TESTIMONY BEFORE THE

ENERGY AND POWER
SUBCOMMITTEE

OF THE
HOUSE COMMERCE COMMITTEE

ON
ELECTRIC UTILITY INDUSTRY RESTRUCTURING

OCTOBER 6, 1999
WASHINGTON, D.C.

WITNESS: Rutherford "Jack" Brice

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Mr. Chairman and Members of the Committee:

My name is Jack Brice and I am a member of AARP’s Board of Directors.

We thank Chairman Barton and the other members of the Committee for inviting us to present our views on the consumer protection provisions within H.R. 2944, the “Electricity Competition and Reliability Act.” We will confine our remarks to the provisions contained in Title III of the bill as well as to the section in Title V dealing with aggregation. However, as representatives of residential consumers we also share some of the concerns surrounding the market power provisions voiced by other panelists today.

AARP’s membership has a vested interest in the move towards competition now underway in the electric utility industry. For everyone, electricity is a basic necessity of modern life. The cost of this necessity, however, can comprise a significant portion of an average consumer’s personal expenditures. In fact, energy costs can take up to as much as 5 percent of the median-income household’s monthly budget. Older Americans are particularly vulnerable to rapid increases in energy prices. Although older persons consume approximately the same amount of residential energy as
non-elderly Americans do, they devote a higher percentage of total spending to residential energy. Among low-income older families, an average of 17.5 percent of their income is spent on residential energy. Too often, low-income older persons are faced with the choice of risking their health and comfort by cutting back on energy expenditures or reducing spending for other basic necessities.

In testimony AARP presented to this Committee earlier this year we discussed generally our concerns surrounding the move to retail competition. We questioned the claims that retail competition would bring about substantial rate reductions for all ratepayers, including the elderly. We also expressed hope that consumers would receive the corollary benefits of the ability to shop among competitive providers, and to take advantage of a new array of products and pricing options. We concluded that the fate of residential consumers in a restructured electric industry will depend on whether the new market structure gives them a fair chance to receive the benefits of competition, ensures that their interests are represented in the market, and provides fundamental protections against abuse.
Residential ratepayers, and particularly older Americans, face very significant risks -- and few, if any, assured benefits -- in the move to retail competition in the electric power industry. These risks go beyond the ability to benefit from choice. They also include risks associated with confusion, deception and fraud.

AARP is pleased that H.R. 2944 addresses these risks. Our testimony today will focus on how elements of Chairman Barton's bill support AARP's goals to:

- Ensure that residential customers are among the first to benefit from competition;
- Provide strong consumer protection provisions; and
- Establish a comprehensive universal service policy, including a guarantee of affordability.

Residential Customers First

AARP believes that residential customers should benefit from restructuring. Unfortunately, residential consumers are simply not as attractive to utilities
as industrial customers are. Discussions between AARP staff and representatives of electric utilities, industrial consumers and regulators have highlighted the fact that residential consumers are not likely to reap the full benefits of restructuring during the initial years of competition. The ability to aggregate, however, will help to bring some benefit in the short-term.

Aggregation will allow residential consumers from like communities or associations to pool their respective electricity needs, enabling them to negotiate lower rates from a power provider and benefit from the outset.

AARP supports a federal role in facilitating aggregation in states that have opened their markets to competition. H.R. 2944 recognizes the importance of aggregation as well. The bill provides residential consumers with flexibility, allowing that any entity that aggregates consumers may acquire retail electric energy on an aggregate basis. As we have suggested before, residential consumers would further benefit if aggregation were offered on an opt-out basis. The opt-out provisions would ensure that a majority of underserved consumers could reap the benefits of lower rates. Rep. Brown
has introduced the concept of a residential opt-out aggregation system in his “Community Choice for Electricity Act of 1999.”

Consumer Protection Laws

For competition in the electricity industry to work, strong consumer protection laws must be applied to the sale of electricity in a restructured industry. Low-income, non-English speaking and elderly consumers, in particular, will need very strong consumer protections to prevent abuse in the competitive market.

We are pleased that Title III of H.R. 2944 is devoted to addressing consumer protection concerns. Attacking the problems of slamming and cramming, while providing for information disclosure and privacy restrictions is to be commended.

If enacted, the anti-slamming and anti-cramming provisions of the Chairman's legislation will go a long way towards addressing these abuses. AARP is pleased that the need for information disclosure is increasingly understood by policymakers and is reflected in H.R. 2944. The bill
includes provisions outlining the kind of information that suppliers must present to consumers when offering services. Many of the elements that we have urged be included in billing statements, such as price information, description of charges, and information regarding interruptibility of service are included in this section. Further, the legislation clarifies that states may impose additional requirements. This kind of “consumer information floor” is what we have been seeking.

