want federal hand in deregulation

ASSOCIATED PRESS

WILLIAMSBURG -- Officials from 23 state public utility commissions had a message yesterday for the federal government as states consider restructuring the electric power industry: Keep out.

The Low Cost Electric States Initiative, made up of public utility commissions from around the country, sent a letter to Congress warning that blanket federal legislation on deregulating the power market could prove disastrous for customers and state economies.

The states outlined their position at a news conference during the Institute of Public Utilities three-day conference, which ends today.

"The states should be able to decide for themselves," said Hullihen Moore, a judge on Virginia's State Corporation Commission.

Proponents of power deregulation say it will spur technological innovations and lower prices. But Moore said those benefits may never materialize for states where the retail electricity price now is below the national average.

B.J. Helton, chairwoman of the Kentucky Public Service Commission, said it seems that the itch in Congress to legislate one-size-fits-all restructuring has passed.

She said, though, that now is an opportune time to air the low-cost states' viewpoint to prevent the need to react to future federal bills.

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The states are asking for the ability to determine whether electric restructuring is appropriate on a state-by-state basis, without a federal mandate.

The letter says Congress needs to understand how low rates serve customers and the states and to ensure that restructuring does not erode economic development advantages.

"We do not want to impede the progress of any state that has decided to implement a competitive retail market in order to bring choice and lower electric rates to their consumers," the letter said. "We do, however, want to make sure that Congress gives equal consideration to the issues facing the low-cost states."

The 23 state commissions are from Alabama, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

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British utility moves on Massachusetts

BOSTON — The British are once again coming to the land of Paul Revere, taking over Massachusetts' largest electricity supplier in a \$3.2 billion merger. Monday's deal between New England Electric System, of Westboro and the National Grid Group of Coventry, England, was the second move by a British utility into the U.S. market in a week. ScottishPower said last week it would take over PacifiCorp for \$7.9 billion in what would be the first purchase of an entire U.S. electric utility by a foreign company. Deregulation in Massachusetts and California, two states with comprehensive electricity deregulation plans, is opening up opportunities for overseas companies and the British seem poised to take advantage.

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Deregulation attracting U.K. to U.S. electric industry

By Jean Mcmillan, Associated Press, 12/15/98 07:35

BOSTON (AP) - The British are coming. But not to try to tame unruly colonies. This time it's opportunities in the electric industry that are drawing them across the sea.

National Grid Group of Coventry, England, announced Monday it would acquire New England Electric System, of Westboro, in a \$3.2 billion deal.

This was the second move by a British utility into the U.S. market in a week.

ScottishPower said last week it would take over U.S. PacifiCorp for \$7.9 billion in what would be the first purchase of an entire U.S. electric utility by a foreign company.

Deregulation in Massachusetts and California, two states with comprehensive electricity deregulation plans, is opening up opportunities for overseas companies and the British seem poised to take advantage. New Hampshire also is deregulating, though progress has been largely stalled by a lawsuit.

"This ScottishPower (deal) and now National Grid, if it goes forward, will be the first wave of foreign entry into domestic markets," said Jim Owen, spokesman for Edison Electric Institute, a Washington-based trade association which counts New England Electric among its 200 members.

Owen said the mergers can give domestic companies access to more capital, while the overseas partners get a foot in U.S. market.

"A lot of companies overseas, especially companies in Europe, they want to play here," Owen said.

In March, a Massachusetts law took effect that encouraged electric companies to sell off their generating plants. The separation of the generation of electricity from its delivery was aimed at creating greater competition among utilities and lower rates for customers.

The legislation has resulted so far in \$3.9 billion worth of New England utility acquisitions.

At a news conference Monday, David Jeffries, National Grid chairman, said buying New England Electric could open up other acquisition possibilities.

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other acquisition possibilities.

"Naturally there may be other opportunities, and New England Electric System would be the natural platform," Jeffries said.

National Grid chief executive David Jones told reporters in London the merger gives New England Electric the necessary experience to navigate deregulation, because National Grid went through a similar situation when utilities were privatized in the United Kingdom in the early 1990s.

"We can transport the skills we have learned over the last decade here in the U.K. into the U.S. environment," Jones said. "This is about cutting costs (and) improving performances to satisfy the regulator and customer."

