

**KEY ASPECTS OF  
ELECTRIC RESTRUCTURING  
SUPPLEMENTAL VOLUME:  
THE STATE SUMMARIES**

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# KEY ASPECTS OF ELECTRIC RESTRUCTURING SUPPLEMENTAL VOLUME: THE STATE SUMMARIES

## I. INTRODUCTION

This volume is provided as supplemental information to a report on *The Key Aspects of Electric Restructuring and Their Relevance for Florida's Electricity Market*. It contains a state by state analysis of how each state handled several policy issues while pursuing electric restructuring. The main report analyzes the activities of those states that have begun to restructure their vertically integrated electric utilities and considers how their experiences may relate to Florida's electricity market. This report was prepared by staff of the Florida Public Service Commission (FPSC) and is largely based on information obtained from original source documents such as state statutes, rules, commission orders and, to a lesser extent, trade journals and subscription services. The report is organized according to seven key issue topics and associated policy questions that most states have addressed as they restructure the electric industry. The seven topic areas are:

- market structure
- stranded costs
- electric sales and revenues
- customer issues
- reliability and quality of service
- public purpose programs
- role and follow up of the state public service commission

Where each state is in the restructuring process varies greatly. Some states have just begun to restructure while others have had full retail choice for two and half years. Therefore, the manner and level of detail in which these areas have been addressed vary substantially. Moreover, any review of electric restructuring activities must be viewed as a snap shot in time because states are already modifying some of their early decisions on how to proceed and other states are adopting rules and decisions for the first time.



## **II. STATE SUMMARIES**

### **ARIZONA**

#### **RESTRUCTURING AUTHORITY**

##### **Law**

Arizona authorized retail competition, with the terms and conditions applying to each utility determined on a utility-by-utility basis in a settlement agreement. The Arizona Corporation Commission (ACC) Rules address electric restructuring in general and only apply to the investor-owned utilities and cooperatives.

##### **Applicability**

The governing boards of municipal utilities are subject to Legislative oversight and will decide for themselves the terms and conditions under which they will allow other electric service providers to do business in their service areas. An example of a settlement agreement is the one between the Arizona Corporation Commission (ACC), Tucson Electric Power Company (TEP), and major customer groups. That settlement agreement freezes electric rates through 2008 and permits customers to choose their generation supplier.

#### **MARKET STRUCTURE**

##### **Dates and Phase-in**

Arizona's retail competition will be phased in on a utility-by-utility basis. Phase-in will begin with 20% of the consumers, and all customers will be able to choose by January 1, 2001. The rule will allow some customers located in the service territories of the utilities to begin shopping for power in an open market once the utility is authorized and all customers will be eligible after January 1, 2001.

##### **Customer Choice**

Customers will have direct access to generators, meaning they will no longer be restricted to buying power only from their local utility company and can compare one deal to another to choose which best meets their needs. It is possible that packages of power and other services will be offered in this manner, so that the customers can choose the best overall value that meets their needs.

#### **MARKET POWER**

##### **Divestiture of assets - Functional unbundling**

It appears that Arizona is requiring, as one of the conditions for approval of electric restructuring, that the utilities must transfer their power plants to a separate subsidiary within a limited period of time. In their 1999 settlement agreements the ACC required Arizona Power Systems (APS) to transfer its power plants and other generation assets into an affiliated subsidiary

within two years. The ACC required Tucson Electric Power Company to continue to serve both the transmission and distribution needs of all its customers but, as part of the Settlement Agreement, the utility will transfer its electric generation business to a separate subsidiary by December 31, 2002.

### **Rate Reductions**

The Arizona Corporation Commission asked its investor-owned utilities to include a 5% rate reduction for residential consumers in their electric restructuring plans. As a result, the Salt River Project's electric restructuring plan included a 5.4% residential rate reduction. The APS and ACC settlement agreement rates will be reduced 7.5% for residential and small business and 5% for industrials over the next 4 and 3 years respectively. The residential and small business reductions would total 16% over 10 years, including rate reductions from 1994. The TEP settlement agreement will honor a previous agreement to reduce electric rates 1.0 percent on July 1, 2000, completing a three stage reduction totaling 3.1 percent over the last three years. After that date, customer electric rates will be frozen for eight years.

### **STRANDED COSTS**

#### **Definition**

According to the Arizona Corporate Commission (ACC), stranded costs represent expenses the utilities are required to pay, or investments they have already made but which have not yet been repaid through electricity rates. The largest portion of these costs includes a portion of past investments in power plants which may not be recoverable under competition. Stranded costs may also be costs incurred by the utility as a direct consequence of the move to a competitive market, such as employee retraining.

#### **Calculation and Recovery**

The total amount of stranded cost is highly uncertain. Estimates range from zero to hundreds of millions of dollars. Even though the ACC's deregulation plan allows for stranded cost recovery using exit fees and mandates using mitigation measures, full recovery of stranded costs is possible but not assured. The ACC approved a plan with 4 options for stranded cost recovery. To date there have been three utilities in Arizona who have had restructuring and stranded cost plans approved. They are Tucson Electric Company, Arizona Public Service and Tucson Electric Power. Details of their approved plans include:

- Tucson Electric Company will recover 100% of its stranded costs.
- Arizona Public Service will recover \$350 million of its \$533 million in stranded costs. This will be accomplished using a competitive transition charge (CTC) that decreases annually over a 5-year period.
- Navopache electric Cooperative's share of stranded cost recovery due to the sale of assets by Plains Electric Transmission and Generation are \$11.8 million to be collected over 10 years.



- Tucson Electric Power is recovering its stranded costs with a two-part competition transition charge. One part of the competition transition charge is a fixed charge of \$0.93/kWh, which will recover \$450 million. The second part is a variable charge that will recover an additional \$183 million in stranded costs. The variable charge will fluctuate with market prices. The ACC is allowing Tucson Electric Power's recovery of stranded costs to be transitioned to 2008. The utility has estimated its stranded costs to be between \$475 million and \$1.1 billion.

## **CUSTOMER SERVICE ISSUES**

Arizona Corporate Commission (ACC) Rules Article 16, Retail Electric Competition, contains the consumer protection requirements.

### **Customer Education Campaigns**

The rules prescribe that competitive electric providers file quarterly residential phase-in program reports within 45 days of the end of each quarter through the end of 2002. The report will provide a number of items that include a description and examples of all customer education programs and other information services.

Competitive utilities will be allowed to impose a nonbypassable rate to recover the applicable cost of what they call Systems Benefits. Systems Benefits as defined by the ACC include commission-approved utility low income, consumer education, environmental, renewables, long-term public benefit research and other programs that may be approved by the Commission from time to time. The utilities will have to file for review of this charge at least once every three years. The amount and recovery mechanism to be recovered shall be determined on a utility-by-utility basis and approved by the ACC after a formal hearing.

## **CUSTOMER PROTECTION**

### **Slamming and Cramming**

Specific requirements are included to avoid slamming. Utilities must have written authorization by the consumer in order to switch their electric service provider. If a consumer is switched to a different provider without their written authorization, then the new provider must switch the customer back and bear all costs associated with the switching. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate. Specific requirements and restrictions apply to the written authorization form requesting electric service from a new provider.

A residential customer may rescind authorization to change providers of electric service within three business days, without penalty, by providing written notice to the provider.

## **PUBLIC BENEFIT ISSUES**

Each affected utility or utility distribution company must file for Commission review nonbypassable rates or a related mechanism to recover the applicable pro-rata costs of System

Benefits from all consumers located in the Affected Utility's or Utility Distribution Company's service area. Affected Utilities or Utility Distribution Companies must file for review of the System Benefits Charge at least every 3 years. The amount collected annually through the System Benefits Charge must be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits. Each Affected Utility or Utility Distribution Company must provide adequate supporting documentation for its proposed rates for System Benefits.

"Systems Benefits" means Commission-approved utility low income, demand side management, Consumer Education, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs, and other programs that may be approved by the Commission from time to time.

An Affected Utility or Utility Distribution Company may recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

#### **Environmental Programs (renewable programs or portfolio standards)**

Tucson Electric Power (TEP) is offering a new program, "Green Watts," that allows customers to purchase blocks of 20 kWh monthly for a price of \$2.00 and additional blocks for \$1.50. The power will be generated using landfill gas (methane) from Tucson's Los Reales Landfill in TEP's Irvington Generation Station. The proceeds of the program will be used exclusively to construct, maintain, and operate solar electric generating facilities in Arizona.

Under the Solar and Environmentally Friendly Portfolio Standard, electricity providers will have to derive 1.1 percent of their total product from renewable resources by 2007. The cost of solar power generated electricity will be paid for, in part, by per-month surcharges, the maximums of which are 35 cents for residential electric bills and a \$13-per-meter charge for most businesses. The largest businesses will pay \$39 per month more. Other funds will come from a systems benefit charge, which customers are now paying for consumer-education programs. APS says its Solar Partners program, which charges customers a premium for power generated from small solar plants in Tempe and Flagstaff, has been a tremendous success. It has more customers than available product.

#### **RELIABILITY**

Each electric service provider shall be responsible for meeting (existing) applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service.

Any electric service provider intending to supply competitive services must obtain a Certificate of Convenience and Necessity from the Commission pursuant to the electric restructuring

language. The utility must provide a lengthy amount of information along with its application. The utilities are required to provide semi-annual reports to the commission on a number of items including reliability.

The Commission supports the development of an Independent System Operator (ISO) or absent an ISO, an Arizona Independent Scheduling Administrator (AISA). The AISA will implement a transmission planning process that includes all AISA participants and aids in identifying the timing and key characteristics of required reinforcements to Arizona transmission facilities to assure that the future load requirements of all participants will be met. Each affected utility must make a good faith effort to develop a regional, multi-state ISO, to which the AISA would transfer its relevant assets and functions as the ISO becomes able to carry out those functions.

### **PUC ROLE DURING RESTRUCTURING**

The Arizona Corporation Commission (ACC) issued a draft order to restructure the electric industry in 1996 and issued final rules in 1998. Also in 1998, the Legislature affirmed the ACC's authority to require utilities to open territories to retail competition. Thus, the ACC has established all aspects of Arizona's electric restructuring and is approving the transition plans submitted by each utility.

### **PUC ROLE AFTER RESTRUCTURING**

The ACC has imposed reporting requirements on the utilities participating in the electric restructuring program. Reports covering numerous items must be submitted to the ACC by affected utilities or utility distribution companies. These reports must include information pertaining to competitive service offerings, unbundled services, and standard offer services in Arizona. Details of the information to be reported are included in the description of Arizona's follow-up requirements.

### **FOLLOW-UP**

The Arizona Corporation Commission (ACC) has imposed reporting requirements on utilities participating in the electric restructuring program. Reports covering the numerous items must be submitted to the ACC by affected utilities or utility distribution companies and all electric service providers granted a Certificate of Convenience and Necessity. These reports must include information pertaining to competitive service offerings, unbundled services, and standard offer services in Arizona.

For the period through December 31, 2003, semi-annual reports are due on April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The first such report will cover the period January 1 through June 30, 1999. For the period after December 31, 2003, annual reports will be due on April 15 (covering the previous period of January through December). Any electric service provider that fails to file

required data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate rescinded by the Commission. Discontinuation of any competitive tariff must be reported to the ACC as soon as practicable after the decision to discontinue offering service is made. Electric service providers must participate in Commission workshops or other forums to evaluate competition or assess market issues.

# ARKANSAS

## RESTRUCTURING AUTHORITY

### Law

The Electric Consumer Choice Act of 1999 (Act 1556) was passed April 15, 1999. The law states that retail competition should be established by January 1, 2002, but no later than June 30, 2003.

### Applicability

Competition is not mandated for municipally owned systems. "Municipal electric utilities which choose to participate in retail open access may do so under such terms and conditions as they, in their sole discretion, deem appropriate at any time, after the retail open access date determined by the commission in §23-19-103, by adoption of an appropriate ordinance or other local enabling legislation by its governing body."

The section of the Arkansas Code dealing with Rural Electric Cooperatives was repealed by Act 1556. Under the new legislation, Rural Electric Cooperatives will become organizations of cooperative, nonprofit, membership corporations for the purpose of any of the following: (1) furnishing electricity to persons, or (2) assisting in the acquisition, supply, or installation of electrical equipment in the premises of persons in rural areas or to other corporations organized under the amended Arkansas Code (subchapter 23-18-306).

### Plan submittal by utility

The PSC has been holding informal preliminary meetings on the market power issue since late 1999. A generic docket was established in February of 2000, entitled *In the Matter of the Generic Proceeding to Establish Filing Requirements and Guidelines Applicable to Market Power Analysis* (Docket No. 00-048-R). Tasks identified in the docket's schedule of events follow.

First, the Arkansas Public Service Commission will held a hearing to determine filing requirements and guidelines. Order establishing market power analysis filing requirements and guidelines was issued June 27, 2000.

Second, each electric utility will file a Market Power Study by October 15, 2000; testimony will be taken from staff and intervenors, and the companies will file rebuttal testimony. Public hearings will take place in February of 2001. The Commission will make its determination and issue an Order by April 10, 2001.

Third, those companies found to possess market power, will be required to file a Market Power Mitigation Plan by June 8, 2001. Mitigation measures may include, but are not limited to, price caps, transitional standard offers, generation sale through long-term contracts, and asset divestiture.

Finally, once the market has become competitive, the PSC may revoke or revise market power mitigation measures.

## **MARKET STRUCTURE**

### **Affected Customers**

Retail customers of investor owned utilities will be able to choose their electric provider, if there is a competitor willing to serve them. If the customer chooses not to select another provider, he may remain with the incumbent, which Act 1556 requires to serve him.

### **Customer classes**

Legislation refers to all retail customers.

### **Dates**

Retail customers will be able to choose their electric provider on January 1, 2002. The Commission may delay implementation of retail open access for any particular utility or utilities for 90 days, and for successive 90 day periods thereafter, but not beyond June 30, 2003.

### **Phase-in**

Unbundled rates will be phased in and will begin appearing on retail customers' bills July 1, 2001. However, customers will not be able to choose their electric provider for six more months.

### **Customer choice**

Retail customers will be able to choose their provider on January 1, 2002.

## **MARKET POWER**

### **Divestiture of Assets**

A retail bill for electricity in Arkansas is estimated to be comprised of 60% generation, 35% distribution, and 5% transmission. Distribution will continue to be provided by the customer's existing electric company and will remain regulated by the Arkansas Public Service Commission. The Federal Energy Regulatory Commission (FERC) will continue to regulate the rates for the transmission of the electricity from the power plant to the substation. However, generation, the most costly component of the electric bill, will become competitive when customers are permitted to choose which company they wish to buy power from. The generation price will then be set by the marketplace.

### **Sale**

The commission will continue to have the authority to order the recovery of nuclear decommissioning costs, or the refund of any over-recovery of such costs, and generation costs that are part of an electric utility's rights and obligations under any wholesale power sale agreement or tariff approved by a federal regulatory authority as components of a competitive transition charge.

### **Functional Unbundling**

Utilities were required to file rates and tariffs, supported by a current cost of service study, to unbundle rates into the minimum functional components of generation, transmission, distribution and customer service operations by January 3, 2000.

Act 1556 requires each electric utility to functionally unbundle its business activities from one another as follows: (1) Generation facilities, operations, services, and rates; (2) Transmission facilities, operations, services, and rates; and (3) Distribution and customer services facilities, operations, services, and rates. The functional separation (unbundling) may be accomplished by creating separate divisions or departments, nonaffiliated companies, separate affiliated companies owned by a common holding company, or through a sale of assets to a third party.

### **Transmission Operating Company**

The legislation requires transmission companies to participate in a regional transmission organization, upon FERC approval of such an organization in Arkansas or a region which includes Arkansas. Each electric utility doing business in the state that owns or controls facilities for the transmission of electricity (or rights to the transmission of electricity, or is affiliated with an entity that owns or controls transmission facilities), shall subject its transmission facilities or rights to operation by an independent transmission system operator, an independent transmission company, an independent regional transmission group, or other independent transmission entity if one or more such organizations have been approved by the FERC.

### **Rate Reductions**

Rates charged to residential and small business customers electing to remain with the incumbent provider are frozen for one year. However, if the provider is permitted to recover stranded costs, the rates are frozen for three years.

For the first year immediately following retail open access, the rates of residential and small business customers electing to remain with the incumbent provider will be frozen at the same level as the preceding year. After the first year, the incumbent must offer residential and small business customers within its distribution territory a standard service package at a fixed rate. The incumbent provider will have to demonstrate to the PSC that the rates for its standard service package are consistent with competitive market prices. The Commission will hold hearings to establish the methods and procedures for this demonstration.

If an incumbent provider is permitted to recover stranded costs, its standard service package rates are fixed for three years and cannot exceed the rates charged prior to open access, including any customer transition charges.

## **STRANDED COST**

Utilities were required to file notice of intent to seek recovery of stranded costs by December 31, 1999. After a utility has completed all transfers of assets or sale of capacity authorized by the commission, it must file for determination of its net retail stranded costs, if any. This should include stranded costs associated with any assets it may have retained, and all other stranded costs. The commission will hold a hearing to determine the amount of net retail stranded costs.

The utility should propose the method(s) it wishes to use for determining the value of its stranded costs and request approval to implement recovery in a filing with the PUC. Recovery will be allowed under any of the following methods or a combination of these methods: (1) Sale of Assets; (2) Stock Valuation; (3) Capacity Sale; and, (4) Other methods that the Commission may determine are reasonable and practical.

### **Calculation and recovery**

Stranded costs include non-recurring costs or investments incurred by an electric utility that are found to be necessary to carry out the electric utility's responsibilities associated with the transition to, or the implementation of, retail open access. Recovery begins July 31, 1999 and extends through two years after the implementation of retail open access.

## **CUSTOMER SERVICE ISSUES**

The Arkansas Public Service Commission (APSC) has opened several rulemaking dockets to establish consumer protection standards and consumer education guidelines based on the electric restructuring legislation which was passed in 1999.

### **Standard Service Provisions and Policies**

The APSC established a docket to develop uniform policies and guidelines for approval of standard service package rates and/or the implementation of competitive bidding practices. The APSC will establish minimum standards for the form and content of the information to be provided to retail customers so that they may use it to make an informed choice. In addition to information on rates, information on the generation mix and environmental effects of generation will also be supplied.

### **Default Service Provisions and Policies**

After implementation of retail open access, each incumbent electric utility, or retail affiliate shall offer a standard service package (within its service territory) based upon conditions set by the APSC, until the customer elects an alternate provider or when no alternate provider is available. The utilities default rates must be consistent with competitive market practices. The APSC will establish procedures for determining default rates after hearings. Standard service package rates for residential and small business customers are frozen for one year at the same level as rates for comparable service provided prior to restructuring.



**Load Aggregation Policies**

A generic docket has been opened to establish licensing requirements for aggregators.

**Customer Education Campaigns**

The APSC staff will work with utilities and others to develop a plan, and a generic docket will be opened if necessary.

**Competitive Metering and Billing**

After hearings were held, the Commission determined the following services to be competitive: bill production and issuance, payment processing and collections, and the call center functions related to bill production and issuance and payment processing and collections. In addition, the Commission required electric utilities to implement electronic data systems in accordance with the guidelines developed in a related docket. The Commission also declared its intent to establish uniform billing practices for all utilities across the state and stated that energy service providers shall have the option of providing consolidated billing for an electric utility which is serving the billing energy service provider's customer.<sup>4</sup>

**Load Profiling Requirements**

These issues are being addressed in a rulemaking proceeding dealing with electronic data exchange among utilities.

**CUSTOMER PROTECTION**

The retail customer's payment records and usage data are confidential unless the customer consents to its release. Companies may provide this information in the aggregate.

**1. Slamming and Cramming**

The legislation states "A retail customer's chosen provider should not be changed without the retail customer's informed consent..." The legislation requires the APSC to adopt more specific protections through rulemaking on or before the date that retail open access begins.

**2. Deceptive Practices**

The legislation states "A retail customer should be entitled to truthful and reasonable marketing and sales practices..." The legislation requires the APSC to adopt more specific protections through rulemaking on or before the date that retail open access begins.

**3. Privacy and Advertising**

The legislation requires the APSC to adopt specific protections through rulemaking on or before the date that retail open access begins.

**4. Customer Complaint/Redress**

The legislation requires the APSC to adopt specific protections through rulemaking on or before the date that retail open access begins.

**5. Provider of Last Resort**

After implementation of retail open access, each incumbent electric utility, or retail affiliate shall offer a standard service package (within its service territory) based upon conditions set by the APSC, until the customer elects an alternate provider or when no alternate provider is available.

**6. Product Disclosure**

The legislation states “A retail customer should be entitled to truthful and reasonable marketing and sales practices..... including the disclosure of the environmental effects of the generation being supplied ...” The legislation requires the APSC to adopt more specific protections through rulemaking on or before the date that retail open access begins.

**7. Universal Service**

The legislation requires the APSC to adopt rules to evaluate the impact of competition on low income programs.

**8. Rules on Energy Service Companies**

Specific rules will be developed by the APSC.

**9. Disconnection Procedures**

The legislation contains protections for extreme weather, medical emergency and disconnection, as well as for nonpayment of unrelated services.

**PUBLIC PURPOSE PROGRAMS**

Act 1556 requires the Arkansas Public Service Commission to adopt appropriate rules by a date certain (to be set by the Commission) for the implementation of retail open access to promote several goals. One such goal is to “Evaluate the impact of competition on renewable energy development and on low income and energy efficiency programs.” No time line for such an evaluation has yet been set.

**RELIABILITY**

Arkansas legislation requires any utility company that owns or controls transmission facilities to subject its transmission facilities to and participate in an independent transmission company, an independent regional transmission organization or other similar such organization that may have been approved by the FERC for Arkansas or the region.

The state commission will retain jurisdiction over energy service providers who sell, broker, market or aggregate electricity to or for the public in Arkansas. Such service providers will be required to obtain a license from the commission before they can do business in the state. The commission may require service providers to file such reports as they choose to prescribe by rule. Generation suppliers will be required to obtain a license from the commission prior to doing

business in the state. The commission has issued rules to establish appropriate standards and procedures for licensing energy service providers, as well as enforcement provisions. Finally, the commission will provide annual reports to the legislature on the impact of competition, including system reliability.

### **Rule Development**

Act 1556 states retail open access shall be implemented by electric utilities on January 1, 2002. The Act grants authority to the Arkansas Public Service Commission (PSC) to delay the implementation of retail open access for 90 days, and for successive 90 day periods thereafter, but not beyond June 30, 2003. No later than one hundred eighty (180) days prior to the implementation of retail open access, the PSC is required to issue rules and regulations establishing appropriate standards and procedures for licensing energy service providers. Included in these rules and regulations will be procedures for enforcing these standards.

### **Enforcement Activities**

The enacting legislation gives the PSC jurisdiction over all electric utilities, municipal corporations owning municipal electric utilities which elect to offer retail open access, and energy service providers in enforcing rules. The PSC may impose civil sanctions for failure to comply with rules or orders adopted pursuant to the legislation, including revocation or suspension of certificate of a utility or energy service provider.

### **Customer Service**

The enacting legislation requires the PSC to adopt appropriate rules on or before the date determined by the PSC for the implementation of retail open access to promote the following goals: access to the grid at reasonable terms and conditions; access to safe, reliable, and affordable electricity, including protection against service disconnections in extreme weather or in cases of medical emergency or nonpayment for unrelated services; confidentiality of billing, usage and payment records; accurate and understandable bills; no change of provider without retail customer's informed consent; continuity of service provider; and, access to sufficient information to make an informed choice of service provider, including but not limited to information on rates.

In addition, the legislation requires the PSC to establish minimum standards for the information to be disseminated by an electric utility or energy service provider, including standards for the disclosure of the environmental effects of the generation being supplied. The legislation also requires the PSC shall adopt, after notice and hearing, such other rules and regulations as it deems appropriate, including without limitation, rules governing promotional practices relating to regulated services offered by electric utilities and rules for interconnection to transmission and distribution facilities.

### **Rate Regulation**

No later than ninety (90) days before the date for retail open access, the PSC shall have adopted rules requiring every electric utility in this state owning or operating distribution facilities to provide distribution service to all persons at rates, terms of access, and conditions that are just,

reasonable, and non-discriminatory.

## **FOLLOW-UP**

By January 15, 2001, 2003, and 2005, the PSC must report to the General Assembly on the progress of the development of competition and its impact on retail customers. In addition, this report must include comparisons of average rates charged to residential customers in different regions of the state.

# CALIFORNIA

## RESTRUCTURING AUTHORITY

### Law

In 1996, the California legislature enacted AB 1890 to restructure the California electric utility industry and implement retail access for the investor-owned utilities.

During the summer of 2000, SDG&E experienced a tremendous increase in their electric bills. This was caused by a number of factors. First, there are insufficient numbers of power plants in California, forcing the state to import 25 percent of its electricity from neighboring states. There are two major reasons why no new power plants have been built in California in the last decade or more. One reason is that public utilities have been required by Federal order to purchase a portion of their power from independent power companies and the second reason is that investor-owned utilities have not built new facilities due to regulatory uncertainty caused by electric restructuring. In addition, the booming economy in the West and California has placed enormous strain on existing generating capacity because that economy has been fueled by high-tech industries that not only consumes a great amount of electricity but also produces goods that run on electricity.

Finally, utilities such as SDG&E are required under California's electric restructuring law to purchase all of their power through the California Power Exchange. While that exchange offers forward markets where contracts for blocks of power can be negotiated well in advance of expected need, it is still a commodities market. Much of the power bought and sold is in its "real-time" or spot market, which is extremely volatile. That market, which should account for only about 2 percent of the power bought and sold, accounts for perhaps a quarter. Also, the investor-owned utilities are prevented by law from entering into long-term bilateral contracts under which they would be guaranteed electricity at a negotiated price.

As a result of the price spikes, the California legislature sent a package of three interrelated bills to the governor, the first of September 2000, to cap rates for customers of SDG&E, set up a \$150 million fund that the state PUC can tap to keep the utility's deferred high wholesale electricity costs from increasing rates more than 10%, and create a task force to speed construction of new, clean generating plants in the state. Each of the measures was passed unanimously or by very large majorities. The governor is expected to sign the bills into law, none of which will become effective unless all are enacted.

### Applicability

Municipal utilities are not required to open their markets to competitive electric service providers, but are expected to participate eventually because of customer pressure for lower rates. The law provided provisions for the creation of an ISO and PX; and mandated a 10% rate reduction. Initially, the California PUC issued an order to restructure the electric power industry by phasing-in retail competition, however, they amended the plan to allow retail access for all consumers

simultaneously, beginning in early 1998.

## **MARKET STRUCTURE**

California does not plan to stop with just retail competition. In June of 1999, the California PUC began public hearings on opening distribution services to competition. The process of opening distribution services to competition is likely to prove as complex as the opening of generation services has, with some suggesting that waiting until the transition period for moving generation to competition is completed before attempting to open distribution to competition.

### **Phase-in**

On March 31, 1998, California was opened to retail competition. The original start date was January 1, 1998, however, the start date was delayed by three months to allow time to test the reliability of the new computer systems. As of May 1999, the California PUC reported that 135,493 customers (about 1.3%) switched electricity providers. The breakdown by customer class is 92,904 residential consumers or about 1.1%; 26,942 small commercial (2.8%); 11,652 large commercial (5.9%); 1,002 large industrial (20.6%); 2,977 agricultural (2.5%); and 16 unknown.

## **MARKET POWER**

### **Divestiture**

It appears that the California Legislature is requiring the utilities to sell off their generation assets. As of September 1999, Pacific Gas & Electric (PG&E) had plans to sell its hydroelectric assets in California, which includes 68 power plants and 94 dams. PG&E had tried to convince the California legislature to allow them to move the plants to an unregulated subsidiary, but the legislature rejected that plan. However, PG&E may revisit the legislature with the idea of moving the plants to a subsidiary.

### **Functional unbundling**

In 1998, the California PUC issued the final order officially opening the electric industry market to competition for all consumers in investor-owned utilities' service territories. Control of 70% of the State's transmission lines was transferred to the California ISO. The Legislature stated that in order to achieve meaningful wholesale and retail competition in the electric generation market, it is essential that they do the following: (1) separate monopoly utility transmission functions from competitive generation functions, through development of independent, third-party control of transmission access and pricing; (2) permit all customers to choose from among competing suppliers of electric power; and, (3) provide customers and suppliers with open, nondiscriminatory, and comparable access to transmission and distribution services.

### **Transmission Operating Company**

The California Legislature directed the creation of two state chartered nonprofit market institutions:

A **Power Exchange** charged with providing an efficient, competitive auction to meet electricity loads of exchange customers, and open on a nondiscriminatory basis to all electricity providers; and

An **Independent System Operator** with centralized control of the statewide transmission grid, charged with ensuring the efficient use and reliable operation of the transmission system. The Independent System Operator also has the function of securing the generation and transmission resources needed to achieve specified planning and operational reserve criteria. The Legislature created a five-member Oversight Board comprised of three gubernatorial appointees, an appointee of the Senate Committee on Rules and an appointee of the Speaker of the Assembly to oversee the two new institutions and appoint governing boards that are broadly representative of California electricity users and providers.

A.B. 1156, passed in September 2000, creates a subaccount to the state's Special Fund for Economic Uncertainties in the amount of \$150 million, which the PUC may use to pay shortfalls accrued by SDG&E if the rate cap ultimately results in a surcharge to recover the shortfalls that exceed 10%. This amount may only be used to offset such revenue shortfalls that are "directly linked to Power Exchange costs."

## **RATE REDUCTIONS**

The California Legislature ordered that an immediate rate reduction of no less than 10% for residential and small commercial ratepayers should go into effect with electric restructuring. In September 1999, the California PUC ended the mandatory 10% rate reduction for San Diego Gas & Electric (SDG&E) since the transition period for SDG&E ended with recovery of all stranded costs and the end of the CTC for consumers. Shortly after rates in SDG&E's service territory were unregulated, they increased dramatically during the summer of 2000.

In response to SDG&E's rate increases, September 1, 2000, the California legislature passed A.B. 265, which caps the energy charges at 6.5 cents per kWh for SDG&E's residential and small commercial customers retroactive to June 1, 2000, through December 31, 2002. The bill also requires the utility to offer a voluntary levelized payment plan to large commercial, agricultural, and industrial customers that caps the energy portion of their bills at 6.5 cents/kWh with a true-up of uncollected amounts within a year. It also, requires the PUC to investigate the reasonableness and prudence of SDG&E's "procurement of wholesale energy on behalf of its customers."

## **STRANDED COST**

### **Definition**

The California Legislature stated in Assembly Bill 1890 that it is proper to allow electrical corporations an opportunity to recover those costs associated with generation-related assets and obligations, including costs associated with any subsequent renegotiation or buy out of existing generation-related contracts that may not be recoverable in market prices in a competitive generation

market. In determining the costs to be recovered, it is appropriate to net the negative value of above market assets against the positive value of below market assets.

### **Calculation and recovery**

California is one of the few states that has actual experience with recovering stranded costs. They determined that stranded costs should be allowable and should be recovered through a Competition Transition Charge (CTC) to each customer on kWh basis. The CTC appears on California Consumer's bills along with another charge that finances the securitized assets that provided a mandated 10% rate reduction.

California is requiring the utilities to divest themselves of their generating assets. The money raised by these sales will be used to reduce stranded costs that are being recovered. In one particular case, the PUC ended the mandatory 10% rate reduction for San Diego Gas & Electric (SDG&E) since the transition period for SDG&E ended with recovery of all stranded costs and the end of the CTC for consumers. Rates in SDG&E territory are now unregulated. The utility stated that it expected rates to rise during the summer months. SDG&E's accelerated pay off of stranded costs left most of the monies raised through securitization to finance the 10% rate reduction with bonds unneeded. SDG&E plans to return some of the funds to small consumers. SDG&E also asked the PUC to end the rate cap, in order to allow a more competitive market to develop.

### **Securitization**

In September 1997, the legislature approved AB 360 which allowed utilities to issue \$7.3 billion in bonds (securitization) to pay off stranded investments.

## **CUSTOMER SERVICE ISSUES**

The California Legislature ordered that customers should receive no less than a 10 percent reduction in rates from 1998 through 2002. In order to achieve that reduction, the Legislature required and enabled the electrical corporations to monetize a portion of the competition transition charge for residential and small commercial consumers.

### **Customer Education Campaigns**

The California Electric Restructuring bill states that prior to the implementation of the competition transition charge, electric corporations, in conjunction with the commission, shall devise and implement a customer education program informing customers of the changes to the electric industry. The program provided customers with information necessary to help them make appropriate choices as to their electric service. The education program was subject to approval by the commission.

California's consumer education program included mass media, an Electric Education Call Center, local outreach and collateral materials in 14 languages. In 1996, a working group of 19 stakeholders called the Electric Restructuring Education Group (EREG) was established to oversee program development. They had a \$74 million budget and contracted with DDB Worldwide



Communications Group to create a comprehensive media campaign. In 1997, they disbanded the EREG and authorized the three utilities to implement the program under its own oversight. However, any materials developed by the utilities or its advertising agency had to be sent to the California PUC for approval.

### **Customer Protection - Deceptive Practices**

In March 1998, the California PUC issued regulations to protect consumers from fraud and market abuses. Competitive suppliers must provide clear information on price, service, and generation sources; use a standard bill format; provide proof of technical, operational, and financial capability; and post a \$25,000 bond.

### **Product Disclosure**

In the California Assembly Bill that approved electric restructuring, the Legislature expressed their intent to provide electricity consumers with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market, and to provide consumers with mechanisms to protect themselves from marketing practices that are unfair or abusive. To that end, the bill states that electrical corporations must disclose each component of the electrical bill as follows:

- (a) The total charges associated with transmission and distribution, including that portion comprising the research, environmental, and low-income funds.
- (b) The total charges associated with generation, including the competition transition charge.

## **PUBLIC PURPOSE PROGRAMS**

### **Environmental Programs (renewable programs or portfolio standards)**

As of July 1999 over 90% of customers who switch their electricity providers are receiving green power. Green power is electricity generated from environmentally acceptable methods, such as wind, solar, and geothermal. The California Public Utility Commission (CPUC) reports show customer requests for green power are up 90% from earlier in the year. A statewide credit for renewable energy purchases allows green power providers to offer renewable-based electricity at a price below that offered by the three major IOUs.

It was announced in September 1999 that the first commercial solar plant is planned to be owned and operated by GPU International in California. Once completed, the 132-kilowatt plant will sell power to Green Mountain.com, a leading brand of “green” electric power.

Senate Bill 90 was enacted to provide administrative guidelines for the renewables program under Assembly Bill 1890 (AB 1890). The California Energy Commission has been given authority to administer the funds collected for renewable energy technologies support. In AB 1890, California’s legislature provided a new method for funding public interest programs previously funded by electric utilities via the public goods surcharge. CPUC oversees administration of the public interest funds raised by a charge on customers bills per kilowatt-hour used (about 3.7 to 4.5

mills per kWh, depending on the class rate schedule). The CPUC appointed a board, the California Board for Energy Efficiency (CBEE), to develop and oversee energy efficiency programs.

A.B. 970 was passed September 1, 2000, by California's legislature, to speed development of new green resources and to require the PUC to adopt new demand-side management and conservation programs to reduce peak loads.

### **Energy efficiency and conservation**

In 1998, \$201 million was spent on energy efficiency programs. The 1999 budget was approximately \$254 million. Funding is authorized through 2000, at which time the CBEE will review the programs and decide whether additional funding is warranted. The funds collected for conservation will be allocated to the California Energy Resources Conservation and Development Commission for the purpose of:

- (1) Supporting the operation of existing and the development of new and emerging in-state renewable resources technologies.
- (2) Supporting the operations of existing renewable resources generation facilities which provide fire suppression benefits, reduce materials going into landfills, and mitigate the amount of open-field burning of agricultural waste.
- (3) Supporting the operations of existing, innovative solar thermal technologies that provide essential peak generation and related reliability benefits.

### **Low income assistance**

Programs provided to low-income electricity customers including, but not limited to target energy-efficiency services and the California Alternative Rates for Energy Program, shall be funded at not less than 1996 authorized levels based on an assessment of customer need. The commission shall allocate funds necessary to meet the low-income objectives in this section.

### **Research and development**

In AB 1890, the legislature established programs which would enhance system reliability and provide in-state benefits as follows:

- (1) Cost-effective energy efficiency and conservation activities.
- (2) Public interest research and development not adequately provided by competitive and regulated markets.
- (3) In-state operation and development of existing and new and emerging renewable resource technologies defined as electricity produced from other than a conventional power source and not utilizing more than 25 percent fossil fuel.

The revenues to fund these programs will be collected from the competition transition charge (CTC) which is to end on December 31, 2001. However, the legislature has approved extending the

CTC for up to three months to ensure that the aggregate portion of the research, environmental, and low-income funds allocated to renewable resources shall equal \$ 545 million.