Further, we applaud Chairman Barton for striking a delicate balance between the protection of individual privacy regarding information exchange and the need to make aggregate consumer information available to promote competition. AARP values the individual’s right and ability to control the movement of personal information. We are pleased that the provisions in H.R. 2944 recognize that right by requiring prior written approval before personal information can be disclosed.

We also support the provision in H.R. 2994 that requires local distribution companies to make aggregate consumer information available to retail
electric suppliers upon request. By facilitating the transfer of this type of information, residential consumers are more likely to be offered choice.

While we are pleased overall with the consumer protection provisions included in H.R. 2944, there are certain areas that need further attention. In earlier testimony we detailed the importance of adopting a "Truth-in-Billing" requirement to supplement the information disclosure provision. AARP suggested that a comprehensive, easy-to-read billing statement each month would help alleviate consumer confusion, making consumers more likely to become participants in the competitive marketplace. This provision is missing from H.R. 2944.

AARP also supports the creation of a consumer database housed at the FTC to assist residential customers in obtaining information about retail electric utility providers, including aggregators. Additionally, the creation of an Office of Consumer Counsel within the FERC, as outlined in an earlier draft, would assist consumers.
Finally, as large aggregators, utility companies and power marketers are likely to operate on an interstate basis, it is incumbent upon the Congress to ensure that they meet certain threshold operational requirements and that deceptive, fraudulent or other illegal behavior not be not tolerated.

**Universal Service**

As we have said previously, electric utility service is essential. Therefore, one of the cornerstones in any restructuring effort is the requirement that electric utility service be universal and affordable. A universal service policy must ensure basic electric service at a level of consumption that would meet the needs of residential ratepayers for lighting, heating, cooling, cooking, and recreation. In our view, affordability means that electricity rates do not strain the household budget.

AARP is concerned that in a competitive environment, less attractive customers may be adversely affected. H.R. 2944’s only recognition of universal service is through a “Sense of the Congress” provision. Unfortunately, such a declaration places the full burden on the states to collect fees and implement the program. AARP believes that there is still a
role for the federal government in ensuring that electric service is provided
to all consumers. At a minimum, federal involvement should include
participation on a Federal-State Joint Board that would oversee a program
funded by a fee placed on all generators of electricity.

Conclusion

AARP is pleased with the attention Chairman Barton has devoted to
residential consumers in H.R. 2944. The consumer protection and
aggregation provisions should benefit consumers, but only if adequate
market power provisions are put in place to ensure that competition
becomes a reality.

AARP hopes that as legislation moves toward passage in the House, the
provisions we have discussed today remain intact or are improved. We urge
this Committee to remember that residential consumers will benefit from
restructuring only if aggregation is facilitated, strong consumer protection
provisions are enacted and electric service is ensured for all.
Mr. Chairman, the work that you have done to highlight many of the inherent problems in the move to a deregulated environment is to be commended. H.R. 2944 is a big step in the right direction. AARP looks forward to continuing our active participation in this debate on both the federal and state level and to working with you in crafting solutions that will ultimately benefit not only our members, but the nation as a whole.
ELECTRICITY STAKEHOLDERS

Legislative Principles for Competitive Wholesale Power Markets

In 1992, the Congress adopted the Energy Policy Act (EPAct). This law paved the way for increased competition in wholesale electric power markets. Since then, the U.S. has experienced dramatic growth in wholesale power sales, accelerated technical innovation and new supply options for power consumers. However, as the turmoil in some regional markets makes clear, the time has come to revisit federal electricity policy and bring it up to date. The following principles represent a legislative framework that will help ensure competitive wholesale power markets and enhanced consumer benefits for the next decade and beyond.

The organizations listed below believe that such legislation should, at a minimum, include the following principles:

♦ Clarify that FERC has jurisdiction over the entire interstate transmission network (recognizing state authority to set retail sales rates, as applicable under state law). This includes language to:
  ♦ Clarify FERC's jurisdiction over both bundled and unbundled transmission services.
  ♦ Affirm FERC's authority to ensure open and non-discriminatory access to transmission services at just and reasonable rates.
  ♦ Preserve local decision-making over transmission rate-setting for cooperatively owned and publicly owned utilities.
  ♦ Affirm that FERC retains the authority over the classification of facilities as transmission, provided that FERC must consider the views of a state PUC when making a decision.

♦ Create Federally-sanctioned mandatory bulk power reliability rules established by an independent self-regulating organization subject to FERC oversight.