Officials from both companies said they did not expect many layoffs among NEES' 3,200 employees.

Under the proposal, which requires regulatory and shareholder approval, New England Electric will become a wholly owned subsidiary of National Grid. It will retain its name and its subsidiaries and its headquarters will remain in Massachusetts. New England Electric is Massachusetts' largest electricity provider and the third-largest in New England.

Through its four utilities - Massachusetts Electric, Narragansett Electric, Granite State Electric and Nantucket Electric - New England Electric provides electricity to more than 1.3 million customers in Massachusetts, New Hampshire and Rhode Island.

Cynthia Arcate, executive vice president of Granite State Electric, said none of New Hampshire's 36,000 customers - mostly in the Salem and Lebanon areas - will see any change under the new ownership.

"It will be a seamless transition; the name of the company won't change and the customers will be serviced by the same people and will continue to get the lowest rates in the state," she said.

She also said she does not anticipate any layoffs in the company's work force of 72 employees.

National Grid, which operates a monopoly in England and Wales, had been looking to expand outside of Britain. Shareholders were told last month to expect a U.S. purchase by March.

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Wednesday, December 16, 1998

Court Halts Plan Using PNM Lines

By Tom McGhee
Journal Staff Writer

The state Supreme Court temporarily halted an electric pilot program on Tuesday that would allow power suppliers to use PNM's lines to deliver electricity to some Albuquerque customers.

The court acted in response to Public Service Company of New Mexico's appeal of a Public Utility Commission order calling for the pilot. PNM said the commission didn't have authority to approve the program. The delay in implementing the program will give the court time to set a hearing and hear all arguments before deciding whether it should proceed.

It could take six to eight months before justices hear the case, said Ben Montoya, PNM president and CEO.

The utility was supposed to begin signing up customers who wanted to buy energy from other companies on Jan. 12 and open its system to competitors in March.

The city of Albuquerque requested the pilot last year in order to learn how retail competition would work. Through a spokeswoman, Mayor Jim Baca said open access is an important issue. "He understands the court's desire to hear the full case," said Luisa Lindsey.

As a regulated monopoly, PNM delivers power to 342,000 customers within an exclusive service area.

The utility argues that only the Legislature has the power to open the electric market to competition. The company also said it would be financially damaged by the pilot.

Lawmakers are expected to consider a bill that would create a competitive electric market in their upcoming session. "As a practical matter, we aren't against pilot studies, we would welcome doing a pilot study after the Legislature acts," said Montoya.

Lawyers for the commission and the city told the court that the statute governing the panel gives it the right to regulate and govern utilities and allows it to order the pilot.

The statute "says the commission is charged to do all things necessary and convenient in the exercise of this power," said Karen Howden Weaver, Albuquerque assistant city attorney.

The commission order called for the company to enroll 2,000 residential customers and a small number of industrial, commercial and municipal customers.

In a separate PNM matter Tuesday, the PUC canceled a hearing today on a request by the utility to reconsider a recent \$91 million rate cut.

PNM asked the Supreme Court on Monday to stay the rate-cut order. Commissioners canceled the hearing because the matter is now in the hands of the court.

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Electric deregulation urged

Friday, December 18, 1998

By MARK TATGE
PLAIN DEALER BUREAU

COLUMBUS - Ohio must deregulate the electric power industry next year to avoid falling behind neighboring states that have opened their borders to competition, the chairman of the Public Utilities Commission of Ohio said yesterday.

"One of the problems is everyone is frozen in the headlights on this issue," Craig Glazer said. "We will run into problems with availability of generation in the first decade of the next millennium if we stay with the current system . . . or if we fail to attract some new entrants."

If the state fails to act, Ohioans could end up paying more for their electricity than customers in nearby states that have already deregulated, Glazer said. States with deregulation plans in place include Illinois, Michigan, Virginia, Pennsylvania, New York and Maryland.

"States around us are going to be in full competition roughly in the 2002 time frame," Glazer said. "These are states that we compete with for economic development purposes, so I think it is imperative that we work things out."

Legislative efforts to deregulate the electric power industry died this month in the Ohio General Assembly. Supporters intend to reintroduce the bill next year. Electric utilities opposed a bill backed by consumer groups. Utilities termed the bill unfair and burdensome.