## **RELIABILITY**

The California legislation specifically ordered their state created ISO to set reliability standards. The legislation states that reliable electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy. It is the intent of the Legislature that electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid. The legislation states: reliable electric service depends on conscientious inspection and maintenance of transmission and distribution systems. To continue and enhance the reliability of the delivery of electricity, the ISO and the Commission, respectively, should set inspection, maintenance, repair, and replacement standards.

With Assembly Bill 1890, the state Legislature directed the creation of a new market structure featuring two state chartered, nonprofit market institutions: a Power Exchange charged with providing an efficient, competitive auction to meet electricity loads of exchange customers, open on a nondiscriminatory basis to all electricity providers; and an Independent System Operator with centralized control of the statewide transmission grid, charged with ensuring the efficient use and reliable operation of the transmission system. The ISO was directed to seek federal authorization to perform its functions and to be able to secure the generation and transmission resources needed to achieve specified planning and operational reserve criteria.

The legislation states that it is the intent of the Legislature to require development of *maintenance standards* that will reduce the potential for outages and secure participation in the operation of the ISO by the state's independent local publicly owned utilities. There is another clause in the legislation that states that California should enter into a *compact with western region states*. That compact should require the publicly and investor-owned utilities located in those states, that sell energy to California retail customers, to adhere to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems.

There is a requirement set by the Legislature that in any proceeding involving the sale of a public utility electric generating facility, that the selling utility contract with the purchaser of the facility for the *selling utility*, an affiliate, or a successor corporation to operate and maintain the facility for at least two years. The Commission shall require the contracts to be reasonable for both the seller and the buyer.

The Commission was required to adopt inspection, maintenance, repair, and replacement *standards for the distribution systems* of investor-owned electric utilities no later than March 31, 1997. The standards, shall be performance or prescriptive standards, or both, as appropriate, for each substantial type of distribution equipment or facility, and shall provide for high quality, safe and reliable service.

## **PUC ROLE DURING RESTRUCTURING**

The PUC opened rulemaking and investigation proceedings with regard to restructuring California's electric power industry and reforming utility regulation. From that proceeding came the process in which electric restructuring followed. Unlike other states where the Public Utility Commission (PUC) was ordered by the legislature to create all the standards and rules for electric restructuring, California was different. The California legislature created an Independent System Operator and an Independent Power Exchange authorizing them to create the maintenance standards and a fair market environment. In addition, it created an Oversight Board. Thus, while the California PUC did not have to handle that aspect of electric restructuring, they did have a role in handling other matters such as:

- \* financing orders by the utilities,
- \* distribution system standards,
- \* penalties for non-compliance,
- \* environmental programs, and
- \* customer educations and protection.

## **PUC ROLE AFTER RESTRUCTURING**

In Senate Bill 477, the legislature required the Commission to annually determine the costs of administering the electric registration program, and other facets of consumer protection directly related to the direct access transactions of registered entities. The bill also requires the commission to compile and regularly update information on competitive market options to be available to consumers, and requires the commission to issue public alerts about unauthorized or fraudulent companies attempting to do business in the state.

While this is the only reporting requirement specified by the legislation, the California Commission has an extensive reporting structuring. Each month for the past four years it has prepared a status report on Electric Restructuring in California. Those reports are prepared for the Commissioners and are available to the public on their website. The report contains summaries of the latest Commission activities on the following eleven different topics: rate setting, transition costs, divestiture proceedings, market valuation, distributed generations and distribution competition rulemaking, direct access, FERC-related issues, public purpose programs, CEQA issues related to divestiture of Fossil Generation, reliability, and consumer education and protection.

## **FOLLOW-UP**

In California Assembly Bill 1890, the legislature ordered the California Commission to adopt inspection, maintenance, repair, and replacement standards for the distribution systems of investor-owned electric utilities. Once those were in place, then the Commission was ordered to conduct a review of those standards after every major outage. If the standards have not been met, the

Commission could order sanctions or monetary penalties. The monies collected will be used to offset funding for the California Alternative Rates for Energy Program.

In a subsequent bill, Senate Bill 477, the legislature required the Commission to annually determine the costs of administering the electric registration program, and other facets of consumer protection directly related to the direct access transactions of registered entities. The bill would also required the Commission to compile and regularly update information on competitive market options available to consumers, and to issue public alerts about unauthorized or fraudulent companies attempting to do business in the state.

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# CONNECTICUT

## **RESTRUCTURING AUTHORITY**

### **Law**

Public Law 98-28 entitled, "An Act Concerning Electric Restructuring" was signed on April 29, 1998.

### **Applicability**

The law permits a phase in of customers to select an alternative service provider. All customers will have a choice by July 1, 2000. Municipals may voluntarily participate but if they do, they must divest generation and unbundle transmission and distribution.

## **MARKET STRUCTURE**

Unbundled rates must appear on customer bills beginning July 1, 1999. The Connecticut DPUC will continue to regulate distribution companies. Distribution utilities will continue to provide all metering, billing, and collection services and act as supplier of last resort at regulated rates.

## **MARKET POWER**

### **Functional Unbundling**

Utilities are not mandated to divest their generation, but they must attempt to auction both fossil and nuclear units if they want full stranded cost recovery. Regardless, all generation assets must be unbundled and placed in a separate affiliate by October, 1999.

With respect to market power, the DPUC, along with Connecticut's Office of Consumer Council, will monitor any anticompetitive practices. These offices may hire consultants to assist with this obligation. All retail suppliers will pay an annual assessment fee for such market monitoring activities. Interestingly, the retail access statute has a threshold such that if residential rates increase more than 3% above the 1996 rate differential with the industrial class, an investigation by the DPUC and OCC is mandated.

### **Independent System Operator**

The legislation did not mandate an ISO but assumed Connecticut utilities would continue to participate in the New England ISO. The New England ISO was conditionally approved by the FERC in June 1997.

### **Rate reductions**

From 2000 to 2004, the distribution utility will provide standard offer service for all customers not selecting a new provider with a 10% rate reduction below 1996 rate levels. Such rates may be adjusted for taxes and changes in utility system costs.

## **STRANDED COST**

### **Definition**

The Connecticut law permits the recovery of three kinds of stranded costs: 1) above market costs of generation 2) regulatory assets including deferred taxes, conservation programs, and other DPUC approved programs and 3) cogeneration contracts entered into before January 1, 2000. Utilities are not required to divest their plants in order to obtain stranded cost recovery, but they must attempt to auction both fossil and nuclear plants if they want full recovery of stranded costs. Minimum acceptable bids will be prepared by the Connecticut PUC, and the difference between bid and net book values becomes the basis for administratively determining stranded costs. Nuclear plants do not have to be sold or to even receive acceptable bids in order to be eligible to receive stranded cost recovery.

The Act does require all mitigation efforts be made including obtaining commitments from purchasers of generation to offer jobs to existing employees and good faith efforts to buy down cogeneration contracts.

### **Calculation and Recovery**

A competition transition assessment (CTA) will be developed after netting any proceeds from above book value sales and sales of other company property. Recovery of the CTA will be through 2004. The CTA is to recover both securitized and non securitized costs.

Connecticut will use a market based auction approach to estimate generation costs. For non nuclear units the difference between bid price and book will be the basis for estimation.. For nuclear generation, this same method will be used, unless no bids are received. In which case, stranded costs will be estimated administratively based on the value of a “prudent and efficiently” run similar plant.

Finally, for any self generators, the DPUC will design an exit fee to recover their portion of stranded costs.

### **Securitization**

No securitization is permitted under Connecticut’s restructuring process for generation assets. However, regulatory assets, mitigation costs, and above market QF contracts are eligible for such securities. All such bonds must mature by December, 2011.

## **CUSTOMER SERVICE ISSUES**

### **Standard Service Provisions and Policies**

Standard Offer Service: Distribution companies from January, 2000 through December 31, 2003 must offer standard offer service to all customers who do not elect another provider. Rates for this service must be 10 percent lower than the rates in effect in December, 1996.



**Default Service Provisions and Policies**

The consumers office and the DPUC must submit a report to the General Assembly by January 1, 2002 with a list of recommendations.

**Load Aggregation Policies**

Aggregation is permitted under Connecticut's restructuring law. Aggregators must be licensed and must demonstrate that they have the technical and managerial competence to perform which includes maintaining bonding or other security. These requirements do not apply to municipals that aggregate customers within its boundaries.

**Shopping Credit Computation**

Connecticut does not use a shopping credit approach.

**Customer Education Campaigns**

The Department began to implement an outreach program January 1, 1999. The Consumer Counsel will name the members of the Consumer Education Advisory Council no later than December 1, 1998. The Department retained a consultant to assist in developing and implementing the public education and outreach program. The scope of services for this consulting function continues to December 31, 2000. The distribution utilities pay for all education and outreach cost until July 4, 2000, at that time these programs will be funded from the system benefit charge fees.

The Department has begun surveying about a dozen states regarding their education and outreach programs. A docket will be established for the legislative report but not for the development or implementation of the outreach and education plan.

**Competitive Metering and Billing**

The original Act did not permit competitive metering and billing but directed the DPUC to study the issue. The DPUC decided that all metering and billing costs can be assigned to distribution rates only and, to the extent possible, individual customer cost for metering and billing will be assigned directly to these customers. The DPUC will revisit the competitive metering issue if and when these services become competitive.

**Load Profiling Requirements**

The DPUC has not adopted final rules on this issue.

**CUSTOMER PROTECTION**

**Slamming and Cramming**

A distribution company can not change a customer's energy supplier unless 1) the change is verified by a third party 2) the customer requests the change in writing or 3) the customer requests the change via electronic means. Customers have 3 business days to rescind their request.

**Deceptive Practices**

Suppliers must not engage in deceptive practices and must comply with all federal telemarketing requirements.

**Privacy and Advertising**

Unless a customer notifies the local distribution company to the contrary, the customer's name, address, phone, and rate class may be released without discrimination. Release of any other customer information requires affirmative permission of the customer.

**Customer Complaint/Redress**

The DPUC has not yet adopted policies to address this issue.

**Provider of Last Resort**

The consumers office and the DPUC must submit a report to the General Assembly by January 1, 2002 with a list of recommendations.

**Product Disclosure**

Suppliers must give customers information on the rates, terms, conditions of service, and information about the environmental characteristics of their generation. The DPUC must develop a standard billing format to enable customers to compare prices between suppliers.

**Universal Service**

HB 5005 requires that the state Office of Policy and Management must purchase electricity for state offices under a pool arrangement. The bill entitles certain income qualified families to purchase their electricity at the same rate as the state offices. Moreover, the system benefit charge is required under HB 5005 and on a case by case basis, the DPUC will require some portion of the system benefit charge to be used for low income and emergency disconnect programs.

**Rules on Energy Service Companies**

After 1/1/00, no person or municipality can sell electric generation services to end users through a distribution company's wires unless the DPUC has issued them a license. Specific licensing requirements have been established.

**Disconnection Procedures**

HB 5005 requires distribution companies and alternative energy providers to abide by the same rules against unfair and untimely disconnection that incumbent utilities must currently follow.

**PUBLIC PURPOSE PROGRAMS**

System benefit charges are addressed in Public Act 98-28 (The Act) . Beginning January, 2000, the Department of Public Utility Control (DPUC) is to set charges to cover consumer education, low income energy conservation, nuclear decommissioning and fuel storage, worker protection, and payments to municipal governments.

### **Renewable Energy Resources Program**

The Act specifies that electric suppliers must provide at least 0.5 percent of their power from renewables. This percentage increases to 6 percent by 2009. A 0.05 ¢/kWh charge is imposed for a Renewables Energy Investment Fund which increases to 0.1¢/kWh in 2004. Environmental disclosure with respect to fuel source types must be provided on billing statements.

### **Energy Efficiency Program**

An additional 0.3 ¢/kWh charge is imposed for funding energy efficiency programs. In October, 1999, the DPUC approved CL&P's proposal to include a conservation and load management charge of three mills per kWh in its standard offer rates. CL&P estimated that it would collect in 2000 approximately \$67 million as a result of this charge. Also approved by the DPUC in October, 1999 was UI's assessment of a conservation and load management charge of three mills per kWh on all customers beginning 1/1/00.

### **Low Income Energy Assistance Fund**

A system benefits charge is to be used to fund, among other costs: 1) The cost of hardship protection measures including, but not limited to, electric service bill payment programs, funding and technical support for energy assistance, fuel bank and weatherization programs and services; and 2) Low income conservation programs approved by the DPUC.

## **RELIABILITY**

Pursuant to Connecticut General Statutes § 16-50r, the Connecticut Siting Council (Council) is authorized to review the State's electric utilities' Twenty-Year Forecasts of Loads and Resources, including their plans to balance public demand for safe, reliable, and cost-effective electricity with an efficient mix of programs and resources to meet this demand.

The PUC will continue to have responsibility for licensing alternative energy providers and will continue to have jurisdiction over distribution reliability. The criterion of a determination of public need and environmental effects for siting decisions has been changed to determination of public benefits and environmental effects. A public benefit exists if such a facility is necessary for the reliability of the electric power supply of the state or for a competitive market for electricity. The period for the Connecticut Siting Council to review a siting application (from the time the application was filed to the time the council must issue a decision) has been reduced from 1 year, with the possibility of a 6 month extension, to 6 months, with an allowable 6 month extension. The law clarifies that the siting council can approve a new facility on the site of an existing facility with a declaratory ruling, as long as the siting does not pose any substantial adverse environmental effects. This declaratory ruling allows the siting council to streamline the certification proceeding. In these cases, they do not have to initiate a full certification proceeding.

ISO New England Inc. was established as a not-for-profit, private corporation on July 1, 1997 following its approval by the Federal Energy Regulatory Commission (FERC). The

organization immediately assumed the responsibility for managing the New England region's electric bulk power generation and transmission systems and administering the region's open access transmission tariff. The New England ISO either assumed or is in the process of assuming all the functions formerly performed by the New England Power Pool (NEPOOL). As the control area operator, NEPOOL had responsibility for all aspects of the minute-to-minute operation of the region's bulk power system, including: regulating system frequency; maintaining system voltage; managing interchange between NEPOOL and neighboring power systems; dispatching NEPOOL generating capacity to meet NEPOOL load obligations and reserve requirements; managing the dispatch of the NEPOOL transmission system; and coordinating daily transmission and generation outages. NEPOOL also provided many operational planning services in support of central dispatch (e.g., coordination of annual generator maintenance schedules, transmission facility outage scheduling, administration of bilateral contracts between NEPOOL Participants and non-NEPOOL entities, and short-term and long-term load forecasting).

The ISO does not have authority to construct new transmission facilities. This responsibility remains with the individual utilities. In addition, ISO-New England systematically assesses each new electric generation facility requesting connection to the electric grid for transmission system reliability.

#### **PUC ROLE AFTER RESTRUCTURING**

HB 5005, Connecticut's restructuring legislation requires the Department of Public Utility Control to do the following as on-going responsibilities:

1. Perform annual adjustments of the competitive transition charge to recover stranded costs and bond reductions;
2. Impose and collect the system benefit charges as prescribed by HB 5005;
3. Issue licenses and set standards for energy service companies and aggregators;
4. Evaluate if demand side management is a viable alternative to upgrading the system, if a distribution utility seeks a rate increase;
5. Meet annually with the Commissioner of Environmental Protection to review state energy policy and objectives;
6. After 2002, provide annual report to the legislature on the status of competition in Connecticut and if the rate difference between commercial and residential customers exceeds a prescribed threshold the DPUC must open an investigation docket
7. Prepare an annual report on the numbers of displaced workers due to competition;
8. Investigate and resolve complaints from customers;
9. Approve energy efficiency programs funded by the system benefit charge;
10. Issue licenses to energy service companies, marketers and aggregators and ensure conformance with all rules and regulations;
11. Maintain a list of electric aggregators and make this list available to customers

#### **FOLLOW-UP**

HB 5005, Connecticut's restructuring legislation requires the Department of Public Utility Control to do the following, non-recurring activities in response to electric restructuring:

1. Adopt a standard billing format for all utilities to use such that it is understandable and provides required information;
2. Adopt standards and procedures for distribution companies to use when they offer standard offer service;
3. Conduct at least one hearing on the application of marginal cost pricing, such as real time rates, and determine its feasibility;
4. By January 1, 1999, establish a code of conduct for the activities of energy service companies and distribution companies;
5. By December 1998, provide a report to the Connecticut legislature on the DPUC's Consumer Outreach Program required under HB 5005;
6. By January, 2000, perform an investigation of the use of performance based rate making for distribution utilities.
7. By January, 2002, provide a joint study with the Consumer Council's Office on how best to structure default service.



# DELAWARE

## RESTRUCTURING AUTHORITY

### Law

On March 31, 1999 the Electric Utility Restructuring Act of 1999 was signed by the Governor. Settlement agreements with Conectiv (DP&L) and DEC (the two IOU's in Delaware) followed on 4/27/99 and 9/27/99, respectively.

## MARKET STRUCTURE

### Dates

For customers of DP&L, the implementation dates shall be as follows: October 1, 1999, for customers with a peak monthly load of 1,000 kW or more; January 15, 2000, for customers with a peak monthly load of 300 kW or more; and 18 months after enactment of this legislation for all other customers. For customers of DEC, the implementation dates shall be as follows: April 1, 2000, for customers with a peak monthly load of 1,000 kW or more; July 1, 2000, for customers with a peak monthly load of 300 kW or more; and 24 months after enactment of this chapter for all other customers.

## MARKET POWER

### Functional Unbundling

Only generation is to be competitive, with distribution and transmission continuing to have its exclusive retail service territories. Transmission and distribution utilities will not furnish these services to a customer located within the service territory of another electric distribution company.

### Rate Reductions

DPL has a rate freeze at the 9/30/99 level for non-residential customers from 10/1/99 to 9/30/02 (Transition Period), and a rate freeze at 9/30/99 level with a 7.5% decrease for residential customers from 10/1/99 to 9/30/03 (Transition Period), with adjustments for Commission-determined extraordinary events. DPL will file a rate case quality cost of service study and a proposal to reset its regulated rates by March 1, 2002. This would be applicable at the end of the transition period (9/30/02 for non-residential customers, 9/30/03 for residential customers). DEC has a rate freeze for all customers from 4/1/00 to 3/31/05 (Transition Period). By September 1, 2004, DEC will file a rate case quality cost of service study and a proposal to reset its regulated rates to be applicable at the end of the transition period (3/31/05 for all customers). After the transition period for each of the above utilities, the retail market price shall become the standard offer service price.

### Other

The PSC can allow competitive metering and billing in the Delmarva (DPL) area if

Delmarva requests, after the transition period from 10/1/99 to 9/30/02. DEC will continue to own and operate the meters and billing in its territory.

## **STRANDED COSTS**

### **Definition**

The PSC must establish procedures for periodic review of costs recovered through the Competitive Transition Charge. Amounts and methods of stranded and transition costs shall be decided by the PSC.

### **Calculation and Recovery**

Costs to be recovered are to be allocated in a manner that avoids, to the extent possible, inter-class or intra-class cross-subsidization.

## **CUSTOMER SERVICE ISSUES**

### **Standard Service Provisions and Policies**

Title 26, Chapter 10, §1006 of the Delaware Electric Utility Restructuring Act of 1999 governs Standard Offer rates and requirements. After the end of the transition period for Delmarva Power & Light Company (DP&L) and Delaware Electric Cooperative, Inc. (DEC), the retail market price shall become the Standard Offer Service price. For both DP&L and DEC, the retail market price for electric supply service (including losses to the customer's delivery point) shall be estimated and applied separately for each customer rate class for each year of the transition period. Such prices shall be based upon and/or representative of regional wholesale electric market prices, plus a reasonable allowance for retail margin to be determined by the Commission. Once established, such prices will not be changed by the Commission during the transition period, except as the result of an appeal of the Commission's decision.

Each Customer shall pay the separate applicable rates for transmission, ancillary, distribution, nuclear decommissioning and other services. Such rates shall not include any generation or electric supply costs. By March 1, 2002 (September 1, 2004 for DEC), DP&L shall file a rate case quality cost of service study and a proposal to reset its regulated rates to be applicable at the end of the transition period.

### **Customer Education Campaigns**

A total of \$250,000 will be collected from DP&L & DEC and apportioned based on 1998 kWh retail sales.

### **Competitive Metering and Billing**

During the transition period from 10/1/99 to 9/30/02, Delmarva will continue to own all meters and perform all meter reading functions. After the transition period, or earlier if DP&L requests, the PSC can allow competitive metering. DEC shall continue to own and operate meters and perform meter reading functions in its Commission-designated service territory.



Each Customer in DP&L service territory has the right to choose to receive separate bills from DP&L d/b/a Conectiv Power Delivery and from its electric supplier (if a separate billing is provided), or to receive a combined bill from either DPL or its electric supplier (if a consolidated billing option is provided), for electric supply, transmission, distribution, ancillary and other services. If the customer does not elect a billing option, DP&L will be responsible for billing the customer for electric supply, transmission, distribution, ancillary and other services, regardless of the electric supplier.

In its service territory, DEC will bill each customer for electric supply, transmission, distribution, ancillary and other services, regardless of the customer's electric supplier.

## **CUSTOMER PROTECTION**

### **Slamming and Cramming**

An electric supplier that causes a customer to be transferred to the electric supplier's service, without obtaining an executed, unrescinded contract will be deemed in violation of this Slamming Rule. In such a case, the electric supplier must void and/or refund any charges it has imposed on the slammed customer. The customer will only be liable to its authorized electric supplier for future service at a rate that is no more than the rate the customer paid before the slamming incident occurred.

## **PUBLIC PURPOSE PROGRAMS**

### **Environmental Programs**

The Delaware Commission reassigned to the separate transmission and distribution rates of each rate class from the total base rates, \$0.000095 per kilowatt-hour to be deposited each month by Delmarva Power & Light Company (DP&L) into an environmental incentive fund effective on October 1, 1999. This fund was established and is to be administered by the Delaware Economic Development Office, in consultation with the Division of the Public Advocate, and shall be used to fund environmental incentive programs for conservation and energy efficiency within DP&L's service territory.

### **Low income assistance**

The Delaware Commission reassigned to the separate transmission and distribution rates of each rate class from the total base rates, \$0.000095 per kilowatt-hour to be deposited each month by DP&L into a low-income program fund effective on October 1, 1999. This fund it to be administered by the Department of Health and Social Services, Division of State Service Centers and shall be used to fund low-income fuel assistance and weatherization programs within DP&L's service territory.

Conectiv Power Delivery, which operates the regulated transmission and distribution systems for DP&L and Atlantic Electric, currently contributes \$125,000 annually to install energy efficiency improvements in electrically heated low-income homes. Delaware does not offer any utility-funded

rate assistance at this time.

### **Educational Program**

The Commission established a working group comprised of representatives of the Commission, electric utilities, electric suppliers, the Division of the Public Advocate, and other interested parties to design and implement a consumer education program, including "Green Power" options, to prepare the citizens of Delaware for retail competition. The Commission may direct the payment of up to a total of \$250,000 from DP&L and Delaware Electric Cooperative Inc. (apportioned on the 1998 kWh Delaware retail sales of each entity) for the purpose of providing customer education materials to citizens of Delaware in connection with retail competition.

An electric supplier that has imposed unauthorized charges on a retail electric customer must void and/or refund all of those charges to the customer. For both slamming and cramming, penalties can be imposed on the guilty electric supplier by the PSC through a hearing process.

### **Deceptive Practices**

A customer has 10 calendar days from the day the utility sends the confirmation letter to rescind their selection.

### **Privacy and Advertising**

All electric suppliers are prohibited from using telemarketing to solicit customers. This prohibition does not include initial contact by any medium other than a voice telephone call or a customer's telephone response to any non-telephone initial contact. An electric supplier or its marketing or advertising agent must not make misrepresentations or use deceptive practices in its direct solicitations, advertising or marketing materials.

## **RELIABILITY**

Each electric distribution company is required to maintain the reliability of its distribution services and to implement procedures to require all electric suppliers to deliver energy to the electric distribution company at locations and in amounts which are adequate to meet each electric supplier's obligations to its customers.

Prior to doing business in Delaware, every electric supplier seeking to provide electric supply service to customers shall obtain a certificate from the Commission. The Commission shall promulgate rules and regulations governing the information that electric suppliers shall be required to provide and requirements to be satisfied in order to obtain such certificate. Electric suppliers required to obtain a certificate to provide retail electric supply service must pay an application fee of \$750.00. The failure by any electric supplier to comply with any of the requirements promulgated by the Commission may result in penalties, including monetary assessments, suspension or revocation of the electric supplier's certificate, or other sanctions.

## **PUC ROLE**

## **Rule Development**

The Delaware Public Service Commission (Commission) has general rulemaking authority to carry out the intent of the restructuring legislation.

## **Enforcement Activities**

Prior to doing business in Delaware, every electric supplier seeking to provide electric supply service to customers must obtain a certificate from the Commission. The Commission will promulgate rules and regulations governing the information that electric suppliers must provide and the requirements that must be satisfied in order to obtain such certificate. In addition, all electric suppliers must provide information concerning Delaware operations to the Commission as requested. As a follow-up activity, the Commission will continue to host workshops on the key issues that create a competitive electric industry.

## **CUSTOMER PROTECTION**

The failure by any electric supplier to comply with any of the requirements promulgated by the Commission may result in penalties, including monetary assessments, suspension or revocation of the electric supplier's certificate, or other sanctions.

## **Rate regulation**

The Commission staff will continue to regulate remaining utility services (distribution) in the same manner as before the deregulation of generation.

## **FOLLOW-UP**

The Legislature enacted HB 10, "Restructuring and Regulation of Public Utilities Supplying Electricity to Retail Customers", in March, 1999. As a follow-up activity, the Delaware Public Service Commission (PSC) continues to host workshops on the key issues that create a competitive electric industry.

All electric suppliers must provide information concerning Delaware operations to the PSC, as requested from time to time. Information provided pursuant to this requirement and designated "proprietary" or "confidential" must be held in accordance and must be afforded proprietary treatment subject to the provisions of the Rules, PSC regulations, and Delaware Law. There have not been any electric restructuring measures of success identified, nor have there been any reports of failures at this time.



# ILLINOIS

## RESTRUCTURING AUTHORITY

### Law

The Electric Choice and Rate Relief Act, HB 362 was passed in December, 1997.

### Applicability

It is applicable only to Investor owned utilities.

## MARKET STRUCTURE

### Affected customers

Retail choice began on 10/01/99 for all commercial and industrial customers over 4 kW and all commercial retail customers with 10 or more separate locations with aggregate load over 9.5 kW and 1/3 of each non residential customer class. Selection will be based upon a lottery.

### Dates and Phase-in

By 10/01/00 all governmental customers will have choice. By 12/31/00 all remaining non-residential customers will have choice. All residential customers will have choice by 5/1/02.

## MARKET POWER

### Divestiture of Assets

Functional unbundling is required by HB 362, but not divestiture. In 1999, the ICC ordered utilities to unbundle metering and billing services.

### Transmission operating company

Utilities are required to join an ISO or the state has threatened to create one. The ICC has established codes of conduct for affiliate transactions and has approval authority over mergers.

### Rate Reductions

Non-residential rates are frozen until 2004 at 1996 levels. Commonwealth Edison and Illinois Power reduced rates 15% on August 1, 1998 with another 5% reduction expected on October 1, 2001. Smaller utilities will phase in a 5% decrease by October 2001. Also included in the law is the concept of the power purchase option (PPO). It has two separate aspects. First, a bundled service customer can inform his local utility that he wants to become a direct access customer but wants the utility, not an ARES, to supply his electricity. The utility must agree, selling energy to the customer at the proxy market value under a one-year contract. The advantage to the customer is that the contract automatically qualifies for the mitigation factor. A bundled utility customer might chose this option in times of rising real market prices. The disadvantage is that in times of falling real market prices he is stuck with the proxy price. As an alternative, a bundled service customer

who wants to move into the competitive market can assign his PPO rights to a power marketer. The marketer may or may not exercise that option with the utility, depending on whether or not real market prices are falling and cheap power is available. The PPO allows the marketer to arbitrage between the proxy price of electricity and the real market price. If the PPO is not exercised, the marketer/customer relationship takes on the characteristics of the more traditional third-party provider.

## **STRANDED COST**

The authority and methodology for evaluating stranded cost is contained in HB 362. Stranded costs are recovered through transition charges based upon foregone revenue not asset evaluation. This is different than most other states. An index of market prices is used as part of a very complex formula for determining the transition charge. The amount of the recoverable charge is equal to the value of electricity sold under a tariffed non-competitive rate minus the competitive or market rate. This difference must be offset by credits gained by the utility for any revenues attributable to delivery charges, newly obtained revenues for being a service provider and the value of avoided energy and capacity that the utility freed by not having to serve the customer. The transition period ends on December 31, 2006.

A mitigation factor is applied to reduce any lost revenue by 6% of 1996 base rates and increases to 10% of 1996 base rates by 2006. Securitization is allowed, but this option has not been used. If used 80% of the returns on the securitized funds must be used to refinance or retire fuel related obligations.

## **CUSTOMER SERVICE ISSUES**

### **Standard Service Provisions and Policies**

The Illinois Commerce Commission (ICC) will certificate alternate suppliers based upon technical, financial and managerial resources and abilities. These suppliers must follow existing statutory requirements imposed upon public utilities to the extent applicable. The ICC has service provision jurisdiction over alternate providers. The ICC will review and approve any charges, terms and conditions for delivery service. The ICC also oversees reliability of delivery service.

### **Default Service Provisions and Policies**

The incumbent utility has the obligation to provide tariffed service to customers who do not leave the system or seek to return. The utility may impose a fee and require a minimum 24 month contract period for customers returning to the system.

### **Load Aggregation Policies**

Utilities are required to allow aggregation for any voluntary grouping of customers for both energy and delivery services.

**Customer Education Campaigns**

Each incumbent now has a consumer information office and the ICC has implemented a statewide consumer information program.

**Competitive Metering and Billing**

In 1999, the ICC completed rulemaking ordering utilities to unbundle their metering and billing services.

**Load Profiling Requirements**

No customer specific billing, usage or load shape data will be provided by a utility to an alternate supplier without customer authorization.

**CUSTOMER PROTECTION**

**Slamming and Cramming**

Provisions concerning electric suppliers are added to the Consumer Fraud and Deceptive Business Practices Act. Switching customers without written authorization is prohibited.

**Deceptive Practices**

The act provides that any marketing material that discloses the price, terms and conditions of the product or services offered or sold to customers be accurate.

**Customer Complaint/Redress**

Complaints may be filed with either the ICC or the Attorney General's Office. The Attorney General's office oversees the new Consumer Fraud and Billing Practices Act through its new Consumers Utility Unit. The ICC will handle complaints for all suppliers and will post alternate supplier problems on its web site. The ICC also has procedures to revoke authority to operate within the state. Additionally, all utilities and alternate suppliers are required to establish customer service call centers where consumers can receive assistance and information.

**Provider of Last Resort**

The incumbents will remain the provider of last resort.

**Product Disclosure**

As part of the billing process, suppliers must disclose quarterly generation mix and the amounts of carbon dioxide, nitrous oxide, sulphur dioxide emissions and nuclear waste attributable to known electric generating sources.

**Universal Service**

Low income assistance is available but universal service was not specifically discussed.

**Disconnection Procedures**

If a supplier issues a single bill for service which includes delivery service, the utility retains

the right to disconnect the customers if it does not receive payment for its tariffed services.

## **PUBLIC PURPOSE PROGRAMS**

### **Renewable Energy Resources Program**

This program will be administered by the Department of Commerce and Community Affairs. It offers grants, loans and other incentives for investment in renewable energy resources. As of 1/1/98, a "Renewable Energy Resources and Coal Technology Development Assistance Charge" will be assessed to customers. The charge is \$.05 per month for residential, non-residential and gas customers and \$37.5 per month for non-residential electric and gas customers. The charge is anticipated to generate \$100 million over 10 years for the development of renewable energy resources and coal technology.

### **Energy Efficiency Trust Fund**

As of 1/1/98, this trust fund will consist of the pro-rata share of \$3 million based on kWh sales from each supplier (including alternate suppliers) Funds are disbursed to fund energy efficiency projects for residential customers as defined by the department, such as window replacement, energy efficient appliances, etc.

Commonwealth Edison will allocate \$250 million to a special fund to support environmental initiatives and energy-efficiency programs throughout the State.

### **Low Income Energy Assistance Fund**

The law directs each electric utility (participation is optional for Municipals and Cooperatives) to assess a monthly charge of \$.40 per month on each residential account and \$4 per month for each non-residential account with peak demand under 10MW. Larger non-residential accounts pay \$300 per month. The program is expected to generate approximately \$76 million annually. Approximately \$10 million of this amount is to be used for low income conservation. The fund is administered by the Department of Commerce and Community Affairs and is available only to customers of participating utilities. The program has no sunset and will continue past the restructuring transition period.

## **RELIABILITY**

Illinois addresses reliability through its certification process for alternate generation companies and revised rules to assure reliability for the transmission and distribution companies.

In order to provide alternate service in Illinois, the applicant must show it possesses sufficient technical, financial and managerial resources and abilities to provide the service for which it seeks a certificate of service authority. Additionally, the applicant will comply with all applicable federal, State, regional and industry rules, policies, practices and procedures for the use, operation, and maintenance of the safety, integrity and reliability of the interconnected electric transmission system.



The Commission has issued new reliability rules with goals as follows: to define clearly the Commission's process of assessing electric service reliability; to assure the reliable delivery of electricity to all customers in this State; to assure the effective implementation of amendments to the Public Utilities Act relating to the reliable provision of transmission and distribution or delivery services in a competitive environment; to adopt, as required by law, rules and regulations for assessing, and assuring, the reliability of the transmission and distribution; to establish uniform measurements to assess transmission, distribution and delivery service and to establish reporting requirements that routinely and periodically inform the Commission about the reliability of transmission and distribution systems under its jurisdiction; to allow the Commission to monitor more effectively the reliability of the transmission and distribution systems over which power and energy from all electric suppliers will be transported to consumers in the State; and to provide adequate information for the Commission to monitor aspects of reliability in addition to interruptions.

Each utility must file annual reliability reports and every three years the Commission will conduct a thorough evaluation of each utility. In addition, the ISO will oversee integrity and reliability of transmission system consistent with the reliability council.

## **PUC ROLE AFTER RESTRUCTURING**

### **Rule Development**

The Commission has general rulemaking authority to carry out the intent of the restructuring legislation and must open a rulemaking proceeding to establish standards of conduct for every electric utility and to adopt rules and regulations for assessing and assuring the reliability of the transmission and distribution systems and facilities that are under the Commission's jurisdiction. The Commission also has the authority to investigate the need for, and adopt rules requiring, functional separation between the generation services and the delivery services of those electric utilities whose principal service area is in Illinois. After January 1, 2003, the Commission has the authority to investigate the need for, and adopt rules requiring, functional separation between an electric utility's competitive and non-competitive services.

### **Rate Regulation**

The Commission must establish charges, terms and conditions of delivery service and approve the delivery services implementation plan of each electric utility. The Commission has the authority to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis.

### **Enforcement Activities**

The Commission has the authority to certificate any alternative retail electric supplier.

## CUSTOMER PROTECTION

The Commission has authority to implement consumer protection measures and dispose of any complaint against any alternative retail electric supplier. Complaints may be filed with either the ICC or the Attorney General's Office. The Attorney General's office will oversee the new Consumer Fraud and Billing Practices Act through its new Consumers Utility Unit. The ICC will handle complaints for all suppliers and will post alternate supplier problems on its web site. The ICC also has procedures to revoke authority to operate within state. Additionally, all utilities and alternate suppliers are required to establish customer service call centers where consumers can receive assistance and information.

## FOLLOW-UP

On or before December 31, 1999 and once every 3 years thereafter, the Commission must monitor and analyze patterns of entry and exit, applications for entry and exit, and any barriers to entry or participation that may exist for competitive services. In addition, the Commission must analyze any impediments to the establishment of a fully competitive energy and power market within the state. The Commission will include its findings together with appropriate recommendations for legislative action in a report to the General Assembly.

Beginning in 2001 and ending in 2006, the Commission shall prepare an annual report regarding the development of electricity markets in Illinois which shall be filed by April 1st of each year with the Joint Committee on Legislative Support Services of the General Assembly and the Governor and which shall be publicly available. Such report shall include, at a minimum, the following information:

1. The aggregate annual peak demand of retail customers in the preceding calendar year.
2. The total annual kilowatt-hours delivered and sold to retail customers by each electric utility within its own service territory, each electric utility outside its service territory, and alternative retail electric suppliers in the preceding calendar year.
3. The percentage of the total kilowatt-hours delivered and sold to retail customers in the preceding calendar year by each electric utility within its service territory, each electric utility outside its service territory, and each alternative retail electric supplier.
4. Any other information the Commission considers significant in assessing the development of electricity markets, which may include, to the extent available, information similar to that described in items 1, 2 and 3 with respect to cogeneration, self-generation and other sources of electric power and energy provided to customers that do not take delivery services or bundled electric utility services. The Commission may also include such other information as it deems to be necessary or beneficial in describing or explaining the results of its Report. The required Report must be adopted by a vote of the full Commission prior to filing.