♦ Promote effective Regional Transmission Organizations (RTOs):
  ♦ Support the minimum functions and characteristics for RTOs and FERC's authorities set out in Order No. 2000.
  ♦ Direct FERC to take action to ensure appropriate scope and configuration, and independent governance, of all RTOs.
  ♦ Promote interregional coordination.
  ♦ Retain FERC's authority to determine which facilities must be included in an RTO.
  ♦ Clarify that FERC has the authority to require jurisdictional (as of the date of enactment) utilities to participate in an RTO as a generic condition for continued or requested market-based rate authorizations or as a standard requirement for merger approval or to remedy undue discrimination.
  ♦ Authorize FERC to require transmission-owning federal utilities to participate in...
an RTO to remedy undue discrimination.
Allow FERC to order municipal and cooperative utilities to participate in an RTO based on a finding that the utility has engaged in undue discrimination in the provision of transmission service, or abused its control over transmission so as to disadvantage competitors, and open access transmission tariffs are not likely to remedy the problem.
Ensure that orders issued with respect to cooperatively and publicly owned utilities accommodate tax code restrictions and/or bond covenants.

♦ Establish and enforce non-discriminatory wholesale interconnection standards, including interconnections at the distribution level that preserve appropriate local authority to protect distribution system safety, reliability and power quality.

♦ Address wholesale market power abuses by directing FERC to:
   • Establish and enforce rules and procedures to ensure competitive wholesale markets so as to prevent the abuse of market power, promote greater regulatory certainty for market participants, and protect the public interest;
   • Monitor market conditions and behavior;
   • Investigate, mitigate and remedy the abuse of market power where it exists in wholesale power markets; and
   • Eliminate regulatory barriers to the availability of anti-trust remedies in competitive wholesale markets.

♦ Facilitate curtailable load responses needed to reduce transmission and generation constraints and lower prices for consumers.

♦ FERC's authority to review mergers pursuant to Section 203 of the Federal Power Act should continue without time limits and should clearly include review of mergers between utility holding companies.

♦ Repeal PUHCA and provide FERC and state PUCs with sufficient authority to protect consumers, including access to books and records.

♦ Prospectively reform PURPA:
   • Preserve and respect all current obligations;
   • Provide relief from prospective mandatory purchase requirements of Section 210 of PURPA once a state has certified that a utility has unbundled and is providing nondiscriminatory open access to all of its transmission and distribution facilities.
   • End ownership restrictions on PURPA facilities.

♦ Support consumer protection provisions:
   • Anti-slabbing and anti-cramming protections.
   • Consumer access to sufficient price, terms and environmental information to choose among competing suppliers.
   • Consumer friendly and transparent bill statements.
   • Consumer privacy safeguards.
   • Promote universal service.
Promote and protect the ability of any entity, including municipalities and cooperatives, to aggregate electricity purchases on behalf of retail customers located in one or more states.

- Provide for Federal and state bodies to jointly develop a model code of conduct regarding inter-affiliate transactions.
- Promote clean energy and a cleaner environment by extending and expanding tax credits for renewable energy to include open loop biomass (including agricultural and municipal solid waste) waste heat and waste gases and provide a refundable production and investment tax credit for municipal and cooperative utilities renewable energy projects, including open loop biomass.
- Correct elements of the tax code that impede the development of competitive markets, including:
  - private use restrictions on bonds issued by publicly-owned utilities;
  - the 85/15 restrictions on the income of rural electric cooperatives;
  - disincentives to utility transfer of assets to form an RTO;
  - tax treatment of nuclear decommissioning funds associated with the transfer of existing assets; and
  - tax treatment of transmission interconnections (CIAC).
- Limit any grandfathering provision to state competition programs enacted prior to the date of enactment.
- Remain silent on the subject of stranded costs recognizing existing federal and state authority over these issues.
- Federally-owned electric customers should be able to purchase power on a competitive basis pursuant to other applicable laws.

AARP
American Public Power Association
American Chemistry Council
City Utilities of Springfield, Missouri
Consumer Federation of America
Consumers for Fair Competition
Dynegy
EDS
Electricity Consumers Resource Council
Electric Power Supply Association
Enron
Indiana Municipal Power Agency
Integrated Waste Service Association
Madison Gas & Electric
Minnesota Power

Obtained and made public by the Natural Resources Defense Council, March/April 2002
Missouri River Energy Services
National Association of State Utility Consumer Advocates
National Energy Marketers Association
Northern California Power Agency
Ohio Municipal Electric Association
PG&E Corp.
Portland General Electric
PPL
Transmission Access Policy Study Group
UtiliCorp
Wisconsin Electric Power Company
Wisconsin Public Power Inc.
Residential Customers First: 20 Principles to Protect Universal Service for Residential Customers

Electricity is a basic necessity of modern life. It contributes to the well-being of all Americans. Over the years, the nation’s utilities have provided reliable service at rates among the lowest in the world. Both residential and industrial customers have benefited from the rules and regulations set up by the federal, state and local bodies that oversee a utility's operations.

