

## SENATE JOINT RESOLUTION NO. 259

Continuing the Joint Subcommittee Examining the Restructuring of the Electric Utility Industry.

Agreed to by the Senate, February 20, 1997

Agreed to by the House of Delegates, February 20, 1997

WHEREAS, more than 40 states now have under consideration restructuring in the electric utility industry; and

WHEREAS, significant efforts involving retail competition are in various stages of study, planning and implementation in the various states; and

WHEREAS, there are legislative proposals pending in the United States Congress directing the implementation of retail competition for electricity by dates certain in the near future; and

WHEREAS, the General Assembly in 1996 approved Senate Joint Resolution No. 118 (1996), establishing a joint legislative subcommittee that has commenced its study of such restructuring and retail competition; and

WHEREAS, the joint subcommittee conducted public hearings to hear from the providers and consumers of electricity; and

WHEREAS, the staff of the State Corporation Commission (SCC) has just completed its initial overview of such restructuring of the electric utility industry and retail competition; and

WHEREAS, it is in the best interest of the residential, industrial, commercial and governmental electricity consumers in Virginia to have reliable electricity at the most competitive cost while protecting environmental quality; and

WHEREAS, the Commonwealth should be prepared for the potential of retail competition for electricity in Virginia and have the necessary information to make decisions regarding such potential competition; and

WHEREAS, the SCC and its staff possess the expertise to develop a model plan for the restructuring of the electric utility industry in Virginia that will provide for reliable, competitive electricity; and

WHEREAS, restructuring of the electric utility industry may have a significant impact on small businesses and residential consumers within the Commonwealth; and

WHEREAS, the joint subcommittee study and the SCC staff examination should be continued and coordinated both with each other and with the various impacted parties such as electricity suppliers and electricity consumers in the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Subcommittee Examining Restructuring in the Electric Utility Industry be continued. The joint subcommittee shall also study the impact that restructuring in the electric utility industry may have on small businesses and residential consumers in the Commonwealth.

The members appointed pursuant to SJR No. 118 (1996) shall continue to serve, and any vacancies shall be filled as provided in the resolution. Staffing shall continue to be provided by the Division of Legislative Services.

The SCC staff is requested to provide to the joint subcommittee by November 7, 1997, its draft of (i) a working model, which may also include experiments and pilot programs, most appropriate for the Commonwealth of Virginia for the future structure of the electric utility industry to provide reliable, competitive electricity and meet the demands of a changing industry while protecting environmental quality, (ii) any statutory or regulatory changes considered appropriate under such model, and (iii) the appropriate timetable and transition for the model to be implemented. In conducting its analysis and preparing its recommendations, the SCC staff shall work in a collaborative fashion with representatives of electricity suppliers, consumers of electricity in the Commonwealth, and other parties of interest in this issue.

All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The direct costs of this study shall not exceed \$4,200.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

**Average Rates**  
**All Customers**  
1996

1 Idaho	\$ 0.0381	26 Florida	\$ 0.0631
2 Wyoming	\$ 0.0392	27 Kansas	\$ 0.0632
3 Kentucky	\$ 0.0405	<b>Va. Power</b>	<b>\$ 0.0632</b>
4 Tennessee	\$ 0.0434	28 South Dakota	\$ 0.0637
<b>Apco</b>	<b>\$ 0.0456</b>	29 Mississippi	\$ 0.0645
<b>Kentucky Utilities</b>	<b>\$ 0.0492</b>	30 Delaware	\$ 0.0660
5 Utah	\$ 0.0510	31 Ohio	\$ 0.0674

6 Montana	\$ 0.0515	32 Arkansas	\$ 0.0693
7 Oregon	\$ 0.0516	33 Maryland	\$ 0.0696
8 West Virginia	\$ 0.0516	34 New Mexico	\$ 0.0711
9 Oklahoma	\$ 0.0524	35 Michigan	\$ 0.0713
10 Wisconsin	\$ 0.0529	<b>USA</b>	<b>\$ 0.0715</b>
11 Indiana	\$ 0.0530	36 District of Columbia	\$ 0.0735
12 Minnesota	\$ 0.0530	37 Illinois	\$ 0.0757
13 North Dakota	\$ 0.0560	38 Pennsylvania	\$ 0.0790
14 Alabama	\$ 0.0540	39 Arizona	\$ 0.0834
15 Washington	\$ 0.0562	<b>Delmarva</b>	<b>\$ 0.0848</b>
16 South Carolina	\$ 0.0564	40 Maine	\$ 0.0957
17 Colorado	\$ 0.0575	41 Vermont	\$ 0.0983
18 Iowa	\$ 0.0576	42 California	\$ 0.0989
<b>Potomac Edison</b>	<b>\$ 0.0591</b>	43 Massachusetts	\$ 0.1029
19 Louisiana	\$ 0.0596	44 Rhode Island	\$ 0.1044
<b>20 Virginia</b>	<b>\$ 0.0599</b>	45 New Jersey	\$ 0.1051
21 Nevada	\$ 0.0609	46 Connecticut	\$ 0.1071
22 North Carolina	\$ 0.0613	47 New York	\$ 0.1152
23 Georgia	\$ 0.0617	48 New Hampshire	\$ 0.1156
24 Texas	\$ 0.0622	49 Hawaii	\$ 0.1178
25 Missouri	\$ 0.0626		