"We have a window of time in 1999, and there are all kinds of reasons we need to do this in 1999, including the erosion of the tax base that is happening right now," said Glazer, referring to recent property tax refund cases being pushed by utilities.

One issue in Ohio involves how much utilities should be compensated for investments in nuclear plants. The plants cost billions more than originally proposed.

Critics have derided the concept of electric power deregulation, saying only big industrial customers will see smaller bills.

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If large customers flee the system, smaller users' bills could go up, because costs of generating power would be spread among fewer customers. "The question is are you going to have any losers? Are the small customers going to have to pick up the tab if the large industrial customers leave the system?" Glazer said.

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Janyce Goe Nolan
Business Manager
Dean Nelson
Marketing & Circulation Director
Rich Gilmore
PH: 907.561.4772
FAX: 907.563.4744

MEA pursues Chugach as state's utilities brace for deregulation

By Nancy Pounds
Journal Reporter



The recent proposed takeover bid between two South-central Alaska electric cooperatives — one a major power supplier and the other its top customer — differs from corporate buyouts.

The move comes at a time when legislators are studying possible effects of electric industry deregulation in the state. In turn, officials at major utilities say they are bracing for industry changes.

Deregulation could come in any of several forms, but in general aims to allow customers a choice in electricity suppliers rather than be assigned one by geography. However, some industry representatives say such changes may mean larger utilities pursuing major commercial customers across Alaska.

"Depending on the form that deregulation manifests itself, you could see numerous mergers and acquisitions in the future," said Eric Yould, executive director of the Alaska Rural Electric Cooperative Association.

UTILITIES

"Ironically, while deregulation is billed by the proponents as 'consumer choice,' it is widely accepted by analysts that in the Lower 48 alone deregulation will lead to consolidation of the industry to the extent that there will be in the neighborhood of only 10 utilities throughout the entire United States by the time the dust settles.

"Alaska would probably not be immune to the takeover bug," he said, adding that the industry here could benefit from a financial consolidation of smaller rural utilities.

In October, Matanuska Electric Association proposed acquiring Chugach Electric Association, although Chugach's board of directors rejected the offer in November.

So far, MEA officials have gathered about half of the estimated 5,500 Chugach member signatures (10 percent of its membership) needed to call a special meeting on the issue, said Bruce Scott, MEA's director of member and public relations. An advertising campaign by Chugach has slowed the sig-

nature drive recently, he said.

"In this transaction, we propose to buy the assets of a co-op so we need the assurance of the members of that co-op," said Don Zoerb, MEA's director of administration.

MEA's bylaws don't require asking members for approval to increase the co-op's debt load or acquire another company, Scott said. However, the association is required to ask members to OK the sale of assets or if they plan to increase the number of board members, as the current plan proposes.

This transaction differs from a typical corporate buyout, and Alaskans are witnessing the methods of takeover take on a new shape.

Instead of shareholders, co-ops have members or customers who purchase the co-op's commodity, and co-op profits are called margins, Zoerb said.

The major difference between a co-op and a for-profit company is that a co-op's investors are its customers, said Steve Colt, an economist at the University of Alaska Anchorage Institute of Social and Economic Research. He has specialized in studying Alaska utilities for several years, and has lived in

the state for 20 years.

In theory, the co-op is run by the customers, Colt said. However, typically once a co-op reaches a certain size, customers become less interested in day-to-day operations. Its managers and workers become more interested, since decisions would affect them, Colt said. One key group is the union representing workers at the co-op.

Colt said he is puzzled that MEA wants to acquire Chugach instead of the other way around, although in past years utilities have pursued other mergers.

Perhaps the deal was spurred by MEA's interest in acquiring Chugach's power-generating facilities, Colt said. Another theory is that possible deregulation could expose MEA to competition and the only hope for it to remain intact is to become larger, he said.

In Alaska there are only two investor-owned utilities, while the rest are either municipal-owned or co-ops, said Meera Kohler, general manager of Anchorage Municipal Light and Power.

Alaska Electric Light and Power in Juneau is a private investor-owned utility, and Ala-

ka Power and Telephone also is a private company, serving Southeast and Interior Alaska communities.

Kohler believes both CEA and ML&P tally similar retail electricity sales, although Chugach holds more wholesale sales.

"We have implicitly been competing for a long time," she said. "It has made us both more competitive."