Currently, Congress and the states are considering legislation to deregulate the industry in ways that may subject residential customers to harm. One of the glaring weaknesses exhibited to date in the majority of the legislative offerings is the absence of adequate provisions to expand and maintain universal service.

In an effort to bring attention to the importance of universal service for residential consumers, a set of principles has been developed. The undersigned consumer, environmental, senior citizen, and agricultural groups believe that these principles (attached) must be part of any legislation which seeks to restructure and/or deregulate the electric utility industry.

We are actively working to address other critical problems in many of the proposals aimed at restructuring the electric utility industry. Among the issues that need to be addressed by Congress are: the removal of language suggesting a date certain, unfair recovery of stranded costs, strong consumer protection provisions, adequate safeguards to avoid market power dominance and environmental protections.

However, our goal today is to fill a void and inject a discussion of universal service into the debate. The undersigned organizations strongly believe that without provisions reflecting the “Principles”, residential customers and in many cases, low-income residential customers, will not only be deprived of the benefits of competition in the industry, but may in fact be hurt.

We ask you to give strong consideration to the “20 Principles to Protect Universal Service for Residential Customers” and if you have any questions, please contact any one of us.

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<th>Public Citizen</th>
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DOE002-0104

Obtained and made public by the Natural Resources Defense Council, March/April 2002
RESIDENTIAL CUSTOMERS FIRST:
20 PRINCIPLES TO PROTECT UNIVERSAL SERVICE FOR RESIDENTIAL CUSTOMERS

THERE MUST BE A COMMITMENT TO UNIVERSAL SERVICE
1. The Federal government must set guidelines for universal service and the states must implement them.
2. Federal and state regulators each must have sufficient authority to execute their responsibilities in establishing and maintaining universal service.

BASIC, UNIVERSAL SERVICES MUST INCLUDE:
3. Hook-up on a non-discriminatory basis.
4. A firm, uninterruptible supply of power sufficient to sustain household needs.
5. Fair priorities for restoration of service following an outage.
6. A default provider must secure firm power at the lowest reasonable cost for all customers not served by other providers.

RATE AND PRICING PRINCIPLES FOR UNIVERSAL SERVICE MUST BE ESTABLISHED
7. Rates must be just, reasonable and affordable.
8. Rates must be based on average residential use, not time-of-day peak.
9. Residential customers shall bear no more than a fair share of fixed costs.
10. Residential customers shall not subsidize utility entry into new, competitive businesses and sufficient mechanisms to detect, prevent and correct such subsidization shall be established.
11. Rates should not be deaveraged or rebalanced, to prevent shifting of costs onto those customers without competitive alternatives.

SERVICE ASSISTANCE MUST BE PROVIDED TO LOW INCOME PERSONS AND AN ADEQUATE UNIVERSAL SERVICE FUND MUST BE ESTABLISHED
12. Hook-up assistance and bill payment assistance must be provided to low-income persons and difficult-to-serve areas, funded by a universal service fund.
13. All producers and classes of customers must contribute to the universal service fund equitably on a per-kilowatt-hour basis, and producers must not shift their contributions onto customers.
14. A Federal-State Joint Board or similar entity should have oversight over the establishment and implementation of universal service.

CONSUMER PROTECTIONS ASSOCIATED WITH MAINTENANCE OF UNIVERSAL SERVICE MUST BE ESTABLISHED AND ENFORCED
15. Information on individual customers, such as name, address, telephone number, energy usage and payment history must not be divulged to anyone unless the customer has provided knowledgeable written consent.
16. Electricity suppliers must have adequate business office hours & 24-hour phone coverage.
17. Customers must be protected from dangerous or unreasonable disconnection.
18. Customers must receive fair and clear billing statements with uniform labels that disclose price, price variability, length of contract, supply mix and environmental pollutants and must have access to fair dispute resolution procedures; suppliers must comply with fair marketing practices including standardized disclosure requirements for price, terms and conditions and environmental claims.
19. Customers must have a private right-of-action, including class actions, for enforcement and damages.
20. There must be effective licensure and regulatory systems to protect against unscrupulous marketers and suppliers and their practices.
MARCH 28, 2001

TO: THE HONORABLE SPENCER ABRAHAM
SECRETARY OF ENERGY

FROM: THE LARGE PUBLIC POWER COUNCIL

RE: DEVELOPMENT OF A NATIONAL ENERGY STRATEGY

The Large Public Power Council (LPPC) is comprised of 20 of the nation's largest community-owned and operated electric systems from across the country. Our members own and operate over 44,000 megawatts of electric generation. In addition, we own and operate in excess of 24,000 circuit miles of transmission lines, and serve major urban centers as well as suburbs and rural communities. America's public power systems serve 15% of the nation's electricity customers.