Note: Average rate information taken from EEI's "Typical Residential, Commercial and Industrial Bills- Investor Owned Utilities- Winter 1997."

**Average Rates  
Residentials  
1996**

1 Kentucky	\$ 0.0465	26 Colorado	\$ 0.0774
2 Tennessee	\$ 0.0489	27 District of Columbia	\$ 0.0777
<b>Kentucky Utilities</b>	<b>\$ 0.0501</b>	28 Texas	\$ 0.0797
3 Idaho	\$ 0.0518	29 Florida	\$ 0.0808
<b>Apco</b>	<b>\$ 0.0552</b>	<b>Virginia Power</b>	<b>\$ 0.0814</b>
4 Washington	\$ 0.0581	30 Maryland	\$ 0.0827
5 Oregon	\$ 0.0592	31 Iowa	\$ 0.0844
6 Wyoming	\$ 0.0594	32 Michigan	\$ 0.0854
7 Montana	\$ 0.0603	33 New Mexico	\$ 0.0865
8 North Dakota	\$ 0.0608	34 Arkansas	\$ 0.0871
9 West Virginia	\$ 0.0633	35 Ohio	\$ 0.0884
10 Oklahoma	\$ 0.0642	36 Delaware	\$ 0.0889
11 Indiana	\$ 0.0675	<b>USA</b>	<b>\$ 0.0895</b>
12 Alabama	\$ 0.0684	37 Arizona	\$ 0.0950
13 Wisconsin	\$ 0.0693	38 Pennsylvania	\$ 0.0973
14 Nevada	\$ 0.0699	<b>Delmarva</b>	<b>\$ 0.0978</b>
15 Utah	\$ 0.0700	39 Illinois	\$ 0.1076
<b>Potomac Edison</b>	<b>\$ 0.0701</b>	40 Vermont	\$ 0.1127

16 Missouri	\$ 0.0733	41 Massachusetts	\$ 0.1160
17 Minnesota	\$ 0.0750	42 Rhode Island	\$ 0.1178
18 South Carolina	\$ 0.0754	43 California	\$ 0.1198
19 North Carolina	\$ 0.0755	44 New Jersey	\$ 0.1200
20 Kansas	\$ 0.0757	45 Connecticut	\$ 0.1217
21 South Dakota	\$ 0.0758	46 Maine	\$ 0.1270
<b>22 Virginia</b>	<b>\$ 0.0758</b>	47 New Hampshire	\$ 0.1351
23 Georgia	\$ 0.0764	48 Hawaii	\$ 0.1395
24 Louisiana	\$ 0.0769	49 New York	\$ 0.1448
25 Mississippi	\$ 0.0770		

Note: Average rate information taken from EEI's "Typical Residential, Commercial and Industrial Bills- Investor Owned Utilities- Winter 1997."

#### Average Rates Commercials 1996

1 Idaho	\$ 0.0416	25 Nevada	\$ 0.0668
<b>2 Kentucky</b>	<b>\$ 0.0456</b>	26 Delaware	\$ 0.0673
<b>Apco</b>	<b>\$ 0.0468</b>	27 Maryland	\$ 0.0694
3 Wyoming	\$ 0.0481	28 Iowa	\$ 0.0696
4 Tennessee	\$ 0.0497	29 Arkansas	\$ 0.0706
<b>Kentucky Utilities</b>	<b>\$ 0.0514</b>	30 Mississippi	\$ 0.0710
5 Oregon	\$ 0.0528	31 Georgia	\$ 0.0713
6 Montana	\$ 0.0544	<b>Delmarva</b>	<b>\$ 0.0735</b>