Proprietary or confidential information must not be disclosed publicly.

Additionally, the Commission will study the effectiveness of the consumer education program. Such study should include a notice and an opportunity for participation and comment by all interested and potentially affected parties. The study is to be completed by January 31st of each year during the mandatory transition period and a summary thereof, together with any legislative recommendations, shall be included in the Commission's Annual Report.



# MAINE

## RESTRUCTURING AUTHORITY

### Law

On May 29, 1997, the Governor signed into law LD. 1804, “An Act to Restructure the State’s Electric Industry” (the Act). It provides for full retail competition to begin on March 1, 2000. It directed the Maine Public Utilities Commission (the Commission) to conduct rulemaking on several issues that must be addressed to implement retail access.

### Applicability

Municipal and Cooperative utilities are allowed under the Act to sell retail generation service only within their respective territories. These utilities may not sell wholesale generation service except those incidental sales which are necessary to reduce the cost of retail service.

## MARKET STRUCTURE

### Affected customers

Under the provisions of the Act, all consumers of electricity will have the right to purchase generation services directly from competitive providers beginning on March 1, 2000. At that time, consumers will be allowed to aggregate their purchases in any manner they choose. If a public entity serves as aggregator, it may not require consumers within its jurisdiction to purchase from that entity.

### Dates

Beginning March 1, 2002, the provision of metering and billing services will be subject to competition. The Commission is empowered to establish an earlier date for the provision of these services by rule, but the date can be no earlier than March 1, 2000.

## MARKET POWER

### Functional unbundling

Following the beginning of retail access, large (more than 50,000 customers) investor-owned transmission and distribution utilities may not sell electricity to any retail consumer. Entities affiliated with transmission and distribution utilities may, beginning with retail access, provide electricity outside the affiliated transmission and distribution service territories. In addition, they may provide electricity within the service territories provided they do not sell more than 33% of the total kilowatt hours within the territory. The need for this 33% market share limitation will be reviewed by the Commission before January 1, 2005.

Small investor-owned transmission and distribution company affiliates (fewer than 50,000 customers) will be allowed to sell electricity on an unrestricted basis both outside and within their

service territories. By July 1, 1998, the Commission will open a rulemaking proceeding to determine the extent of separation required between small transmission and distribution companies and their affiliates. This rulemaking was to be concluded no later than March 1, 1999.

### **Rate Reductions**

Standard offer service must be available to all customers. The law encourages that at least 3 providers be chosen through a bidding process, and it limits the percentage of standard offer service that may be provided by affiliates of large investor-owned utilities in the state.

### **STRANDED COSTS**

The Act defines stranded costs as a utility's "legitimate, verifiable and unmitigatable costs made unrecoverable because of the restructuring of the electric industry required by this chapter and determined by the commission . . . ." The determination of stranded costs is to be made by summing the following:

1. the cost of regulatory assets related to generation;
2. the difference between net book generation plant and its market value;
3. the difference between future contract payments and the market value of a utility's purchased power contracts.

The Commission is prohibited from including for recovery any costs for obligations incurred after April 1, 1995, except for costs associated with the restructuring of QF contracts, costs deferred pursuant to rate plans, and energy conservation costs. In addition, obligations incurred by utilities that are beyond their control or are devoted to reducing stranded costs are excepted.

The Act requires the utility to "pursue all reasonable means to reduce its potential stranded costs and to receive the highest possible value for generation assets and contracts, including the exploration of all reasonable and lawful opportunities to reduce the cost to ratepayers of contracts with qualifying facilities." The Commission is required to consider the utility's mitigation efforts when determining the amount of stranded costs.

Before the start of retail access, the Commission will estimate the stranded costs for each utility, and use those estimates to set a stranded cost charge to be collected by the transmission and distribution utilities when retail access begins. In 2003, and every three years after that, the Commission will correct any substantial inaccuracies in the stranded cost estimates except for those stranded costs associated with divested generation assets, and adjust the transmission and distribution charge accordingly. The Commission may also adjust the charge at any other time. Any changes to the stranded cost charge are to be made on a prospective basis, and cannot address past inaccuracies in stranded cost estimates. In setting the stranded cost charges, the Commission may not shift cost recovery of stranded costs among customer classes in a manner inconsistent with existing law.

## CUSTOMER SERVICE ISSUES

### **Standard Service Provisions and Policies**

Following the adoption of service standards, the Commission will administer a bid process that will select standard-offer providers for each transmission and distribution service territory by July 1, 1999. The Commission will ensure that affiliates will have no greater access to relevant information than is available to other potential bidders. Municipal, cooperative, and small investor-owned transmission and distribution companies will be allowed to bid for standard-offer service in their own service territories.

Standard-offer service must be available until March 1, 2005. By January 1, 2004, the Commission will begin an investigation to decide whether standard-offer service should be continued.

**Default Service Provisions and Policies** - The Act provides that with the start of retail competition, electricity will be available to those customers not selecting a competitive provider pursuant to "standard-offer service." This service will be with the provider of last resort for those customers who discontinue service with a competitive provider, or who do not choose a competitive provider.

**Load Aggregation Policies** - Consumers may aggregate their purchases of generation service in any manner they choose. If a public entity serves as an aggregator, it may not require consumers of electricity within its jurisdiction to purchase generation service from that entity.

**Customer Education Campaigns** - The Maine Public Utility Commission (MPUC) was required to immediately organize a consumer education advisory board to investigate and recommend methods to educate the public about the implementation of retail access and its impact on consumers. The commission was to ensure broad representation of residential, industrial and commercial electric consumers, public agencies and the electric industry on the advisory board. The advisory board addressed funding necessary for adequate educational efforts and the appropriate source of that funding; the aspects of retail access on which consumers need education; the most effective means of accomplishing the education of consumers; the appropriate entities to conduct the education effort; and any other issue relevant to the education of consumers regarding the implementation of retail access and its impact on consumers. The commission developed a number of consumer education brochures (available via mail or the Internet) in addition to an educational video.

**Competitive Metering and Billing** - Beginning March 1, 2002, pursuant to rules adopted by the Commission, the provision of electric billing and metering services will be subject to competition. The Commission shall establish minimum standards necessary to protect consumers of these services and codes of conduct governing the relationship among transmission and distribution utilities providing electric billing and metering services, any affiliates of transmission and distribution utilities providing such services and providers of such services that are not affiliated with a transmission and distribution utility. The Commission shall determine each transmission and

distribution utility's costs of providing electric billing and metering services that are reflected in consumer rates, including capital costs, depreciation, operating expenses and taxes, and shall separate this portion of the consumer rate into a separate charge.

**Load Profiling Requirements** - In February, 1999, the MPUC introduced consumer protection rules that competitive electricity providers (CEPs) must follow when dealing with smaller customers (less than 100 kW) who choose to participate in retail choice. Brokers and aggregators are exempted from these rules. The rules state that whether a customer is above or below this threshold should be determined by reference to the availability criteria of the transmission and distribution rate schedule or by the customer's past year's usage. If this information is uncertain, the CEP must make a reasonable effort to determine the customer's status. This status must be determined by the time the customer enrolls for retail choice. The distribution company must cooperate with the CEP in identifying customers who may be subject to the provisions of this section.

## **CUSTOMER PROTECTION**

- 1. Slamming and Cramming** - Each CEP must verify that each of its customer has affirmatively chosen the CEP before enrolling that customer. The CEP must retain this evidence for at least 12 months from the date of the initiation of service.
- 2. Deceptive Practices** - The Commission will resolve any disputes between providers and consumers. It will have the statutory authority to fine providers for violation of Commission rules and policies and can order restitution for any party injured because of violations.
- 3. Privacy and Advertising** - The MPUC must either maintain or cause to be maintained a "Do-Not-Call" list of customers who have requested--orally, in writing, or electronically--that they not receive telemarketing calls from CEPs. Each CEP, including standard offer providers, must maintain the confidentiality of a customer's personal information, including name, address, telephone number, usage, and historic payment information.
- 4. Customer Complaint/Redress** - The Commission will resolve any disputes between providers and consumers. It will have the statutory authority to fine providers for violation of Commission rules and policies, and can order restitution for any party injured because of violations. CEPs must provide a 5-day right of rescission to every customer and how to exercise this right must be included in the customer's terms of service document.
- 5. Product Disclosure** - The Commission may require competitive energy providers to file a bond with the Commission as evidence of financial viability. The providers will also be required to file their generally available rates, terms, and conditions with the Commission. Each CEP must offer generation services to each of its customers for a minimum period of 30 days. Also, CEPs must provide written notice to its customers between 30-60 calendar days in advance of a material change in the contract terms and conditions as well as to notify them of renewal options.



**6. Universal Service/Low Income Customers** - In order to continue existing levels of financial assistance for low-income households and to meet future increases in need, the MPUC shall receive funds collected by all transmission and distribution utilities in the State at a rate set by the commission in periodic rate cases; and set initial funding for programs based on an assessment of aggregate customer need in periodic rate cases. The funding formula may not result in assistance being counted as income or as a resource in other means-tested assistance programs for low-income households. To the extent possible, assistance must be provided in a manner most likely to prevent the loss of other federal assistance.

**7. Rules on Energy Service Companies** - A CEP may not facilitate or otherwise arrange for the sale of electricity to retail customers from an entity that is not licensed by the MPUC. To provide electricity for retail sale in the State, providers will be required to be licensed by the Commission. In filing for licensure, the applicant must provide specific information to the Commission.

**8. Disconnection Procedures** - Each provider must provide written notice to a customer at least 30 calendar days prior to cancellation of that customer's generation services contract due to a default in the contract terms by the customer. Customers are allowed to cancel selection of a provider orally or in writing within five days of selection. Customers cannot be disconnected for nonpayment of the transmission and distribution portion of their bill. A 30-day notice of termination of service is required.

## **PUBLIC PURPOSE PROGRAMS**

### **Renewable Resources**

It is state policy to encourage the generation of electricity from renewable and efficient sources. Each competitive electric provider, as a condition of licensing, must demonstrate that no less than 30% of its portfolio of supply source for retail electricity is accounted for by renewable or efficient resources. In addition, a Renewable Resources Fund is established for research and development and community demonstration projects. The Commission will establish the fund by rule allowing retail customers to make voluntary contributions. The fund is nonlapsing and will be administered by the State Planning Office.

### **Conservation programs**

Programs consist of those developed by the State Planning Office and prior programs undertaken at the direction of the Commission prior to March 1, 2000. The Commission will require transmission and distribution companies to implement conservation programs. The range for program expenditures for each utility may not exceed \$.15 per kWh or be less than 0.5% of the revenue of the transmission and distribution utility. The cost of these programs will be recovered through the rates of the utility.

### **Low Income Assistance**

Presently each utility has its own assistance program. Funding will continue as is.

## **RELIABILITY**

Maine looks at financial ability as part of their certification process for new generation providers. Otherwise, the legislation is silent on reliability. However, since the Commission will retain its present jurisdiction over transmission and distribution, its existing rules regarding electric service and reliability remain intact.

## **COMMISSION'S ROLE**

### **Rule development**

The Maine Public Utilities Commission (MPUC) is responsible for adopting and implementing the following:

1. Rules for competitive billing and metering and determining each transmission and distribution utilities' costs for billing and metering to establish separate charges.
2. Rules for revoking licenses.
3. Rules requiring standard billing information on bills.
4. Rules establishing standards of conduct for distribution utilities and affiliated competitive providers.
5. Rules establishing a program allowing retail customers to make voluntary contributions to fund renewable resource research and development.
6. Rules encouraging and establishing funding levels and system capacity charges for conservation programs.
7. Rule establishing terms and conditions for standard offer services.
8. Rules establishing unbundled bill requirements.
9. Rules to implement a consumer education program.
10. Rules to collect a system benefits charge for transitional service and benefits for eligible utility employees.

### **Enforcement**

The MPUC is responsible for licensing competitive electric providers and establishing rules for revoking licenses. The MPUC will intervene and participate in the proceedings of any federal agency whenever the interests of competition, consumers of electricity or economic development in Maine are affected.

### **Consumer Protection**

The MPUC will adopt rules for consumer protection standards to protect retail customers from fraud and unfair practices. The MPUC has the authority to impose penalties for violating consumer protection rules and resolve customer disputes and to issue cease and desist orders and order restitution for any party injured for a consumer protection violation.

### **Rate Regulation**

The MPUC will adopt rules for competitive billing and metering and determine each

transmission and distribution utilities' revenue requirements and costs for billing and metering to establish separate charges. Separate hearings will be conducted to determine the amount of stranded cost and appropriate charge for each utility. The MPUC will set rates in periodic rate cases of T&D utilities and receive funds for low income assistance programs.

## **FOLLOW-UP**

The Maine restructuring legislation requires that on December 31st of each calendar year, the commission must submit to the joint standing committee of the Legislature having jurisdiction over utility matters a report describing the Commission's activities in carrying out the requirements of the restructuring legislation and the activities relating to changes in the regulation of electric utilities in other states.

In its report, the Commission must provide an accounting of the Commission's actual and estimated future costs of enforcing and implementing the provisions of the legislation governing the relationship between a transmission and distribution utility and an affiliated competitive electricity provider and the costs incurred by transmission and distribution utilities in complying with those provisions. The Commission must also provide an assessment of the effects of imposing these costs on ratepayers and the potential effects of assessing transmission and distribution utilities for these costs and prohibiting the costs from being passed through to ratepayers.

If the Commission determines, after providing interested parties an opportunity to be heard, that any provision in the present legislation is not in the public interest, the Commission should present a report to the joint standing committee of the Legislature having jurisdiction over utility matters stating the basis for the Commission's conclusion and including draft legislation designed to modify the chapter consistent with the public interest.

In addition, the commission will monitor events in the region pertaining to:

1. The development of an independent system operator with responsibility for transmission reliability;
2. The management of competitive access to the regional transmission system; and
3. Rights to negotiate potential contracts between sellers and buyers of electricity.

If the Commission determines that there exists insufficient independence on the part of the independent system operator from any provider of wholesale transmission, competitive electricity provider or electric utility, or if it determines any other problem threatens regional transmission reliability, the Commission will provide a report to the joint standing committee of the Legislature having jurisdiction over utility matters with a recommendation as to what actions within the authority of the State are available to remedy this problem.



# MARYLAND

## RESTRUCTURING AUTHORITY

### Law

In 1999, the Maryland Legislature signed the Electric Customer Choice and Competition Act of 1999 (SB 300/HB 703). On September 8, 1999, the PSC passed Order No. 75680 which established a restructuring plan. Settlement agreements have been reached with 3 investor-owned electric utilities by the end of 1999. Potomac Edison Co. (Allegheny Power) has not reached a settlement agreement.

### Applicability

Only the generation component of a customer's bill is being deregulated.

## MARKET STRUCTURE

### Affected Customers

Customers of investor-owned utilities will have choice by July 1, 2002. Nearly all Maryland residents will have choice by 2003.

### Dates

Last year Mid-Atlantic Power Supply Association (MAPSA), an association of retail marketers, filed a petition in Baltimore Circuit Court asserting that the Maryland PSC incorrectly approved too much in stranded cost recovery for Baltimore Gas & Electric and that the amount reduced shopping credits to a point where customers would be reluctant to leave their incumbent utility. In May, the Circuit Court had affirmed the PSC's ruling that MAPSA lacked legal standing to dispute the restructuring order because it could not prove it had been harmed. However, on July 20, 2000, the appeals court disagreed with the lower court's ruling finding that MAPSA did have standing to challenge the settlement, lifted its stay to the start of competition, and remanded the case back to the circuit court for a decision on the merits. The next day, the Circuit Court reinstated the stay for two weeks, again suspending the start of competition, and scheduled a hearing for August 4, 2000.

We will continue to follow this case and report substantive developments

## MARKET POWER

### Divestiture of Assets

The Commission may not require an electric company to divest itself of a generation asset nor prohibit an electric company from divesting itself voluntarily of a generation asset.

**Sale**

According to the settlement agreements, Delmarva (DPL) will sell 2,200 MW of nuclear and coal-fired generating capacity to third parties. Unsold assets will be transferred to an unregulated affiliate. Baltimore Gas and Electric (BGE) will sell all its generation assets.

**Functional Unbundling**

The Commission requires that customers' bills for electricity service indicate charges for 1) distribution and transmission, 2) transition charge or credit, 3) universal service program charges, 4) customer charges, 5) taxes, and 6) other charges identified by the Commission.

**Rate reductions**

The PSC will reduce residential electric base rates between 3% and 7.5%. For Delmarva, 7.5% rate reduction will apply for the residential rate class only, effective July 1, 2000, and have a four-year rate freeze. BGE will cut rates to an average of 6.5%, effective July 1, 2000, and have a six-year rate freeze. PEPCO will cut rates by approximately 7% for residential customers and 4% for nonresidential customers. These rate reductions will be apportioned between the unbundled supply rate and unbundled wires rate.

**STRANDED COSTS****Definition**

The Electric Customer Choice and Competition Act of 1999 from the legislature establishes the subsequent PSC Orders creating a restructuring plan. Order 75680 (Filed October 8, 1999) restructures the Maryland electric industry and deals with stranded costs.

**Calculation and Recovery**

The appropriate rate for the recovery of stranded costs will be determined in Phase II on unbundled rates. (p. 28, Order 75680). The period of recovery will be during the rate freeze period beginning 7/1/00 for 4 years (6/30/04). The PSC determined \$8 million in stranded costs for Delmarva. Delmarva has \$8 million allocated to non-residential ratepayers only.

**CUSTOMER SERVICE ISSUES****Standard Service Provisions and Policies**

Beginning on the initial implementation date, an electric company's obligation to provide electricity supply and electricity supply service is stated by this subsection. Electricity supply purchased from a customer's electric company is known as standard offer service. A customer is considered to have chosen the standard offer service if the customer: is not allowed to choose an electricity supplier under the phase in of customer choice in subsection of this section, contracts for electricity with an electricity supplier and it is not delivered, cannot arrange for electricity from an electricity supplier, does not choose an electricity supplier, chooses the standard offer service, or has been denied service or referred to the standard offer service by an electricity supplier.

Any obligation of an electric company to provide standard offer service shall cease on July 1, 2003 except that electric cooperatives and municipal electric utilities may choose to continue providing standard offer service in their respective distribution territories, and may cease offering that service after notifying the Commission at least 12 months in advance.

### **Customer Education Campaigns**

PEPCO began a consumer education program in December, 1999, notifying consumers of the option to shop for power beginning in the spring of 2000.

The Commission shall order each electric company, in conjunction with the Commission, the office of people's counsel, and other parties, to implement a consumer education program informing customers of changes in the electric industry.

### **Competitive Metering and Billing**

Competitive metering for large customers shall begin on January 1, 2002, and competitive metering for all other customers shall begin on April 1, 2002, or earlier if requested by the electric company.

### **Slamming and cramming**

The Commission shall adopt regulations or issue orders to: 1) protect consumers, electric companies, and electricity suppliers from anticompetitive and abusive practices, 2) require each electricity supplier to provide, adequate and accurate customer information to enable customers to make informed choices regarding the purchase of any electricity services offered by the electricity supplier, 3) establish reasonable restrictions on telemarketing, and 4) establish procedures for contracting with customers.

An electricity supplier or any person or governmental unit may not, without first obtaining the customer's permission, make any change in the electricity supplier for a customer or add a new charge for a new or existing service or option.

### **Deceptive practices**

An electricity supplier may not engage in marketing, advertising, or trade practices that are unfair, false, misleading, or deceptive.

### **Customer Complaint/Redress**

On or before July 1, 2000, the commission shall require appropriate complaint and enforcement procedures and establish procedures for dispute resolution.

### **Product Disclosure**

The Commission requires that customers' bills for electricity service indicate charges for distribution and transmission, transition charge or credit, universal service program charges, customer charges, taxes, and other charges identified by the Commission.

**Universal Service**

The Commission shall establish a universal service program to assist electric customers with annual incomes at or below 150% of the federal poverty level. The Department of Human Resources shall be responsible for administering the universal service program through the Maryland Energy Assistance Program. The Department of Human Resources may, with input from a panel or roundtable of interested parties, contract with a for-profit or a nonprofit Maryland corporation existing as of July 1, 1999 to assist in administering the universal service program. The Commission shall have oversight responsibility for the universal service program. The components of the universal service program shall include bill assistance, at a minimum of 50% of the determined need. The components of the universal service program include low income weatherization, and the retirement of arrearage that were incurred prior to the initial implementation date.

**PUBLIC PURPOSE PROGRAMS****Low income assistance**

Maryland SB 300, provides a \$34 million universal service program (USP) that is continuing and nonlapsing and will be administered by the Department of Human Services through the Maryland Energy Assistance Program. The law defines a USP as one that "helps low-income customers maintain electric service," and includes "customer bill assistance and payment programs, termination of service protection, and policies and services that help low-income customers to reduce or manage energy consumption in a cost-effective manner."

The law states that for the first three years at least half of the fund should be spent on bill payment assistance, and the remainder on weatherization and retirement of arrearages incurred by low-income households prior to the initial implementation date of the program. The law's provision for arrearage retirement stemmed from studies that showed inability to pay among low-income households was partly due to accrual of significant arrearages. After the program's first three years, the commission will reconsider the amount of USP funding, and additional USP funds must be sought from the legislature. The lion's share of the USP funding, \$24.4 million, will come from industrial and commercial classes, and \$9.6 million will come from the residential class.

**RELIABILITY**

The Commission shall provide that the transition to a competitive electricity supply and electricity supply services market shall be orderly, maintain electric system reliability, and ensure compliance with federal and state environmental regulations, be fair to customers, electric company investors, customers of municipal electric utilities, electric companies, and electricity suppliers, and provide economic benefits to all customer classes. Each electric company shall maintain the reliability of its distribution system in accordance with applicable orders, tariffs, and regulations of the Commission.

PJM Interconnection, LLC, the ISO serving Maryland, is responsible for the day-to-day



operation of the largest centrally-dispatched electric system in North America. PJM's foremost responsibility is to provide safe and reliable operation of the transmission system and ensure the reliable supply of energy from generating resources to wholesale customers. In addition, the ISO operates the competitive wholesale energy market for the region and facilitates open access to transmission.

PJM currently enforces NERC system reliability standards by requiring all its members to demonstrate that they have sufficient generation to meet their projected loads two years in advance on an annual basis. Also, by contract, each PJM company is obligated to share its generation with the system during emergency conditions. A regional reserve requirement is established and the PJM Interconnection Association assigns each utility its capacity reserve requirements. The result of generation sharing is that each utility is able to meet its individual reserve requirement with less generation than if it had to meet NERC's standards on its own.

Maryland believes that reliability should continue to be judged by complying with NERC reliability criteria. This proposition appears to have the unanimous support of interested stakeholders as well. The disagreement comes with how this criteria will be met. Maryland PSC staff supports the continued use of an installed capacity obligation on a planning basis until both buyers and sellers have a better understanding of how market-based reliability would be implemented and enforced.

## **PUC ROLE**

### **Rule Development**

The Maryland Public Service Commission (Commission) has general rulemaking authority to carry out the intent of the restructuring legislation. The Commission fully supported the development of wholesale competition and determined that requiring competitive bidding for new power supplies would provide the best means of obtaining the benefits of a competitive wholesale market for Maryland electricity customers.

### **Enforcement Activities**

On October 9, 1996, the Commission instituted Case No. 8738 on its own motion to continue its review of regulatory and competitive issues affecting the electricity industry in Maryland. The Commission concluded that it would continue to monitor further developments and that its guidance would evolve along with the development of the electric industry.

### **Customer Protection**

To oversee compliance with its rules and regulations, the Commission will establish procedures for customers to seek resolution of disputes; disclosure policies for suppliers to provide information to the Commission so it can examine compliance with its rules, regulations and the law, including prohibitions against discriminatory practices; penalties for failure to meet requirements imposed by the Commission include limiting or revoking authorization to supply energy to Maryland retail customers.

## **Rate Regulation**

The Commission staff will continue to regulate remaining utility services (distribution) in the same manner as before the deregulation of generation.

## **Reporting Requirements**

The Commission staff will organize and chair the "Roundtables." Roundtables are a structured settlement process intended to produce a stipulated utility program filing. The Roundtable's objective is to produce comprehensive utility plans in compliance with the Framework stipulated and agreed to by Roundtable participants. Consequently, Staff suggests that the Roundtables be open to any stakeholder willing to put forth the time and effort required and not otherwise represented by some other participant. A requirement of formal intervention can place a barrier on participation in the process and at the same time be no guarantee that an intervenor is an active roundtable participant. As such, specific proposals' presented within the Roundtable will be considered confidential and not for formal attribution in any Commission proceeding. The Roundtable process is intended to facilitate legitimate participation in the development of electric retail access programs that will be workable, attractive to customers and suppliers, and consistent with the public interest principals and recommendations in this framework.

## **FOLLOW-UP**

On April 1, 1999, the Legislature enacted SB 300. The bill calls for the phase-in of retail competition to begin on July 1, 2000, with one-third of residential customers having the option of choosing an electric service provider. The phase-in will conclude on July 1, 2002.

Staff recognized that the supplier and customer transaction costs of prototype and full retail access programs will be reduced when restructuring takes place. However, a variety of critical issues regarding, for example, the provision of the regulated supply option and the treatment of uneconomic assets, are likely to be specific to each utility. Consequently, staff recommends separate Roundtables for each utility unless certain affected utilities (for example a self selected group of municipal or cooperative utilities) would prefer to be considered as a group in a single Roundtable. Staff will take on the task of achieving as much program uniformity from the customer and supplier perspective as possible.

Staff's recommendation requires a report every three months to the Commission beginning September 1, 1997, on any issues that it does not believe resolvable in the Roundtable process. For such issues, Staff will recommend an alternative means of resolution consistent with the required restructuring deadlines.

# MASSACHUSETTS

## RESTRUCTURING AUTHORITY

### Law

On November 19, 1997, the Massachusetts Legislature passed House No. 5117, “An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth.” This plan opened the electric industry to retail competition beginning January 1, 1998.

### Applicability

All customers had the opportunity to select alternative energy providers on that date. Municipals are exempt from the provisions of the law except they may participate in retail access conditioned upon their own service areas being open to competitors. Municipals can also act as aggregators.

## MARKET STRUCTURE

Customers in a restructured competitive environment will have three types of electric generation choices. First, customers may enter into agreements with competitive suppliers for the provision of generation. The price for this type of service will not be regulated. Second, customers will retain the option of purchasing power directly from their electric distribution company at a price regulated by the MDTE. This option will be called standard offer service and will be made available for five years to customers who have never received generation from a competitive supplier. Following the introduction of direct retail access, standard offer generation service will be available for a period of five years. Although this service will be unbundled, customers will receive a single bill that appears to show bundled electric service, with distribution companies replacing the integrated electric companies. The MDTE will regulate the price charged for standard offer service. Third, customers who have received generation from a competitive supplier but who, for whatever reason, have stopped receiving such generation will be allowed to receive default generation service provided by a distribution company at a market price.

## MARKET POWER

### Divestiture

The law does not mandate divestiture but states that non-nuclear generation must be divested as a condition to receive full stranded cost recovery for nuclear assets, power purchase contracts, and to use securitized bonds. Any marketing affiliate of a generation entity must be functionally separate and the MDTE will develop a code of conduct to govern their marketing activities.

### Independent System Operator

Massachusetts utilities are members of the New England ISO. New England ISO received conditional approval on June 25, 1997.

### **Rate Reductions**

As of March 1, 1998, the standard service transition rate is required to be 10% lower than 1997 bundled rates. An additional 5% rate decrease is required of those electric companies divesting their non-nuclear generation assets, securitizing their transition costs, or both.

### **STRANDED COSTS**

#### **Definition**

HB 5117 did not assure stranded cost recovery, but to avoid potential legal challenges, the bill did permit the use of securitization. However, this was only available for utilities who fully divested all non-nuclear generation or, at a minimum, transferred all these assets to an affiliate. Utilities must demonstrate they have used all possible mitigation measures and they must receive a minimum bid for any capacity the utilities divest. Other types of permissible stranded cost include:

1. the amount of the book cost or fixed cost associated with producing electricity from existing generation facilities that might not be recovered by the competitive market price for generation;
2. liabilities for future decommissioning and radioactive waste disposal associated with nuclear power plants that might not be recovered by the market price;
3. the amount by which the cost of existing contractual commitments for purchased power exceeds the competitive market price for generation; and
4. prudently incurred regulatory assets related to generation that were intended to be collected over time consistent with regulatory precedent or order.

#### **Calculation and Recovery**

Stranded cost filings submitted by each company must be separated into two parts: (1) embedded costs which are known and may be verified using publicly available documents; and (2) mitigation efforts which consist of information on all company actions and occurrences that will reduce the level of embedded costs over time. For those companies not divesting, the DTE will administratively determine the value of the utility assets. Companies would be required to collect stranded costs through a stranded cost access charge that has fixed and variable components, applied to the distribution portion of customers' bills. This is consistent with the MDPU's restructuring principle that generation charges on customer bills reflect only the price of generation service as determined by the market.

Every eighteen months a reconciliation between estimated stranded costs and recovered stranded costs is required. The allowed recovery period is to be determined for each company but in no case can it exceed 2009.

**Securitization**

Securitization is available to companies that divest their non-nuclear generation. If such bonds create savings, all such savings must go to the ratepayers.

**CUSTOMER SERVICE ISSUES**

**Standard Service Provisions and Policies**

This service is available for a period of seven years after retail access commences. New customers who move into an existing distribution company service area are not eligible for standard offer service. The initial rate for standard offer service shall be 10 percent below that of the rates in effect during 1997.

**Default Service Provisions and Policies**

This is available to any customer not receiving standard offer service or service from a competitive supplier. Rates for such service shall be established by competitive bidding. Distribution companies shall offer such service with rates being in effect for at least six months.

**Load Aggregation Policies**

An aggregator is an entity which groups customers together for retail sale purposes. All private, nonprofit, or non-municipal aggregators must be licensed by the Massachusetts Department of Telecommunications and Energy (MDTE). The same affirmative choice rules as applied to switching energy suppliers (third party verification, written letter ) applies to aggregators. Municipals are given substantial independence from any MDTE oversight, but any contracts they negotiate must be submitted to the MDTE.

**Customer Education Campaigns**

The Massachusetts Department of Energy Resources (DOER) is assigned responsibility for developing consumer education campaigns. They submit an annual budget and plan to the MDTE for approval and file it with the House and Senate Committee on Ways and Means. The DOER plan is not supposed to replicate any ad campaigns that can be done by the private market. Yearly appropriations are made to this agency. DOER has wide discretion as to the type of information campaigns or information services it wants to develop.

**Competitive Metering and Billing**

There will be no metering and billing competition in the short term. Metering, meter maintenance and testing, customer billing and information services are to be provided by utility distribution companies. The regulator and state energy office is directed to study whether such services should be unbundled, to study the merits of creating exclusive distribution service territory franchises, and to submit recommendations to the legislature no later than 1/1/2001.

**Load Profiling Requirements**

Distribution companies shall provide 36 months of demand and energy data for demand billed customers and 12 months of data for energy only customers. This information can be

provided to alternative suppliers with the permission of the customer.

## **CUSTOMER PROTECTION**

### **Slamming and Cramming**

Customers must affirmatively indicate their desire to change energy providers. The following methods are allowed: 1) written letter of authorization 2) third party verification or 3) completion of an 800 call by the customer to an independent third party who must get customer specific identification. A customer has 3 days to rescind their selection.

### **Deceptive Practices**

All suppliers must give written terms and agreements. The original statute requires that the MDTE adopt advertising and marketing rules which require rates and services be stated clearly in print ads and “clear spoken language” for audio ads.

### **Privacy and Advertising**

Distribution companies shall provide 36 months of demand and energy data for demand billed customers and 12 months of data for energy only customers. This information can be provided to alternative suppliers with the permission of the customer. Customers may receive a copy of their own usage information.

### **Customer Complaint/Redress**

Complaints about slamming are filed with the MDTE. The agency is authorized to fine first offenders \$1000 and no more than \$3000 per offense for additional offenses. The department may also charge fines and revoke certificates for violations of other department rules.

### **Provider of Last Resort**

This issue has not been resolved yet.

### **Product Disclosure**

The MDTE will develop a standard billing format for all energy providers and distribution companies. Information to be provided in standardized formats includes average price, all bundled and unbundled services, time of day or volumetric pricing, fuel, emissions, and labor characteristics of the suppliers energy portfolio. A complete “terms of service” statement is also required.

### **Universal Service**

Each distribution company shall provide a Low Income Customer Tariff for eligible customers. The rate must be no higher than the rate in effect as of March, 1998. Customers must be notified of the availability of such tariffs and any shortfalls in revenue due to customer participation shall be recovered during company rate cases. The distribution company makes “whole” any revenue due to a generation supplier by a customer on the Low Income Tariff in the case of nonpayment by the customer.

### **Rules on Energy Service Companies**

All energy suppliers, brokers, and marketers must apply for licenses. All private, non-profit, or co-operative aggregators seeking to do business in Massachusetts must also apply for a license. The license application must include: 1) The company's technical ability, as MDTE regulations define, to generate or otherwise obtain and deliver electricity and provide any other proposed services; 2) Documentation of financial capability of the applicant to provide the proposed services; 3) A description of the company's form of ownership; and 4) Documentation regarding any valid purchase power contracts between the company, the company's affiliates, or the company's parent or subsidiary, and any electric company formed pursuant to the provisions of this chapter. Similar but more rigorous filing requirements are required of energy generation providers.

### **Disconnection Procedures**

Normal disconnection procedures will apply to distribution companies. For generation suppliers, after rendering a second bill, they may terminate service to an end use customer not sooner than 48 days after the customer receives the bill. They may also terminate service at the end of the contract period.

## **PUBLIC PURPOSE PROGRAMS**

On April 19, 2000, The Massachusetts Supreme Court upheld the authority of the state to impose a system benefit charge. Intervenors had challenged the charge as an impermissible tax. The tax is expected to generate about \$150 million over 5 years.

### **Renewable Energy Resources**

Each distribution company must collect the following surcharge devoted to renewable energy: \$.00075/kWh in 1998, \$.001 in 1999, \$.00125 in 2000, \$.001 in 2001, \$.00075 in 2002 and \$.0005 each year thereafter. The funds will be remitted to the Massachusetts Technology Park Corporation. In addition, the new law requires a renewable portfolio standard be adopted for all energy sold in Massachusetts. One percent new renewables above the existing 6 percent is required by 2003. This percentage increases by 0.5% each year until 2009. Hydropower is considered an acceptable renewable source.

To support renewable energy resources, the Massachusetts Department of Public Utilities (MDPU) intends to require suppliers, when they register with the state, to provide information on the sources and environmental impacts of power they propose to sell. In the future, all suppliers will be required to report on a quarterly basis information related to the fuel sources and emissions characteristics of their supplies on a portfolio-wide basis.

### **Energy Efficiency**

Distribution companies must collect the following surcharge devoted to energy efficiency programs: \$.0033/kWh in 1998, \$.0031 in 1999, \$.00285 in 2000, \$.0027 in 2001 and \$.0025 in

2002. At least 20% of these revenues must be used for programs targeted toward low income customers.

**Low Income**

Distribution companies are required to continue to offer a Low Income Customer Tariff based on income eligibility. These tariffs offer discounted electric rates.

**RELIABILITY**

The Department of Energy Resources (DOER) must issue an annual report on all issues of electricity system reliability, including generation & transmission data detailing load and capacity, for the prior calendar year and forecasting potential future capacity excesses/deficits for the next 5 calendar years. The DOER must use any and all information available to forecast potential capacity excesses or deficits, including analyses by the ISO and other such data collected by the DOER.

The Massachusetts DTE will continue to license energy service providers in the state. These entities may or may not own generation facilities. In addition, the DTE has the authority to coordinate the bulk power system operation and is authorized to pursue the formation of a regional oversight committee to monitor the ISO.

The current requirements for a government "determination of need" and for the evaluation of alternative sites has been eliminated. However, analysis of alternative technologies is still required for plants that do not meet certain "clean" standards. An energy facilities siting board was created to implement the energy siting statutory provisions, so as to provide a reliable energy supply for Massachusetts with a minimum impact on the environment at the lowest possible cost. To streamline its review of petitions to construct generating facilities which have state of the art environmental performance characteristics, the EFSB periodically must conduct a rulemaking to establish a technology performance standard generating facilities emissions, including, but not limited to, emissions of sulfur dioxide, nitrogen oxides, particulate matter, fine particulates, carbon monoxide, volatile organic compounds, and heavy metals.