LPPC strives to provide reliable power to its consumers at reasonable rates. Our members supply their customers using both their own generation and purchased power. On behalf of our customers, we want to see the transmission system used efficiently and that new generation and transmission can be constructed.

Today, public power systems in the West and elsewhere are working diligently to serve customers without interruption, although many in the West have had significant rate increases and those in California have been subject to blackouts despite the fact that they have had adequate supplies to serve their customer loads. As the national supply/demand situation becomes increasingly strained, it is critically important that existing capacity be preserved and that every effort be made to encourage increased conservation and to develop new resources.

This memo has been developed to offer to you and the other members of The White House Energy Task Force our observations and recommendations as you develop a comprehensive energy strategy for this nation.

We are offering to the Department and the Task Force our recommendations on mid- to long-term energy needs as well as short-term actions to mitigate the Western energy crisis. Throughout this memorandum, we have included a number of "case studies" or programs that have been initiated by our member companies to increase supply or to achieve energy savings. Some of these case studies may prove to be useful illustrations of the kinds of policies you may be recommending in your energy policy.

Austin Energy (TX) • Chelan County PUD (WA) • Colorado Springs Utilities (CO) • JEA (FL) • Knoxville Utilities Board (TN)
Lower Colorado River Authority (TX) • Memphis Light, Gas and Water Division (TN) • Municipal Electric Authority of Georgia (GA)
Nebraska Public Power District (NE) • New York Power Authority (NY) • Orlando Public Power District (FL) • Orlando Utilities Commission (FL)
Puerto Rico Electric Power Authority (PR) • Sacramento Municipal Utility District (CA) • Salt River Project (AZ)
Sankey Cooper (SC) • Seattle City Light (WA) • Synchronized County PUD (WA) • Tacoma Public Utilities (WA)

DOE002-0106

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FUEL DIVERSITY: THE FOUNDATION FOR AN ENERGY POLICY

At the outset, the LPPC offers its strong support for fuel diversity as an essential component of a national energy policy. Our membership comes from areas of the country with access to generation from coal, hydropower, natural gas, biomass, wind, solar, landfill methane and nuclear energy. We strongly support enhanced, environmentally responsible development of all of these resources.

We further believe that sound energy and environmental policy should flow from this “fuel diversity” strategy and encourage the Administration to employ such an approach in development of the national energy strategy.

MID- TO LONG-TERM ENERGY POLICY NEEDS

ENCOURAGING EFFICIENCY AND CONSERVATION

LPPC members believe that measures that will help our customers and us achieve greater energy efficiency and conservation are essential to a national energy policy. Investments in energy efficiency can reduce price pressures, energy consumption and operating costs. In addition, efficiency and conservation measures help protect the environment and can encourage more responsible energy usage. Programs that reduce consumption by end users are important as are methods designed to improve energy efficiency in production.

CASE STUDY

A Nationally Recognized Efficiency Program

The Green Building Program, developed and administered by Austin Energy, an LPPC member, is a good example of the type of energy-efficiency conservation program we advocate. The program promotes green building practices, provides technical assistance and incentives, and rates buildings. Through this program, the city achieves significant avoided emissions and customer consumption rates which are 25% lower than in comparable cities.

CASE STUDY

Efficiency Where It’s Needed

Sacramento Municipal Utility District (SMUD) has developed a wide variety of environmental programs to reduce energy demand. These programs include educational services and advice, incentives for installation of energy-efficient appliances and lighting, incentives to build efficient homes and buildings, promotion of solar water heating, and planting of shade trees. These services cost approximately $11 million each year, but they have provided approximately $129 million in savings for customers, as well as giving SMUD better load management and decreasing the need for new supply.
CASE STUDY
Investing In Efficiency

New York Power Authority (NYPA) invests $100 million yearly in energy efficiency and clean energy technologies. There are energy conservation projects in public facilities, fuel cell and solar power installations, as well as 180,000 high efficiency refrigerators in New York City public housing.

COAL—AMERICA'S SECURE SUPPLY

We believe that the Administration should advocate a diverse generation mix. Coal, in particular, is an essential part of this country’s fuel mix. Coal accounts for over 50% of electric generation and approximately 23% of all the energy consumed. The continued use of coal decreases reliance on high-priced natural gas and helps maintain a stable price for the production of electricity. LPPC supports incentives and Federal funding for coal burning and advanced clean coal technology to work toward reducing conventional (health-based) pollutants and substantially improve power plant efficiency.