7 Oklahoma	\$ 0.0550	32 Louisiana	\$ 0.0736
8 West Virginia	\$ 0.0567	33 District of Columbia	\$ 0.0740
9 Wisconsin	\$ 0.0569	34 Ohio	\$ 0.0778
10 Utah	\$ 0.0579	35 New Mexico	\$ 0.0786
11 Colorado	\$ 0.0579	<b>USA</b>	<b>\$ 0.0786</b>
<b>12 Virginia</b>	<b>\$ 0.0586</b>	36 Michigan	\$ 0.0803
13 Indiana	\$ 0.0595	37 Illinois	\$ 0.0814
Virginia Power	\$ 0.0600	38 Pennsylvania	\$ 0.0833
14 North Carolina	\$ 0.0601	39 Arizona	\$ 0.0864
15 Washington	\$ 0.0602	40 Massachusetts	\$ 0.1002
16 North Dakota	\$ 0.0616	41 California	\$ 0.1005
17 Missouri	\$ 0.0621	42 Rhode Island	\$ 0.1010
18 Florida	\$ 0.0621	43 Vermont	\$ 0.1014
<b>Potomac Edison</b>	<b>\$ 0.0621</b>	44 New Jersey	\$ 0.1029
19 Minnesota	\$ 0.0624	45 Connecticut	\$ 0.1035
20 South Carolina	\$ 0.0627	46 Maine	\$ 0.1043
21 Kansas	\$ 0.0639	47 New Hampshire	\$ 0.1122
22 Alabama	\$ 0.0639	48 New York	\$ 0.1219
23 Texas	\$ 0.0657	49 Hawaii	\$ 0.1268
24 South Dakota	\$ 0.0663		

Note: Average rate information taken from EEI's "Typical Residential, Commercial and Industrial

Bills- Investor Owned Utilities- Winter 1997."

## Average Rates

### Industrials

1996

1 Idaho	\$ 0.0261	<b>Potomac Edison</b>	<b>\$ 0.0446</b>
2 Wyoming	\$ 0.0323	26 North Carolina	\$ 0.0462
3 Kentucky	\$ 0.0323	27 South Dakota	\$ 0.0465
4 Tennessee	\$ 0.0347	28 Mississippi	\$ 0.0465
<b>Apco</b>	<b>\$ 0.0352</b>	29 Florida	\$ 0.0468
5 Utah	\$ 0.0357	30 Missouri	\$ 0.0469
6 Oklahoma	\$ 0.0369	31 Ohio	\$ 0.0473
7 Wisconsin	\$ 0.0371	32 Kansas	\$ 0.0474
8 Alabama	\$ 0.0380	33 New Mexico	\$ 0.0477
9 Oregon	\$ 0.0385	<b>USA</b>	<b>\$ 0.0489</b>
10 Iowa	\$ 0.0387	34 Michigan	\$ 0.0506
11 West Virginia	\$ 0.0390	35 Arkansas	\$ 0.0528
12 <b>Virginia</b>	<b>\$ 0.0390</b>	36 Illinois	\$ 0.0533
13 South Carolina	\$ 0.0402	37 Nevada	\$ 0.0534
<b>Virginia Power</b>	<b>\$ 0.0404</b>	38 Pennsylvania	\$ 0.0593
14 Texas	\$ 0.0406	39 Arizona	\$ 0.0597
15 Montana	\$ 0.0411	40 Maine	\$ 0.0637
16 Maryland	\$ 0.0412	<b>Delmarva</b>	<b>\$ 0.0655</b>

17 Indiana	\$ 0.0413	41 California	\$ 0.0682
18 Minnesota	\$ 0.0421	42 Vermont	\$ 0.0702
19 Louisiana	\$ 0.0427	43 New York	\$ 0.0755
20 Georgia	\$ 0.0428	44 New Jersey	\$ 0.0815
21 District of Columbia	\$ 0.0436	45 Connecticut	\$ 0.0819
22 Washington	\$ 0.0436	46 Massachusetts	\$ 0.0844
23 Colorado	\$ 0.0437	47 Rhode Island	\$ 0.0848
24 Delaware	\$ 0.0442	48 New Hampshire	\$ 0.0926
25 North Dakota	\$ 0.0444	49 Hawaii	\$ 0.0966
<b>Kentucky Utilities</b>	<b>\$ 0.0444</b>		

Note: Average rate information taken from EEI's "Typical Residential, Commercial and Industrial Bills- Investor Owned Utilities- Winter 1997."