ISO New England Inc. was established as a not-for-profit, private corporation on July 1, 1997, following its approval by the Federal Energy Regulatory Commission (FERC). The organization immediately assumed the responsibility for managing the New England region's electric bulk power generation and transmission systems and administering the region's open access transmission tariff. The New England ISO either assumed or is in the process of assuming all the functions formerly performed by the New England Power Pool (NEPOOL). As the control area operator, NEPOOL had responsibility for all aspects of the minute-to-minute operation of the region's bulk power system, including: regulating system frequency; maintaining system voltage; managing interchange between NEPOOL and neighboring power systems; dispatching NEPOOL generating capacity to meet NEPOOL load obligations and reserve requirements; managing the dispatch of the NEPOOL transmission system; and coordinating daily transmission and generation outages. NEPOOL also provided many operational planning services in support of central dispatch



## MASSACHUSETTS

(e.g., coordination of annual generator maintenance schedules, transmission facility outage scheduling, administration of bilateral contracts between NEPOOL Participants and non-NEPOOL entities, and short-term and long-term load forecasting).

The ISO does not have authority to construct new transmission facilities. This responsibility remains with the individual utilities. In addition, ISO-New England systematically assesses each new electric generation facility requesting connection to the electric grid for transmission system reliability.

### **PUC ROLE AFTER RESTRUCTURING**

Massachusetts's restructuring legislation requires the Department of Telecommunications and Energy (DTE) to perform the following recurring activities in response to electric restructuring:

1. Impose a system benefit charge on a per kWh for energy efficiency programs.
2. Undertake consumer education functions including establishing a toll free number.
3. Issue licenses to all marketers, aggregators, and energy brokers in the state of Massachusetts.
4. Track the incidences of slamming.
5. Coordinate with other states and regulatory bodies to ensure the successful operation of bulk power systems such as the ISO. The DOER has a monitoring function over the ISO. The DOER also has responsibility for issuing an annual report on electric reliability.
6. Issue, in conjunction with the Division of Energy Resources, an annual report describing pricing differentials between rate classes in Massachusetts and other states.

### **FOLLOW-UP**

Massachusetts's restructuring legislation requires the Department of Telecommunications and Energy (DTE) to perform the following, non-recurring activities in response to electric restructuring:

8. Develop rules for the provision of default service and standard offer service;
9. Is authorized to establish performance based rates and to establish quality of service standards for distribution and transmission companies;
10. Establish rules governing the responsibilities of the generators, marketers, aggregators, etc., with respect to complaints, disconnections, contractual terms, and disclosure of information in the service agreements;

11. Establish a dispute resolution mechanism for customers;
12. Prior to the end of standard service contracts, the DTE shall perform an analysis and provide a report on the effects of competition on low income customers;
13. Establish disclosure requirements for generation providers and provide uniform bill disclosure information;
14. Establish rules governing the confidential treatment of customer information and develop a code of conduct for marketers; and,
15. In conjunction with the Division of Energy Resources, the DTE shall report by January 1, 2000, if metering and billing services should be unbundled.

# MICHIGAN

## RESTRUCTURING AUTHORITY

### Law

The Michigan Commission initiated retail competition in June of 1997, issuing its initial order in Case U-11290, outlining the framework of its restructuring plan. Subsequent orders were issued in this docket providing additional clarification. The state supreme court overruled the Commission's authority to restructure without legislation. Absent legislation, the states two largest utilities, Consumer's Energy and Detroit Edison (together both serve 90% of Michigan's electric customers) agreed to voluntarily implement retail choice based upon the structure outlined in the Commissions orders. On June 5th, 2000 comprehensive restructuring legislation became effective. Senate Bill 937 outlines restructuring and Senate Bill 1253 deals with securitization of stranded costs. The legislation specified that all previous restructuring orders remain in effect.

### Applicability

Municipal utilities are not required to restructure. However, if they provide primary power supply to customers outside their service area, they must offer reciprocity for the same type and amount of service. To do so, the municipality must become a licensed alternative supplier and allow all of its customers outside the municipal boundaries to choose and alternate supplier. Except for large customers, cooperative utilities have until January 1, 2005 to provide retail choice.

## MARKET STRUCTURE

### Affected customers

Based upon Commission orders, customer selection is through a bid process, for both Detroit Edison and Consumers Energy. Customers bid on what they will pay per KW for stranded cost through a transition fee. Customers will be chosen by an independent arbitrator. These customers may then choose alternate sources of generation.

### Phase-in

Based upon Commission orders, beginning September 20, 1999, both Detroit Edison and Consumers Energy will make available 2.5% of its load for competition. An additional 2.5% will be added each 6 months. Pursuant to the legislation, by January 1, 2002, the PSC shall issue orders establishing rates, terms and conditions of service allowing all electric utility customers to choose an alternative supplier

## MARKET POWER

A utility must divest a portion of its generating capacity or enter into a 5-year contract for sale or transfer of the capacity if the PSC determines that the utility has commercial control of more

than 30 percent of capacity serving the relevant market. The 30 percent calculation excludes any retail contract sales exceeding 15 percent of the utility's load.

By January 1, 2001, electric utilities serving more than 100,000 customers in the state must file a joint plan with the PSC detailing measures to expand, within two years, transmission capability by at least 2,000 megawatts. Also, each investor-owned utility must either join a FERC-approved multi-state independent transmission organization or divest its interest in transmission facilities.

The Commission has approved codes of conduct for affiliated transactions. Also, within one year, utilities must file with the PSC to unbundle commercial and industrial rates. The PSC may also require utilities to unbundle residential rates.

### **Rate Reductions**

Residential customers of large investor-owned utilities will receive a 5 percent rate cut effective May 1, 2000. Rates are capped until December 31, 2003, at a minimum, and until the earlier of December 31, 2013 or when the PSC determines the utility has met the market test and completed transmission expansion, as provided for in the act (see market power). In any event, the rate cap will extend until January 1, 2005 for small commercial customers and until January 1, 2006 for residential customers.

### **STRANDED COST**

Under SB. 937, utilities are allowed full recovery of net stranded costs and implementation costs as determined by the PSC. Qualified costs include regulatory assets as determined by the PSC, adjusted by investment tax credits, plus costs the utility would be unlikely to recover in a competitive market, including retail open access implementation costs, the costs of a PSC-approved restructuring, and the buy-out or buy-down of power purchase contracts. The PSC shall use various methods to determine stranded costs, including evaluating the relationship of market to net book value of generation assets and purchased power contracts, and evaluating net stranded costs based on the market price of power in relation to prices assumed by the PSC in prior orders. The PSC shall annually approve a true-up adjustment for stranded cost recovery.

A utility can apply to the Public Service Commission to recover its qualified costs via securitization bonds. The PSC will issue a financing order if it finds that the net present value of the revenues to be collected under the financing order is less than via conventional financing methods. The PSC must also ensure that the bond proceeds will be used solely for refinancing or retiring debt or equity, and that securitization provides quantifiable benefits to utility customers. Bonds will be paid back via a non-bypassable charge (securitization charge). There is a fifteen-year limit to the bond term, and the bonds are exempt from Michigan state or local government taxes. The PSC can also issue a finance order approving the refunding of a securitization bond.

### **CUSTOMER SERVICE ISSUES**

Prior to enactment of Senate Bill 937 (SB 937), the Michigan Commission initiated Case No.

U-12133, (9/14/99) to commence a proceeding to address the allocation and recovery of costs for a consumer education program in connection with retail access. Prior to enactment of SB 937, additional consumer protection was not addressed by the Commission. SB 937 contains several sections dealing with consumer issues.

### **Licensing**

The commission shall issue orders establishing a licensing procedure for all alternative electric suppliers. To ensure adequate service to customers in this state, the commission shall require that an alternative electric supplier maintain an office within Michigan, shall assure that an alternative electric supplier has the necessary financial, managerial, and technical capabilities, shall require that an alternative electric supplier maintain records which the commission considers necessary and shall ensure an alternative electric supplier's accessibility to the commission, to consumers and to electric utilities in this state.

## **CUSTOMER PROTECTION**

### **Deceptive Practices**

The Commission shall issue orders to ensure that customers in Michigan are not switched to another supplier or billed for any services without the customer's consent. Upon a complaint or the commission's own motion, the commission may conduct a contested case to review allegations of a violation regarding slamming or cramming. If the commission finds that a person has violated the slamming and cramming orders, the commission shall order remedies and penalties to protect customers and other persons who have suffered damages as a result of the violation, including, but not limited to, 1 or more of the following: Order the person to pay a fine for the first offense of not less than \$20,000.00 or more than \$30,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$30,000.00 or more than \$50,000.00. If the commission finds that the second or any of the subsequent offenses were knowingly made, the commission shall order the person to pay a fine of not more than \$70,000.00.

If the person is licensed under this act, revoke the license if the commission finds a pattern of violations and issue cease and desist orders.

Except for a violation concerning slamming or cramming, upon a complaint or on the commission's own motion, if the commission finds, after notice and hearing, that an electric utility or an alternative electric supplier has not complied with a provision or order issued under the Consumer Choice and Reliability act, the commission shall order such remedies and penalties as necessary to make whole a customer or other person who has suffered damages as a result of the violation, including, but not limited to, one or more of the following:

- (a) Order the electric utility or alternative electric supplier to pay a fine for the first offense of not less than \$1,000.00 or more than \$20,000.00. For a second offense, the commission shall order the person to pay a fine of not less than \$2,000.00 or more than \$40,000.00. For a third and any subsequent offense, the commission shall order the person to pay a fine of not less

than \$5,000.00 or more than \$50,000.00.

- (b) Order a refund to the customer of any excess charges.
- (c) Order any other remedies that would make whole a person harmed, including, but not limited to, payment of reasonable attorney fees.
- (d) Revoke the license of the alternative electric supplier if the commission finds a pattern of violations.
- (e) Issue cease and desist orders.

### **Product Disclosure**

The commission shall require that, starting January 1, 2002, all electric suppliers disclose in standardized, uniform format on the customer's bill with a bill insert, on customer contracts, or, for cooperatives, periodicals issued by an association of rural electric cooperatives, information about the environmental characteristics of electricity products purchased by the customer, including all of the following:

- (a) The average fuel mix, including categories for oil, gas, coal, solar, hydroelectric, wind, biofuel, nuclear, solid waste incineration, biomass, and other fuel sources.
- (b) The average emissions, in pounds per megawatt hour, sulfur dioxide, carbon dioxide, and oxides of nitrogen. An emissions default, determined by the commission, may be used if the regional average fuel mix is being disclosed.
- (c) The average of the high-level nuclear waste generated in pounds per megawatt hour.

This information will also be posted on the Commission's web site.

### **Consumer Education**

Before January 1, 2002, the commission shall establish a funding mechanism for electric utilities and alternative electric suppliers to carry out an educational program for customers to do all of the following:

- (a) Inform customers of the changes in the provision of electric service, including, but not limited to, the availability of alternative electric suppliers.
- (b) Inform customers of the requirements relating to disclosures, explanations, or sales information for alternative electric suppliers.
- (c) Provide assistance to customers in understanding and using the information to make reasonably informed choices about which service to purchase and from whom to purchase

it.

**Aggregation**

Aggregation, including aggregation by local government units, is permitted.

**Residential customer advocacy**

The act creates a 5 member utility consumer participation board within the Department of Management and Budget to represent the interests of residential consumers.

**PUBLIC PURPOSE PROGRAMS**

Michigan's restructuring was initially accomplished through a series of Commission orders. The states's two largest utilities, Consumers Energy and Detroit Edison filed a court challenge to the PSC's authority to implement retail choice without legislation. In June 1999, the State Supreme Court ruled that the Michigan Public Service Commission could not force utilities to open their territories to competition. However, in September 1999, both utilities began to voluntarily implement the PSC orders. Under that scenario current public purpose programs were not impacted.

Environmental concerns were addressed in the restructuring orders, with surcharges proposed for energy conservation, renewable resource research and low income conservation and customer assistance. The Commission discussed this issue, but determined any additional surcharge would be considered a rate increase subject to hearing.

On June 5th, 2000, comprehensive restructuring legislation became effective. Senate Bill 937 outlines restructuring and Senate Bill 1253 deals with securitization of stranded costs. The legislation specified that all previous restructuring orders remain in effect. The Commission plays a key role in overseeing competition.

Senate Bill 937 addresses Public Benefit Programs as follows:

**Renewable Resources**

The PSC must establish a renewable energy program to inform customers about the value of using renewable resources and the potential for reduced pollution, as well as to promote the use of renewable resources and encourage their development.

**Low Income/Energy Efficiency**

If securitization savings exceed the amount needed to achieve a 5% rate reduction for all customers, then, for a period of 6 years, 100% of the excess savings, up to 2% of the electric utility's commercial and industrial revenues, shall be allocated to the low-income and energy efficiency fund administered by the commission. The commission shall establish standards for the use of the fund to provide shut-off and other protection for low-income customers and to promote energy efficiency by all customer classes. Additionally, The commission shall monitor the extent to which federal funds are available for low-income and energy assistance programs. If there is a reduction in the

amount of the federal funds available to residents in this state, the commission shall conduct a hearing to determine the amount of funds available and the need, if any, for supplemental funding. Upon completion of the hearing, the commission shall prepare a report and submit it to the governor and the legislature.

## **RELIABILITY**

The Michigan Commission had previously implemented consumer choice through Commission orders. However, the state supreme court ruled the Commission did not have authority without appropriate legislation. However, the states two largest utilities agreed to voluntarily implement the restructuring outlined in the Commission's orders.

On June 5th, 2000, comprehensive restructuring legislation became effective. Senate Bill 937 outlines restructuring and Senate Bill 1253 deals with securitization of stranded costs. The legislation stated that prior commission restructuring orders were in compliance with the act and enforceable by the Commission.

The orders specific to restructuring do not address reliability, however Michigan has an ongoing reliability program which is still in effect. In January of 2000, the Michigan Commission ordered its three largest IOUs to file an assessment of the generation and transmission capacity of the utility and its affiliates for the summer of 2000 and its plan for meeting the demand of all customers in its service territory. The assessment will include a discussion of how the generation and transmission activities of each utility and its affiliates affect the open access program. Additionally, in November 1999, the commission staff concluded an investigation of Detroit Edison's distribution system reliability and made several recommendations for improvement.

Senate Bill 937 provides that the commission shall adopt generally applicable service quality and reliability standards for the transmission and distribution systems of electric utilities and other entities subject to its jurisdiction, including, but not limited to, standards for service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, operational reliability, and public and worker safety. In setting service quality and reliability standards, the commission shall consider safety, costs, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The commission shall also include provisions to upgrade the service quality of distribution circuits that historically have experienced significantly below-average performance in relationship to similar distribution circuits.

Annually, each jurisdictional utility or entity shall file its report with the commission detailing actions to be taken to comply with the service quality and reliability standards during the next calendar year and its performance in relation to the service quality and reliability standards during the prior calendar year. The annual reports shall contain that data as required by the commission. The commission shall analyze the data to determine whether the jurisdictional entities are properly operating and maintaining their systems, assess the impact of deregulation on



reliability, and take corrective action if needed.

The commission shall be authorized to levy financial incentives and penalties upon any jurisdictional entity which exceeds or fails to meet the service quality and reliability standards.

## **COMMISSION'S ROLE**

The Michigan Commission had previously implemented consumer choice through Commission orders. The State Supreme Court ruled that the Commission did not have authority without appropriate legislation. Nevertheless, the state's two largest utilities agreed to voluntarily implement the restructuring outlined in the Commission's orders.

On June 5th, 2000, comprehensive restructuring legislation became effective. Senate Bill 937 outlines restructuring and Senate Bill 1253 deals with securitization of stranded costs. The Commission plays a key role in overseeing the implementation of competition.

### **Rule Development**

The Commission was directed by the legislation to issue orders to accomplish specified competition goals.

### **Enforcement Activities**

The Commission must issue orders establishing a licensing procedure for all alternative electric suppliers. To ensure adequate service to customers in this state, the commission must require that an alternative electric supplier maintain an office within Michigan, must assure that an alternative electric supplier has the necessary financial, managerial, and technical capabilities, must require that an alternative electric supplier maintain records which the commission considers necessary and must ensure an alternative electric supplier's accessibility to the commission, to consumers and to electric utilities in this state. The commission also will require alternative electric suppliers to agree that they will collect and remit to local units of government all applicable users, sales, and use taxes.

Regarding reliability and safety, an alternate energy provider must provide information as to the applicant's safety record and its history of service quality and reliability.

## **CUSTOMER PROTECTION**

The Commission shall issue orders to ensure that customers in this state are not switched to another supplier or billed for any services without the customer's consent. Upon a complaint or the commission's own motion, the commission may conduct a contested case to review allegations of a violation regarding slamming or cramming. If the commission finds that a person has violated the slamming and cramming orders, the commission shall order remedies and penalties to protect

customers and other persons who have suffered damages as a result of the violation.

### **Rate Regulation**

Unbundling is required for generation, transmission and distribution only. The Commission will continue regulation of the distribution rates including billing and metering.

### **FOLLOW-UP**

The Michigan Commission had previously implemented consumer choice through Commission orders. The State Supreme Court subsequently ruled that the Commission did not have authority without appropriate legislation. However, the states two largest utilities agreed to voluntarily implement the restructuring outlined in the Commission's orders.

On June 5th, 2000, comprehensive restructuring legislation became effective. Senate Bill 937 outlines restructuring and Senate Bill 1253 deals with securitization of stranded costs. The legislation specified that all existing restructuring orders issued by the Commission remain in effect. The Commission plays a key role in overseeing competition.

Pursuant to Commission orders, the Commission has requested its staff to keep it, as well as other interested parties, aware of the restructuring program. As the open access program is implemented, the Commission and other interested stakeholders need to be kept up-to-date on the progress of the program and on issues as they arise. The staff will file reports in the restructuring docket as needed to keep the Commission apprised of these matters. In addition, within 30 days of the deadline for bids for the initial 2½% capacity block, the staff must file a report with the Commission specifically addressing capacity bidding.

Pursuant to Senate Bill 937, the commission shall file a report with the governor and legislature by February 1st of each year that shall include all of the following:

- (a) The status of competition for the supplying of electricity in this state.
- (b) Recommendations for legislation, if any.
- (c) Actions taken by the commission to implement measures necessary to protect consumers from unfair or deceptive business practices by utilities, alternative electric suppliers, and other market participants.
- (d) Information regarding consumer education programs, approved by the commission, to inform consumers of all relevant information regarding the purchase of electricity and related services from alternative electric suppliers.

Further, within 1 year of the effective date of the 2000 legislation, the commission shall issue a report to the governor and the legislature that analyzes all aspects relating to market power in the

Upper Peninsula of Michigan. The report shall include, but not be limited to, concentration of generating capacity, control of the transmission system, restrictions on the delivery of power, ability of new suppliers to enter the market, and identification of any market power problems under the existing market power test. Prior to issuing its report, the commission shall receive written comments and hold hearings to solicit public input.



# MONTANA

## RESTRUCTURING AUTHORITY

### Law

SB 390 (1998) established giving customers with usage of 1 Megawatt or higher a choice of providers.

### Applicability

Retail sales within the state are supplied either by investor-owned utilities (IOUs) or member-owned rural electric cooperatives (RECs). On or before July 1, 1998, investor-owned electric utility customers with loads greater than 1000 kilowatts or a customer with loads greater than 300 kilowatts per meter that aggregate to 1000 kilowatts or greater must have the opportunity to choose an electric supplier. As soon as administratively feasible, but before July 1, 2002, all remaining investor-owned utility customers must have choice.

## MARKET STRUCTURE

### Affected customers

Investor-owned electric utility customers with loads greater than 1000 kilowatts or a customer with loads greater than 300 kilowatts per meter that aggregate to 1000 kilowatts or greater must have the opportunity to choose an electric supplier.

### Phase-in

July 1, 1998 through July 1, 2002

### Customer choice

Beginning July 1, 1998, utilities must run pilot programs offering customer choice for residential and small commercial customers.

## MARKET POWER

### Divestiture of Assets

Investor-owned utilities must functionally separate the utility's electricity supply, transmission, distribution and energy services operations. The utility must make its transmission and distribution facilities available for all electricity suppliers and customers on a nondiscriminatory and comparable basis. The utility must adopt and comply with a code of conduct consistent with the Federal Energy Regulatory Commission's code of conduct.

### Rate Reductions

An investor-owned utility shall institute a rate moratorium during the transition to competition. Beginning July 1, 1998, there is a 2 year rate moratorium for all customers. After June

30, 2000, rates for customers that do not have choice as of July 1, 1998, cannot be increased, except for transmission and distribution rates subject to PSC approval. Power supply costs may not increase for these customers until after June 30, 2002.

## **STRANDED COSTS**

### **Definition**

Stranded costs are defined as the costs of resources above their market value. These include:

1. High cost power purchase contracts and Qualifying Facility contracts;
2. High cost generating resources;
3. "Regulatory assets" that cannot be marketed at all, e.g., past demand-side management program costs; and,
4. Deferred taxes that are generally recoverable under traditional regulatory arrangements, but probably cannot be recovered under conditions of retail competition and customer choice.

### **Recovery**

The Montana Public Service Commission is proposing that the state float tax exempt bonds to cover stranded costs. The bonds would be repaid out of "competitive transition charges" (meter charges) to customers. This proposal may provide a starting point for considering proposals on a sharing of stranded costs between ratepayers and shareholders, using tax exempt bonds to provide an early recovery of the company's share while stretching customer payments over a longer period while holding down rates to residential and small commercial customers.

## **CUSTOMER SERVICE ISSUES**

### **Standard Service Provisions and Policies**

Montana's natural gas and electricity restructuring laws require the PSC to establish information and protection requirements for consumers and suppliers in these newly restructured industries. Following is a summary of the PSC's consumer information and protection rules that became effective in June 1999. Most of these rules apply to suppliers' dealings with residential and small commercial customers only. They do not apply to electric cooperatives or their customers, except for cooperatives' supply affiliates operating outside the cooperatives' traditional utility service territories.

The supplier may contract with the customer's distribution utility to do its billing. In that case, the customer will receive one combined bill from their distribution utility that includes the supplier's charges and the distribution utility's charges. Alternatively, a supplier may choose to send its own bill to customers. That bill could either contain just the charges for supply service and arrive separately from the distribution utility's bill or, depending on billing agreements, could include the distribution utility's distribution and transmission charges as well.

Each service component (supply, transmission or transportation and distribution, transition

charges and universal system benefits charges) will be itemized. Charges must be identified as regulated or unregulated. If a combined bill is received, the supplier's charges and the distribution utility's charges will be separately subtotaled. The bill must include the name and toll-free phone number of each company for which charges are billed. Bills combining charges for both electric and natural gas services must separate the electricity-related portion of the bill from the natural gas-related portion and separately subtotal each.

### **Default Service Provisions and Policies**

If a customer is without supply service because they have not chosen a supplier or because their supplier has terminated the supply service contract, the customer's electricity or natural gas supply will continue uninterrupted from a default supplier. For now, the distribution utility in the immediate area will serve as the default supplier but, in the near future, other entities may also provide default supply service.

Default supply service is meant to provide consumers with a stopgap energy supply source for the short period of time it takes them to move to a competitive supplier. If a customer receives default supply service, they must have a paid-up account with the default supplier in order to exit the service in favor of a competitive supplier.

The default supplier may require a deposit from a customer. The default supplier may disconnect service to a customer who has not paid for its default service or its distribution service, after providing notice to the customer. Both deposits and terminations must be handled in accordance with the PSC's rules.

## **CUSTOMER PROTECTION**

### **Slamming and Cramming**

A supplier must obtain a customer's written authorization before making a supplier switch on their behalf. The supplier will provide a customer with a written authorization form that is accompanied by the supplier's service contract. The customer must sign, date and return the authorization form to the supplier to switch suppliers.

If the customer believes a supplier has switched his account without authorization and the supplier cannot produce written authorization for the switch, then the customer is not liable for payment of any charges to the unauthorized supplier.

### **Deceptive Practices**

A supplier must be able to document any marketing claims it makes that its electricity or natural gas product is environmentally beneficial or is produced primarily with renewable energy sources. The PSC may investigate suppliers' marketing claims and may penalize suppliers whose claims are determined to be misleading, false or fraudulent.

Suppliers that are affiliated with previously regulated public utilities that offered supply,

transmission and distribution all in one package may not associate themselves in their marketing efforts with the perceived virtues of the previously regulated public utility. A supply affiliate is a separate and distinct company from a previously regulated public utility and may not use its affiliation to gain advantage in the competitive supply market in the service area of the previously regulated public utility.

### **Customer Complaint/Redress**

Every supplier must be able to respond to customer inquiries and complaints. If the supplier is unable to resolve a dispute with a customer, the customer must be informed of his or her right to file an informal complaint with the PSC.

### **Provider of Last Resort**

For now, the distribution utility in the area will serve as the default supplier but, in the near future, other entities may also provide default supply service.

### **Product Disclosure**

A supplier's service contract provides a plain-language explanation of the supplier's rates, terms and conditions. A supplier must provide its service contract to a customer upon request. The service contract will include an information label giving basic information about the supplier's offer. All suppliers must use the same label format to make it easier for consumers to compare suppliers' offers.

Besides the information required to be shown on the label, the service contract must also prominently identify all charges, fees and penalties associated with the supplier's service and explain whether there are conditions under which the supplier may terminate the supply agreement. The contract must include an explanation that distribution and transmission charges remain regulated, are not provided by the supplier, and identify whether the distribution utility or the supplier will bill for distribution and transmission.

The customer has a three-day grace period after signing the contract during which they may rescind it without penalty. The supplier must explain in the service contract how the customer may rescind the contract. The supplier may not inform the distribution utility of the customer's decision to change suppliers until after the three-day grace period is over.

### **Disconnection Procedures**

A regulated distribution utility may not disconnect or deny distribution service to a customer due to the customer's failure to pay for a supplier's service or any service provided by another company. When the same utility provides distribution of both electricity and natural gas to a customer, it may not deny or disconnect natural gas service due to a customer's failure to pay for electric service, or deny or disconnect electric service due to a customer's failure to pay for natural gas service.

If the customer does not pay the charges owing to their supplier, the supplier may terminate



the customer's service contract after providing the customer with written notice at least 14 days before the termination date. The notice must include the reasons for termination, the termination date, and the name, address and phone number of a supplier representative who can address your questions about the proposed contract termination. The notice must also inform the customer that a default supplier will continue to provide their electricity or natural gas supply if the service contract is terminated.

## **PUBLIC PURPOSE PROGRAMS**

The Public Service Commission was given a wide range of authority under The Electricity Buying Cooperative Act approved on May 5, 1999. The Act authorizes the Commission to oversee the transition from a regulated to a competitive electric market. The Act established the following requirements and procedures in the Public Purpose Programs area.

### **Low income assistance**

Universal systems benefits programs are established. A charge will be paid by all utility customers (assessed at the meter) to ensure continued funding of energy conservation, renewables and low-income energy assistance programs.

- (a) Beginning January 1, 1999 and until July 1, 2003, 2.4 percent of each utility's 1995 retail sales revenue is established as the annual funding level for universal systems benefits programs.
- (b) A minimum annual funding requirement for low income energy bill and weatherization assistance is established at 17 percent of each utility's annual universal system benefits funding level.
- (c) The annual charge for customers with loads greater than 1000 kilowatts is the lesser of \$500,000 or .9 mills per kilowatt hour purchased.
- (d) Utilities and large customers receive credit toward their universal system benefits obligation for their internal programs.
- (e) If a utility's or a large customer's credit does not satisfy the annual funding requirement, then it shall make a payment to the universal systems benefit fund or the universal energy assistance fund.
- (f) Cooperatives may collectively pool their credits statewide.
- (g) Investor owned utilities and cooperatives must file annual reports relating to universal systems benefits to the transition advisory committee created by this bill.

## **RELIABILITY**

Utilities must maintain standards of safety and reliability of the electric delivery system and existing customer service requirements. An electricity supplier must file an application with and obtain a license from the commission before offering electricity for sale to retail customers in the state of Montana. As a condition of licensing, an electricity supplier is required to identify and describe its activities and purposes and the purposes of each of the electricity supplier's affiliates, if any, including whether an affiliate that owns or operates distribution facilities offers customer choice through open, fair, and nondiscriminatory access to the electricity supplier's or the electricity supplier's affiliates distribution facilities. The commission may require electricity suppliers that provide electricity supply service to small customers to make a standard service offer that ensures that those customers have access to affordable electricity.

The commission may require proof of financial integrity and a demonstration of adequate reserve margins or the ability to obtain those reserves and may require a licensee to post a bond should an electricity supplier fail to supply electricity or lack financial integrity. An electricity supplier shall provide the commission and all distribution services providers with copies of all license applications. Licensees shall update information and file annual reports with the commission and all distribution services providers. If the commission rejects a license application, the commission shall specify the reasons in writing and, if practical, identify alternative ways to overcome deficiencies. A cooperative utility is not required to apply for a license from the commission to be an electricity supplier to customers served by that cooperative utility in its electric facilities service territory or to any customers served by another cooperative utility subject to the consent of the other cooperative utility's local governing body.

## **ROLE OF PUC**

### **Enforcement Activities**

The Montana Public Service Commission (PSC) will continue to regulate the retail transmission and distribution system within Montana after it issues a final order on each utility's transition plan. The PSC may find that workable competition does not exist and continue the regulation of electricity supply by distribution service providers for a period of no more than 3 years past the transition period. The PSC must determine whether competition is sufficient to inhibit monopoly pricing or anticompetitive price leadership.

### **Customer Service**

The PSC must ensure that universal systems benefits programs are established. A charge will be paid by all utility customers (assessed at the meter) to ensure continued funding of energy conservation, renewables and low-income energy assistance programs.

## **FOLLOW-UP**

A transition advisory committee on electric utility industry restructuring was created. The transition advisory committee is composed of twelve voting members who are appointed by the Legislature. The advisory committee is composed of members from the Legislature as well as from the electric industry and the general public. The transition advisory committee will make recommendations to the Governor, regarding the implementation of statewide universal system benefits and universal energy assistance funds, in time to allow for those funds to be created on or before January 1, 1999. This includes recommendations regarding the assignment of an existing government agency or private, nonprofit entity as the fund administrator and administration guidelines for the funds, including the means by which funds may be made available for use. The transition advisory committee must provide an annual report on the status of electric utility restructuring on or before November 1st to the Governor, the Speaker of the House, the President of the Senate, and the Commission and must provide quarterly interim summary reports to the members of the legislature through January 1, 1999. The transition advisory will dissolve on the earlier of either the date that full transition to retail competition is completed or December 31, 2004.

The transition advisory committee will monitor and evaluate the universal system benefits programs and comparable levels of funding for the region and make recommendations to the legislature to adjust the funding level to coincide with the related activities of the region at that time.

On or before July 1, 2002, the transition advisory committee, in coordination with the commission, must conduct a reevaluation of the ongoing need for universal system benefits programs and annual funding requirements and shall make recommendations to the legislature regarding the future need for those programs. The determination must focus specifically on the existence of markets to provide for any or all of the universal system benefits programs or whether other means for funding those programs have developed. These recommendations may also address how future reevaluations will be provided for, if necessary.

On or before November 1, 2001, the transition advisory committee must collect information to determine whether Montana utilities or their affiliates have an opportunity to sell electricity to customers outside of the state of Montana comparable to the opportunity provided pursuant to this chapter to utilities or their affiliates located outside the state of Montana. That information must be included in the report to the legislature.



# NEVADA

## RESTRUCTURING AUTHORITY

### Law

The Nevada legislature passed AB 366 which restructured the Nevada electric industry. This Act applies to existing investor-owned electric utilities with gross annual revenues from Nevada exceeding \$250 million.

### Applicability

The Act does not apply to existing cooperatives unless those cooperatives choose to provide electric service to a customer in the service territory of another electric utility. In this instance, the requirements of AB 366 would apply to cooperatives and their service territories as well.

### Plan submittal by utility

All electric utilities are to submit a plan to comply with any obligations established by the Act and the regulations adopted by the PSCN to implement the provisions of the plan. The plan is to include information needed to set rates for non-competitive services and as well as to establish interim price regulations for potentially competitive services whose markets are not sufficiently competitive.

## MARKET STRUCTURE

### Dates and Phase-in

The opening of the electricity market was scheduled to begin December 31, 1999. However, in January 1999, the Nevada PUC, citing a list of “unresolved issues,” decided to delay the start of retail electric competition. The PUC indicated that the process to resolve certain issues was taking an additional two to nine months longer. On August 7, 2000 the Nevada PUC announced a settlement agreement with its two largest IOU, Sierra Pacific and Nevada Power to allow retail competition to begin. The agreement set November 1, 2000, as the beginning date for large commercial customers, April 1, 2001, for small commercial customers, and the Fall of 2001, for residential customers.

## MARKET POWER

### Functional unbundling

An affiliate of a provider of a non-competitive service may provide competitive services upon a finding that the affiliate has an arm’s-length relationship with the non-competitive services entity.

### Transmission operating company

Nevada Power and Sierra Pacific Power are in the process of forming the Desert Star independent system administrator (ISA). The Nevada PUC has stated that it would prefer Nevada

to join the California ISO because it is already operational. The Nevada PUC says its concept calls for an independent Nevada board “working with” the California ISO, borrowing “protocols, such as transmission scheduling, dispatching and reliability considerations.”

### **Rate Reductions**

The Nevada legislature passed SB 428, an amendment to the state’s electricity industry restructuring law. The amendment imposed on the state’s incumbent utilities, Nevada and Sierra Pacific Power Co., a three year rate freeze. The bill allows Nevada Power to request a small rate hike (4%) to cover fuel and purchased power expenses. After that hike, if granted, Nevada Power’s rates, along with those of Sierra Pacific, would be frozen through the year 2003.

## **STRANDED COSTS**

### **Definition**

Electric restructuring was approved in Nevada in April of 1999. The utilities have been submitting their transition plans to the Public Service Commission of Nevada (PSCN), however, no implementation has begun. The legislation, AB 366, authorized the PSCN to determine the recoverable stranded costs and may impose a procedure for the direct and unavoidable recovery of allowable stranded costs from ratepayers. However, stranded cost recovery is not guaranteed.

### **Calculation and Recovery**

The legislation directs the PSCN to determine which costs on the books of an electric utility are properly allocated to a potentially competitive service as of the date on which customers are authorized to obtain that service from alternative sellers. The determination of recoverable cost should take into account:

- the extent to which the utility was legally required to incur the costs,
- the extent to which the market value of utility assets or obligations that can be used to provide potentially competitive services exceeds the book cost of the assets or obligations,
- the effectiveness of the utility’s efforts to increase and realize the market value of the assets and obligations,
- the extent to which rates previously established by the PSCN have compensated shareholders for the risk of non-recovery of the costs,
- the tax effects associated with the difference between market value and book cost, and
- where the utility had discretion to incur the costs, the performance of the utility with respect to the costs relative to utilities having similar historic obligations to serve the public.

The PSCN is to impose a mechanism for the nondiscriminatory, nonbypassable recovery of that portion of past costs determined to be owed by the ratepayers.

## **CUSTOMER SERVICE ISSUES**

### **Standard Service Provisions and Policies**

The Public Service Commission of Nevada (PSCN) will establish minimum terms and conditions for the provision of basic service. This includes minimum periods in which customers must purchase basic service, and the prices for basic service that must reflect the incremental cost of serving customers.

If an electric utility is the basic service provider, the utility must provide the service through an affiliate whose sole business activity is the provision of basic service.

### **Default Service Provisions and Policies**

The PSCN had originally set the auction of small default customers, those end-users not selecting a provider, at the start of competition. However, Legislative Senate Bill 428 delayed the auction of small default customers until July 2001.

The provision of electric service for those customers unable or unwilling to shop for alternative sellers of electricity will remain the obligation of the electric utility unless assigned to another entity. The recovery of costs incurred to carry out this obligation will be subject to the current statutes and provisions of the Act. Other entities may be assigned these customers through direct assignment of customers to alternative sellers or holding a competitive bidding process for the right to provide the service upon a finding that the public interest would be promoted by having them provide that service.

### **Customer Education Campaigns**

Since Nevada approved electric restructuring in 1999, with customer selection not beginning until 2001, many of their customer service issues are still being developed. PSCN will implement a consumer education program for informing customers of the changes in the electric industry prior to the date direct access to electric service is authorized. At this time, it is the PSCN's intention to require electric utilities and alternative sellers to provide information that allows a comparison of prices and services.

## **CUSTOMER PROTECTION**

### **Slamming and Cramming**

The PSCN has addressed several customer service issues. To prevent "slamming," which has become a growing problem in the long-distance telephone market, the PSCN will establish procedures to reduce the chances for "slamming" as well as impose penalties for such behavior. The PSCN is also to establish procedures to ensure that no customer of an alternative seller is switched to another alternative seller without reliable confirmation of the transfer. In addition, to ensure the full disclosure of information the PSCN requires that any person selling a potentially competitive service is to provide sufficient information to enable retail customers to easily compare price, price variability, and resource mix of their purchases.