CASE STUDY
Construction Of New Coal-Fired Generation And Fuel Diversity

Jacksonville Electric Authority (JEA) has committed to replace older generating units with state-of-the-art clean fossil generation as well as renewable energy sources (such as landfill methane and fast growing trees or other biomass vegetation). In one instance, JEA, with DOE cost sharing, is installing an innovative clean coal technology, Circulating Fluidized Bed (CFB) combustors, that will increase energy output 2 1/2 times while reducing 98% of SO2 emissions and lowering NOx emissions to 40 percent lower than EPA new source performance standards. JEA has also set as a company goal that 7.5% of total generation will be from renewable energy sources by the year 2015.

RENEWABLE ENERGY SOURCES

LPPC members generate electricity from wind, solar and hydropower and other renewable resources. These renewables are a growing part of a diverse fuel mix.

The need for federal incentives for renewable energy production is crucial. Renewable energy has demonstrated its place in contributing to the diversity of the nation’s fuel mix in an environmentally friendly manner. Production of renewable energy is becoming increasingly competitive; however, continued research to address environmental problems and to expand energy choices is an appropriate and essential role for government.
CASE STUDY
Voluntary Targets To Add Renewable Energy

The Austin City Council has resolved that 8% of Austin's electricity should come from renewable energy sources by the year 2025. To meet this goal, Austin Energy has contracted with companies to build facilities to specifically provide green power for Austin. That will include bringing online 17 wind turbine generators and 4 landfill gas energy projects. The landfill projects will be located in Austin, Houston, San Antonio, and near Dallas. In addition, Austin Electric currently has 28 solar panel installations in operation.

CASE STUDY
Renewables For Arizona

Arizona's Salt River Project (SRP) has committed to a four-year, $29 million program to fund renewable energy resources. This significant investment was made without raising prices for SRP customers. The program is investing in solar power, landfill gas projects, photovoltaics, fuel cells, and other renewable resources. For example, SRP installed a thermal hybrid electric solar dish (1HE Sun Dish) at the Salt River Landfill. This device is a first of its kind, generating electricity from the sun and using landfill gas when the sun is not shining.

CASE STUDY
Wind In Texas

The Lower Colorado River Authority (LCRA) in Texas is involved in three wind energy projects. In 1995 LCRA became a partner in the first commercial wind project in the state by agreeing to purchase 35 megawatts of power from the Texas Wind Power Project located in West Texas. The LCRA sells 10 megawatts of the power to the City of Austin. In 1999 the LCRA agreed to purchase another 7.5 megawatts of wind-generated electricity from the Delaware Mountain Wind Farm also in West Texas. And last year LCRA announced an agreement to purchase 50 megawatts from the Indian Mesa Wind Farm, another West Texas project that is scheduled to come on line later this year. LCRA's commitment to wind power as well as hydroelectric power makes it the largest supplier of renewable energy in Texas.

Nuclear Energy

Nuclear energy, as well, is a valued part of a diverse energy supply. LPPC strongly supports moving quickly to resolution of the current nuclear waste storage issue. We also advocate a "forward looking" policy that includes a future for nuclear energy.

Hydro Process Needs Reform

Hydroelectric facilities provide just under 10% of total U.S. electric energy. In the West and parts of the Northeast electricity from hydro facilities constitutes a major part of the generation mix. Hydro is emission free, has no fuel cost, and because of its virtually
instantaneous start-up capability, provides an invaluable operating reserve. The existing regulatory system does not recognize these values.

The current Federal licensing/relicensing process for non-federal hydro projects is time-consuming, expensive, and extremely complex, creating an unworkable framework that imposes significant costs in terms of time, resources, and capital upon a utility. A relicensing case averages 8 years and must be started many years in advance of the expiration of the license. One recent class of relicensed projects suffered a reduction of 8% of their generating capacity due to restrictions imposed during relicensing. Facilities are often required to make extensive and costly modifications and retrofits as a result of the relicensing process. Administrative costs of relicensing proceedings and licensing conditions imposed in these proceedings threaten to eat up much of the national economic benefit derived from continued operation of existing hydro projects. Reform of the current system is desperately needed.

**CASE STUDY**
**Improvements Threatened By Bureaucracy**

For example, New York Power Authority (NYPA) recently sought to upgrade its Niagara hydroelectric project. Advances in technology in the past 20 years would allow for increased efficiency and greater output in times of need. NYPA planned to upgrade all 13 turbines at the project at a cost of $292 million, which would create a 10-15% increase in output. However, these efficiency upgrades subjected the company to a lengthy permitting review, costing both time and money.