### Average Electricity Prices For Industrials \$/ kWh

	Aus	Austria	Belgium	Can	Czech Rep	Denmark	Finland	France	Germany	Greece	Hungary	Ireland	Italy
1984	\$ 0.041	\$ 0.040	\$ 0.043	\$ 0.026		\$ 0.039	\$ 0.041	\$ 0.034	\$ 0.047	\$ 0.043		\$ 0.057	\$ 0.060
1985	\$ 0.034	\$ 0.039	\$ 0.043	\$ 0.026	\$ 0.009	\$ 0.046	\$ 0.041	\$ 0.034	\$ 0.047	\$ 0.044	\$ 0.041	\$ 0.057	\$ 0.062
1986	\$ 0.033	\$ 0.054	\$ 0.052	\$ 0.026		\$ 0.045	\$ 0.046	\$ 0.042	\$ 0.066	\$ 0.053		\$ 0.073	\$ 0.070
1987	\$ 0.037	\$ 0.065	\$ 0.056	\$ 0.028	\$ 0.010	\$ 0.041	\$ 0.053	\$ 0.047	\$ 0.082	\$ 0.060	\$ 0.053	\$ 0.064	\$ 0.077
1988	\$ 0.042	\$ 0.066	\$ 0.054	\$ 0.031		\$ 0.050	\$ 0.055	\$ 0.048	\$ 0.084	\$ 0.059		\$ 0.065	\$ 0.077
1989	\$ 0.044	\$ 0.056	\$ 0.052	\$ 0.034	\$ 0.008	\$ 0.057	\$ 0.053	\$ 0.046	\$ 0.079	\$ 0.053	\$ 0.049	\$ 0.058	\$ 0.075
1991	\$ 0.047	\$ 0.067	\$ 0.061	\$ 0.039	\$ 0.042	\$ 0.065	\$ 0.062	\$ 0.054	\$ 0.088	\$ 0.065	\$ 0.063	\$ 0.066	\$ 0.105
1992	\$ 0.046	\$ 0.070	\$ 0.064	\$ 0.040	\$ 0.052	\$ 0.067	\$ 0.057	\$ 0.057	\$ 0.093	\$ 0.070	\$ 0.060	\$ 0.070	\$ 0.113
1993	\$ 0.042	\$ 0.071	\$ 0.059	\$ 0.039	\$ 0.052	\$ 0.070	\$ 0.048	\$ 0.055	\$ 0.089	\$ 0.059	\$ 0.053	\$ 0.060	\$ 0.091
1994	\$ 0.045	\$ 0.072	\$ 0.059	\$ 0.038	\$ 0.057	\$ 0.063	\$ 0.052	\$ 0.053	\$ 0.092	\$ 0.055	\$ 0.046	\$ 0.061	\$ 0.091
1995		\$ 0.081			\$ 0.061	\$ 0.069	\$ 0.063	\$ 0.060	\$ 0.101	\$ 0.062	\$ 0.045	\$ 0.066	\$ 0.093
84-95 %													
Change	9.8%	102.5%	37.2%	46.2%	577.8%	76.9%	53.7%	76.5%	114.9%	44.2%	9.8%	15.8%	55.0%