If MEA succeeds in acquiring Chugach, Kohler says ML&P would see little change except that the move could indirectly alter industry professionalism by losing skills of top executives cut if the companies merge, she said.

Deregulation has been a growing issue in Alaska for several years, and ML&P has been bracing for a possible change, she said. Both ML&P and Chugach are taking better care of key customers as the industry becomes more competitive, she said.

At the same time, Kohler said Chugach has been courting some of ML&P's top commercial customers, pushing regulators to allow those customers the future option of switching services.

Homer Electric Association

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vision. The group's industry-heavy and global makeup — with speakers from the West's primary forest companies and also from Finland, New Zealand, Canada and Austria — suggested a theme of worldwide market outlooks and export strategy.

"Alaska is also well represented," said Gruenfeld, former publisher of the Alaska Forest Market Report and Pacific Rim

and recently became a co-sponsor of the annual event. The center's associate director and forest researcher Ivan Eastin was on tap to report on North America's changing export trends. That shift includes a basic restructuring of the Asian export market now, but with optimism still high for the future, Gruenfeld said.

"There is a basic cultural desire for wood in Japan and

in the forestry industry include stints as resource manager for Brooks-Scanlon Inc., and as vice president of Potlatch Corp.'s Lands and Forestry Division, with staff responsibility for 1.3 million acres of forest in three states.

Nowadays, Gruenfeld is a consultant to private industry and an author with more than 33 such conferences to his name — the first in 1983 in Juneau. His "Purple Hearts and Ancient

diversity in the forest industries that are based on it.

"Now, I think what Alaska needs to do — it has an opportunity to catch up, as far as modernization of its plants — but

Canada, Taiwan and newcomer India. The state's pulp exports dropped from \$84 million in 1996 to \$33 million last year after the closure of the Ketchikan Pulp Mill.

State's utilities try to prepare for deregulation

Continued from Page 2

purchases most of its power from Chugach, and officials there say it's too early to say if a potential merger would affect HEA, or how. However, HEA

and MEA both purchase power from Alaska Electric Generation and Transmission, and are the only members of that co-op, said Sandra Ghormley, HEA manager of member relations.

HEA is preparing for competi-

tion by finding ways to be more efficient and trim costs, in order to stand poised for changes to the industry, she said.

Journal reporter Nancy Pounds can be reached at 907-762-1917.

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29 Dec 1998 p. F-4

Anchorage Daily News

Power generator planned at refinery

By **BILL WHITE**
Daily News business editor

Petro Star Inc. and Copper Valley Electric Association Inc. said Monday they have signed contracts to build a 5-megawatt power-generation and waste-heat-recovery system at the Petro Star Valdez Refinery.

The \$7.6 million project should displace the need for a Copper Valley diesel power plant in Valdez and put a Glennallen diesel plant on standby status, said Robert Wilkinson, Copper Valley chief executive.

The Petro Star refinery will recover heat from the new gas turbine's exhaust and use that heat in refining crude oil at its plant, said Jim Boltz, vice president of engineering for Petro Star. That will lower the refinery's need to use fuels to generate heat, and lower its air emissions in Valdez, he said.

"We have been able to design a project that will improve electric power service and at the same time reduce air emissions for this sensitive area," Boltz said.

Wilkinson said, "We have now forged a long-term relationship which will enable both Petro Star and CVEA the opportunity to be more competitive in our relative industries."

The plans call for Copper Valley to pay for, install and own the gas-turbine generator at the refinery. Construction is scheduled to begin in the spring and be done by November, the companies said.

Copper Valley also gets power from the Solomon Gulch hydroelectric facility, Wilkinson said.

Copper Valley serves about 3,300 customers from Valdez north to Mile 156 of the Richardson Highway, between Miles 109 and 189 of the Glenn Highway, as well as along parts of the highway to Tok and the Edgerton Highway.

Petro Star is owned by Arctic Slope Regional Corp., the Barrow-based regional Native corporation.

Business editor Bill White can be reached at bwhite@adn.com.