**EMERGING TECHNOLOGIES**

LPPC recommends that the Administration support emerging technologies such as fuel cells and increased use of established technologies such as distributed generation (DG). At this time, there are significant constraints on the use of DG technologies. But the use of DG technologies by users during the West Coast crisis has shown itself to enhance reliability of the grid as a whole as long as there is careful coordination with power providers.

**CASE STUDY**
**Load Management**

Nebraska Public Power District (NPPD) has developed an extensive load management program with its wholesale customers. Reductions come from shifting on-peak electricity demand by farmers and their electric pump irrigators to off-peak periods using rate incentives. These efforts have offset more than 350 MW, or 15% of NPPD’s firm demand resulting in more efficient use of current generation, reduced power costs to farmers and deferral of new construction.
ENSURING THAT POWER IS DELIVERED WHERE AND WHEN IT IS NEEDED

Enhanced transmission must go hand-in-hand with enhanced generation. The current transmission system was not built to serve today’s wholesale power markets. With larger volumes being moved in an increasingly competitive market over transmission paths that were not anticipated at the time the existing grid was built, suppliers are sometimes faced with bottlenecks in and constraints on the transmission system. LPPC believes that a national energy policy should include provisions that will streamline siting authority and encourage technologies to upgrade existing transmission systems. There are technologies in existence today that can optimize existing transmission; these must be deployed. Provisions to remove federal tax constraints (contained in Secs. 957 – 959 of Senator Murkowski’s energy bill), including private use, are necessary to ensure that all utilities can use existing power lines as efficiently as possible, and to ensure that new transmission can be built.

Addressing the issue of supply, LPPC urges the earliest feasible construction of a natural gas pipeline from Prudhoe Bay, Alaska to the lower 48 states. The addition of this pipeline to the infrastructure would serve to greatly expand the existing supply, dampen soaring prices, and would bring natural gas to both the West Coast and directly into the middle of the country. The President’s energy policy should emphasize quick action to begin construction of the Alaskan Natural Gas Transportation System.

To build well-functioning wholesale markets in the Southeast, we believe that the Tennessee Valley Authority’s (TVA) role in these markets must be addressed by Congress. TVA cannot remain unregulated and still retain its legal rights to be sole supplier to the Tennessee Valley electric power distributors.

The cost-based rates offered by Power Marketing Administrations to their customers must be preserved to maintain stability in the marketplace.

As you are well aware, public power systems do not operate for profit—these systems pass through all power costs to customers. In the face of extremely volatile electricity and natural gas prices consumers are finding locally controlled, cost-based public power systems an increasingly attractive option.

ENVIRONMENTAL POLICIES SHOULD FLOW FROM AN INTEGRATED ENERGY STRATEGY

LPPC would encourage the Administration to explore an integrated approach to regulation of emissions from power generation as part of the national energy strategy. As previously stated, environmental policy should be based upon a national energy strategy that ensures a diversified fuel mix, which includes increasing use of coal, natural gas, nuclear, hydro, wind, biomass, landfill gas, solar and other renewable technologies.
CASE STUDY
Good Energy And Environmental Policy

Jacksonville Electric Authority (JEA) is in the process of developing both biomass and landfill gas projects. The landfill gas project, located in west Jacksonville, currently flares the equivalent of 2000 KW of landfill gas and is expected to generate 7000 KW by 2006. JEA is also negotiating a 65 MW renewable energy power purchase contract. This closed-loop biomass project will generate power by combusting a renewable fuel source (e-grass) in a rotary gasifier.

Recognizing that health related air quality concerns exist which may warrant reductions in emissions of NOx, SOx, and mercury, LPPC believes that an integrated approach to these pollutants is a reasonable and feasible path for the power generation sector. LPPC believes that a comprehensive multi-pollutant control strategy addressing these emissions should occur over a reasonable period of time, provide regulatory certainty, and encourage the use of flexibility mechanisms. In addition, these future emission controls should not be layered on top of existing regulatory requirements. The Clean Air Act must be modified to streamline existing unit-by-unit emissions control requirements that are barriers to flexible implementation.

LPPC also believes that EPA and FERC disincentives to generation upgrades and improvements should be eliminated. The permitting process for upgrades in technology and efficiency improvements must be streamlined and impediments removed.

Public power recognizes that concern over climate change could be a factor in shaping future energy choices.

LPPC supports a flexible approach to mitigating greenhouse gas concentrations in the atmosphere but does not support regulation of carbon as a pollutant.