### **Environmental Programs (renewable programs or portfolio standards)**

Assembly Bill 366 provides that the Public Utility Commission of Nevada (PUCN) establish

portfolio standards for renewable energy. The standard will phase-in a requirement that 1% of energy consumed be from renewable energy resources.

Beginning in 2001, two-tenths of one percent of the electricity consumed must be derived from renewable energy sources. The amount will be increased biannually thereafter by two-tenths of one percent until the standard reaches a total of one percent of the total amount of electricity consumed. In establishing the portfolio, the PUCN may establish a system of tradable credits that enable electric utilities and alternative sellers to comply with the renewable energy standards.

In their consumer information, Nevada states that customers will be able to receive electricity from a “green energy” provider that relies primarily on energy produced through renewable resources, solar, wind, geothermal or hydroelectric. In that instance, the PUCN will establish labeling requirements so customers will know the fuel source of the provider from whom they are buying. In addition, customers may decide to purchase and use power during certain blocks of time when it is cheaper. The PUCN assures customers that the information they will receive about this “time of use” option is accurate and customers can make the best choice.

## **RELIABILITY**

The legislation places the responsibility for ensuring reliability on the Public Service Commission of Nevada (PSCN). The Public Service Commission of Nevada will ensure the continued safety and reliability of electric service. According to the Legislation, the PSCN may not simply “deregulate” and leave consumers at the mercy of the market. The PSCN must determine that competition will be vigorous and will protect consumers before removing itself from rate regulation.

The Public Service Commission of Nevada will license new service providers and protect consumers from shady business practices. Each alternative seller must obtain a license from the PSCN before it is allowed to sell any electric service to a customer. By January 1, 1999, the PSCN had to set forth procedures and conditions that alternative sellers must satisfy to obtain a license to sell electric services to customers. The PSCN may suspend or revoke a license if it determines it is in the public interest or deny a license if the applicant had engaged in activities inconsistent with effective competition in other jurisdictions.

The state’s major electricity companies are discussing the formation of an ISA to be named Desert Star. Discussions are still in the formative stages. The Desert Star concept calls for an independent Nevada board “working with” the California ISO, borrowing “protocols, such as transmission scheduling, dispatching and reliability considerations.” Eventually, it is envisioned the two entities could be merged into one. However, the PSCN has suggested that Desert Star not be formed and instead the utilities join the California ISO. The main concern is that the full operation of Desert Star is still several years away, whereas, the California ISO is now functioning.

## **PUC ROLE DURING RESTRUCTURING**



The Nevada Electric Restructuring Bill holds the Public Service Commission of Nevada (PSCN) accountable for electric restructuring. According to the legislation, the PSCN must make careful findings before authorizing competition. However, at the same time, the legislation prohibits the PSCN from delaying competition. The PSCN must:

1. determine that competition will be vigorous and will protect consumers before removing itself from rate regulation;
2. develop regulations establishing prices, terms and conditions for potentially competitive services;
3. license alternative electric sellers in Nevada and set forth procedures and conditions under which they may operate in the state;
4. establish minimum terms and conditions for the provision of basic service;
5. design a mechanism for nondiscriminatory, nonbypassable recovery of stranded costs;
6. establish procedures to ensure that no customer of an alternative seller is switched to another alternative seller without reliable confirmation of the transfer;
7. implement a consumer education program for informing customers of the changes in the electric utility industry prior to the date direct access to electric service is authorized; and
8. develop the provisions by which each utility's transition plan should follow.

#### **PUC ROLE AFTER RESTRUCTURING**

The Public Service Commission of Nevada was directed in the electric restructuring legislation to prepare a quarterly report for the Legislature that assesses the developments in the electric industry in Nevada. The report is to evaluate:

1. whether there is effective competition for each competitive service;
2. the compatibility of direct access for retail customers to alternative sellers with environmental goals;
3. the impacts of direct access for retail customers to alternative sellers on each customer class, relative to the present structure;
4. the opportunities to cooperate, formally or informally, with other states or with the federal government in the implementation of effective, competition; and

5. the need to amend Nevada statutes further to achieve the goals of the Act.

#### **FOLLOW-UP**

The Nevada Legislature required the Public Service Commission of Nevada to prepare a quarterly report for the legislature that assesses the developments in the electric industry in the State of Nevada. The reports must be submitted to the director of the legislative counsel bureau for transmittal to the legislature and must include, but is not limited to, a discussion of:

1. Whether there is effective competition for each potentially competitive service;
2. The compatibility of direct access for retail customers to alternative sellers with environmental goals;
3. The effects of direct access for retail customers to alternative sellers on each class of customers, compared to the noncompetitive regulatory structure;
4. The opportunities to cooperate, formally or informally, with other states or the Federal Government in the implementation of effective competition; and
5. The need to amend Nevada statutes further to achieve the goals of this act.

## **NEW HAMPSHIRE**

### **RESTRUCTURING AUTHORITY**

#### **Law**

Retail access legislation was passed in May, 1996, and was codified as RSA 374-F. The statute called for full retail access by January 1, 1998, but federal litigation resulted in delays. Utilities agreed they would terminate their federal court challenges after settlement agreements were approved by the New Hampshire Public Utility Commission (NHPCU). Then, as the NHPUC approved settlement offers, competition would be introduced within that utility's service area.

Legislation passed May 31, 2000 (Senate Bill 472) established the terms and conditions under which the NHPUC can issue finance orders authorizing the issuance of rate reduction bonds. The legislation also describes how a secured interest in the rate reduction property can be created and perfected.

The commission held hearings regarding the original proposed settlement to restructure the Public Service Company of New Hampshire (PSNH). The commission issued an Order on April 19, 2000, accepting the original proposed settlement as being in the public interest and consistent with New Hampshire law.

The commission held hearings with respect to the securitization proposal contained in the original proposed settlement and found that implementation of that securitization proposal, subject to the conditions listed in the April 19 Order, will result in benefits to customers that are substantially consistent with the principles contained in previous legislation (RSA 374-F:3 and RSA 369-A:1, X and with RSA 369-A:1, XI).

#### **Applicability**

Municipal utilities are not required to open their markets to consumer choice, but may choose to participate.

#### **Plan submittal by utility**

The two largest investor-owned utilities, Public Service of New Hampshire (PSNH) and Granite State Electric Company (GSE), offered settlement agreements to the NHPUC.

### **MARKET STRUCTURE**

#### **Affected customers**

As the NHPUC approves settlement offers, competition is introduced within that utility's service area. GSE's proposal was approved in July of 1998, and all customers were able to choose.

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## NEW HAMPSHIRE

called for full retail access by January 1, 1998, but federal litigation resulted in delays. Utilities agreed they would terminate their federal court challenges after settlement agreements were approved by the New Hampshire Public Utility Commission (NHPCU). Then, as the NHPUC approved settlement offers, competition would be introduced within that utility's service area.

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### **Dates, Phase-in**

An agreement by the New Hampshire Electric Cooperative (NHEC) was approved allowing a limited number of NHEC customers to choose a supplier beginning the summer of 1999. All customers became eligible January 1, 2000. An exact date for retail access is not specified in the PSNH settlement offer, but it is expected to be sometime in 2000.

## **MARKET POWER**

### **Divestiture of Assets**

GSE plans to divest itself of all wholesale generation contracts, thus making it a distribution utility only. GSE will also provide the default of standard offer service for those customers not electing an alternative electric provider. GSE agreed in its settlement to reduce the period (from 4 to 2 ½ years) in which it offered transition service. The Commission determined that the base energy charge for GSE default customers would be 3.5 cents in 1999, 3.8 cents in 2000 and 2001, and 4.2 cents in 2002. These are based on estimates from GSE's wholesale suppliers.

PSNH agreed to divest nearly all of its 1100 MW of fossil generation and its 408 MW ownership share of the Seabrook nuclear unit. Afterwards, PSNH essentially becomes a distribution company, although it will retain some transmission assets. For 3 years after the start of retail competition, PSNH will provide standard offer service for all customers not electing a new provider. The utility will procure energy by bidding from competitive suppliers. At the end of the three-year period, any remaining standard offer customers will be assigned to new energy suppliers.

**Transmission operating company**

The restructuring agreements did not address transmission and market power issues. All New Hampshire utilities with generation and transmission assets are members of the New England ISO. This transmission entity was approved by the FERC in 1997; and, therefore, predates the restructuring settlements.

**Rate Reductions**

When retail access begins, average rates for default customers will be reduced by 18% from existing levels. This is an average across all customer classes. The residential default customer will then have rates at \$.106 per kWh (3.7¢ for energy, 2.8¢ for transmission and distribution, 3.79¢ for stranded costs, 0.25 for system benefits, and 0.06¢ for a consumption tax). The 2.8¢ delivery charge will be effective for 30 months.

GSE agreed to reduce its average residential rate by 10%. Upon divestiture of New England Power assets, an additional 7% rate reduction is expected.

**STRANDED COSTS**

HB 1392 states that utilities should be allowed to recover net unmitigated stranded costs, and are obligated to take reasonable measures to mitigate their stranded costs. A nonbypassable charge to consumers is recommended as the recovery mechanism. Legislation passed May 31, 2000 (SB 472) fixes PSNH's stranded cost recovery charge for customers at 3.4 cents per kWh.

GSE's only stranded cost recovery is the termination fee owed to New England Power for the cancellation of its full requirements wholesale tariff. The stranded cost recovery charge was set at \$.028 through December 31, 1999, and is scheduled to decline until full recovery is achieved.

**CUSTOMER SERVICE ISSUES**

**Standard Service Provisions and Policies** - All customers are entitled to Transition Service. This service is designed to provide customers with a guaranteed level of savings upon the beginning of choice as well as provide stable and predictable pricing in the near term. The service will be available initially for 2.5 years but may be extended by the NHPUC for an additional 1.5 years. During the first year of choice, residential and small commercial customers may leave and then return to the Transition Service if they elect to return within 120 days of leaving. Thereafter, and for all other customers, once a customer leaves Transition Service, the customer may not return to the service.

**Default Service Provisions and Policies** - Default Service will be competitively procured by Granite State Electric. This service will be available for all customers at anytime. It is intended to provide supply to customers who do not qualify for Transition Service or who, for whatever reason, do not have supply arrangements in place.

PSNH will arrange for default service for consumers not receiving energy supply from a competitive provider and who are not eligible for Transition Service. Terms and conditions for default service will be provided by the NHPUC.

**Customer Education Campaigns** - A statewide public education program was designed to fulfill the requirements contained in the New Hampshire Public Utilities Commission's February 28, 1997 ruling (DR96-150). In one of its many findings this ruling concluded that a public education program is essential to a smooth transition to a competitive electric energy marketplace in New Hampshire.

### **Customer Protection**

**1. Universal Service** - GSE committed to offering a low income program funded by a wires charge imposed on all bills. In addition, a safety net for low income customers will be established whereby energy will be competitively bid for this group. All costs for this program are recoverable through a recovery clause.

With respect to PSNH, a system benefit charge will be applied to all classes of customers. There will be a \$0.001 per kWh charge for DSM, conservation, and load management. An additional \$0.0015 wires charge will be added for low income programs. These charges are subject to change by the commission at any time. The low income assistance program will provide energy to low-income consumers based on a percentage of the consumer's income.

**2. Rules on Energy Service Companies** - The NHPUC adopted interim procedures for licensing competitive energy providers. All competitive energy providers (CEP) must demonstrate a minimum level of financial resources to provide service in New Hampshire. They must engage in fair business practices and comply with all applicable consumer protection rules and regulations. They must disclose and make available to the public information that will enable customers to make informed choices among CEPs. All CEPs must demonstrate that they are qualified to do business in New Hampshire and are subject to its service of process requirements.

## **PUBLIC PURPOSE PROGRAMS**

### **Renewable resources**

NHPUC declined to approve a surcharge for renewable energy commercialization. It stated its preference for a regional or national strategy to deal with this issue. The topic was referred to a working group for further development.

### **Low income assistance**

According to Senate Bill 472, the commission should design low income programs in a manner that targets assistance and has high operating efficiency, so as to maximize the benefits that go to the intended beneficiaries of the low income program. Senate Bill 472 preserves assistance programs for low-income customers and energy conservation services. The systems benefits charge is fixed at .2 cents per kWh.

Granite State Electric Company committed to offering a low income program funded by a wires charge imposed on all bills. In addition, a safety net for low income customers will be established whereby energy will be competitively bid for this group. All costs for this program are recoverable through a recovery clause.

### **Conservation/energy efficiency**

With respect to Public Service of New Hampshire, a system benefit charge will be applied to all classes of customers. There will be an initial \$0.001 per kWh charge for demand-side management, conservation, and load management. This will increase to \$0.0015 kWh for the second year and \$0.0025 kWh in all future years. An additional \$0.0015 kWh wires charge will be added for low income programs. These charges are subject to change by the commission at any time.

### **RELIABILITY**

House Bill 1392 states "Reliable electricity service must be maintained while ensuring public health, safety, and quality of life." The Commission will continue to ensure consumer protection, safety and reliability of service. New England Power Pool (NEPOOL) should be reformed and efforts to enhance competition and to complement industry restructuring on a regional basis should be encouraged. New Hampshire should work with other New England and northeastern states to accomplish the goals of restructuring. Working with other regional states, New Hampshire should assert maximum state authority over the entire electric industry restructuring process. While it is desirable to design and implement a restructured industry in concert with the other New England and northeastern states, New Hampshire should not unnecessarily delay its timetable. Any pool structure adopted for the restructured industry should not preclude bilateral contracts with pool and non-pool services and should not preclude ancillary pool services from being obtained from non-pool sources.

### **ROLE OF PUC**

#### **Rule Development**

The Public Utilities Commission must issue detailed implementation rules, approve the issuance of securitization bonds, as well as decide whether to force Public Service of New Hampshire (PSNH) to write off \$76 million in stranded costs for tax deferrals, which the company says it cannot do under federal tax rules.

#### **Enforcement Activities**

The sale of PSNH's fossil generation assets must take place no later than July 1, 2001, unless the PUC finds that a delay is in the public interest. The PUC will oversee the asset sale.

#### **Customer Protection**

The original restructuring legislation authorized the Commission to continue to ensure consumer protection, safety and reliability of service. Senate Bill 472 sets PSNH's systems benefits

charge at 0.2 cents per kWh. The funds will be divided between low-income assistance and energy efficiency/conservation programs.

### **Rate Regulation**

The Commission will regulate the rates for the distribution and transmission components. PSNH must reduce its rates by 5% on October 1, 2000, and then by an additional 15% when competition actually becomes available. Residential rates should drop by 17%. The initial 5% rate reduction will end upon the earlier of the start of competition or April 1, 2001. Overall customer savings must be at least \$450 million. Savings expected from rate reduction bond financing and the pending merger would be additional.

The commission shall establish charges for retail customers that purchase or otherwise obtain or are supplied back-up, maintenance, emergency or other delivery service provided to a retail customer by an electric utility. Such charges shall be just and reasonable, and shall not be designed in a manner that creates a charge similar to or has the same effect as an exit fee.

### **FOLLOW-UP**

Beginning in 2000, the New Hampshire Public Utility Commission must submit a report to the legislative oversight committee on electric utility restructuring by October 1st of each year. The report shall concern the results and effectiveness of the system benefits charge.



# NEW JERSEY

## RESTRUCTURING AUTHORITY

### Law

"The Electric Discount and Energy Competition Act," was passed by the legislature in January 1999, and signed by the Governor on February 9, 1999.

### Applicability

A municipal electric corporation, a municipal electric utility, or a cooperative electric utility that existed prior to the effective date of this Act is not subject to the requirements of this Act, except that a local governmental entity may choose to require the municipal electric corporation, municipal electric utility or cooperative electric utility to implement retail choice.

## MARKET STRUCTURE

### Dates

The law requires the New Jersey Board of Public Utilities (BPU) to open up the state's retail electricity market by August 1, 1999.

### Phase-in

The four investor-owned utilities include: Public Service Electric and Gas (PSEG), Atlantic City's Conectiv, GPU (Jersey Central P&L), and Rockland Electric. Conectiv received final approval from BPU for its restructuring plan in July of 1999. Consumers will be given retail choice by November 14, 1999. Rates will be cut by 5% on August 1, 1999, increased to 7% on January 1, 2001, and increased again to 10.2% on August 1, 2002. GPU received final approval from BPU for its restructuring plan as of August 1, 1999. The settlement includes rate reductions in addition to the 5% due on August 1, 1999. An additional reduction in rates will include 1% in 2000, 2% in 2001, and 3% in 2002.

## MARKET POWER

### Functional unbundling

The Act does not mandate divestiture. The BPU may require a utility to functionally separate its generation assets to its holding company or a related competitive business segment. The BPU may order divestiture to an unaffiliated entity if it finds that concentration or location of generation facilities results in market control that would adversely effect the formation of a competitive generation marketplace.

### Rate Reductions

Consumers will receive a 5 percent discount off their electric bills, when competition starts, and at least another 5 percent discount over the next three years. The BPU must decide the exact

amount and timing of the second rate discount. During a term to be fixed by the board, each electric public utility shall reduce its aggregate level of rates for each customer class by a percentage to be approved by the board, which shall be at least 10 percent relative to the aggregate level of bundled rates in effect as of April 30, 1997. The board may set a term for an electric public utility to phase in a rate reduction of ten percent or more during the first 36 months of the transition period. On the starting date of the transition period, each electric public utility shall reduce its aggregate level of rates for each customer class, including any surcharges assessed pursuant to this act, by no less than five percent. The board may order a rate reduction that exceeds the 10 percent rate reduction if necessary in order to achieve just and reasonable rates.

Conectiv received final approval from BPU for its restructuring plan in July of 1999. Consumers will be given retail choice by November 14, 1999. Rates will be cut by 5% on August 1, 1999, increased to 7% on January 1, 2001, and increased again to 10.2% on August 1, 2002. GPU received final approval from BPU for its restructuring plan as of August 1, 1999. The settlement includes rate reductions in addition to the 5% due on August 1, 1999. An additional reduction in rates will include 1% in 2000, 2% in 2001, and 3% in 2002.

### **Other**

The board will conduct an investigation into competitive metering and billing, and customer service issues within 3 months of the instituting of retail competition. The board shall issue an order for providing customers the opportunity to choose a supplier for some or all customer account services not later than one year from the starting date of retail competition.

## **STRANDED COSTS**

### **Definition**

New Jersey approved a market transition charge to be collected as a limited duration non-bypassable charge payable by all of the electric public utility's customers.

### **Calculation and Recovery**

The following categories are costs capable of being recovered:

1. Utility generation plant stranded costs;
2. Stranded costs related to long-term and short-term power purchase contracts with other utilities, including buydowns and buyouts of such contracts and interim debt;
3. Stranded costs related to long-term power purchase contracts with non-utility generators, including buydowns and buyouts of such contracts and interim debt issued to effectuate the buydown and buy out of such contracts, and the costs of new power contracts as the result of renegotiation, restructuring, or termination of previous non-utility generator power purchase contracts; and

4. Restructuring related costs, as the board determines to be appropriate for recovery in a market transition charge.

A stranded cost filing must be submitted to the board and the board may approve, reject, or approve with modifications in order to comply with the act. The term of the market transition charge is limited to 8 years, absent extraordinary circumstances.

## **CUSTOMER SERVICE ISSUES**

### **Default Service Provisions and Policies**

For at least three years following the start of retail choice, utilities shall provide generation service to customers who do not or cannot choose another electric supplier or are dropped by another supplier. On or before the end of this three-year period, the New Jersey Board of Public Utilities (BPU) will decide whether to permit generation suppliers to be offered by others on a competitive bid basis, and utilities will be permitted to bid.

### **Shopping Credit Computation**

Utilities will provide a "shopping credit" for retail customers to be set at a level determined by the BPU.

### **Competitive Metering and Billing**

The BPU will conduct an investigation into competitive metering and billing, and customer service issues within 3 months of the instituting of retail competition. The BPU shall issue an order providing customers the opportunity to choose a supplier for some or all customer account services not later than one year from the starting date of retail competition.

### **Provider of Last Resort**

Simultaneously with the starting date for the implementation of retail choice as determined by the board and for at least three years subsequent and thereafter until the board specifically finds it to be no longer necessary and in the public interest, each electric public utility shall provide basic generation service.

### **Universal Service**

For the purpose of establishing initial unbundled rates, the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act.

## **PUBLIC BENEFIT ISSUES**

The Electric and Gas Restructuring Assembly Bill No. 16 (The Bill) authorizes the Board of Public Utilities (BPU) to establish an adjustable societal benefits charge (SBC), as a non-bypassable charge on all electric and gas public utility customers. The Bill will allow electric and gas utilities to impose an SBC, beginning at the start of retail choice, to recover costs associated with

socially beneficial programs, approved by the BPU prior to April 30, 1997. These programs include low-income customer assistance, consumer protection and promotion of certain societal goals, nuclear plant decommissioning, demand side management approved by BPU prior to April 30, 1997, manufactured gas plant remediation, and consumer education.

### **Energy Efficiency and Renewable Resources**

The Bill provides that funding for demand side management (DSM) programs will be held at 1999 levels with, after four years, at least 50% of DSM funding dedicated to energy efficiency and renewable energy projects up to \$140 million. This bill requires the BPU to undertake comprehensive resource analyses and determine the appropriate level of funding for energy efficiency and renewable energy programs.

### **Low Income Assistance**

The Bill also establishes a nonlapsing Universal Service Fund and leaves it up to the Board of Public Utilities to determine: "the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit." This could include the current state-funded Lifeline Credit Program and the costs of offsetting uncollectible utility bills. The administrator of these funds will be determined by the New Jersey Board of Public Utilities.

The Bill's language specifically points out that the universal service fund could include existing state and federal energy assistance resources, such as: the Lifeline Credit Program, a state-funded utility bill credit for the elderly and disabled; LIHEAP (Low Income Home Energy Assistance Program); and funds already collected by electric and natural gas utilities to offset uncollectible utility bills.

## **RELIABILITY**

State legislation states that utilities must meet all reliability standards established by the Mid-Atlantic Area Council of the North American Electric Reliability Council or its successor, the PJM Interconnection, L.L.C. independent system operator or its successor, the Federal Energy Regulatory Commission, the board, or any other state, regional, federal or industry body with authority to establish reliability standards. The board may establish specific standards applicable to electric power suppliers to ensure the adequacy of electric power capacity, if it determines that standards established by any other state, regional, federal or industry bodies are not sufficient to assure the provision of safe, adequate, proper and reliable electric generation service to retail customers in this State. Such reliability standards shall ensure bulk power system operations and security, and shall ensure the adequacy of electric power capacity necessary to meet retail loads.

PJM Interconnection, L.L.C., the ISO serving New Jersey, is responsible for the day-to-day operation of the largest centrally-dispatched electric system in North America. PJM's foremost

responsibility is to provide safe and reliable operation of the transmission system and ensure the reliable supply of energy from generating resources to wholesale customers. In addition, the ISO operates the competitive wholesale energy market for the region and facilitates open access to transmission.

PJM currently enforces NERC system reliability standards by requiring all its members to demonstrate that they have sufficient generation to meet their projected loads two years in advance on an annual basis. Also, by contract, each PJM company is obligated to share its generation with the system during emergency conditions. A regional reserve requirement is established and the PJM Interconnection Association assigns each utility its capacity reserve requirements. The result of generation sharing is that each utility is able to meet its individual reserve requirement with less generation than if it had to meet NERC's standards on its own.

New Jersey believes that reliability should continue to be judged by complying with NERC reliability criteria. This proposition appears to have the unanimous support of interested stakeholders as well. The disagreement comes with how this criteria will be met. New Jersey PSC staff supports the continued use of an installed capacity obligation on a planning basis until both buyers and sellers have a better understanding of how market-based reliability would be implemented and enforced.

## **PUC ROLE**

### **Rule Development**

The New Jersey Board of Public Utilities (BPU) had general rulemaking authority to carry out the intent of the restructuring legislation. The BPU conducted an investigation into competitive metering and billing, and customer service issues within 3 months of the instituting of retail competition. The BPU also issued an order for providing customers the opportunity to choose a supplier for some or all customer account services not later than one year from the starting date of retail competition.

### **Enforcement Activities**

The BPU believes that reliability should continue to be judged by complying with NERC reliability criteria. BPU staff supports the continued use of an installed capacity obligation on a planning basis until both buyers and sellers have a better understanding of how market-based reliability would be implemented and enforced.

### **Rate Regulation**

The BPU will continue to regulate remaining utility services (distribution) in the same manner as before the deregulation of generation.

## **FOLLOW-UP**

The Board of Public Utilities is required to submit a report that assesses the developments in the electric industry in the State of New Jersey. The report is called the “Energy Restructuring Annual Report” and is due to the Legislature on December 1st of the third year following the effective date of the legislation and every four years thereafter.

## NEW MEXICO

### RESTRUCTURING AUTHORITY

#### Law

The New Mexico Legislature approved electric restructuring in 1999. The law will open the state's electric power market to consumer choice beginning in 2001 with all consumers having retail access by January 2002.

#### Applicability

Distribution cooperative utilities and municipal utilities may participate in the restructured market in ways that differ from rules applicable to other participants that are not customer owned.

#### Plan submittal by utility

Public utilities must file a transition plan by March 1, 2000. New Mexico Power's transition plan includes residential rate reductions totaling 9% during the five-year transition period. A 3% reduction became effective immediately upon the signing of the final order. Commercial rates will be reduced by 1% over the same period. Customers will receive similar reductions in January 2000 and January 2001. A review will be conducted during the third year of the transition period to ensure customers are receiving the appropriate level of benefits.

### MARKET STRUCTURE

Unlike California, who requires its utilities to use a Power Exchange which results in energy prices that vary on an hourly basis, New Mexico plans to auction year-long contracts for standard offer service that will insulate customers from price fluctuations.

New Mexico's electric restructuring law requires utilities to separate transmission and distribution operations from their generation and power marketing activities. However, the law does not require a public utility to divest itself of any of its assets owned, leased or in which an interest is held, owned or leased. In New Mexico, public utilities have to separate into a least two corporations, separating (1) **Supply Service and Energy-related Service** consisting of generation and power supply facilities, operations and services and energy-related facilities, operations and services that are to be made available to the public pursuant to the Restructuring Act on a competitive unregulated basis from (2) **Transmission and Distribution Services** consisting of transmission facilities, operations and service, distribution facilities, operations and service and customer billing and metering that are to be made available to the public pursuant to that act on a regulated basis.

#### Customer Classes, Dates and Phase-in

The New Mexico Legislature ordered that consumers, schools and small businesses would have first choice of electricity suppliers starting in 2001. Then in 2002, large industrial users will have a choice of electricity suppliers.

As of August 2000, a coalition of the State Attorney General, PRC staff, some large energy users, and electric cooperatives have asked the PRC to delay implementation of retail competition for three years. They are concerned that the Southwest has too little generating capacity to allow a smooth transition to competition. Also, they fear that allowing New Mexico utilities to separate their generation assets to unregulated affiliates will result in an irrevocable loss of state jurisdiction over retail electric power supply.

## **MARKET POWER**

### **Divestiture of assets - Functional unbundling**

Corporate separation of regulated from unregulated services shall be accomplished by either the creation of separate affiliated companies that may be owned by a common holding company through the creation of separate non-affiliated corporations or through the sale of assets to one or more third parties. A public utility may provide all competitive and ancillary services within a single unregulated company and provide all non-competitive and ancillary services within a separate regulated company. Unregulated service shall not be provided by a regulated company.

The Public Service Company of New Mexico asked its state regulators in November 1999, to approve its plan to split its business into two subsidiaries under a newly organized holding company. One subsidiary would be the electric and gas utility, and the other the company's generating plants, and power business activities. The company states that all transmission and distribution assets will be transferred or sold to the utility subsidiary at book value, while generation assets and \$586 million in associated tax-exempt debt will remain with the power generation subsidiary. About \$403 million in taxable debt may be transferred to the utility subsidiary, or the utility subsidiary may issue its own debt to finance acquisition of the transmission and distribution assets. The company also states that it has off balance sheet obligations in the form of transmission line leases and leases of a portion of the company's share in Palo Verde Nuclear Generating Station. The holding company plan calls for the transmission leases to be transferred to the utility subsidiary. The Palo Verde leases will remain with the power generating company.

### **Rate Reductions**

The law does not specify that rates should be reduced by a certain amount. The law states that residential and small business customers are least likely to benefit from the restructuring of the electric industry and need special protection to help ensure their participation in any benefits of competition.

## **STRANDED COST**

### **Definition**

The New Mexico Legislature approved electric restructuring in November of 1999, therefore, as of this date, no utilities in New Mexico have begun restructuring. Each public utility is required to file a transition plan that complies with the New Mexico Electric Utility Industry



Restructuring Act of 1999 with the Commission no later than March 1, 2000, for Commission approval on or before December 1, 2000. The transition plan should include a detailed description of the public utility's proposed non-bypassable wires charge for recovery of transition costs and stranded costs and how those costs will be allocated among customer classes.

### **Calculation and recovery**

In the legislation, SB 428 splits the responsibility for recovering stranded costs between consumers and stockholders, allowing utilities to recover at least 50% of its stranded costs through charges to consumers over a five year period.

## **CUSTOMER SERVICE ISSUES**

### **Customer education campaigns**

New Mexico's legislature approved electric restructuring at the end of 1999 with an effective date for customer selection to begin in 2001. During the year 2000, the New Mexico Public Regulatory Commission (NM-PRC) will be defining the customer service requirements for each utility. The NM-PRC is requiring utilities to file transition plans with the Commission by March 1, 2000. In those plans, the utilities must provide information on their proposed customer education programs. In addition, the New Mexico legislature established an electric system benefits fund that would, among other activities, support customer information. The electric system benefits fund consists of money collected as a wires charge assessed on a three-hundredths-of-one-cent (\$.0003) per kilowatt-hour basis monthly. This fund will provide five hundred thousand dollars annually to the commission for consumer education and information and for the administration of the Electric Utility Industry Restructuring Act of 1999.

## **PUBLIC BENEFIT PROGRAMS**

The New Mexico Legislature created the "electric industry system benefits fund." It consists of money collected as a wires charge assessed on a three-hundredths-of-one-cent (\$.0003) per kilowatt-hour basis. This system benefits charge is collected monthly and paid quarterly to the Department of Environment for disbursement. The Department is responsible for accepting applications and developing a qualifications systems for eligible projects.

The Department of Environment shall manage, administer and maintain the fund in the following manner and for the following purposes:

- (1) no more than one hundred thousand dollars (\$100,000) annually to the department for administration of the fund;
- (2) five hundred thousand dollars (\$500,000) annually to the New Mexico Public Regulation Commission for consumer education and information, and administration of the Restructuring Act.

### **Environmental Programs (renewable programs or portfolio standards)**

No more than four million dollars (\$4,000,000) annually will be expended to encourage the use of renewable energy through the initiation development and evaluation of renewable technology projects authorized and directed by public post-secondary educational institutions or a school district in conjunction with the education of its students or by the governing body of an incorporated city, town or village or a county, each in conjunction with the respective governing body's interest in protecting the environment and reducing the city's or county's utility costs.

No more than four million dollars (\$4,000,000) will be provided to the governing body of a community or Indian nation, tribe or pueblo, where limited or no electric service is available, to develop electric service through the initiation and implementation of new projects, including those using renewable energy, to provide or extend electric service in low-income communities.

### **Energy Efficiency and Conservation**

In September 1999, the Public Regulation Commission of New Mexico approved rules allowing net metering for homes and businesses. The rules took effect 9/30/99.

### **Low Income Assistance**

At least five hundred thousand dollars (\$500,000) annually will be provided for low-income energy assistance through the federal low-income housing energy assistance project to be expended for that project's weatherization program administered by the New Mexico mortgage finance authority or for other low-income energy assistance authorized and administered by the state.

## **RELIABILITY**

The state legislation states that to ensure an orderly and equitable restructuring of the electric utility industry in New Mexico and to achieve the its stated purposes, the state public utility commission is directed to examine the safety, reliability, quality and performance standards for competitive power suppliers and distribution and transmission facilities. The legislation states that all public utilities have to file a transition plan with the state public utility commission by March 1, 2000, that includes proposed tariffs for distribution service for customers and competitive power suppliers, and transmission service, either on file with a federal regulatory agency having jurisdiction or as proposed by the public utility.

A competitive power supplier must file an application and obtain a license from the commission before offering competitive services for sale to customers. The application requires the provision of specific information on the suppliers financial viability.

The legislation that approved electric restructuring states that the PUC must examine alternative operations and regulations, including an independent system operator.

## **PUC ROLE DURING RESTRUCTURING**

The New Mexico's Electric Utility Industry Restructuring Act of 1999, created an active role for the state Public Utility Commission. The following activities were identified by the legislation in the restructuring act where the Commission:

- shall approve each utility's restructuring transition plan;
- may delay customer choice for up to one year if needed;
- will determine the amount of stranded costs to be recovered;
- shall adopt codes of conduct applicable to public utilities;
- must approve each utility's policies to avoid cross subsidy;
- shall evaluate each utility's application for service;
- shall conduct customer education efforts to promote consumer choice;
- may adopt rules to provide further customer protections; and
- shall eliminate any inappropriate part of the system benefits charge.

### **PUC ROLE AFTER RESTRUCTURING**

The New Mexico legislature, in its Electric Restructuring legislation, ordered the Commission to report to it once a year for three years after the effective date. In addition, the legislation authorized the Commission to promulgate any rules necessary to implement its authority and the directives granted in the Electric Utility Industry Restructuring Act of 1999. Specifically the Commission was encouraged to impose administrative fines on any person subject to regulation that was knowingly in violation of the Restructuring Act.

### **FOLLOW-UP**

The New Mexico Department of Environment must submit to the legislative finance committee, prior to each regular session, a report on the disbursements made from the benefits fund created to assist low-income customers and to promote renewable technologies.

The New Mexico legislature expressed concern that residential customers would gain no benefit from electric restructuring and required that, after a reasonable period of time, an assessment should be made to determine the usefulness, acceptability, and benefits (both environmental and economic) of electric restructuring. The Public Utility Commission was ordered to review a number of criteria on electric restructuring and report to the legislature by December 1st of each of the three years following the effective date of the Electric Restructuring Act and provide its recommendations for further legislative changes or direction. The report must include an examination of:

- (1) the standard offer;
- (2) consumer education and protection;
- (3) safety, reliability, quality and performance standards for competitive power suppliers and

distribution and transmission facilities;

- (4) the presence of market power, its impacts on the restructuring of the electric industry and methods available to limit or eliminate its adverse impacts;
- (5) alternative operations and regulations, including an independent system operator;
- (6) regional transmission and governance efforts, both public and private, and the advisability of regional cooperation by the state;
- (7) emergency and back-up service;
- (8) the advisability and desirability of requiring renewable energy portfolio standards in supply service offered to customers in the state; and
- (9) how power may be procured from on-site generation facilities, including facilities net metering.

## **NEW YORK**

### **RESTRUCTURING AUTHORITY**

#### **Law**

On May 16, 1996, the New York State Public Service Commission (NYPSC) issued its plan (the "Competitive Opportunities Case," Opinion and Order No. 96-12) to introduce retail competition to the state. New York is one of the few states to successfully pursue restructuring without expressed legislative authority.

#### **Applicability**

The phase-in dates for retail access vary by company, but generally a class-and-load phase-in system was developed. Full retail access for all customers is expected in December 2001. As of March 2000 2.3 % of residential customers and 5% of non-residential customers had switched to an alternative energy provider.

#### **Plans Submitted**

In late 1997 and early 1998, the Commission approved six rate and restructuring orders for the following utilities: Consolidated Edison Company of New York, Inc. (Con Edison); Central Hudson Gas and Electric Corporation (Central Hudson); Orange and Rockland Utilities, Inc. (O&R); New York State Electric and Gas Corporation (NYSEG); Niagara Mohawk Power Corporation (Niagara Mohawk); and Rochester Gas and Electric Corporation (RG&E).

Long Island Lighting Company's (LILCO) restructuring differs from other utilities in New York State. On June 26, 1997, LILCO's electric transmission and distribution system and its nuclear assets were acquired by the Long Island Power Authority (LIPA). As a result of this transaction, the NYPSC no longer has regulatory authority over the former LILCO electric system. LILCO's gas assets and operations and its non-nuclear generating assets and operations were transferred to subsidiaries and then purchased on February 5, 1998, by corporate entities associated with Brooklyn Union Gas Company.

### **MARKET STRUCTURE**

Prices for electricity purchased from an energy service company (ESCO) will be unregulated and determined by the competitive market. However, during the transition to full competition, rates for electricity and delivery service provided by the local utility will be set by the Commission. Further rate reductions could come from efficiency savings due to competition, further reductions in New York State gross receipts utility taxes, effects of the sales of generating plants, passage of legislation to bring down the cost of utility financing, refunds of profits over specific percentages, and/or potential savings from renegotiation of independent power producer contracts.