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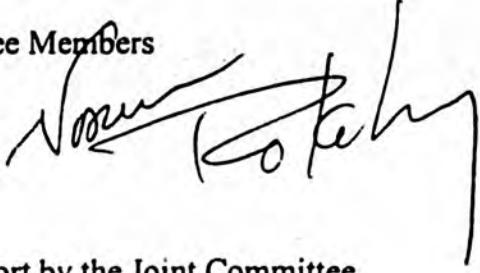
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MEMORANDUM

TO: Electric Utility Restructuring Committee Members

FROM: Rep. Norman Rokeberg, Co-Chairman 

DATE: January 16, 1999

RE: Transmittal of Revised Draft Final Report by the Joint Committee

A reminder that the Joint Committee will convene at 10:00 a.m., Monday, January 18, 1999, in the Bettye Fahrenkamp Room, Second Floor, Capitol Building.

Please take a few minutes to review the January 16th draft final report. I have taken the liberty of revising the last draft as amended at the January 6th meeting. This is a result of my desire to refine the document; address some criticisms received from several groups and individuals; and making the time to consult with interested and available committee members.

It is my intention to have as brief a meeting as possible on Monday. Therefore, if you wish to make any additions, corrections, or changes, please submit them to Miss Janet Seitz of my office prior to Monday's meeting.

Thank you for the privilege of serving with you on the Joint Committee, and thank you for your efforts on behalf of all Alaskans.

legislature placed control over entry into the utility business in the Commission's hands. Nothing in this statute suggests that the certificates granted by the Commission are exclusive, or that the Commission's authority to grant a certificate is restricted or limited if the applicant would compete with an existing utility.

AS 42.05.241 establishes procedural and substantive guidelines for the Commission in exercising its authority to grant certificates. This statute provides:

A certificate may not be issued unless the commission finds that the applicant is fit, willing and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public (emphasis added)

In compliance with this statute, the Commission must examine the question of whether the public needs the additional service when it considers granting a competing certificate. The Commission cannot grant the competing certificate unless, after examining the question, it finds that the public convenience and necessity do require the competing service.

The term "public convenience and necessity" cannot support an argument that competing certificates are prohibited. Interpreting this term, one court looked back to previous decisions and said:

The court has stated that the "public convenience and necessity" standard allows the department to exercise wide discretion to take into account a broad range of factors in making the determination whether it has been met. Almeida Bus Lines, Inc. v. Department of Pub. Utils., 203 N.E. 2d 556 (1965). Holvoke St. Ry. v. Department of Pub. Utils., 198 N.E. 2d 413 (1964). Newton v. Department of Pub. Utils., 160 N.E.2d 108 (1959) (all of which discussed the propriety of using the value of competition as a basis for making a "public convenience and necessity" finding).

Zachs v. Department of Public Utilities, 547 N. E. 2d 28 at 32 (Mass. 1989). (State reporter citations omitted).

Therefore, although it requires the question to be addressed and a finding made, AS 42.05.241 gives the Commission the policy-making authority to grant a competing certificate, including

require the service. Where a public utility provides more than one type of utility service, a separate certificate of convenience and necessity is required for each type. A certificate must describe the nature and extent of the authority granted in it, including, as appropriate for the services involved, a description of the authorized area and scope of operations of the public utility. . . . (emphasis added)

The Honorable Norman Rokeberg

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a competing electric utility certificate, if the Commission decides that the public will benefit from competing utility service.

B. Natural Monopoly Theory

It is true that in the past the Commission has not issued certificates authorizing competitive provision of electrical service. This long-standing policy is not based on lack of authority or on any legal restriction prohibiting the Commission from issuing a competitive utility certificate. The non-competitive policy is based on an economic theory widely accepted in the past, but now subject to question (or already rejected) in policy debates all over the United States and in some foreign countries as well. The economic theory was that utilities, including electric utilities, are natural monopolies and should have exclusive service territories because competition would mean wasteful duplication of the capital investment in facilities required to provide the service.

As discussed above, the natural monopoly theory is not formalized in Alaska's statutory scheme, and therefore no statutory change is required before the Commission can consider whether the public convenience and necessity require any competing certificate to be issued. The Commission has authority to change its monopoly policy in granting certificates.

The natural monopoly theory is also not formalized in the legal concept of a certificate. In Alaska, a series of court decisions resulted from competition between electrical utilities in the 1960's and 1970's. These cases involved competition between REA cooperative electric utilities certificated by the Commission, and municipally owned utilities operating under statutory authority. Before 1970, the municipal utilities were not required to obtain certificates from the Commission.