The President’s recently stated position on addressing climate change is an approach embraced by LPPC. We also do not believe that “the government should impose on power plants mandatory emission reductions for carbon dioxide, which is not a ‘pollutant’ under the Clean Air Act.” LPPC supports the use of technologies, market-based systems, and innovative options for addressing concentrations of greenhouse gases in the atmosphere. A climate change strategy must provide full flexibility to achieve goals or targets.

Continued research and sound science is fundamental to the development of an integrated energy strategy. Flexibility must be a key ingredient, meaning that fuel diversity and all activities and measures resulting in an ultimate reduction or stabilization of greenhouse gas concentrations in the atmosphere should be recognized. Such activities or measures may include, but are not limited to, increased use of cleaner burning and renewable technologies, conservation and efficiency initiatives, carbon sequestration projects and mitigation of other greenhouse gases.
Case Study
Flexible Environmental Compliance Works

For example, although Seattle City Light generates most of its electricity through hydropower, it has committed to offsetting the greenhouse gas emissions from any fossil fuel generation, owned or purchased. In order to meet this obligation, Seattle City Light is selecting offsets through the Oregon Climate Trust, a non-profit organization, which has developed an extensive list of criteria for project approval and will seek renewable energy, transportation, efficiency, and sequestration projects in the U.S. and other countries.

What Can the Administration Do to Help Mitigate the Western Energy Crisis and Prevent Future Crises?

LPPC members in the West, from Sacramento to Washington State, are facing serious effects from the failed California restructuring initiatives, combined with generation and transmission shortages. In the near term, we support efforts by our Western members to find regional solutions that can counteract the irrational pricing that has been created by this environment. This means aggressive mitigation of inappropriate exercise of market power, efforts to better coordinate new increments of supply and a holistic, regional approach to the problem.

Short-Term Relief Opportunities

First and foremost, the Administration should insist that FERC take whatever steps are needed to ensure that wholesale rates are “just and reasonable”. Unless the volatile Western market is stabilized consumers and policy makers are likely to lose confidence in electric competition.

Wholesale electric prices in the Western US are far higher than any we would expect to see in a competitive market, averaging 29¢/kwh in December and 27¢/kwh in January. FERC’s March 9th refund order required refunds of less than 2% of California’s $5.2 billion January wholesale power bill.

The Department of Energy should also ask FERC to put effective market power mitigation measures in place for this summer, when prices are likely to be even higher than last winter’s. If we hope to revitalize a healthy market system we will have to do a better job of restoring order, and sanity, to the Western electricity market. And, in our view, any responsible action to deal with wholesale prices has to allow the wholesale purchaser to pass through actual purchased-power costs to customers.

These temporary measures will be necessary until additional generating resources come on line and a competitive market emerges.
STREAMLINING: SUPPLY OPTIONS

At this time, it is essential for the Administration to undertake a thorough review of the various processes that serve as a barrier to constructing new power generation and to the more efficient use of existing power generation. There are multiple, sometimes duplicative permitting requirements for new generation facilities. Recognizing the need for the most efficient and transparent permitting system, LPPC would urge the Administration to review permitting requirements for new and existing generation and, where possible, require that the processes be streamlined, conducted in parallel and expedited to the maximum degree feasible.

In light of recent events, the Administration should also step up the dialogue with Canada and Canadian generators to facilitate access to and guarantee supplies of fairly priced Canadian power and natural gas. Managing that relationship may prove important to a balanced supply.

In addition, DOE should request that FERC give the absolute highest priority to its review and approval of the three gas pipeline expansion projects into California. New generation cannot operate without gas to supply it.

REMOVING TAX CONSTRAINTS TO TRANSMISSION

Prompt resolution of the electric power industry’s federal tax issues is necessary to permit full utilization of the existing transmission grid and remove transmission bottlenecks that constrain expanding transmission capacity. Congress and the Administration need to revise the current “private use” tax rules that keep public power from making transmission facilities financed with tax exempt bonds fully available for use by investor-owned utilities and private businesses and to deal with the private use constraints on generation. This issue is an extremely important energy policy matter, which can be resolved quickly and can deliver more efficient transmission and generation immediately.

WHOLESALE MARKET STRUCTURE

While the debate has temporarily shifted away from national wholesale market structure issues, we believe it remains essential to build robust wholesale markets, with independent RTOs, a national reliability organization to enforce mandatory reliability standards, and appropriate authority for FERC to address market power and mergers. Today’s market chaos cries out for these solutions.

These are our thoughts and recommendations, Mr. Secretary, as you and The White House Task Force attempt to shape a long-overdue national energy strategy.

We appreciate being encouraged to offer our input to the Task Force and pledge our continued cooperation and support of your endeavors.