## **MARKET POWER**

The PSC views generation asset divestiture as a necessary step in the transition to a competitive retail market. All six IOUs participating in the restructuring proceedings have filed divestiture plans. Auctions for the plants have either been completed or are currently in process. Initially, the utilities were permitted to submit bids on their own assets, but the PSC's position has changed and the IOUs have now agreed not to bid on their own assets.

An ISO filing for New York State was given conditional FERC approval in June, 1998. New York has not determined if a Power Exchange will be necessary in conjunction with the ISO.

### **Rate Reductions**

All of the orders call for either electric rate reductions or freezes for all classes of customers, whether or not such customers choose to purchase their electricity from an alternative supplier. O&R agreed to implement a four-year rate plan which provides an opportunity for large industrial customers to realize an average price of 6 cents per kWh, through a combination of energy choice pursuant to O&R's PowerPick retail access pilot program, and base rate reductions. The plan calls for rate reductions of 1.09% to the remaining classes in the first year, and an additional 1% the following year. These rate reductions will remain in place for the four-year term of the agreement. ConED's plan calls for rate reductions for a five-year period beginning April, 1997. Large industrial customers will receive an immediate 25% rate reduction. Under the plan, large commercial customers would receive a 10% reduction, and small commercial and residential customers would receive a 3.3% reduction. These rate reductions would be subject to change due to higher than expected inflation, new government mandates, for a "system benefits charge" which would cover energy efficiency, research and development, and other programs such as low income assistance. RG&E's agreement includes rate reductions of 2.5% for small commercial and residential customers, 10% reductions for large industrial customers, and 4.5% reductions for all other commercial and industrial customers. Finally, Central Houston agreed to freeze its base rates through 2001. By the end of the phase in period covered by each order (three to five years), all customers of a utility will have the ability to purchase their electricity from an alternative supplier, although the traditional utility will continue to deliver the electricity to the consumer, (i.e., serve as a distribution only utility). All charges will be unbundled on the customer's bill.

## **STRANDED COSTS**

### **Definition**

New York did not have a state statute requiring retail access. The New York PUC negotiated through a collaborative process individual settlements with each utility. Generally, the New York utilities are permitted recovery of stranded costs under the settlement agreements. Given the primary utility concessions of rate cuts and generation divestiture, the PSC's policy is to allow utilities to recover stranded costs, although full recovery (i.e. utility estimates) is not guaranteed.

The recovery mechanism varies from utility to utility but generally is through a

non-bypassable wires charge or implicit within the delivery charge. Niagra Mohawk (NIMO), for example, explicitly unbundles the charge in the form of a competitive transition charge (CTC), while others, such as Con Edison, wrap recovery into the delivery charge. An assessment of stranded costs will be made once individual utilities have divested their generation assets. The PSC does not have the authority to securitize the utility's stranded costs.

### **Calculation and Recovery**

Each utility submitted a restructuring plan including stranded cost recovery requirements as follows: Central Hudson Gas & Electric: 100% recovery through a CTC with the specific amount to be determined. Consolidated Edison: Stranded costs recovered through the delivery charge - not unbundled. Estimate of the average charge is 3.4¢ per kWh. NIMO absorbed \$1.7 billion in stranded costs due to a reduction in return on equity. An adjustable CTC will allow recovery of \$3.6 million in debt used to pay off IPP contracts. New York State Gas & Electric has already fully recovered its stranded costs except for lost revenue due to rate reductions and avoided rate increase. Orange & Rockland requested 100 percent recovery after any rate reductions. The CTC will be charged for four years starting in May 1999, at the end of which assets will undergo a market valuation and customers will pay 80% of the difference in value with shareholders covering the other 20%. Likewise, Rochester Gas & Electric requested 100% recovery after rate reductions and the final amount of its stranded costs has not been determined nor has the recovery period been set.

### **Securitization**

Efforts to pass securitization legislation in New York over the past several years have been unsuccessful. Such legislation would authorize the PSC to allow utilities to securitize a portion of its regulatory assets, which includes investments required by the PSC for DSM and the costs of IPP buyouts and buydowns.

## **CUSTOMER SERVICE ISSUES**

### **Standard Offer Service**

Customers not selecting an energy service company (ESCO) will remain with the incumbent utility who will serve them at the negotiated rate contained in each utility settlement agreement. However, if a customer leaves standard offer service and then comes back, the customers rate will be served from market based rates.

### **Load Aggregation Policies**

In the Modified Uniform Business Practices, passed April 14, 1999, the definition of Direct Customer was expanded to include aggregation. A Direct Customer may aggregate and schedule load for itself and other Direct Customers, each of which would continue to be responsible individually for meeting requirements placed on Direct Customers.

### **Customer Education Campaign**

There are no specific guidelines for customer education. Each utility is conducting its own

education efforts that include bill inserts, pamphlets, videos, handbooks and media campaigns. The NYPSC provides consumer information as part of its on-going functions.

### **Competitive Metering and Billing**

Competitive metering will open up initially in the year 2000 to approximately 40,000 large energy users in the state. Those whose peak electricity requirements amount to at least 50 kilowatts will open in two consecutive months. The Commission will determine the eligibility of ESCOs, meter service providers and meter data services providers to perform metering and meter data services. All providers of such services will be required to conform to applicable Commission regulations, national and state codes and certain local utility operational practices, such as locking of meters and safety practices.

The state's six electric utilities will track all meters on their systems and report to the Commission staff on the types and performance of meters in service, at least during the transition to competitive markets. Commission staff will periodically verify the performance of all metering and meter data service providers, with assistance from the utilities.

The electric utilities will also continue to provide metering services upon request to customers of ESCOs who wish the utility to do so. Utilities will continue to be the only entities allowed to remove meters for the purpose of disconnecting electric service.

In compliance with the Commission's earlier orders, each electric utility filed unbundled metering tariffs on November 1, 1999, that identifies utility metering costs as a component of existing rates (unbundling refers to the process of separating out or itemizing charges on a utility bill). In an "Order Suspending Proposed Amendments" issued November 19, 1999, the Commission suspended the effective date of these tariffs, pending further review.

### **Load Profiling Requirements**

The NY PSC has not adopted final rules on this issue.

## **CUSTOMER PROTECTION**

Currently, New York residential consumers are protected pursuant to the Home Energy Fair Practices Act, or HEFPA. HEFPA provides strong protections requiring prompt connection, limits on deposits, notice requirements for termination and continuation of service during the notice period, and assistance for payment of overdue bills for qualifying customers to avoid cutoffs. The Commission decided that the protections of HEFPA would continue to apply to those customers who receive their electricity from the provider of last resort (PLR). However, the HEFPA requirements would not apply to ESCOs. Instead, the Commission articulated a set of protections that will be required of non-PLR ESCOs, to be implemented as a part of the ESCO oversight process.

### **Slamming and cramming**

To request a switch, ESCOs/Marketers must notify the utility of the switch using the process outlined under "Switching Requirements". Upon receipt of the switch request from an



ESCO/Marketer, the utility must, at least five calendar days prior to the switch date, send a verification letter to the affected customer and notify the incumbent ESCO/Marketer, if any, that is serving the customer at that time. After electronic data information becomes available, utilities will notify the incumbent ESCO/Marketer about customer enrollment information electronically. The verification letter must advise the customer of the switch request and ask that he/she contact the designated utility within five calendar days if the switch request information is incorrect. The general content of the letter must be filed with Department of Public Service for review before it is used for this purpose. If the customer notifies the utility that the request is not valid, the switch will not be made or will be reversed. If the current ESCO/Marketer notifies the utility that the request is not valid, the utility will contact the customer for verification and then follow the procedure noted herein for notices that come directly from customers. All unauthorized switches must be reported by the utility to the Department of Public Service.

### **Privacy and Advertising**

There are no restrictions imposed on ESCOs on how they advertise or recruit customers. The ESCOs are certificated by the NY PSC, but are not directly regulated.

### **Customer Complaints/Redress**

Commission complaint handling process is available to customers who participate in retail access. As written in the final Order, "...to ensure that customers are able to obtain basic information regarding billing problems related to meter and usage measurement, we will require that the distribution tariffs require the transmission and distribution company, which controls the meter, to promptly investigate customer complaints regarding excessive consumption and to allow ESCOs to pursue billing disputes with the Commission. This requirement will make the transmission and distribution company's special expertise in metering matters available to customers. Finally, regarding customer complaints, while we expect ESCOs to be responsive to customers and to use innovative means for resolving disputes, we will make our complaint handling process available to single retailer ESCO customers."

### **Provider of Last Resort**

Options for PLR Services remain under consideration. Until such time as the Commission makes a ruling, the IOUs remain the PLR.

### **Product Disclosure**

Every load-serving entity is required to disclose the average fuel mix and average emissions rate. Even for products where specific claims are not made, suppliers must disclose the required information. However, a retail supplier that does not make any claims that identify its electricity sources as different than net system power may disclose net system power. Suppliers can disaggregate generation sources and provide disclosure by product. Labels must report on nine general fuel categories: biomass, coal, gas, hydro, nuclear, oil, solar, solid waste, and wind. Geothermal and fuel cells may be added in the future. The label must also include data on CO<sub>2</sub>, NO<sub>x</sub>, and SO<sub>2</sub>. Emissions data must be presented relative to the state average. Suppliers are only required to disclose information on fuel mix and emissions. Disclosure information must be given

to all prospective customers and must be included with bills at a frequency determined by the PSC which will be at least quarterly. The PSC can sanction a utility or revoke an ESCO's eligibility for tariffed distribution service for violation of the environmental disclosure requirements.

### **Universal Service**

Each utility negotiated programs and rate reductions targeted to low income customers. The amount and programs vary by utility.

### **Rules on Energy Service Companies**

There are no state "licensing" requirements but ESCOs must meet certain "eligibility" requirements to participate as competitive suppliers in the state. One of the eligibility criteria is that companies demonstrate they are certified businesses registered with the NY Department of State. ESCOs must also abide by the service and credit requirements established by the utilities in whose service territories they are competing. ESCOs and marketers also face more stringent state business rules than aggregators or self-generators do. ESCOs must establish an agreement with the local utility company on the specific terms and conditions on how they will operate in the utility's service territory. No security is required in situations where, and to the extent, a utility bills customers on behalf of an ESCO/Marketer and has the right to retain funds collected by the billing to off-set utility charges (e.g., imbalance charges). A utility may require security for its delivery charges in situations where an ESCO/Marketer acts as a Billing Agent for the customer. ESPs do have to post security if they are unable to meet certain creditworthiness standards.

### **Disconnection Procedures**

ESCO's must give at least 15 days notice for disconnection and provide other information to the customer.

## **PUBLIC PURPOSE PROGRAMS**

A significant issue in the restructuring proceedings was the maintenance of environmental protection and other public policy goals. In Opinion 96-12, the New York Public Service Commission (NYPSC) directed that a non-bypassable system benefits charge (SBC) be established to support investments in energy efficiency, research, development and demonstration, low income programs and environmental monitoring that might not be fully supported in a competitive market. Statewide, about \$233 million in SBC funds will be collected through wires charges over the three year period. The NYPSC designated the New York State Energy Research and Development Authority (NYSERDA) to be the statewide administrator for the SBC program.

## **RENEWABLE ENERGY**

New York does not have a renewable portfolio standard.

By Opinion No. 98-3, "Opinion and Order Concerning System Benefits Charge Issues" (issued January 30, 1998), the Commission designated the NYSERDA as the administrator of the

system benefits charge that will fund research and development programs. The July 2, 1998 Order Approving SBC Plan adjusted previously proposed SBC funding levels, but deferred decision on the disposition of any unexpended NYSERDA funding until the Commission considers extension of the program beyond its initial three-year term. Over the three years, \$27.6 million will be allocated to NYSERDA planned public benefit research and development projects focusing largely on renewables and environmental protections.

### **Energy Efficiency**

By Opinion No. 98-3, the Commission designated the NYSERDA, as the administrator of the system benefits charge that will fund the New York Energy Smart programs for a three-year period which began July 1, 1998. Over the three years Energy Efficiency programs totaling \$130 million will be conducted by NYSERDA. An additional \$31 million has been allocated to the IOUs to complete their existing programs. Each IOU will continue to administer and complete their energy efficiency programs by the end of the transition period in 2001.

### **Low Income Assistance**

Each distribution utility designs programs and services directed toward the low income customers. These programs include combinations of discounted rates, LIHEAP and other assistance for paying bills, targeted conservation programs, and energy audits.

### **RELIABILITY**

New York restructured its electric industry without specific statutory authority. Thus, there is no new legislative mandates with respect to reliability. The ISO assumed the responsibility for operating the bulk transmission system in a reliable manner. As part of this function, it will coordinate transmission and generator maintenance, and the levels at which generators operate. Regardless of which electricity supplier a customer chooses, the IOUs will continue to be responsible for maintaining and expanding the transmission and distribution system, and for restoring service in the event of an outage.

The NY PUC does not produce long term load and energy forecasts, nor do they develop a state energy plan. These functions are performed by the New York State Energy Research and Development Authority.

Article X of the Public Service Law sets forth a unified and expedited review process in New York State for consideration of any application to construct and operate an electric generating facility with a capacity of 80 megawatts or more. Any applicant is required to meet Article X requirements in order to obtain a "Certificate of Environmental Compatibility and Public Need" before constructing such a facility. The Siting Board, after reviewing the recommended decision of the presiding examiner, any report of the associate examiner, and briefs thereon from the parties in a case, will decide if a certificate should be granted. The final decision on certification from the Siting Board is generally required within 12 months from the date that an application is judged to be in compliance with Article X. However, there is a possibility of a six-month extension.

The NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and nondiscriminatory wholesale market for electricity in New York State. The ISO does not do expansion of transmission or generation facilities. The ISO does perform reliability and cost studies for system expansions, including requests from the New York PUC. It also performs studies on the impact of member expansions and siting or new generation facilities.

## **COMMISSION'S ROLE**

New York is unique in that the state legislature did not establish statutory requirements for transitioning to retail access. Settlement agreements were negotiated between individual utilities and the New York Public Service Commission. Therefore, there was no change in the legislatively directed responsibilities of the Commission.

However, with the advent of electric choice, the Commission will continue to perform the following activities:

1. Oversee the transition to competition and continue to regulate services provided by utilities;
2. Make sure ESCOs meet the PSC's requirements for serving New York's consumers, such as clear switching and complaint handling procedures; and
3. Carry out a statewide outreach and education program to help consumers make informed choices.

# OHIO

## **RESTRUCTURING AUTHORITY**

### **Law**

In the summer of 1999, the Ohio Legislature passed and the Governor signed Senate Bill 3 deregulating Ohio's electric generation industry. Transmission and distribution service remains regulated.

### **Applicability**

The bill is applicable only to investor owned and cooperative utilities.

### **Plan submittal by utility**

The Ohio Commission must approve transition plans for each incumbent utility by October, 2000.

## **MARKET STRUCTURE**

### **Affected customers**

Effective January 1, 2001, all customers will have the opportunity to choose their electric supplier.

### **Phase-in**

Upon the effective date, electric generation, aggregation service, power marketing and power brokering are declared competitive retail services. At a later date, ancillary services such as metering, billing and collection may be declared competitive.

## **MARKET POWER**

### **Divestiture of assets**

The bill requires corporate separation between competitive and non-competitive retail electric operations.

### **Functional unbundling**

Functional unbundling is required.

### **Transmission operating company**

An independent system operator is required for transmission facilities.

### **Rate Reductions**

Until December 31, 2005, the incumbent's rates are frozen at their level as of the effective date of the act. Utilities that collect a transition charge must reduce the generation portion of

residential customers bills by 5%. Unbundling of generation, transmission and distribution is required with the total not exceeding the above rate freeze. Competition will be jump started by the use of shopping credits which have yet to be determined.

## **STRANDED COSTS**

During its market development period, a utility can recover PUC approved transition revenues through its standard offer rate and through a per kilowatt-hour transition charge paid by each customer that chooses an alternate supplier. Transition costs include net costs related to generation services unrecoverable in a competitive environment, employee assistance costs and regulatory assets. The market development period will end December 31, 2005, unless competition is found by the PUC at an earlier date in a particular utility's area.

## **CUSTOMER SERVICE ISSUES**

Consumer choice legislation was approved in July 1999, to be implemented in January 2001. The utilities have filed transition plans for commission approval which are pending. Many details remain to be resolved through approval of the transition plans. The Commission is still formulating rules and policy.

### **Standard Service Provisions and Policies**

The Commission will establish, through rules, electric service standards (quality, safety and reliability) for competitors as well as codes of conduct for affiliate transactions. The Commission will monitor mergers and energy supplier activities.

### **Load Aggregation Policies**

Communities, schools and others can pool together to achieve the benefit of buying power as a larger volume group.

### **Customer Education Campaigns**

The Commission has ordered each utility to develop both a statewide and service territory specific consumer education plan as part of its transition plan.

### **Competitive Metering and Billing**

The Commission is authorized to declare metering, billing and collection services competitive at a later date.

### **Load profiling requirements**

Customer authorization is needed for the incumbent to release customer specific load data.

### **Customer Protection**

The Commission will adopt electric supplier codes of conduct and minimum electric service standards, which must include provisions regarding: contract disclosures; service termination;

minimum content of customer bills; disconnection and termination, including requirements with respect to master-metered buildings; minimum service quality, safety and reliability; disclosure of generation resource mix; and environmental characteristics of power supplies.

### **Slamming and cramming**

Slamming is prohibited.

### **Provider of Last Resort**

Through its standard service offer, the incumbent remains the provider of last resort.

### **Product Disclosure**

Energy providers are required to disclose the generation source of the electricity they sell.

### **Rules on energy service companies**

Codes of conduct and minimum service standards will be implemented for both competitive and non-competitive services.

## **PUBLIC PURPOSE PROGRAMS**

### **Energy Efficiency Revolving Loan Program**

The restructuring legislation, Senate Bill 3 (SB 3) creates the Energy Efficiency Revolving Loan Program to be administered by the Director of Development. Eligible projects would include residential and small commercial energy efficiency and renewable energy projects. The program is funded through a temporary rider on retail distribution service rates and must be uniform statewide. The level of the rider will be determined by dividing the revenue target by the number of customers of the electric distribution utilities. The amount collected cannot exceed \$15 million in any year until 2005, or \$5 million in any year thereafter. The fund will terminate ten years after the starting date of competition or until the fund reaches \$100 million, whichever comes first.

### **Energy Efficiency**

SB 3 requires the Director of Development to establish an energy efficiency and weatherization program targeted to high cost, high volume use structures occupied by customers eligible for the Percentage of Income Payment Plan (PIPP) assistance.

### **Conservation Programs**

Utilities with conservation programs embedded in their rates may spend the funds as they have done, remit the funds to the Universal Service Fund, or return the funds to ratepayers through a rate reduction.

### **Low Income Assistance**

SB 3 establishes in the State Treasury a Universal Service Fund to be used to provide funding for low income customer assistance programs. The plan consolidates all existing programs to be administered by the Ohio Department of Development (ODOD) . This provides for one stop

shopping for services. A universal service rider is applied to electric distribution service rates. The PIPP, which currently amounts to \$103 million per year, was formerly collected through a surcharge on customers bills. A unique feature is that SB 3 forgives arrearage for elderly or disabled customers presently on the PIPP plan. Additionally, the ODOD is authorized to aggregate PIPP customers to seek competitive generation suppliers. Any savings from such aggregation would be reinvested in the targeted weatherization program.

## **RELIABILITY**

Senate Bill 3 states that service quality, safety, and reliability requirements for electric generation service shall be determined primarily through market expectations and contractual relationships. The Commission will certificate new suppliers based upon financial, managerial and technical ability.

Ohio is looking to the ISO to help improve reliability in conjunction with the state. The PUCO shall adopt minimum service quality, safety, and reliability requirements for noncompetitive retail electric service by electric utilities. The rules shall include: prescriptive standards for inspection, maintenance, repair, and replacement of each substantial type of transmission and distribution equipment or facility; standards for operation, reliability, and safety during periods of emergency and disaster; and standards for nondiscriminatory metering.

For the protection of Ohio consumers, the public utilities commission shall adopt rules that specify minimum service quality, safety, and reliability requirements for non-competitive retail electric services supplied by an electric utility in this state, to the extent such authority is not preempted by federal law. The rules shall include prescriptive standards for inspection, maintenance, repair, and replacement of the transmission and distribution systems of electric utilities. Further, each utility shall establish uniform interconnection standards to ensure transmission and distribution system safety and reliability and shall otherwise provide for high quality, safe, and reliable electric service. Utilities shall also include standards for operation, reliability, and safety during periods of emergency and disaster and shall include voltage standards for efficient operation of single-phase motors. The rules regarding interconnection shall seek to prevent barriers to new technology and shall not make compliance unduly burdensome or expensive.

When questions arise about specific equipment to meet interconnection standards, the commission shall initiate proceedings open to the public to solicit comments from all interested parties. Additionally, rules under this division shall include nondiscriminatory metering standards.

The commission shall require each electric utility to report annually to the commission on and after the starting date of competitive retail electric service, regarding its compliance with the required rules. The commission shall make the filed reports available to the public periodically as determined by commission rule. The commission shall review a utility's report to determine the utility's compliance and may act to enforce compliance.



## **COMMISSION'S ROLE**

The Ohio restructuring act requires that the Public Utilities Commission of Ohio (PUCO) ensure that competitive retail electric service is implemented.

### **Rule Development**

The PUCO was given general rule making authority to carry out the provisions of the act. The PUCO will adopt rules requiring PUCO certification of suppliers and prescription of minimum service requirements for competitive and non-competitive services. Additionally, the PUCO will adopt rules that specify minimum service quality, safety, and reliability requirements for non-competitive retail electric services supplied by an electric utility in Ohio. The rules must include prescriptive standards for inspection, maintenance, repair, and replacement of the transmission and distribution systems of electric utilities; must apply to each substantial type of transmission or distribution equipment or facility; must establish uniform interconnection standards to ensure transmission and distribution system safety and reliability and otherwise provide for high quality, safe, and reliable electric service; and must include standards for operation, reliability, and safety during periods of emergency and disaster and voltage standards for efficient operation of single-phase motors.

### **Enforcement Activities**

The PUCO has the authority to resolve abuses of market power by any electric utility that interferes with effective competition in the provision of retail electric service.

### **Customer Protection**

The PUCO will adopt consumer protection rules that prohibit unfair or deceptive marketing and sales practices. The rules will cover contract disclosure, switching service providers, minimum bill content and procedures for disconnection and service disconnection. The PUCO also will resolve any disputes between providers and consumers. It will have the statutory authority to fine providers for violation of Commission rules and policies, and can order restitution for any party injured because of violations.

### **Rate Regulation**

The PUCO will continue regulation of transmission and distribution services and establish a universal service rider on retail electric distribution service rates.

## **FOLLOW-UP**

The Public Utility Commission of Ohio (PUCO), on an ongoing basis, must monitor and evaluate the provision of retail electric service for the purpose of discerning any non-competitive retail electric service that should be available on a competitive basis. Additionally, the PUCO must determine the existence of any competitive retail electric service that is no longer subject to effective competition on or after that date. Based on this evaluation, the PUCO periodically must report its

findings and any recommendations for legislation to the standing committees of both houses of the General Assembly that have primary jurisdiction regarding public utility legislation. Until 2008, the PUCO and Ohio Consumers' Counsel (OCC) must also provide biennial reports to those standing committees, regarding the effectiveness of competition in the supply of competitive retail electric services in Ohio.

In determining whether there is effective competition in the provision of a retail electric service or reasonably available alternatives for that service, the PUCO must consider factors including, but not limited to, all of the following:

- (1) The number and size of alternative providers of that service;
- (2) The extent to which the service is available from alternative suppliers in the relevant market;
- (3) The ability of alternative suppliers to make functionally equivalent or substitute services readily available at competitive prices, terms, and conditions;
- (4) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of suppliers of services. "Market power" is defined for purposes of the act as the ability to impose on customers a sustained price for a product or service above the price that would prevail in a competitive market

The standing committees of the General Assembly that have primary jurisdiction over public utility legislation are required to meet at least biennially, until the end of all market development periods as determined by the PUCO, to consider the effect on Ohio of electric restructuring and to receive reports from the PUCO, OCC, and the Director of Development.

# OKLAHOMA

## RESTRUCTURING AUTHORITY

### Law

An Electric Utility Task Force was created in 1995 by the Oklahoma legislature. The Task Force was made up of 14 members from the Oklahoma legislature. The Electric Restructuring Act of 1997 (SB 500) directed the Task Force to study topics impacting electric restructuring in Oklahoma and to provide a framework for restructuring the electric industry that would expedite the transition to full consumer choice. The Act mandated five studies: (1) Independent System Operator (ISO) Issues; (2) Technical Issues; (3) Financial Issues; (4) Consumer Issues; and, (5) Tax Issues.

The Oklahoma Legislature amended the Electric Restructuring Act of 1997 in 1998 (Session Laws, Chapter 391). The Act requires the Oklahoma Corporation Commission (OCC) to assist the Task Force but prohibits the OCC from promulgating any rules or issuing any orders relating to electric restructuring without prior authorization from the legislature.

After holding hearings in 1995 and 1996, the Joint Electric Utility Task Force issued its final report on October 1, 1999. The legislature must now review the findings of the Task Force.

Bills dealing with implementing the electric restructuring act were drafted, but not passed during the 2000 legislative session.

## MARKET STRUCTURE

### Affected Customers

Retail customers

### Customer classes

Electric bills for all classes shall be unbundled.

### Dates

On or before July 1, 2002, Oklahoma will implement retail customer choice for electricity.

### Phase-in

No

## MARKET POWER

### Divestiture of Assets

Generation services may be subject to minimal regulation and shall be functionally separated

from transmission and distribution services, which shall remain regulated. Rates will be unbundled when consumer choice is introduced, by July 1, 2002, to provide clear price information on the components of generation, transmission and distribution, as well as ancillary charges. Charges for public benefit programs shall also appear in line item format. Electric bills for all classes shall be unbundled.

### **Transmission Operating Company**

Not mandated in pending legislation.

### **Rate Reductions**

It is unknown at this time whether there will be mandatory rate reductions, though the Act specifies that “rate levels for all customer classes shall not rise above current levels throughout the transition period”. The transition period has yet to be defined, but will be a set period of time. Pending legislation includes a provision for incumbent providers to freeze their retail rates at pre-restructuring levels for five years.

### **Other**

At least one consumer group, the Oklahoma Industrial Energy Consumers, does not support Senate Bill 220 or House Bill 2541, a group spokesperson stated “Both bills call for exclusive utility service territories and both fail to keep affiliate operations separated.”

### **STRANDED COSTS**

The October 1999 Task Force Report concluded that Oklahoma’s exposure to high levels of stranded costs is relatively low, though some providers could incur some level of stranded costs when restructuring is implemented. Most hearing participants agreed that any costs considered to be stranded would be subject to a verification and mitigation process prior to any consideration of a recovery mechanism being put in place.

Though Oklahoma’s exposure to stranded costs may be limited, it will certainly incur transition costs. As of October 1999, no consensus had been reached on the development of a specific list of items that should be considered transition costs. However, the Task Force did recommend that there should be a single mechanism for the recovery of stranded cost (which should include transition costs). The Task Force also recommended that utilities that do not seek recovery of stranded costs will not be subject to stranded margin crediting.

### **CUSTOMER SERVICE ISSUES**

The Oklahoma Corporation Commission Staff presented their positions on May 13, 1999, however, no formal action was taken by the Commission. Following are staff positions:

### **Code of Conduct**

A code of conduct and licensing requirement should be developed for any retail electric energy supplier or aggregate conducting business in Oklahoma.

### **Slamming and Cramming**

Staff recommended that a consumer bill of rights should be developed and adopted by state statute prior to implementation of retail access to discourage marketing abuses such as slamming and cramming.

### **Service Reliability Standards**

The Commission should be granted the authority to adopt and enforce the necessary safeguards to ensure reliability and enforce distribution level power balancing standards and service quality.

### **Small Use Customers**

These customers should receive additional rate protections. A regulated, cost-of-service based rate should continue to be made available to small consumers. Utilities should be required to retain sufficient low-cost generation assets to serve their small use consumer loads.

## **PUBLIC PURPOSE PROGRAMS**

The Oklahoma Senate passed HB 2541 without amendment on April 18, 2000. The bill will now go to conference to be reconciled with Senate Bill 220 (substitute version passed by the House on April 17, 2000). The Oklahoma Corporation Commission has expressed some concerns with the bill in a report to the state legislature dated April 26, 2000. One concern expressed was that the bill provided only for public benefits programs currently funded.

### **Environmental Programs (renewable programs or portfolio standards)**

The proposed legislation directs the Oklahoma Corporation Commission to promulgate rules which encourage investment in renewable energy technologies. Generators, retail energy suppliers and aggregators will be encouraged, but not required, to use energy acquired from renewable sources after restructuring takes place (proposed for July 1, 2002). The proposed legislation would require information about renewable energy technology alternatives and distributed generation alternatives to be made available to consumers.

### **Low Income Assistance**

The proposed legislation would require information about low income assistance programs be made available to consumers.

## **RELIABILITY**

The Oklahoma legislation created an Electric Utility Task Force to study topics impacting the restructuring of the electric market in the state. The Task Force has reported to the legislature and both the House and Senate currently have bills pending.

The commission staff has recommended that the Commission be granted the authority to adopt and enforce necessary safeguards to ensure reliability and enforce distribution level power balancing standards and service quality. The commission staff has recommended that a licensing requirement be developed.

There is no ISO in the state, as of yet. The Task Force is studying development of a state or region wide voluntary independent power exchange. In the interim, either a regional network tariff will be available under the Southwest Power Pool or its successor organization or service from a retail energy supplier to a consumer can be obtained from the current matrix of bilateral open access through a retail electric service distributor.

## **ROLE OF PUC**

### **Rule Development**

An Electric Utility Task Force was created in 1995 by the Oklahoma legislature. The Electric Restructuring Act of 1997 (SB 500) directed the Task Force to study topics impacting electric restructuring in Oklahoma and to provide a framework for restructuring the electric industry that would expedite the transition to full consumer choice. The Act mandated five studies:

- (1) Independent System Operator (ISO) Issues
- (2) Technical Issues
- (3) Financial Issues
- (4) Consumer Issues
- (5) Tax Issues

The Oklahoma Legislature amended the Electric Restructuring Act of 1997 in 1998. The Act requires the Oklahoma Corporation Commission (OCC) to assist the task force, but prohibits the OCC from promulgating any rules or issuing any orders relating to electric restructuring without prior authorization from the legislature. After holding hearings in 1995 and 1996, the Joint Electric Utility Task Force issued its final report on October 1, 1999. The legislature must now review the findings of the Task Force.

### **Enforcement Activities**

This topic was not specifically addressed in legislation.

## **CUSTOMER PROTECTION**

The 1997 legislation stated that consumers should be allowed to choose among retail electric energy suppliers to help ensure fully competitive and innovative markets. A process should be established whereby all retail consumers are permitted to choose their retail electric energy suppliers by July 1, 2002. The OCC should ensure that consumer confusion will be minimized and consumers will be well informed about changes resulting from restructuring and increased choice.

The legislation seeks to ensure minimum residential consumer service safeguards and protections including programs and mechanisms that enable residential consumers with limited incomes to obtain affordable essential electric service, and the establishment of a default provider or providers for any distribution customer who has not chosen an alternative retail electric energy supplier.

**Establishment of a distribution access fee.**

The task force shall consider the establishment of a distribution access fee to be assessed to all consumers in the State of Oklahoma connected to electric distribution systems regulated by the Corporation Commission. This fee shall be charged to cover social costs, capital costs, operating costs, and other appropriate costs associated with the operation of electric distribution systems and the provision of electric service to the retail consumer.

**FOLLOW-UP**

The Electric Restructuring Act created a Joint Electric Utility Task Force to direct and oversee studies by the Oklahoma Corporation Commission and the Tax Commission. The task force is authorized to retain consultants and experts to study the creation of an ISO and the benefits of establishing a Power Exchange, which would operate as a power pool. The Task force will remain in effect until termination, which shall be no later than January 1, 2003. The Commission has already made three reports to the Task Force on independent system operator issues, technical issues, financial issues, and consumer issues and is scheduled to make its final report no later than August 31, 2000. The Task force may then make final recommendations to the governor and the legislature.





# OREGON

## RESTRUCTURING AUTHORITY

### Law

In the 70th Oregon Legislative Assembly 1999 Regular Session, Senate Bill 1149 was introduced. The Bill was sponsored by the Committee on Public Affairs. The Bill directs the PSC to study electric restructuring and report back to the 71th Oregon Legislative Assembly in 2000.

### Applicability

Retail sales within the state are supplied either by investor-owned utilities (IOUs) or member-owned rural electric cooperatives (RECs).

## MARKET STRUCTURE

### Affected customers

All retail electricity consumers of an electric company, other than residential electricity consumers, shall be allowed direct access not later than October 1, 2001.

### Phase-in

July 9, 1999 through October 1, 2001

### Customer choice

Residential electricity consumers shall be allowed to purchase electricity from among a portfolio of rate options as described in the Act, not later than October 1, 2001.

## MARKET POWER

### Divestiture of Assets

Investor owned utilities must functionally separate the utility's electricity supply, transmission, distribution and energy services operations. The utility must make its transmission and distribution facilities available for all electricity suppliers and customers on a nondiscriminatory and comparable basis. The utility must adopt and comply with a code of conduct consistent with the Federal Energy Regulatory Commission's code of conduct.

### Functional Unbundling

The utility must make its transmission and distribution facilities available for all electricity suppliers and customers on a nondiscriminatory and comparable basis.

## **STRANDED COSTS**

### **Calculation and Recovery**

The Public Utility Commission was directed to adopt such rules to implement the 1999 Electric Utility Restructuring Act. Rules adopted by the commission must address market valuation methodologies for determining the amount and recovery of the costs of uneconomic utility investment and the amount of and credit for economic utility investment.

A consumer-owned utility has the sole authority to determine the manner of collecting stranded distribution charges, systems benefit charges, franchise fees, taxes and payments made in lieu of taxes from retail electricity consumers located within the utility's service territory for electric power transactions using transmission facilities, whether or not such transactions use distribution facilities. The governing body may assign charges on the basis of usage, demand or any combination or method it finds appropriate. Charges need not be assigned to specific facilities.

## **CUSTOMER SERVICE ISSUES**

### **Customer Protection**

The commission shall establish, by rule, a code of conduct for electric companies and their affiliates to protect against market abuses and anticompetitive practices. The code shall, at a minimum:

- (a) Require an electric company and any affiliate that shares the same name and logo to disclose to all consumers the relationship between the company and affiliate and to clarify that the affiliate is not the same as the electric company and that in order to receive service from the company a consumer does not have to purchase the services of the affiliate;
- (b) Prohibit preferential access by an electric company affiliate to confidential consumer information;
- (c) Prohibit cross-subsidization between competitive operations and regulated operations, including the use of electric company personnel and other resources;
- (d) Prohibit joint marketing activities and exclusive referral arrangements between an electric company and its affiliates;
- (e) Provide the commission with all necessary access to books and records;
- (f) Require electric companies to make regular compliance filings; and
- (g) Require fair treatment of all competitors by a distribution utility.

An electric company shall permit retail electricity consumers that are eligible for direct access to voluntarily aggregate their electricity loads.

## **PUBLIC PURPOSE PROGRAMS**

**Renewable Resources/Conservation and Energy Efficiency**

Beginning on the date an electric company offers direct access to its retail electricity consumers, except residential electricity consumers, the electric company shall collect a public purpose charge from all of the retail electricity consumers located within its service area for a period of 10 years. The public purpose charge shall be equal to three percent of the total revenues collected by the electric company or electricity service supplier from its retail electricity consumers for electricity services, distribution, ancillary services, metering and billing, transition charges and other types of costs included in electric rates on the effective date of this 1999 Act.

**Low Income Assistance**

In addition to the public purpose charge, beginning on the date direct access is offered, an electric company shall collect funds for low-income electric bill payment assistance in the amount of \$10 million dollars. The commission shall determine each electric company's proportionate share of the total amount. The commission shall determine the amount to be collected from a retail electricity consumer, except that a retail electricity consumer shall not be required to pay more than \$500 per month per site for low-income electric bill payment assistance.

**RELIABILITY**

Every electric utility must maintain the integrity of its transmission facilities and distribution system and provide safe, reliable service to all retail electricity consumers. Nothing in the 1999 Act may reduce or diminish the statutory or contractual obligations of electric utilities to maintain the safety and reliability of their transmission facilities and distribution system and other infrastructure and equipment used to deliver electricity.