In the first of these cases, the Alaska Supreme Court rejected the argument that a certificate granted by the Commission was an exclusive right to provide service in the specified service area. It is arguable that this ruling only addressed the situation of competition from an uncertificated utility operating under a municipality's statutory authority. Nevertheless, it is clear that the court rejected the argument that the natural monopoly theory must lead to the conclusion that a certificate is an exclusive right to serve a particular area. Homer Electric Association v. City of Kenai, 423 P.2d 285 at 288-289, n. 16. (1967). See also, Chugach Electric Association v. City of Anchorage, 426 P. 2d 1001, 1003 (1967).

In these decisions, the court recognized that the effect of holding that a utility certificate was not exclusive could be uneconomic duplication of facilities. The court urged the legislature to fix this problem. See Homer, 423 P. 2d at 290; Chugach, 426 P.2d at 1004-05. In response the legislature adopted

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AS 42.05.221(d).² This provision, while making explicit the Commission's authority to eliminate undesirable duplication of facilities, is carefully drafted not to require the Commission to eliminate all competition. This statute directs the Commission to eliminate the competition only if the Commission finds 1) that there is competition, and 2) that the competition is not good for the public. Like AS 42.05.241, AS 42.05.221(d) clearly leaves the door open for a policy-making determination that competition between electrical utilities may be good for the public.

C. Longstanding Interpretations

Finally, the Commission has in the past interpreted its statutes to give it authority to issue competing certificates when it concluded that competition was in the public interest, and the legislature has apparently agreed. In interpreting a statute, the court will give some weight to a long-standing agency interpretation. Nat. Bank of Alaska v. State, Dept of Rev., 642 P.2d 811 at 815 (Alaska 1982). The APUC has granted competing certificates for refuse collection utilities: (Re Claude Bailey d/b/a Valley Refuse, et al, 7 APUC 97 (1985); Re Wasilla Refuse, Inc., 8 APUC 106 (1987); for radio common carriers, (RE Competition and Deregulation of Radio Common Carriers as Public Utilities, 5 APUC 86 (1982)); and for water utilities (Re Eagle Utilities, Inc., 7 APUC 548 (1986). For telecommunications utilities, statutory directives (state and federal) now require the Commission to grant competing certificates. In adopting a mandate for competition in long distance telephone service (AS 42.05.800-AS 42.05.890, § 2 ch 93 SLA 1990), the Alaska legislature did not think that the underlying statutory scheme for certification needed amendment before the Commission had authority to grant competing certificates.

² SECTION 42.05.221. CERTIFICATES REQUIRED. ...

(d) In an area where the commission determines that two or more public utilities are competing to furnish identical utility service and that this competition is not in the public interest, the commission shall take appropriate action to eliminate the competition and any undesirable duplication of facilities. This appropriate action may include, but is not limited to, ordering the competing utilities to enter into a contract that, among other things, would:

- (1) delineate the service area boundaries of each in those areas of competition;
- (2) eliminate existing duplication and paralleling to the fullest reasonable extent;
- (3) preclude future duplication and paralleling;
- (4) provide for the exchange of customers and facilities for the purposes of providing better public service and of eliminating duplication and paralleling; and
- (5) provide such other mutually equitable arrangements as would be in the public interest.

(emphasis added)

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II. The Commission Has Some Authority to Prevent Cream-skimming.

When competition in utility service is permitted, it is predictable that competitors will seek to serve the most profitable customers. The competing utilities may be less willing to serve smaller users, typically residential and small commercial customers. The result may be that service deteriorates while costs rise for those customers. The practice of targeting service only to the most profitable customers is called "cream-skimming." Existing statutes, including AS 42.05.221(d),³ AS 42.05.241⁴, AS 42.05.271,⁵ and the Commission's general powers, AS 42.05.141⁶, give the Commission some authority to deal with

³ See page 4.

