



ELECTRICITY: WHAT'S HAPPENING IN WASHINGTON

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What is ELCON?

- National Organization of industrial electricity users
- Founded in 1976
- Has sought and supported efforts to make electricity markets more competitive

ELCON's Objectives

- Large Markets Rather than Small
- Removal of Barriers to Competition
- Market Monitoring of Utilities to Check for Abuses
- Federal Jurisdiction, Rather than State, especially for Transmission Issues

EPAct: Set Things in Motion

Enacted in 1992

Underlying Principle for Electricity: Open
Nondiscriminatory Grid to Support
Competition in Wholesale Markets

But...

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

And from motion...chaos (1993-2001)

- FERC had series of Orders (888, 2000)
 - Utilities (most) object
 - Clear that “competition” would proceed regionally if at all
 - Congress considered retail competition
 - Lots of rhetoric
 - No real support
 - California ruins everything
 - Enron + Price spikes = Disaster
- AB1890

Leading to Revolution (2002-5)

- Congress Today
 - Distrusts retail and wholesale competition
 - Distrusts FERC
 - Distrusts large markets
- Final Question: Would Congress pass EPAct/Nondiscriminatory grid in 2005?

Result for Consumers (large and small): Proposed Federal electricity legislation is decidedly anti-competition, pro-utility and anti-consumer.

Today – Issues Under Discussion in Congress (1)

- MARKET POWER AND PUHCA
 - Utilities have pushed for repeal almost since 1935
 - Repeal of PUHCA would increase mergers, reduce competitors, allow for cross-subsidization, decrease ability to identify and mitigate market power abuse

ELCON: Opposes PUHCA repeal

Today – Issues Under Discussion in Congress (2)

- TRANSMISSION ISSUES

- Utilities want:

- Incentive Rates (regardless of risk)
 - Mandated Participant Funding (in statute)
 - Restrictions on FERC flexibility (SMD, native load, etc.)

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

Today – Issues Under Discussion in Congress (3)

- COGENERATION/CUSTOMER
GENERATION/BEHIND-THE-METER/PURPA
 - Utilities have been trying the repeal PURPA Section 210 since 1978
 - General assumption was they could – “Carter era mandate”
 - Successful lobbying (in 2002 and 2003) – beat utilities and retained PURPA’s purchase and sale obligations until demonstrated retail and wholesale competition
- ELCON: Protect cogenerators’ rights; oppose efforts by grid managers and others to reach “inside the fence”

So (finally) – Where's the bill?

- HOUSE OF REPRESENTATIVES
 - Can pass energy bill anytime they want
 - Three times in 108th Congress
 - Current strategy: Pass last year's bill in March or (more likely) April, wait for Senate, go to conference

So (finally) – Where's the bill?

- SENATE
 - Got hung up on MTBE and Tax issues last Congress (2 or 3 votes short of 60)
 - Domenici kept redrafting, kept losing votes
 - Changes this year
 - 4-vote Republican gain, but only 1-vote net (Daschle, Miller, Breaux had supported bill)
 - Several new Republicans are “deficit hawks” (Coburn, DeMint, Vitter, Thune)

So (finally) – Where's the bill?

- **ADMINISTRATION**

- Supports comprehensive energy bill, including electricity
- In State of Union
- But never subject of “real lobbying” (see 9/11 bill at end of last Congress)
- New DOE Secretary non-political
- Is energy “Tier One” Issue (compared to Iraq, domestic security, social security, deficit reduction, tax reform, education...)?

FERC Stuff (1)

- CONSUMERS, LARGE AND SMALL, NEED FERC
 - Don't agree with everything, but FERC is an essential counter to (overfunded) utilities
 - Large consumers need FERC even more (simple order of magnitude)
 - Large markets are better than small markets

FERC Stuff (2)

- MARKET POWER
 - FERC wants to implement market power screens
 - Entergy, Southern, AEP all suspect (want to use their own screens)
 - Simple test of FERC authority

FERC Stuff (3)

- **BEHIND THE METER ISSUES**
 - Allocation of grid management (RTO or otherwise)
 - RTO administrative costs
 - Ability to dispatch and curtail generation
 - NERC authority (post-legislation)

FERC Stuff (4)

- CAPACITY VS. DEMAND VS. CONGESTION
 - New York, New England, others – support ICAP approach which rewards generators but does not encourage new generation (and raises costs for consumers); ELCON has taken NY case to Court of Appeals
 - Need Demand Markets, not Demand Programs; Reductions in demand have same impact as increases in generation and should be treated symmetrically
 - End reliance on LMP which identifies constraints (which everyone knows about) but does not encourage new transmission or generation (but does continue to reward those who benefit from congestion)

End Notes

- **BIGGEST PROBLEM WITH BEING CONSUMER LOBBYIST ON ELECTRICITY ISSUES**
 - Always playing on utilities' home court
 - They are well funded
 - They have CEO-level involvement
 - They have few issues
 - They have enviable communications with workers and customers (!)

More End Notes

- **ELECTRICITY LEGISLATION WILL ALWAYS BE PRO-UTILITY**
 - Delay is probably good for industrial end users
 - Piecemeal legislation could be good (Reliability only) or not good (PUHCA repeal)

Final End Notes

- **GENERAL OBSERVATIONS ABOUT ENERGY/ELECTRICITY LEGISLATION**
 - Never a priority, always difficult to pass
 - Complexity of bill adds to difficulty
 - Rarely if ever decisive campaign issue
 - Defies Crisis/Consensus Doctrine (high gasoline prices + high natural gas prices + major electricity blackout = no legislation)

So...

I LOOK FORWARD TO RETURNING IN
2006 OR 2007 – SPEECH IS ALREADY
WRITTEN