The commission for electric companies, or the governing body for other electric utilities, must adopt rules, ordinances, policies and service quality standards designed to maintain a reliable, safe and efficient distribution system. The commission will regulate electrical safety regarding generation, transmission, substation and distribution facilities for electric utilities and other electrical system owners and operators.

To the extent permissible under federal law, the Public Utility Commission is required to ensure that an electric company, that offers direct access, provides electricity service suppliers and retail electricity consumers access to its transmission facilities and distribution system comparable to that provided for its own use and provides electricity service suppliers and retail electricity consumers timely access to information about its transmission facilities and distribution system, metering and loads comparable to that provided to its own nondistribution divisions, affiliates and related parties. An electricity supplier must file an application with and obtain a license from the commission before offering electricity for sale to retail customers in the State.

**ROLE OF PUC**

**Rule Development**

The Public Utility Commission (PUC) must establish, by rule, a code of conduct for electric companies and their affiliates to protect against market abuses and anticompetitive practices.

**Enforcement Activities**

The duties, functions and powers of the PUC will include developing policies to eliminate barriers to the development of a competitive retail market structure. The policies should be designed to mitigate the vertical and horizontal market power of incumbent electric companies, to prohibit preferential treatment, or the appearance of such treatment, of generation or market affiliates and to determine the electricity services likely to be competitive.

The commission may provide incentives for divestiture to unaffiliated persons of the generation assets of an electric company, or the structural separation of such assets. The commission shall ensure that divestiture does not deprive consumers of the benefit of the utility's or the region's low-cost resources, independent of the power supplier.

**Customer Service**

The Commission shall develop a consumer education program designed to provide the following information to retail customers during the period of transition to retail competition.

**Rate Regulation**

Not later than October 1, 2001, each electric company must provide each residential electricity consumer that is connected to its distribution system a portfolio of rate options.

**FOLLOW-UP**

The Public Utility Commission and the Office of Energy jointly must select an independent nongovernmental entity to prepare a biennial report to the Legislative Assembly describing program spending and results for public purpose requirements. The first report is due on January 1, 2003.

The Commission and the Office of Energy jointly shall select an independent nongovernmental entity to prepare a report to the Legislative Assembly describing proposed modifications to public purpose requirements. This report is due on January 1, 2007.

The Commission and the Office of Energy jointly must select an independent nongovernmental entity to prepare a report to the Legislative Assembly recommending whether the public purpose funding requirements should be renewed. The report is due on January 1, 2011. The Housing and Community Services Department will prepare a biennial report to the Legislative Assembly describing program spending and needs for low-income bill assistance, that is due on January 1, 2003.

**PENNSYLVANIA**

## **RESTRUCTURING AUTHORITY**

### **Law**

Act 138 of 1996 set forth the restructuring of Pennsylvania. In this legislation, the PUC was given the authority to set the filing for the individual distribution companies' restructuring plans.

## **MARKET STRUCTURE**

### **Dates and Phase-in**

Customers may choose a supplier on the following dates:

On 1/1/99, a maximum of 33% of GPU's and UGI's peak load of each customer class will be available for retail choice to all customers, and all of PP&L's residential customers will have retail choice. On 1/1/00, a maximum of 66% of the peak load of each customer class will have choice. On 1/1/01, all distribution companies will have available the opportunity for direct access to their customers.

## **MARKET POWER**

### **Divestiture of Assets**

Restructuring statutes state the Commission may permit, but shall not require, an electric utility to divest itself of facilities or to reorganize its corporate structure (66 Pa. C.S.A. §§ 2804).

### **Unbundling Plans**

The divestiture or structural unbundling **plans** of Pennsylvania's major utilities:

- 1) Allegheny - must sell a portion of the output on wholesale market through 2002 (2,500 MW). The utility is authorized to transfer West Penn's generating assets to a non-regulated corporate entity at book value.
- 2) Duquesne - The utility plans to divest voluntarily.
- 3) GPU - The utility plans to divest voluntarily.
- 4) PECO - The utility plans to separate its generating company from its EDC, but there will be no divestiture.
- 5) PP&L - The utility plans to separate its generating company from its EDC, but there will be no divestiture.
- 6) Penn Power - The utility plans to separate its generating company from its EDC, but there will be no divestiture.
- 7) UGI-Electric - The utility plans to divest voluntarily.

### **Functional unbundling**

The Commission requires the unbundling of electric utility services, tariffs and customer bills to separate the charges for generation, transmission and distribution. The Commission may require the unbundling of other services.

**Rate Reductions**

The rate making reductions and time limits are specific to the settlement agreements for each IOU:

- 1) Allegheny: 2.5% rate cut for 1999, 0% thereafter. Rate cap on transmission and distribution until 2005 and generation until 2008. According to settlement agreements, Allegheny's marketing affiliate is not allowed to market in Allegheny territory and West Penn Power Company is not allowed to do the same in its service territory until 1/1/2004.
- 2) Duquesne: No rate cut. Transmission and distribution rate caps in effect until June, 2001 and generation until 2005.
- 3) GPU: - 2.5% rate cut for Metropolitan-Edison customers in 1999 only, 0% thereafter. 3.0% rate cut for Pennsylvania Electric customers in 1999 only, 0% thereafter. Transmission & distribution rate caps until 12/31/04 and generation rate caps until 12/31/10.
- 4) PECO: - 8.0% rate cut in 1999, 6.0% in 2000, and 0% thereafter. Transmission and distribution rate caps until 6/30/05. Generation rate caps until 2010.
- 5) PP&L: - 4.0% rate cut in 1999, 0% thereafter. Transmission and distribution rate caps will exist until 12/31/04 and the generation rate caps will exist until 12/31/09.
- 6) Penn Power: - A settlement is pending before the PUC. Under the settlement, as tentatively approved by the PUC, the transmission and distribution rate cap would be extended to 12/31/01 and the generation rate cap would be extended to 12/31/06. Absent approval of the settlement, that rate cap would expire on 6/30/01 consistent with the statute.

The distribution company's total charges to its generation customers can not exceed the total PUC-approved charges existing when the electric restructuring act became effective. This rate cap is in effect for a period of 54 months after the effective date of the electric restructuring act or until a distribution company is no longer recovering its transition/stranded costs through a competitive transition charge or intangible transition charge and all the distribution company's customers have retail access, whichever is shorter.

**STRANDED COST****Definition**

The Electric Generation Customer Choice and Competition Act, HB 1509, was passed in 1996. In the Act transition or stranded costs were defined as "An electric utility's known and measurable net electric generation-related costs, determined on a net present value basis over the life of the asset or liability as part of its restructuring plan, which traditionally would be recoverable under a regulated environment but which may not be recoverable in a competitive electric generation market and which the commission determines will remain following mitigation by the electric

utility."

### **Calculation and Recovery**

Those costs that are eligible for recovery include:

- 1) Regulatory assets and other deferred charges typically recoverable under current regulatory practice,
- 2) The unfunded portion of the utility's projected nuclear generating plant decommissioning costs,
- 3) Costs and obligations under contracts with nonutility generating projects,
- 4) Prudently incurred costs related to cancellation, buy out, buydown or renegotiation of nonutility generating projects,
- 5) Net plant investments and costs attributable to the utility's existing generation plants and facilities,
- 6) The utility's disposal of spent nuclear fuel,
- 7) The utility's long-term purchase power commitments,
- 8) Retirement costs attributable to the utility's existing generating plants, and
- 9) Other transition costs, including costs of employee severance, retraining, early retirement, outplacement expenses for employees who are affected by changes that occur as a result of the restructuring of the electric industry.

Distribution customers must pay Competitive Transition Charges (CTCs) to the utility distribution company. This charge should be allocated based on inter-class/intra-class costs and the most recent rate base allocation method. The period for collecting a Competitive Transition Charge (CTC) can't exceed 9 years and must be determined by the PUC. During the transition period, electric utilities must mitigate generation related transition or stranded costs to the extent practicable. The PUC must review each utility's stranded cost recovery plan which may include securitization.

## **CUSTOMER SERVICE ISSUES**

### **Shopping Credit Computation**

All the investor owned utilities (IOUs) in Pennsylvania have established a different shopping credit. The credit is subject to increase over time.

### **Customer Education Campaigns**

Electric restructuring consumer education programs must include both a statewide campaign and a local electric distribution company education plan with oversight by an advisory Consumer Education Board.

### **Competitive Metering and Billing Metering**

As of 9/1/99, an Electric Generation Supplier (EGS) may perform all advanced metering services for Allegheny's commercial and industrial sector. The same is true for its residential sector, but the EGS is not allowed to install, initially test or maintain meters until 1/1/03. The PUC has

yet to allow metering competition in the service territories of other PA utilities.

### **Billing**

The PUC ordered that a third-party provider (e.g., someone who provides billing services but does not provide energy supply) would be obligated to make other providers whole for undisputed basic charges that were not paid by the customer.

Depending on its arrangement with the PUC, some IOU's are allowed to act as a single billing agent immediately.

### **Slamming and Cramming**

The Public Utility Code provides for penalties for slamming which include monetary penalties of up to \$1,000 per day, per violation, suspension of licenses and revocation of licenses. The code permits the PUC to impose penalties of \$1,000 per day, per customer from the day the unauthorized switch occurred until the matter is corrected. The Commission may also order suspension of licenses so as to prohibit marketing or acceptance of new customers for a period of time. As the ultimate penalty, the PUC has the authority to revoke a license and prohibit any sale of retail generation services in Pennsylvania. Customer slamming is considered among the most serious violations of PUC rules and regulations.

### **Deceptive Practices**

Distribution companies may not engage in false or misleading advertising with respect to their Provider of Last Resort (PLR) function. The PUC's licensing regulations hold a licensed supplier responsible for any fraudulent, deceptive or unlawful marketing or billing acts performed by the licensee, its employees, agents or representatives.

### **Provider of Last Resort**

For the most part, IOUs will be the Provider of Last Resort (PLR) until a date certain. They will then be phased out to competitive generation providers. Each date is different for each IOU.

## **PUBLIC PURPOSE PROGRAMS**

### **Low Income Assistance/Energy Conservation**

Pennsylvania's restructuring law states that "the Commonwealth must, at a minimum, continue the protections, policies, and services that now assist customers who are low-income to afford electric service." It also states that "electric distribution companies should continue to be the provider of last resort in order to ensure the availability of universal electric service in this Commonwealth unless another provider of last resort is approved by the Commission." The costs of universal service and energy conservation services will be recovered by non-bypassable, competitively neutral distribution service charges, according to the law. Electric cooperatives are also required to continue their universal service and energy conservation programs, using the same funding mechanism.



## PENNSYLVANIA

At least for now, the question of who will administer the programs has been settled. In July, 1997, the Pennsylvania Public Utility Commission (PUC) issued a Final Order establishing Guidelines for Universal Service and Energy Conservation Programs. The PUC order stated that utilities themselves should continue to administer their programs, relying on community-based organizations. Currently, some utilities use community action agencies and community-based organizations to administer their programs locally. In response to requests for comments by the PUC, there was no support expressed for statewide administration of the programs. However, utilities, regulators and advocacy groups have expressed different opinions about whether the universal service benefits (affordable pay plans, rate discounts, arrearage forgiveness, etc.), as well as LIHEAP (Low Income Home Energy Assistance Program) benefits, should be assigned to one provider or divided between generation suppliers, some of whom are new players in the state's deregulated market, and local electric distribution companies.

The state office that administers LIHEAP, the Department of Public Welfare, has said it plans to send the LIHEAP payment to the electric distribution company's (EDC's) because it believes this is the best way to protect low-income customers. Under Pennsylvania's restructuring statute, the EDC's are the suppliers of last resort, they remain regulated, and they must comply with the state's strict winter termination rules. The department also decided it would not split the LIHEAP benefit between suppliers and distributors, nor will it split the benefit between electric and gas utilities or other vendors. This is because a two or three way division of benefits would be administratively burdensome and would likely result in a very small grant to each entity. (Currently Pennsylvania LIHEAP clients have the choice of designating which vendor (gas, electric or bulk fuel) is their primary heating vendor and the payment is sent to the vendor they designate).

The Order stated that the "universal service funding mechanism should be collected by the EDC as a non-bypassable distribution charge, paid by all customers. Universal service and LIHEAP benefit should be assigned to the EDC." However, the PUC said it will address the issue again as it reviews individual restructuring plans. The Final Order did not specify any particular spending level for universal service or energy conservation. In its tentative order, the PUC had recommended expansion of spending on these programs and had pegged funding of at least 0.2 percent of revenues for LIHEAP and 0.5 percent of jurisdictional revenues for customer assistance programs. Some local agencies and some members of the state legislature had concurred.

### **Renewables**

The Pennsylvania Department of General Services agreed to allow Green Mountain.com to supply about half a dozen Pennsylvania government offices with electricity generated with renewable energy sources. Part of the electricity will be generated at the 10.4 MW Green Mountain Wind Farm currently under construction in Garrett, PA. Currently, six companies are offering Green-e certified electricity in Pennsylvania's retail market.

### **RELIABILITY**

The Commission shall ensure continuation of safe and reliable electric service to all

consumers in the Commonwealth, including: the maintenance of adequate reserve margins by electric suppliers in conformity with the standards required by the North American Electric Reliability Council (NERC) and the regional reliability council appropriate to each supplier or any successors to those reliability entities, and in conformity with established industry standards and practices and the installation and maintenance of transmission and distribution facilities in conformity with established industry standards and practices, including the standards set forth in the National Electric Safety Code.

Traditionally, information about energy resources, customer demands and reserve margins has been obtained from jurisdictional electric utilities. Under restructuring, the functions previously carried out by electric utilities will be divided between distribution companies (discos) and electric generation suppliers (EGSs). Discos will continue to forecast the energy demands of their customers; however, the resources needed to serve those customers will be shared by several EGSs, including the discos as the suppliers of last resort.

Under the regulations, the PUC will monitor the performance and reliability of the transmission and distribution systems based on industry-accepted performance indicators, and will require annual filings of utility performance results. The purpose of the reliability indices is to measure the performance of the discos' transmission and distribution systems in terms of the frequency and duration of unplanned electric service outages to ensure that current levels of reliability do not deteriorate.

PJM Interconnection, LLC, the ISO serving Pennsylvania, is responsible for the day-to-day operation of the largest centrally-dispatched electric system in North America. PJM's foremost responsibility is to provide safe and reliable operation of the transmission system and ensure the reliable supply of energy from generating resources to wholesale customers. In addition, they operate the competitive wholesale energy market for the region and facilitate open access to transmission.

PJM currently enforces NERC system reliability standards by requiring all its members to demonstrate that they have sufficient generation to meet their projected loads two years in advance on an annual basis. Also, by contract, each PJM company is obligated to share its generation with the system during emergency conditions. A regional reserve requirement is established and the PJM Interconnection Association assigns each utility its capacity reserve requirements. The result of generation sharing is that each utility is able to meet its individual reserve requirement with less generation than if it had to meet NERC's standards on its own.

Pennsylvania believes that reliability should continue to be judged by complying with NERC reliability criteria. This proposition appears to have the unanimous support of interested stakeholders as well.

## **PUC ROLE**

**Rule Development**

The Pennsylvania Public Utility Commission (PPUC) has general rulemaking authority to carry out the intent of the restructuring legislation.

**Enforcement Activities**

The PPUC must ensure continuation of safe and reliable electric service to all consumers in the Commonwealth. This includes the maintenance of adequate reserve margins by electric suppliers in conformity with the standards required by the North American Electric Reliability Council (NERC) and the regional reliability council appropriate to each supplier or any successors to those reliability entities, and in conformity with established industry standards and practices.

The PPUC has imposed reporting requirements on the utilities participating in the electric restructuring program. Under the regulations, the PPUC will monitor the performance and the reliability of the transmission and distribution systems based on industry-accepted performance indicators. The PPUC will also require annual filings of utility performance results. The purpose of the reliability indices is to measure the performance of the distribution companies' transmission and distribution systems in terms of the frequency and duration of unplanned electric service outages to ensure that current levels of reliability do not deteriorate.

**CUSTOMER PROTECTION**

Customer slamming is considered among the most serious violations of PUC rules and regulations. The PPUC offers customers protection in the event slamming occurs through monetary penalties and license suspension or revocation.

**Rate Regulation**

The PUC will continue to regulate remaining utility service (distribution) in the same manner as before the deregulation of generation.

**FOLLOW-UP**

In terms of the number of customers who have chosen alternative generation suppliers, Pennsylvania has become the most successful restructured state in the Nation. Almost 9 percent or 408,414 residential customers have switched to a competitive supplier. As of July 1999, the rate of residential switches was highest in PECO's service territory, the Philadelphia area, where almost 15 percent or 201,874 customers have switched.<sup>1</sup> It should be noted that in Pennsylvania competition among electric generation suppliers was phased-in over two periods. The law provided that two-thirds of all consumers be allowed a choice of generation suppliers on January 1, 1999, with the final third of consumers being allowed to choose on January 2, 2000.

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<sup>1</sup>Promoting Competitive Electricity Markets Through Community Purchasing: The Role of Municipal Aggregation, Jan. 2000.

These statistics do not necessarily, measure the "success" or "failure" of electric restructuring in Pennsylvania. The primary question for any state going through restructuring is whether consumers as a whole have benefitted from their electric restructuring program. In Pennsylvania, consumers' have seen about \$450 million in guaranteed rate reductions for the year 1999, and have seen prospective funding for low-income universal service and energy conservation programs increase to nearly \$100 million per year. Perhaps most significant are the long-term caps on the rates that can be charged by existing utilities to customers who continue to buy generation from those utilities. What this means is that while customers may have the opportunity to see lower prices as a result of competition, even those customers who stay with their utility will be protected against rate increases for many years into the future. These rate caps effectively prevent the shifting of stranded costs from customers who depart from traditional utility service onto those customers who remain.

The Commission must report and certify to the Secretary of the Department by August 1, 1998, and each August 1st thereafter, the total amount of electricity distributed for ultimate consumption in the Commonwealth during the previous two calendar years and the total gross receipts for the past year. Beginning June 15, 1999, and each year thereafter, an amount equal to 0.18% of total utilities gross receipts must be deposited into the Public Transportation Assistance Fund.

# **RHODE ISLAND**

## **RESTRUCTURING AUTHORITY**

### **Law**

The Rhode Island restructuring act required that retail wheeling be phased in over one year, beginning on July 1, 1997. Almost all utilities in Rhode Island are distribution only utilities. Most had full requirement contracts with out-of-state wholesale, generation utilities. The goal of the restructuring act was to terminate these contracts and allow competitors to offer generation service directly to consumers. The Act required that each distribution company file unbundled rates with the RIPUC by January 1, 1997. On March 14, 2000 the RIPUC approved the merger of Eastern Utilities Associates, Newport Electric, and Narragansett Electric. These 3 distribution companies serve 90 % of the load in Rhode Island.

### **Applicability**

Municipals and coops who did not purchase power at wholesale from a wholesale supplier under a full requirements contract could be exempted from retail choice upon a finding by the RIPUC.

## **MARKET STRUCTURE**

For customers who choose not to purchase power from a nonregulated power producer (NPP), distribution companies are required to provide service under a standard offer service contract. Rather than simply making arrangements with its own wholesale power supplier to provide this standard offer service, distribution companies must procure the service from the lowest price bidder through competitive bidding. Customers who initially elect the standard offer service cannot be required to pay a withdrawal fee or penalty when they choose an alternative supplier, unless such a fee was agreed to as part of a contract. Under no condition may a residential customer be required to pay a withdrawal fee or penalty.

## **MARKET POWER**

The objective of the Rhode Island initiative was to require the distribution wholesale customers to divest of any firm contractual obligations from their wholesale suppliers. The law required mitigation and placed an incentive such that the distribution company would receive 10% of the savings for any renegotiated contracts. New England Electric System, the parent of Narragansett Electric, sold 18 coal and hydro plants to U.S. Generating. Eastern Utilities Association, another wholesale supplier to RI distribution companies, divested both plant ownership and firm power contracts.

### **Rate Reductions**

The RIPUC set rate caps on distribution service for 1997 and 1998 to ensure that residential

customers did not experience higher rates if large numbers of industrial customers left the system. When RI distribution companies bid for power for standard offer service in June, 1998, no competitors won the bid, so the incumbents will continue to provide this service from their wholesale suppliers at 3.2 cents/kWh. Competitor suppliers complained this rate was too low for them to compete.

As of March, 1999, only 0.4% of the customers had elected to switch from standard offer service to competitive suppliers. The vast majority of the customers that did change were large customers.

## **STRANDED COSTS**

### **Definition**

The enabling Act states that “public utilities should have a reasonable opportunity to recover transitional costs associated with commitments prudently incurred in the past pursuant to their legal obligations to provide reliable electric service at reasonable costs.” Most stranded costs are those of the utilities’ wholesale power suppliers as recovered through the rates of all-requirements contracts. The Act authorizes distribution companies to terminate these contracts, to pay contract termination fees, and to recover these payments through a nonbypassable transition charge paid by all customers of the distribution company. The contract termination fees paid by distribution companies to their wholesale power suppliers must include each distribution company’s share of its wholesale supplier’s costs.

### **Calculation and Recovery**

Due to the difficulty of estimating the timing and amounts of the decommissioning costs and the above market payments for purchased power contracts, the Act allows for recovery of these costs through transition charges until they have been satisfied, with an annual reconciliation of estimated to actual expenses. To moderate the impact on rates, recovery of these costs will be spread over the period from July 1, 1997, through December 31, 2009, with a return on the unamortized balance. These costs may not be recovered through transition charges after January 1, 2010. In recognition of the potential for existing generating facilities to have a positive residual value in the year 2010, the Act allows a reduced return on the unamortized balance of these costs.

The Act provided that distribution companies shall collect, for the period July 1, 1997, through December 31, 2000, a fixed transition charge of 2.8 cents per kWh transmitted to pay for stranded costs. However, in December, 1998, this charge was reduced to 1.15 cents. This period of fixed transition charges is designed to allow distribution companies time to terminate all-requirements contracts with their wholesale suppliers and to permit the administrative determination of allowable stranded costs associated with the resulting contract termination fees. After the year 2000, this fixed charge will be replaced by a RIPUC-determined transition charge to recover stranded costs. The new charge will be adjusted to reflect any over or under recoveries accrued under the initial, fixed charge.

Wholesale suppliers are required to offer to renegotiate at least that portion of their power purchase contracts attributable to their affiliated distribution companies. As an incentive, the Act allows wholesale suppliers to retain 10 percent of the savings expected to result from such renegotiated power purchase contracts.

Every wholesale power supplier receiving contract termination fees is required by the Act to subject its generating facilities, other than nuclear units, to market valuation by lease, sale, spin-off, or other method. To meet this requirement, the wholesale supplier must dispose of at least a 15 percent interest in its generating facilities. Each wholesale supplier must file an implementation methodology for accomplishing the disposition of its interest. The RIPUC may reject the wholesale supplier's proposed implementation methodology if it finds that the methodology is not reasonably likely to approximate market value.

### **Securitization**

In July 1997, the governor signed legislation permitting distribution companies to seek authority from the RIPUC to finance all or some of the contract termination fees owed by the distribution company to its wholesale power supplier. Under this law, a distribution company seeking to securitize its contract termination fees must file with the RIPUC an application containing specific elements.

Under this securitization law, the RIPUC must act upon a distribution company's application within 120 days. The RIPUC shall approve an application if (1) the transaction is reasonably certain to result in quantifiable savings, (2) the terms of the financing plan are commercially reasonable; and (3) all savings (net of costs) will be credited to the customers through intangible transition charges.

If the RIPUC approves a securitization application, the state of Rhode Island has authority to limit or alter any rights established under the RIPUC's order until the bonds are paid in full and the related contracts are fully performed. The RIPUC will continue to have jurisdiction over the order, regardless of whether the assignee or financing party is an electric distribution company or other RIPUC-regulated company. The vast majority of the customers that did change were large customers.

## **CUSTOMER SERVICE ISSUES**

### **Standard Offer Service**

For customers who choose not to purchase power from a non-regulated power producer (NPP), distribution companies are required to provide service under a standard offer service arrangement. Rather than simply making arrangements with its own wholesale power supplier to provide this standard offer service, distribution companies must procure the service from the lowest price bidder through competitive bidding. Customers who initially select the standard offer cannot be required to pay a withdrawal fee or penalty when they choose an alternative supplier, unless such a fee was agreed to as part of a contract. Under no condition may a residential customer be required

to pay a withdrawal fee or penalty.

### **Default Service Provisions and Policies**

Each distribution company must arrange for a “last resort power supply” for customers no longer eligible for the standard offer and unable to obtain service from NPPs. In addition, distribution companies must preserve their low income programs. Special rates for low income customers in effect when the Act becomes effective must be continued.

### **Load Aggregation Policies**

The Utility Restructuring Act allows any combination of customers to form a purchasing group to negotiate with competitive power suppliers for group rates. These groups could be municipalities, senior citizen organizations, low income associations, etc.

### **Customer Education Campaign**

Final and legally binding policy decisions addressing this topic have yet to be established.

### **Competitive Metering and Billing**

Each distribution company within the state shall be required to propose and file a set of accounting, billing, and metering service (ABMS) procedures designed to implement retail access for Rhode Island customers. The electric distribution company shall propose such ABMS in its retail access distribution tariffs. The Commission shall review and approve the proposed ABMS Procedures. ABMS is not competitive in Rhode Island.

### **Load Profiling Requirements**

The DPUC has not adopted final rules on this issue.

## **CUSTOMER PROTECTION**

### **Slamming and Cramming**

Final and legally binding policy decisions addressing this topic have yet to be established.

### **Deceptive Practices**

Every person employed by a public utility company or nonregulated power producer whose job requires the person to enter homes or business establishments for the purpose of installing, repairing, servicing, meter reading, or other related activities, must display on the person an identification card bearing the person's photograph during the performance of the person's duties.

### **Privacy and Advertising**

Final and legally binding policy decisions addressing this topic have yet to be established.

### **Customer Complaints/Redress**

Any person or entity who reasonably believes that an NPP has failed or is failing to comply



with regulations may file a complaint with the Commission. In such case, the Commission shall provide the NPP with an opportunity to file an answer to the complaint. Within thirty days of receipt of such complaint, the Commission may open a public hearing or dismiss the complaint on the pleadings. Any hearings shall be conducted pursuant to the Commission's Rules of Practice and Procedure. Any aggregator or energy supplier may be fined.

### **Provider of Last Resort**

The distribution company must periodically solicit bids from non-regulated power producers for service at market prices plus a fixed contribution from the distribution company. The PUC must approve any winning bids as well as the associated terms and conditions. All fixed contributions and any reasonable costs incurred by the distribution companies for last resort service must be included in the distribution rates charged to all other customers. All distribution companies must arrange for a last resort power supply for customers who are no longer eligible to receive standard offer service and who are unable to obtain/retain electric service from non-regulated power producers.

### **Product Disclosure**

Final and legally binding policy decisions addressing this topic have yet to be established.

### **Universal Service**

Special rates for low income customers in effect must be continued, and the costs of all such discounts must be included in the distribution rates charged to all other customers. Distribution companies can still offer additional special rates/programs for low income customers, subject to PUC approval. The Rhode Island Statute generally forbids utilities from charging different rates for "like and contemporaneous service, under substantially similar circumstances and conditions." However, this prohibition against rate discrimination does not prohibit the utilities from offering free or reduced rate service to elderly persons.

### **Rules on Energy Service Companies**

NPP/Customer relations will be largely governed by the specific service contracts entered into between the NPP and the customer. NPPs must be registered in good standing with the Division of Public Utilities and Carriers and are subject to the requirements of RIPUC's regulations on reliability. The regulations provide that any person who reasonably believes that an NPP has not or is not complying with these reliability regulations may file a complaint with the RIPUC. The regulations include a procedure for handling such complaints and allow the RIPUC to impose reasonable penalties and/or remedies for violations, including barring an NPP from serving in the state.

### **Disconnection Procedures**

No public utility which distributes electricity or supplies electric shall terminate service to any household in which all adult residents are greater than or equal to 65 years, or where any resident is handicapped or seriously ill, for failure to pay an outstanding indebtedness for service, without first complying with all PUC termination regulations. No public utility providing light,

power produced, transmitted, distributed, delivered or furnished shall terminate such service or deprive any home or building, whatsoever, of service if the reason is nonpayment without first notifying the service users or building owners of the impending service termination by written notice at least ten days prior to the proposed termination date. Any PUC regulations dealing with the termination of utility service and establishing reasonable methods of debt collection including any regulations dealing with deposit and deferred payment arrangements, winter moratorium and medical emergency protections, and customer dispute resolution procedures, shall be applicable to any public utility which distributes electricity. Providers of last resorts can still terminate service for nonpayment as long as they follow PUC termination rules and regulations.

## **PUBLIC PURPOSE PROGRAMS**

### **Renewable and Energy Efficiency**

For the five-year period beginning January 1, 1997, each distribution company must include a charge of 2.3 mills per kWh to fund demand side management programs (DSM) and renewable energy sources. The Rhode Island Public Utilities Commission (RIPUC) will determine how to allocate revenue from this charge between DSM programs and renewables, but distribution companies will determine how these funds will be spent.

During the initial five-year period, the RIPUC may increase this charge at its discretion, after notice and public hearing. After the initial five-year period, the RIPUC must review the needs of DSM and renewables programs and establish an appropriate charge for them.

### **Low income**

Distribution companies are required to preserve their low income programs. Special rates for low income customers in effect when the Act becomes effective must be continued. The costs of these discounts must be included in the distribution rates charged to all other customers. Distribution companies may offer other special rates or programs with RIPUC approval.

## **RELIABILITY**

Given that Rhode Island is a distribution only state, all generation exists outside of the state and is sold wholesale to retail distributors, there was a minimum role for the state PUC in bulk power reliability. Prior to the Act, the New England Power Pool (NEPOOL) was the entity responsible for maintaining system reliability and for determining if adequate generation and transmission facilities existed among the six New England states. Most of these functions have been assumed by the New England ISO. Rhode Island will continue to make decisions concerning the siting of certain facilities. Pursuant to the Act, the RIPUC adopted regulations, effective January 1, 1997, governing nonregulated power producers responsibility for reliability. These regulations intend to ensure that nonregulated power producers meet the operating and reliability standards of the New England Power Pool (NEPOOL) or any successor entity. NEPOOL and the New England ISO have operational responsibility for the bulk power system that provides energy to Rhode Island distribution companies.

Specifically, the regulations provide that an NPP that serves retail load in the state must maintain an effective registration under the Act and must either (1) become a NEPOOL member, or (2) have a written agreement with a NEPOOL member through which the member will include the NPP's load in its own-load dispatch. The regulations also provide that any NPP providing the electric requirements of retail customers must (1) meet the load requirements of each customer it serves, (2) deliver the associated capacity and energy to a point or points on the integrated transmission system of the distribution companies and their affiliates pursuant to FERC-approved tariffs, and (3) provide necessary installed and operating reserves to serve each retail customer.

The restructuring statute adds language to the existing facility siting rules that allows a town/city where the proposed facility would be located to request funding from the applicant to perform studies of the local environmental effects of the proposed facility. The expense of such studies must not exceed the lesser of \$100,000 or (.1%) of the estimated capital cost of the proposed facility. If the applicant contests the relevance of the requested study, or believes it to be redundant with studies already performed, the applicant may request a ruling from the board whether such study is necessary and reasonably expected to produce relevant information.

### **COMMISSION'S ROLE**

96-H 8124 B Rhode Island's restructuring legislation requires the Division of Public Utilities, to perform the following recurring activities:

1. The Commission shall participate in all proceedings before the Federal Energy Regulatory Commission with respect to modifications and terminations of all wholesale power contracts in Rhode Island.
2. Beginning in January, 1998, and each year for four years, the PUC shall transmit to the governor and legislative leaders a report on the development of competitive markets in the state, estimated savings from competition, progress toward a regional transmission agreement for New England and a status of restructuring activities in New England and any recommendations for changes.
3. Shall review and approve any registration applications from nonregulated power producers.
4. Provide annual reports to the legislature on all commission activities.

### **FOLLOW-UP**

96-H 8124 B Rhode Island's restructuring legislation requires the Division of Public Utilities, to perform the following non-recurring activities in response to electric restructuring:

16. The commission shall promulgate rules to provide for supplier of last resort for customers

no longer eligible under standard offer contracts or not adequately supplied by the market

17. Commission shall review each restructuring plan of the distribution utility to evaluate if it is in compliance.
18. On or before July 1, 1997 the commission shall adopt quality of service standards for those utilities subject to performance based regulation.
19. By 1/1/97, the commission is to establish standards for nonregulated power producers to meet operating and reliability standards of the power pool.
5. The enabling legislation contained a standard code of conduct rules. The RI PUC did not have to develop these.
6. The commission may establish rules on accounting, billing and settlement statements for the distribution utilities.

# TEXAS

## RESTRUCTURING AUTHORITY

### Law

Senate Bill 7 was signed into law on June 18, 1999, and took effect September 1, 1999.

### Applicability

The law is applicable to investor-owned electric utility companies which generate and/or provide retail electric service. Participation by municipalities and cooperatives is optional.

### Plan submittal by utility

By December 1, 2000, electric utilities and power generation companies owning and controlling more than 20% of the generation capacity located in, or capable of delivering electricity to, a power region must file a plan to reduce ownership and control of generation capacity. The Commission will approve, modify, or reject a plan within 180 days after filing. If a plan has not been approved by January 1st of the effective year, the Commission may order auction of excess capacity pending approval of a plan. The Commission may modify this requirement when a power region's borders extend outside the state of Texas.

## MARKET STRUCTURE

### Affected Customers

All residential, commercial, and industrial customers must choose a supplier by January 1, 2002, or they will be assigned to their present utility's newly-formed retail electric provider.

### Phase-in

The restructuring legislation directs the utilities to implement pilot programs amounting to 5% of the utility's load beginning June 1, 2001. The pilot programs will allow the PUC to evaluate the ability of each power region and utility to implement direct access.

## MARKET POWER

### Divestiture of Assets

Existing vertically-integrated utilities were required to divide into three companies: (1) a distribution and transmission company which would remain regulated by the PSC; (2) a power generation company to sell power at wholesale rates; and, (3) an unregulated Retail Electric Provider (REP), who may sell directly to the public. The REP can buy its power on the market or from its affiliated generation company. The REP is only allowed to charge the "price to beat" within its own service territory for three years or until 40% of their original customer base has moved to a competitor.

No single power generation company may own and control more than 20% of the installed generation capacity capable of delivering power to a single power region. Mergers between power

generation entities are subject to PUC approval, though the PUC cannot disapprove a merger if the resulting entity does not exceed the 20% cap.

### **Sale**

Any investor-owned utility with more than 400 MW of generating capacity must auction at least 15% of its (Texas jurisdictional) installed generation capacity. A REP affiliated with a generation provider cannot purchase entitlements from an affiliate. Capacity auctions must continue for five years or until 40% or more of the electric power consumed by residential and small business customers within the affiliated utilities service area is provided by nonaffiliated REPs. The PUC will establish the process and procedures for the capacity auction.

### **Functional Unbundling**

As of September 2000, electric utilities were required to separate from the regulated utility activities competitive energy services business activities that are widely available in the competitive market. Among the services that are considered competitive are security lighting, energy efficiency, energy management, load management services, and transformer and substation maintenance.

Senate Bill 7 requires electric utilities to create separate units for power generation, power delivery, and retail sales functions in the retail market. It also requires the Commission to set the rates for delivery service and determine whether the business separation plans are consistent with law. Finally, SB. requires utilities to discontinue offering competitive energy services. These competitive energy services may be provided by a competitive affiliate of a utility, but they may not be provided by the utility itself. The statute established dates for the filing of applications for approval of business separation plans, delivery rates, and plans for discontinuing competitive energy services.

Utilities filed their applications for approval of business separation plans and delivery rates in February and March 2000, and these cases are being processed. The Commission adopted procedures to consider generic issues, and it referred rate cases for the delivery service to the State Office of Administrative Hearings. The Commission approved the business separation plans for American Electric Power (the new owner of Central Power & Light Company, West Texas Utilities Company, and Southwestern Electric Power Company), Entergy Gulf States, Inc., Southwestern Public Service Company, Texas-New Mexico Power Company, and Sharyland Utilities.

### **Transmission Operating Company**

On August 21, 1996, the Public Utility Commission of Texas (PUCT) endorsed an ERCOT joint industry task force filing, required by newly revised PUCT rules, and created an Independent System Operator (ISO) in ERCOT. The PUCT approved the filing charging the ISO with responsibility for: security of the ERCOT bulk power system; market facilitation including the administration of the ERCOT OASIS; and, coordination of transmission planning in ERCOT. Operating and business policies were developed by industry task forces under the supervision of a newly structured ERCOT Board of Directors. The ERCOT ISO began Security Center operation in September of 1996. Market operations began in January of 1997. ERCOT is now in the process of implementing retail transactions beginning with a trial starting on June 1, 2001, and full

operations on January 1, 2002.