⁴ SECTION 42.05.241. CONDITIONS OF ISSUANCE. A certificate may not be issued unless the commission finds that the applicant is fit, willing and able to provide the utility services applied for and that the services are required for the convenience and necessity of the public. The commission may issue a certificate granting an application in whole or in part and attach to the grant of it the terms and conditions it considers necessary to protect and promote the public interest including the condition that the applicant may or shall serve an area or provide a necessary service not contemplated by the applicant. The commission may, for good cause, deny an application with or without prejudice. (emphasis added)

⁵ SECTION 42.05.271. MODIFICATION, SUSPENSION OR REVOCATION OF CERTIFICATES. Upon complaint or upon its own motion the commission, after notice and opportunity for hearing and for good cause shown, may amend, modify, suspend, or revoke a certificate in whole or in part. Good cause for amendment, modification, suspension or revocation of a certificate includes (1) the requirements of public convenience and necessity; (2) misrepresentation of a material fact in obtaining the certificate; (3) unauthorized discontinuance or abandonment of all or part of a public utility's service; (4) wilful failure to comply with the provisions of this chapter or the regulations or orders of the commission; or (5) wilful failure to comply with a term, condition, or limitation of the certificate. (emphasis added)

⁶ SECTION 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. (a) The Alaska Public Utilities Commission may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including (1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711; (2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them; (3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility; . . .

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cream-skimming problems. However, because of limitations within these statutes or their general nature, the Commission's authority may not reach all variations of cream-skimming problems that may arise.

The discussion below shows how these statutes provide Commission authority to protect the public against cream-skimming, and discusses the limitations.

AS 42.05.221(d). Where the Commission finds competition exists and is not in the public interest, this statute authorizes the Commission to take action to "eliminate the competition and any undesirable duplication of facilities." This statute seems to contemplate a remedy that would eliminate the competition, not a remedy that would seek to make competition serve the public interest. For example, if an appropriate cream-skimming remedy may be to order a competitor in a concentrated market to also serve a remote community, this statute does not seem to provide that authority.

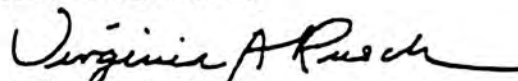
AS 42.05.241. This statute gives the Commission broad authority to impose conditions needed to protect the public when it grants a certificate. The Commission can attach to the grant of a certificate the terms and conditions it considers necessary to protect the public interest. One common remedy against cream-skimming is specifically authorized in this statute—the Commission can require a certificate applicant to provide a service that the applicant does not seek to provide. The language also clearly authorizes other remedies the Commission may devise at the time a certificate is granted. However, if the need for a condition to prevent cream-skimming does not become apparent until after the certificate is granted, this statute may not help.

AS 42.05.271. This statute is quite broad and, along with the Commission's general powers, AS 42.05.141, arguably provides authority to address cream-skimming by requiring a utility to provide service to neglected customers. However, in the past, Commission orders have been challenged on the basis that the Commission's statutory authority is not "explicit," resulting in costly litigation over the extent of the Commission's "implied" authority.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Virginia A. Rusch
Assistant Attorney General

VAR:jem

owned utilities, cooperatively-owned utilities, consumer advocates, public interest advocates, the financial community, utility stockholders, farmers, retirees, gas producers, coal producers, nuclear power producers, renewable energy producers, the environmental community, State public utility commissions, cities, the Tennessee Valley Authority, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and the Department of Energy.

Based on the Committee's extensive review of the issues, I have reached the following conclusions.

- o First and foremost, competition is in the public interest. Competition will assure consumers an adequate supply of reasonably priced power.
- o Second, if consumers are to benefit from competition it must be market-based, not government-run. Government management of the market — command-and-control — cannot substitute for the discipline of the free market.
- o Third, we must encourage and empower the States to promote retail competition. The States are not only keenly interested in promoting retail competition, they have aggressively taken the lead. Thirteen States have already adopted some type of retail competition, either by law or through public utility commission regulation. These States encompass roughly one-third of the U.S. population. Of the remaining States, virtually every one is now actively considering what it should do to promote retail competition.
- o Fourth, States are best able to determine how to promote retail competition that is in the overall public interest. States are in the best position to take into account local needs, circumstances and interests when fashioning a retail competition program.
- o Fifth, the Federal government has an important role in promoting competition, but it should be limited to that which is truly interstate in nature and cannot otherwise be done by the States or by a combination of States. For example, the FERC has aggressively promoted wholesale competition through its nondiscriminatory wholesale open access transmission rule, Order No. 888, and that seems to be working well.
- o Sixth, there are a number of provisions of Federal law that impair competition, either by impeding State action, or by preventing competitors from competing, or by creating unfair competitive situations. These should be eliminated.

