



FEDERAL LEGISLATION

Electricity Restructuring and the Industrial Consumer

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What is ELCON?

- National organization of industrial energy users
- Founded in 1976
- Sought and supported efforts to make electricity markets more competitive

Recent History of Electricity Legislation

- 1992 – Enactment of Energy Policy Act (EPACT)

- Underlying Principle: Open nondiscriminatory grid

But...

- How does FERC take grid – owned by utilities – and make it nondiscriminatory?

And Then...

- Late 1990's...
 - Boomlet in Congress to push retail competition
 - All States by “date certain”

Early 2000's...

Boomlet crashed/Retail competition doomed

(1) California

(2) Enron

(3) State plans throughout country

The Tide Changed

- Congress distrusts competition
- Congress distrusts FERC
- Congress distrusts large markets
- And...does Congress still support nondiscriminatory grid, per EPAAct?

- Result is...
Proposed Federal electricity legislation is decidedly pro-utility and anti-consumer

ELCON WANTS:

- Large Markets Rather than Small
- Removal of Barriers to Competition
- Market Monitoring of Utilities to check for Abuse
- Federal Jurisdiction Rather than State

Issues Under Discussion

- MARKET POWER AND PUHCA

Utilities have pushed for repeal almost since 1935

Would increase mergers, reduce competitors, allow for cross-subsidization

ELCON: Oppose PUHCA repeal

Issues Under Discussion (2)

- Transmission Incentives
 - Incentive Rates
 - Participant Funding
 - Restrict FERC Flexibility

ELCON: ROI should be commensurate with risk; don't hogtie FERC; encourage plans that increase transmission where transmission is needed

Issues Under Discussion (3)

- Restrict FERC

- No Standard Market Design
- Must provide for Native Load Protection
 - ...Basically protect incumbent utilities

ELCON: Need for national rather than local rules. Don't restrict FERC.

Issues Under Discussion (4)

- Cogeneration/Behind-the-Meter/PURPA
 - Utilities have been trying to repeal PURPA since 1978
 - General assumption was they could – Carter era mandate
 - Successful lobbying – beat utilities, got retention of PURPA's purchase and sale obligations retained until demonstrated retail and wholesale competition.

So Where's the Bill?

- Electricity Issues just part of comprehensive bill
 - That bill is hung up in Senate (MTBE and tax)
 - Domenici keeps redrafting, keeps losing votes
 - Administration “supports,” but never pushes
 - Tax provisions now part of separate measure
 - Nothing is “driving” comprehensive bill

So Where's the Bill (2)?

- Congress now in session until ~Oct. 8
 - Homeland Security
 - Appropriations
 - General Political Stuff

Couple with high partisan rhetoric level

Unlikely (not impossible) energy bill moves anywhere

So Where's the Bill (3)?

- Can they do piecemeal approach?
- Undersecretary of Energy Dave Garman said “reliability only.”
- Several Members of Congress said “no.”
- Piecemeal is still possible (but probably growing less likely)

So Where's the Bill (4)?

- Maybe Lame Duck (assuming there is a lame duck)
- If Kerry wins – Republicans will grab all they can
- If Dems take Senate – Republicans will grab all they can
- But...in either case, Dems will dig in heels
- 60-vote requirement in Senate
- Bill not likely (though not impossible)

So Where's the Bill (5)?

2005

And maybe piecemeal at that.

End Notes

- When lobbying for consumers (large or small) on electricity issues, always playing on utilities' home fields
 - They are well funded
 - They have CEO-level involvement
 - They have few issues
 - They have enviable communications with voters and their own workers

End Notes (2)

- Delay is probably good for industrial users
- Piecemeal is probably not good (except reliability only)
 - Utilities will have greater influence
 - Less chance of other issues (MTBE, Tax) contributing to delay

End Notes (3)

- Interesting Note:
Despite high gasoline prices
Despite high natural gas prices
Despite some very screwed up electricity markets...
- Energy unlikely to be election issue in any/many campaign

End Notes (4)

- I look forward to returning and giving similar presentation in 2005 and/or 2006.