### **Rate Reductions**

Retail base rates are frozen at September 1, 1999 tariff rates until Jan 1, 2002. Utilities will continue to provide retail electric service within their certificated service area to those customers who do not choose another provider. REPs may continue to revise their fuel factors and reconcile fuel expenses.

Effective January 1, 2002, the affiliated REP of an electric utility must make available a "Price to Beat" to residential and small commercial customers (large commercial/industrial customers are not included) that is 6% less than the *bundled* rates of the electric utility in effect on January 1, 1999. Although they cannot compete with other providers within their existing service area, REPs are permitted to charge less than the "price to beat" outside their existing service area.

### **Other (Pilot Projects)**

Two pilot projects began November 1, 1999, in Texas-New Mexico Power Company's (TNMP) service territory. The cities of Olney and Gatesville were allowed to choose an electric supplier on behalf of the residents of their communities. Bryan Texas Utilities, a municipal electric utility, will be serving both cities in this first test of how competition will work in Texas. TNMP's pilot projects were approved by the PUC in July 1998 as part of TNMP's transition to competition.

## **STRANDED COSTS**

### **Definition**

The Texas Electric Restructuring Act passed on June 18, 1999, defines stranded costs as the positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above market purchased power costs, and deferred debit for generation-related assets.

### **Cost Categories and Calculations**

The categories of costs are capital costs incurred to improve air quality, and other retail stranded costs. Initial estimates of stranded costs are to be computed using the Texas Public Utility Commission's ECOM model. The ECOM method is the estimation model prepared for and described by the Commission's April 1998 Report to the Texas Senate Interim Committee on Electric Restructuring entitled "Potentially Stranded Investment (ECOM) Report: 1998 Update." The natural gas prices used to determine the market price of electricity used in the model must be market-based "forward" prices where available. Growth rates of operations and maintenance and administrative and general costs must be benchmarked against cost trends of comparable generating plants.

### **Mitigation Required**

Two years after customer choice is introduced, the utility Commission will hold a true-up proceeding to determine the actual level of stranded costs using market-based methods. After the

true-up, a utility may securitize all remaining stranded costs.

### **Recovery**

Two methods of recovery were created by the Texas Electric Restructuring Act, competition transition charges and securitization. Utilities may use one or both of these methods to recover stranded costs. Utilities with stranded costs will be required to use these revenues to improve or expand transmission or distribution facilities or to improve air quality. Unused revenues must be returned to the customers. Utilities must file an annual report with the Commission detailing their costs and revenues to aid in the determination of invested capital.

If the competition transition charge is not sufficient, the commission may extend the collection period for the charge or, if necessary, increase the charge. Alternatively, if it is found in the true-up proceeding that the competition transition charge is larger than is needed to recover any remaining stranded costs, the commission may: (1) reduce the competition transition charge, to the extent it has not been securitized; (2) reverse, in whole or in part, the depreciation expense that has been redirected under Section 39.256; (3) reduce the transmission and distribution utility's rates; or (4) implement a combination of elements.

A utility may securitize 100% of its regulatory assets (as reported in its 1998 Form 10-K) and up to 75% of estimated stranded costs, or implement under bond a nonbypassable charge of up to 100% of estimated stranded costs, or use a combination of those two methods. Securitization proceeds must be used to retire debt and equity.

### **Period of Recovery**

The length of time over which stranded costs may be recovered will be determined by the Public Utility Commission. The Commission will consider: (1) the electric utility's rates as of the end of the freeze period; (2) the sum of the transmission and distribution charges and the system benefit fund fees; (3) the proportion of estimated stranded costs to the invested capital of the electric utility; and (4) any other factor consistent with the public interest. Securitization bonds may not exceed 15 years.

### **Allocation to customer classes**

The competition transition charge is allocated among customer classes in accordance with the methodology used to allocate the costs of the utility's underlying assets in the utility's most recent rate order.

### **Securitization**

Senate Bill 7 allows utilities with stranded costs to include an estimate of these costs and begin recovering them in the delivery rates. Utilities that have stranded costs included estimates in their March 2000 filing for approval of unbundled rates, and approval of estimated stranded costs and rates for their recovery were pending as of September 2000. SB. also permits utilities to securitize stranded costs and regulatory assets, and three utilities have filed applications to securitize their regulatory assets.



Securitization is a transaction that permits a utility to receive a lump sum payment for stranded costs from investors in lieu of collecting such costs through its regulated cost-of-service. The lump sum payment is financed through the issuance of debt securities to third party investors. The utility's customers pay the principal and interest on the securitized debt by a charge in their electric rates, but the stranded costs are paid at a lower rate of return and without a federal income tax expense.

The law provides for an expedited process for review of the utility's application and for expedited judicial review. Where a securitization order is issued, the Commission establishes a non-bypassable charge for the recovery of the asset. Three utilities have sought to securitize their regulatory assets and the results of these applications are described below:

**Central Power & Light.** The Commission approved the company's request to securitize \$764 million of regulatory assets plus transaction costs. Under the securitization order issued by the Commission, CPL's electric customers are expected to save at least \$90 million over the next 12 years. The decision is currently under appeal with the Texas Supreme Court.

**TXU Electric.** The Commission approved the company's request to securitize \$363 million of regulatory assets. TXU filed a request to securitize a much larger amount, \$1.650 billion. The Commission concluded that the securitization of this larger amount would not meet the statutory standard, that is, it would not provide tangible and quantifiable benefits to customers. Under the securitization order issued by the Commission, TXU's electric customers are expected to save at least \$60 million over the next 12 years. TXU has challenged the financing order in District Court.

**Reliant Energy.** The Commission approved its request to securitize \$740 million of regulatory assets plus transaction costs. Under the securitization order issued by the Commission, Reliant's electric customers are expected to save at least \$350 million over the next 12 years.

## CUSTOMER SERVICE ISSUES

### Standard Service Provisions and Policies

There are two pieces of legislation driving the Texas Public Utilities Commission's adoption of customer service rules, Senate Bill 7 and Senate Bill 86. The Texas Electric Restructuring Act (SB 7, passed June 1999) states that before retail customer choice begins on January 1, 2002, the Texas Public Service Commission (TPUC) must establish safeguards, through rulemaking, for retail customers.

The implementing rules on reliability and continuity of service require electric utilities to maintain adequately trained and experienced personnel throughout their service area sufficient to comply with the service quality and reliability standards. The rule also adopts system-wide reliability indices.

An emergency operations plan rule was established to reflect the relationships between the

customer, the retail electric provider (REP), and the transmission and distribution utility (TDU). The new rule requires each utility to file a description of its emergency operations plan with the Commission by December 31, 2000; and to file an affidavit indicating all relevant personnel within the utility are familiar with the contents of the plan, and are committed to following it in the event of a system emergency.

In May of 1999, the Texas Legislature passed an Act (SB 86) relating to the protection of retail electric (and telephone) services customers. The Act contains customer service provisions dealing with minimum service quality standards, customer service, fair business practices, and grants the Texas Public Utility Commission the authority to make and enforce rules to protect customers.

The TPUC was authorized to pass rules which promote public awareness of changes in the electric market, protect customers from unauthorized switching of their retail electric provider (REP), deceptive marketing practices, and provide penalties for REPs who violate the rules adopted under authority of the Act.

#### **Default Service Provisions and Policies**

The TPUC has a rulemaking project underway to designate a provider of last resort for areas in the state in which customer choice will be in effect by June 1, 2001. Rulemaking is expected to be completed by May 2001.

#### **Shopping Credit Computation**

From January 1, 2002 until January 1, 2007, an affiliated retail electric provider will be required to offer to its residential and small commercial customers rates that are 6% lower than its bundled rates as of January 1, 1999. This reduced (bundled) rate is referred to as the "price to beat". The TPUC expects final rules on rate design and the "price to beat" will be adopted by February 2001.

An affiliated retail electric provider may not charge residential or small business customers a rate different from the "price to beat" until the earlier of 36 months after the date customer choice is introduced; or, the date the TPUC determines that at least 40% of electric power consumed by that class of customers within the utility's certificated service area is committed to be served by nonaffiliated retail electric providers.

#### **Customer Education Campaigns**

Senate Bill 7 ordered the PUC to create a System Benefit Fund. The System Benefit Fund was established to fund customer education and low-income customer assistance programs, and to replace potential state and local school funding reductions due to property tax revenue declines. The fund is based upon a nonbypassable charge of no more than \$.50 per Mwh.

The PUC awarded a contract to develop a customer education plan to an outside research firm in January of 2000. The company, High Point/Franklin, will focus on identifying what Texans

want and need to know about electric restructuring, paying special attention to the needs of low-income and non-English speaking Texans. Later in 2000, the PUC will award a contract to implement a full customer education plan starting in early 2001.

### **Competitive Metering and Billing**

The transmission and distribution utility affiliate of the electric utility that served the area before competition will continue to provide metering and billing to residential customers until September 1, 2005, or the date on which at least 40% of the customers are taking service from unaffiliated retail electric providers, whichever is later. Other customers will have competitive metering services on January 1, 2004.

## **CUSTOMER PROTECTION**

The Act contains customer protection provisions that include a three-day "cooling off" period in which a contract may be canceled, clear disclosure of costs, work activities and completion dates, and liability insurance for property damage.

### **Deceptive practices**

Legislation includes prohibitions against deceptive practices and the TPUC is conducting rulemaking on this issue.

### **Privacy and Advertising**

Under new rules released by the PUC in November 1999, utility affiliates are prohibited from using their parent company's name or logo without a disclaimer. Parent companies must not solicit business for their affiliates and may not participate in "favorable" joint marketing campaigns.

### **Provider of Last Resort**

TPUC is in the process of developing rules governing how it will designate the provider of last resort and set standards for provision of service. According to legislation, the provider of last resort must offer a standard retail service package for each class of customers at a fixed, non-discountable rate approved by the commission. The TPUC has until June 1, 2001 to designate a provider of last resort for each service area.

## **PUBLIC PURPOSE PROGRAMS**

### **Environmental Programs (renewable programs or portfolio standards)**

The state legislature directed the Public Utility Commission of Texas (PUC) to adopt rules necessary to generate an additional 2,000 megawatts of generating capacity by January 1, 2009 from renewable energy technologies, and to have cumulative installed renewable capacity in the state total: 1,280 megawatts by January 1, 2003; 1,730 megawatts by January 1, 2005; 2,280 megawatts

by January 1, 2007; and 2,880 megawatts by January 1, 2009. This requirement was adopted by the PUC and become effective January 10, 2000.

The rule applies to power generation companies and competitive retailers, but will not apply to electric utilities subject to the PURPA Section 39.102 until their rate freeze period expires. The rule allows renewable energy credits to be generated, transferred, and retired by renewable energy power generators, competitive retailers, and other market participants.

### **Energy Efficiency and Conservation**

On March 1, 2000, the Public Utility Commission of Texas adopted energy efficiency rules which require electric utilities to expand the variety of incentives offered through independent energy efficiency providers. The energy efficiency rule applies to investor-owned utilities, which serve approximately three-fourths of Texas electric customers. Municipal utilities and electric cooperatives are self-regulated and are exempt from the rule.

The new rules mean Texas electric customers will get more choices for energy-savers such as home weatherization, energy-saving appliances and the use of waste heat. The rules direct utilities to develop energy efficiency programs to offset 10 percent or more of a utility's annual growth in energy demand to all customer groups. Utilities will develop standard-offer programs to install energy efficiency measures and services. Independent service providers will deliver these services to customers.

The rules require each utility to: (1) File an energy efficiency plan with its April 2000 rate filing; (2) Include information about demand growth, program plans and affected customers; and, (3) Report yearly on energy efficiency projects, with information on cost and energy savings.

Statewide, there will be a 50% reduction of nitrogen oxides from older power plants. There will be 2,000 megawatts of new "green" power from renewable energy sources in place by 2009.

### **Low Income Assistance**

Senate Bill 7 established a system benefit fund (SBF) to provide revenues for four different programs:

1. To compensate the state and school districts for losses in property taxes resulting from lower values of the utilities' assets directly caused by electric industry restructuring.
2. To provide electric rate reductions for low-income customers.
3. To fund targeted low-income weatherization program administered by the Texas Department of Housing and Community Affairs; and
4. To fund the PUC customer-education program, and support the PUC and Office of Public Utility Counsel in connection with the costs of implementing SB7.

The source of revenues for the fund is a fee charged to customers based on the kilowatt-hours of electric energy used. The fee may be up to fifty cents per megawatt hour, except that during the first five years after the introduction of customer choice, the fee may be set at up to sixty-five cents

per Mwh, if necessary to fund at least a 10% rate reduction for low-income customers.

## **RELIABILITY**

Legislation requires the Texas Public Utility Commission (TPUC) to implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric utilities and transmission and distribution utilities. The Texas PUC amended its electric reliability rules in December of 1999 to be consistent with PURPA §38.005. Section 25.52, (Reliability and Continuity of Service) requires an electric utility to maintain adequately trained and experienced personnel throughout its service area sufficient to comply with the service quality and reliability standards. The rule also adopts system-wide reliability indices. Index values for the 2000 reporting year must not exceed the interim system-wide standard by more than 10%. Index values for the 2001 reporting year and thereafter, must not exceed the system-wide standard by more than 5%.

According to the legislation, a power generation company must comply with the reliability standards adopted by an independent organization certified by the commission to ensure the reliability of the regional electrical network for a power region in which the power generation company is generating or selling electricity.

The Texas Independent System Operator (ISO) was fully implemented in January 1997. The ISO is operated by the Electric Reliability Council of Texas and serves 12 million customers, though it does not cover the entire state. The legislation states, a power region must establish one or more independent organizations to perform the following functions; ensure access to the transmission and distribution systems for all buyers and sellers of electricity on nondiscriminatory terms; ensure the reliability and adequacy of the regional electrical network; ensure that information relating to a customer's choice of retail electric provider is conveyed in a timely manner to the persons who need that information; and ensure that electricity production and delivery are accurately accounted for among the generators and wholesale buyers and sellers in the region.

An independent organization certified by the commission for a power region must establish and enforce procedures, consistent with the legislation and the commission's rules, relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants. The procedures will be subject to commission oversight and review.

## **ROLE OF PUC**

### **Rule Development**

Senate Bill 7 charges the Public Utility Commission of Texas with adopting rules in a number of areas to carry out the new law. The PUC will adopt rules in the areas of setting and enforcing reliability standards, minimum service standards for retail electric providers, auctioning of excess capacity, market power abuse, registration of aggregators, programs to assist low-income customers, and establishment of a natural gas energy credits trading program.

**Enforcement Activities**

The PUC is responsible for enforcing safety, certification, and reliability requirements. The PUC must certify an independent organization for each power region that will establish and enforce procedures relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants. The procedures shall be subject to PUC oversight and review.

**Customer Service**

The Texas PUC has the authority to implement customer protection measures along with punitive recourse for non-compliance. Although legislation did not provide specific requirements for rule development in this area, it required the PUC to modify its current rules regarding customer protections to ensure that at least the same level of customer protection against potential abuses and the same quality of service that exists on December 31, 1999, is maintained in a restructured electric industry.

**Rate Regulation**

The PUC continues to regulate remaining utility service (distribution) in the same manner as before the deregulation of generation.

**Reporting Requirements**

The only new reporting requirement imposed upon the PUC is a requirement to report to the electric utility restructuring legislative oversight committee on the status of the educational program, on or before December 1, 2001.

**FOLLOW-UP**

By December 1, 2000, electric utilities and power generation companies owning and controlling more than 20% of the generation capacity located in, or capable of delivering electricity to, a power region must file a plan to reduce ownership and control of generation capacity. The Commission will approve, modify, or reject a plan within 180 days after filing. If a plan has not been approved by January 1 of the effective year, the Commission may order auction of excess capacity pending approval of a plan. The Commission may modify this requirement when a power region's borders extend outside the state of Texas.

An Emergency Operations Plan was established to reflect the relationships between the customer, the retail electric provider (REP), and the transmission and distribution utility (TDU). Each utility must file a description of its emergency operations plan with the Commission by December 31, 2000, and an affidavit indicating all relevant personnel within the utility are familiar with the contents of the plan and are committed to following it in the event of a system emergency.

Service Quality Reports are required to be filed annually instead of semi-annually, on a form prescribed by the Commission. Utilities must report yearly on energy efficiency projects, with information on cost and energy savings.

A rulemaking project, Energy Efficiency Programs, is currently underway at the Texas PUC. Its purpose is to implement the goal for energy efficiency which calls for a reduction in statewide energy consumption by at least ten percent of the utility's annual growth in demand by 2004. The goal is to be achieved through market based standard offer programs and limited market transformation programs. The programs must result in reduction in consumption and energy costs and be available to all customer classes.





# VIRGINIA

## RESTRUCTURING AUTHORITY

### Legislative Authority

The Virginia Electric Utility Restructuring Act was approved on March 25, 1999.

### Applicability

Retail sales within the state are supplied either by investor-owned utilities (IOUs) or member-owned rural electric cooperatives (RECs).

## MARKET STRUCTURE

### Affected customers

On and after January 1, 2002, retail customers of electric energy within the Commonwealth shall be permitted to purchase energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth during and after the period of transition to retail competition.

### Phase-in

January 1, 2002 through January 1, 2004. The Commission shall establish a phase-in schedule for customers by class, and by percentages of class, to ensure that by January 1, 2004, all retail customers are permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth.

## MARKET POWER

### Functional Unbundling

The utility must make its transmission and distribution facilities available for all electricity suppliers and customers on a nondiscriminatory and comparable basis. Each affected utility shall transfer the management and control of its transmission assets to a regional transmission entity.

### Transmission operating company

On or before January 1, 2001, each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity (RTE) to which such utility shall transfer the management and control of its transmission assets, subject to the following: No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth without obtaining the prior approval of the Commission. On or after January 1, 2002, the Commission shall report to the Legislative Transition Task Force its assessment of the success in the practices and policies of the RTE facilitating the orderly development of competition in the Commonwealth.

**Rate Reductions**

Capped Rates were addressed in the Act. The Commission must establish capped rates, effective January 1, 2001, and expiring on July 1, 2007, for each service territory of every incumbent utility.

**STRANDED COSTS****Calculation and Recovery.**

Just and reasonable net stranded costs, to the extent that they exceed zero value in total for the incumbent electric utility, are recoverable by each incumbent electric utility provided each incumbent electric utility only recovers its just and reasonable net stranded costs through either capped rates or wires charges. To the extent not preempted by federal law, the establishment by the Commission of wires charges for any distribution cooperative is conditioned upon such cooperative entering into binding commitments by which it will pay to any power supply cooperative of which such distribution cooperative is or was a member, as compensation for such power supply cooperative's stranded costs, all or part of the proceeds of such wires charges, as determined by the Commission.

**CUSTOMER SERVICE ISSUES****Consumer Education and Protection**

The Commission must develop a consumer education program designed to provide specific information to retail customers during the period of transition to retail competition and thereafter. The Commission must also complete the development of the consumer education program and report its findings and recommendations to the Legislative Transition Task Force on or before December 1, 1999, and as frequently thereafter as may be required by the Task Force.

**Deceptive Practices**

The Commission shall develop regulations governing marketing practices by public service companies, licensed suppliers, aggregators or any other providers of services made competitive by this chapter, including regulations to prevent unauthorized switching of suppliers, unauthorized charges, and improper solicitation activities. The Commission shall also establish standards for marketing information to be furnished by licensed suppliers, aggregators or any other providers of services made competitive by this chapter during the period of transition to retail competition and thereafter.

**Customer Billing**

The Commission shall also establish standards for billing information to be furnished by public service companies, suppliers, aggregators or any other providers of services made competitive by this chapter during the period of transition to retail competition and thereafter.

**Customer Complaints**

The Commission shall establish or maintain a complaint bureau for the purpose of receiving, reviewing and investigating complaints by retail customers against public service companies, licensed suppliers, aggregators and other providers of any services made competitive under this chapter.

## **PUBLIC PURPOSE PROGRAMS**

### **Consumer Education and Protection**

The Commission must develop a consumer education program designed to provide the following information to retail customers during the period of transition to retail competition and thereafter:

1. Opportunities and options in choosing suppliers and aggregators of electric energy and any other service made competitive pursuant to this chapter;
2. Marketing and billing information suppliers and aggregators (a person licensed by the Commission that purchases or arranges for the purchase of electric energy as an agent or intermediary for sale to, or on behalf of, two or more retail customers) of electric energy will be required to furnish retail customers information about their company.
3. Retail customers' rights and obligations concerning the purchase of electric energy and related services; and
4. Such other information as the Commission may deem necessary and appropriate in the public interest.

The Commission must complete the development of the consumer education programs and report its findings and recommendations to the Legislative Transition Task Force on or before December 1, 1999, and as frequently thereafter as may be required by the Task Force.

## **RELIABILITY**

The Commission shall continue to regulate, to the extent not prohibited by federal law, the reliability, quality and maintenance of transmission and retail distribution systems.

The Commission may permit the construction and operation of electrical generating facilities if it determines that such generating facility and associated facilities including transmission lines and equipment (1) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, and (2) are not otherwise contrary to the public interest. In its review of a petition for a certificate to construct and operate a generating facility, the Commission will consider the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact.

As a condition of doing business in the Commonwealth, each person seeking to sell, offering to sell, or selling electric energy to any retail customer in the Commonwealth, on and after January 1, 2002, must obtain a license from the Commission to do so. A license is not required solely for the leasing or financing of property used in the sale of electricity to any retail customer in the Commonwealth.

On or before January 1, 2001, each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity must join or establish a regional transmission entity (RTE) to which such utility shall transfer the management and control of its transmission assets.

The Commission will adopt rules and regulations, with appropriate public input, establishing elements of regional transmission entity structures essential to the public interest, which elements shall be applied by the Commission in determining whether to authorize transfer of ownership or control from an incumbent electric utility to a regional transmission entity. The Commission will, to the fullest extent permitted under federal law, participate in any and all proceedings concerning regional transmission entities furnishing transmission services within the Commonwealth, before the Federal Energy Regulatory Commission. Such participation may include such intervention as is permitted state utility regulators under FERC rules and procedures.

## **ROLE OF PUC**

### **Enforcement Activities**

The Commission must establish interconnection standards to ensure transmission and distribution safety and reliability. These standards should not be inconsistent with nationally recognized standards acceptable to the Commission. The Commission should attempt to prevent barriers to new technology and shall not make compliance unduly burdensome and expensive.

The Commission must consider developing expedited permitting processes for small generation facilities of fifty megawatts or less. In addition, the Commission should also consider developing a standardized permitting process and interconnection arrangements for those power systems less than 500 kilowatts which have demonstrated approval from a nationally recognized testing laboratory.

Upon the separation and deregulation of the generation function and services of incumbent electric utilities, the Commission will retain jurisdiction over utilities' electric transmission function and services. The Commission's jurisdiction with respect to the construction of electric transmission facilities should not be impaired.

If the Commission determines that increases in the capacity of the transmission systems in the Commonwealth, or modifications in how such systems are planned, operated, maintained, used, financed or priced, will promote the efficient development of competition in the sale of electric energy.

**Customer Service**

The Commission must develop a consumer education program designed to provide the following information to retail customers during the period of transition to retail competition.

**Rate Regulation**

The Commission will regulate the rates for the transmission of electric energy, to the extent not prohibited by federal law, and for the distribution of electric energy to such retail customers on an unbundled basis. The Commission no longer shall regulate rates and services for the generation component of retail electric energy sold to retail customers.

**Reporting Requirements**

No later than September 1, 1999, and annually thereafter, the Commission shall submit a report to the General Assembly evaluating the advantages and disadvantages of competition for metering, billing and other services which have not been made subject to competition, and making recommendations as to when, and for whom, such other services should be made subject to competition.

**FOLLOW-UP**

The Legislative Transition Task Force was established to work collaboratively with the Commission in conjunction with the phase-in of retail competition within the Commonwealth. The Task Force consists of ten members, with six members from the House of Delegates and four members from the Senate.

The Task Force members were appointed to begin service on and after July 1, 1999, and will continue to serve until July 1, 2005. Responsibilities include monitoring the work of the Virginia State Corporation Commission in reviews, analysis, and impact on consumers of electric utility restructuring programs of other states; determining whether, and on what basis, incumbent electric utilities should be permitted to discount capped generation rates established after the commencement of customer choice; monitoring, with the assistance of the Commission, the Office of the Attorney General, incumbent electric utilities, suppliers, and retail customers, whether the recovery of stranded costs, has resulted or is likely to result in the over-recovery or under-recovery of just and reasonable net stranded costs; examining utility worker protection during the transition to retail competition; identifying generation, transmission and distribution systems reliability concerns; monitoring energy assistance programs for low-income households; renewable energy programs; and energy efficiency programs; and annually reporting to the Governor and each session of the General Assembly during their tenure concerning the progress of each stage of the phase-in of retail competition, in order to maintain the Commonwealth's position as a low-cost electricity market and ensuring that residential customers and small business customers benefit from competition.

The Consumer Advisory Board was established effective July 1, 1999. The Consumer Advisory Board consists of seventeen members. Appointed members are from all classes of

consumers and with geographical representation. The Consumer Advisory Board assists the Legislative Transition Task Force in its work and on other issues as may be directed by the Legislative Transition Task Force.

# WEST VIRGINIA

## RESTRUCTURING AUTHORITY

HCR 27 approves the Public Service Commission's deregulation plan as set forth in the PSC's January 28, 2000 order in Case No. 98-0452-E-GI. All references in the following summary are to sections of the plan.

## MARKET STRUCTURE

The starting date for customer choice is January 1, 2001, unless the PSC modifies the date in order to complete all necessary rules and regulations. All retail customers can choose their power supplier as of the starting date. Large commercial and industrial customers have choice in metering and billing services as of the starting date. Choice is extended to all remaining customers within four years.

Each utility shall functionally separate generation as of the starting date. By January 1, 2005, a utility's generation assets must be in a separate corporate entity. Rates shall be unbundled to include transmission, distribution, power supply, metering, billing and collecting, and other ancillary services.

## MARKET POWER

The PSC will adopt codes of conduct for electric utilities and their affiliates to the extent necessary to prevent market power or impairment of competition. Utilities will join a FERC approved regional transmission organization by January 2003. The PSC will establish an affiliate code of conduct that prohibits a utility from discriminating against non-affiliates. A utility shall not tie any product, service or information to any discount of rates, or condition the provision of any regulated service or product to the provision of any other service offered by the utility or its affiliate. A utility shall not share any marketing information with an affiliate or subsidize any affiliate. Accounts and records shall be kept separately.

### **Rate making implications**

Beginning with the starting date, rates are capped for 4 years. Thereafter, the cap is removed for all portions of the rate except power supply.

The default power supply rate will be escalated each year until year 11, at which time it will equal the market rate. However, regulation of default power supply rates for large commercial and industrial customers will end as of year 8.

Each utility will create a rate stabilization deferral account that will be used to offset the price paid by default residential and small commercial customers in years 11, 12 and 13.

## **STRANDED COST**

### **Definition**

HCR 27 approves the Public Service Commission's deregulation plan as set forth in the PSC's January 28, 2000 order in Case No. 98-0452-E-GI. All references in the following summary are to sections of the plan.

The starting date for customer choice is January 1, 2001, unless the PSC modifies the date in order to complete all necessary rules and regulations. All retail customers can choose their power supplier as of the starting date. Large commercial and industrial customers have choice in metering and billing services as of the starting date. Choice is extended to all remaining customers within four years.

The issue of fair treatment of existing utility commitments, and the determinations of stranded costs that might exist in a competitive market have been addressed throughout the PSC's January 28, 2000 Order in Case No. 98-0452-E-GI. The Order does not impose any mandatory conditions on the electric utilities to divest themselves of their generation facilities, to provide below cost power to customers or to involuntarily lose the protection of being a fully rate regulated public utility. Utilities are not forced to sustain stranded costs under the Order. Customers do not lose the benefit of existing commitments of utilities since they will have a choice to remain with the utilities for an extended period of time at rates that are either frozen at current levels or capped under the terms of the Plan.

### **Calculation and Recovery**

However, Investor-owned utilities that do divest themselves of their generation facilities will collect a per kilowatt-hour wires charge through 2010. The charge is included in the bundled rates that are the basis for the cap rate.

## **CUSTOMER SERVICE ISSUES**

### **Customer Service Issues**

HCR 27 approves the Public Service Commission's deregulation plan as set forth in the PSC's January 28, 2000 order in Case No. 98-0452-E-GI. This order contains the consumer protection requirements. The incumbent utility will be the default service provider. Beginning 6 years after the starting date, the PSC may select the provider of default power supply service through a bidding procedure.

### **Customer Education Campaign**

The Commission developed a consumer education program designed to provide information to retail customers during the period of transition to retail competition and thereafter.

The Commission established Rules for consumer protection. Such Rules shall ensure that



no electric service supplier shall use any deception, fraud, false pretense, misrepresentation, or any deceptive or unfair practices in providing, distributing or marketing electric service. Such Rules shall include, but not be limited to Rules governing:

- (1) Customers' rights of cancellation following execution of any contract;
- (2) Pricing and other key contract terms and conditions;
- (3) Telemarketing for energy services;
- (4) Requirements for providing a toll-free telephone number for customer assistance;
- (5) Standards for billing information to be furnished by energy service providers. Such billing information standards shall require that billing information:
  - (a) Clearly distinguishes between charges for regulated services and unregulated services;
  - (b) Itemizes any and all non-bypassable wires charges;
  - (c) Includes such other billing information as the Commission deems necessary and appropriate in the public interest.
- (6) Such other and further marketing information and truth-in-advertising requirements as the Commission may deem necessary and appropriate in the public interest. These Rules provide that all suppliers of power that are advertised or marketed in any way as to be from any specific type of generation technology or fuel source shall be required to provide accurate verification of the source and amount of such power that is a part of each supplier's portfolio of retail electric energy. Suppliers shall be permitted to promote, advertise and market the electric energy they offer based on assertions of environmental, ecological or any other advantage, subject to strict truth-in-advertising Rules to be established by the Commission. The truth-in-advertising Rules include requirements for the accurate, verifiable and uniform labeling of the source, amount and proportion of any portfolio of electric energy supplies which a supplier intends to advertise, promote or market as available, preferable or advantageous relative to other sources or portfolios of electric energy.
- (7) The Commission also require that all suppliers, including default service providers, provide accurate information on emissions and fuel mix to their customers upon request, and publish such information on at least an annual basis, or as frequently and in such format as the Commission determines is necessary to provide adequate public disclosure.

## **PUBLIC PURPOSE PROGRAMS**

**Public Benefit Issues**

HCR 27 approves the Public Service Commission's deregulation plan as set forth in the PSC's January 28, 2000 order in Case No. 98-0452-E-GI. All references in the following summary are to sections of the plan.

The Commission shall approve a System Benefits Charge (SBC) of \$.0003 (0.3 mils) per kilowatt hour on all retail electric energy delivered to retail customers in the State. This charge shall be assessed beginning with implementation of choice for customers of each incumbent electric utility and shall be in addition to the current rate levels of any incumbent electric utility. The minimum monthly SBC to any retail customer shall be \$0.60 and the maximum monthly SBC to any retail customer shall be \$450. Low income electric utility customers receiving "special reduced rates" under West Virginia Code 24-2A-1 et seq. shall be exempted from the requirement to pay the SBC. The SBC shall be collected by each incumbent electric utility or other billing entity and shall be disbursed pursuant to the requirements contained in Sections 20 and 21 of the Plan. Collection and disbursement of the SBC shall be subject to Commission jurisdiction and oversight.

Any person served through multiple meters, or at multiple delivery points, at a single location shall be treated as a single retail customer; provided, however, that the customer has the burden of demonstrating that it is a single retail customer.

The SBC shall be in effect for retail customers of an incumbent electric utility for a period of ten years from the starting date and may be extended.

**Protection for low income customers**

The Commission retains full jurisdiction over the distribution systems in the state and will continue to have any jurisdiction over transmission facilities that is consistent with federal precedents. To the extent that universal service is intended to mean geographic universal service, the Commission retains full jurisdiction to review utility line extension policies and to require line extensions to customers under reasonable terms and conditions. To the extent that universal service is intended to mean affordability of service, many of the provisions discussed above with regard to other criteria will contribute to meeting this criteria. Two thirds of the revenue generated from the SBC shall be deposited in a Trust Fund account administered by the Governor's Office of Economic Opportunity for the benefit of low income electric consumers and low income families and shall be distributed through the existing weatherization provider system. Fifty percent (50%) of the money deposited in such trust fund shall be used to assist low income consumers in the payment of electric bills and fifty percent (50%) will be used to provide weatherization assistance to low income families.

The Commission may consider an application made after the third, fifth, and seventh years to modify the distribution of SBC funds for the benefit of low income consumers and low income families set forth in (a), above; however, the amount and applicability of the SBC to retail customers shall not be modified by the Commission.

In addition to establishing the SBC for low income electric consumers and low income families, to assure protection of low income customers entitled to "special reduced rates", West Virginia Code 24-2A-1 shall be modified to replace the existing "special reduced rate" for eligible electric energy customers of twenty percent (20%) with a \$0.012 per kilowatt hour credit on all qualifying customer bills during the winter heating months.

### **Environmental programs**

The Commission finds that the benefits of energy efficiency, renewable resource technology and research and development can be maintained and even enhanced by Commission Case No. 98-0452-E-GI, that offers customers freedom to choose power supply from sources of their choice. The Case allows such choice. In addition, it provides for truth-in-advertising rules and labeling of power supply so that customers can be assured that their preferences for power supply sources are being honored. Adoption of the Plan, by opening new power supply markets, will encourage innovative technology and production efficiencies for competitive price advantage. This will encourage expanded research and development into such innovative and efficiency technology.

### **RELIABILITY**

HCR 27 approves the Public Service Commission's deregulation plan as set forth in the PSC's January 28, 2000 order in Case No. 98-0452-E-GI. All references in the following summary are to sections of the plan.

The Commission shall retain full jurisdiction over the distribution systems of the electric utilities in the state and over transmission facilities, consistent with federal precedents. In addition, HCR 27 calls for the Commission to establish Rules to apply to the interconnection of power supply facilities with the facilities of the utilities in the state. The Commission will retain full jurisdiction over new suppliers that wish to operate in the State, and will establish Rules to apply to such suppliers. The Plan provides that suppliers must satisfy all requirements established by the Commission including demonstration of technical capability and access to power supply and reserves. The Plan also provides for the establishment of emergency service provisions.

### **PUC ROLE DURING RESTRUCTURING**

HCR 27 approves the West Virginia Public Service Commission's (WVPSC) deregulation plan as set forth in the PSC's January 28, 2000 order in Case No. 98-0452-E-GI. All references in the following summary are to sections of the plan.

The public service commission is the appropriate agency to determine whether West Virginia should adopt a plan whereby users of electricity in the state would have open access across existing and new utility delivery systems to a competitive market for power supply. The commission is also the appropriate agency to develop such a plan for submission to the Legislature for approval, hereafter designated in this section as a "deregulation plan"; The PSC will adopt codes of conduct for electric utilities and their affiliates to the extent necessary to prevent market power or

impairment of competition. The PSC established an affiliate code of conduct that prohibits a utility from discriminating against non-affiliates. A utility shall not tie any product, service or information to any discount of rates, or condition the provision of any regulated service or product to the provision of any other service offered by the utility or its affiliate.

Also, West Virginia created a task force to review restructuring of the electric utility industry in West Virginia and to address specific questions asked by the Public Service Commission was created by Commission Order dated May 8, 1998. This task force undertook the development of a consensus plan to implement restructuring of the electric utility industry in West Virginia. This task proved to be too great to achieve in the time allotted despite all parties' best efforts to find common ground.

The majority of the task force participants are advocates of competition in the electric industry. However, despite this commonality of interests, a comprehensive agreement on how to get from today's regulated industry to a future deregulated market could not be achieved.

The task force created a report that describes the possible positive and negative attributes of changing and maintaining the structure of the electric industry; the present power supply market with price information; stranded costs/benefits options; the appropriate structure for a competitive electric industry; tax revenue implications; guiding restructuring principles; proposed rule and statutory changes; and a blue print for restructuring. While consensus was reached on several areas, a complete plan was not developed.

## **PUC ROLE AFTER RESTRUCTURING**

The PSC will develop a consumer education program and establish rules for consumer protection, including standards for billing information to be furnished by energy service providers. Suppliers that advertise power based on environmental or other assertions are subject to strict truth-in-advertising.

## **FOLLOW-UP**

HCR 27 approves the West Virginia Public Service Commission's (PSC) deregulation plan as set forth in the PSC's January 28, 2000, order in Case No. 98-0452-E-GI. Since the West Virginia Legislature just recently passed HCR 27, the PSC not had sufficient time to address the topic of follow-up.