This leads me to the fundamental conclusion that if there is going to be Federal legislation, it should consist of provisions that deregulate, streamline and empower the States to promote competition -- not provisions that enhance government command-and-control of the market, or preempt or place a Federal mandate on the States. In summary, I believe that the public interest is best served through market-based competition, not government-managed competition.

In light of this, the following are the principle matters that I believe need to be considered as part of Federal legislation.

ISSUE: *Should Congress give States exclusive authority to order retail wheeling?*

Existing law is ambiguous as to State authority over retail wheeling. States assert that they have jurisdiction over retail transmission. FERC asserts that it, not the States, has exclusive jurisdiction over all transmission, including retail transmission. Absent Congressional action, this is an issue that will only be resolved by the courts.

Note: In the Energy Policy Act of 1992, Congress specifically prohibited FERC from ordering retail wheeling. Thus, if FERC is right that it has exclusive jurisdiction over transmission, that raises the question of who can order retail wheeling.

Proposed Resolution:

Make clear that States have the exclusive authority to order retail wheeling. States are closest to the economic impact of retail wheeling (including retail stranded costs), and they are best able to determine when and how it should occur.

ISSUE: *Should Congress confirm that States will continue to have the authority under State law to address retail distribution issues?*

States, through their public utility commissions, have traditionally had exclusive responsibility for the local distribution and sale of electricity to consumers. Local distribution issues include: obligation to serve; assured service to low-income and rural consumers; safety; universal service; renewable energy; energy conservation; and recovery of transition costs.

Proposed Resolution:

Confirm that States will continue to have the exclusive authority to address local retail distribution issues under State law.

ISSUE: *Should States be authorized to voluntarily establish Interstate Compacts under the Constitution to jointly regulate regional electric markets?*

States cannot regulate matters that are in or affecting interstate commerce without the consent of Congress through a Compact. Aspects of interstate commerce that a multi-State compact could regulate include: regional reliability; reciprocity of competition between States; regional transmission pricing; and recovery of wholesale competition transition costs.

Proposed Resolution:

Authorize States to form regional regulatory compacts that would govern reciprocity and reliability issues, among other things. (This could be similar to that which is in the low-level nuclear waste bill.)

ISSUE: *Should all transmission owners be required to comply with FERC's nondiscriminatory wholesale open access transmission program (FERC Order No. 888), not just investor-owned utilities as under current law?*

Under the Federal Power Act, FERC has authority to impose nondiscriminatory wholesale open access transmission only on investor-owned utilities. Municipally-owned utilities, most cooperatively-owned utilities, the Federal PMAs and TVA -- all of whom own substantial transmission lines -- do not have to comply with FERC's open access rule.

Proposed Resolution:

Require all transmission owners to comply with FERC's nondiscriminatory wholesale open access transmission program.

ISSUE: *Should PURPA's mandatory purchase requirement be terminated prospectively?*

At the Committee's hearings and workshops clear and convincing evidence was presented that PURPA, although well intended, harms consumers and utilities. PURPA requires utilities to purchase power whether or not they need it, and to pay "avoided cost" whether or not that bears any relationship to market price.

PURPA's avoided cost rate was supposed to result in electricity prices no higher than they would have otherwise been -- but it did not work out that way. As a result, utilities will pass on to consumers hundreds of millions of dollars extra in above-market PURPA electric rates. These are costs that consumers will continue to pay into the future because most PURPA contracts were for a long period of time and few have market-based price clauses. Moreover, some electric utilities now find themselves in serious financial straits, as they are unable to pass on above-market PURPA costs in increasingly competitive markets.

Proposed Resolution:

Repeal PURPA prospectively, with protection for existing contracts.

> One option is to repeal PURPA only where a State has adopted retail competition.

ISSUE: *Should wholesale sales of electricity be deregulated?*

FERC has jurisdiction over wholesale electric rates. FERC has created a competitive wholesale market for electricity through Order No. 888, which provides nondiscriminatory transmission access to all sellers of wholesale power.

FERC is already heading in the direction of deregulation of wholesale sales by granting "market-based-rates" for wholesale power on a case-by-case basis. Unfortunately, even these FERC-granted "market-based-rates" remain subject to FERC jurisdiction; they are