	Japan	Luxem	Mexico	Nether	New Zea	Norway	Port	Spain	Swed	Switz	Turkey	UK	US



1984	\$ 0.095	\$ 0.042	\$ 0.027	\$ 0.043	\$ 0.021	\$ 0.018	\$ 0.052	\$ 0.046	\$ 0.028	\$ 0.048	\$ 0.052	\$ 0.046	\$ 0.050
1985	\$ 0.095	\$ 0.042	\$ 0.032	\$ 0.040	\$ 0.021	\$ 0.020	\$ 0.056	\$ 0.046	\$ 0.028	\$ 0.047	\$ 0.049	\$ 0.046	\$ 0.052
1986	\$ 0.127	\$ 0.053	\$ 0.025	\$ 0.044	\$ 0.025	\$ 0.026	\$ 0.074	\$ 0.062	\$ 0.035	\$ 0.067	\$ 0.070	\$ 0.053	\$ 0.049
1987	\$ 0.137	\$ 0.065	\$ 0.027	\$ 0.049	\$ 0.030	\$ 0.028	\$ 0.085	\$ 0.077	\$ 0.039	\$ 0.081	\$ 0.071	\$ 0.058	\$ 0.047
1988	\$ 0.146	\$ 0.066	\$ 0.032	\$ 0.044	\$ 0.035	\$ 0.032	\$ 0.095	\$ 0.085	\$ 0.042	\$ 0.083	\$ 0.065	\$ 0.066	\$ 0.046
1989	\$ 0.130	\$ 0.060	\$ 0.044	\$ 0.042	\$ 0.032	\$ 0.030	\$ 0.093	\$ 0.081	\$ 0.043	\$ 0.075	\$ 0.069	\$ 0.061	\$ 0.047
1991	\$ 0.132		\$ 0.055	\$ 0.053	\$ 0.032	\$ 0.035	\$ 0.128	\$ 0.103	\$ 0.053	\$ 0.090	\$ 0.084	\$ 0.072	\$ 0.049
1992	\$ 0.142		\$ 0.055	\$ 0.051	\$ 0.029		\$ 0.145	\$ 0.105	\$ 0.055	\$ 0.097	\$ 0.093	\$ 0.076	\$ 0.049
1993	\$ 0.163		\$ 0.054	\$ 0.056	\$ 0.033		\$ 0.121	\$ 0.085	\$ 0.035	\$ 0.096	\$ 0.095	\$ 0.068	\$ 0.049
1994	\$ 0.172		\$ 0.047	\$ 0.057	\$ 0.036		\$ 0.116	\$ 0.080	\$ 0.036	\$ 0.106	\$ 0.077	\$ 0.067	\$ 0.047
1995	\$ 0.185		\$ 0.031	\$ 0.070	\$ 0.039		\$ 0.122	\$ 0.082	\$ 0.039	\$ 0.125	\$ 0.076	\$ 0.068	\$ 0.047
84-95 %													
Change	94.7%	42.9%	14.8%	62.8%	85.7%	94.4%	134.6%	78.3%	39.3%	160.4%	46.2%	47.8%	-6.0%

Note: Information taken from International Energy Agency's "Energy Prices and Taxes, Second Quarter 1995" and "Energy Prices and Taxes,

Second Quarter 1996."

### Average Electricity Prices For Households \$/ kWh

	Aus	Austria	Belgium	Can	Czech Re	Denmark	Finland	France	Germany	Greece	Hungary	Ireland	Italy
1984	\$ 0.059	\$ 0.085	\$ 0.102	\$ 0.037		\$ 0.078	\$ 0.052	\$ 0.086	\$ 0.083	\$ 0.065		\$ 0.085	\$ 0.089
1985	\$ 0.049	\$ 0.085	\$ 0.101	\$ 0.037	\$ 0.010	\$ 0.086	\$ 0.052	\$ 0.087	\$ 0.082	\$ 0.062	\$ 0.023	\$ 0.089	\$ 0.088
1986	\$ 0.051	\$ 0.117	\$ 0.129	\$ 0.037		\$ 0.110	\$ 0.064	\$ 0.112	\$ 0.114	\$ 0.078		\$ 0.118	\$ 0.107
1987	\$ 0.056	\$ 0.142	\$ 0.146	\$ 0.041	\$ 0.011	\$ 0.123	\$ 0.083	\$ 0.127	\$ 0.140	\$ 0.096	\$ 0.027	\$ 0.120	\$ 0.125
1988	\$ 0.066	\$ 0.145	\$ 0.148	\$ 0.046		\$ 0.140	\$ 0.086	\$ 0.131	\$ 0.148	\$ 0.097		\$ 0.123	\$ 0.127
1989	\$ 0.070	\$ 0.135	\$ 0.141	\$ 0.050	\$ 0.009	\$ 0.145	\$ 0.085	\$ 0.122	\$ 0.141	\$ 0.089	\$ 0.025	\$ 0.114	\$ 0.125
1991	\$ 0.075	\$ 0.154	\$ 0.163	\$ 0.063	\$ 0.019	\$ 0.173	\$ 0.101	\$ 0.141	\$ 0.159	\$ 0.112	\$ 0.048	\$ 0.132	\$ 0.173
1992	\$ 0.074	\$ 0.171	\$ 0.174	\$ 0.064	\$ 0.030	\$ 0.187	\$ 0.094	\$ 0.153	\$ 0.172	\$ 0.122	\$ 0.047	\$ 0.140	\$ 0.182
1993	\$ 0.071	\$ 0.163	\$ 0.167	\$ 0.063	\$ 0.029	\$ 0.180	\$ 0.080	\$ 0.146	\$ 0.169	\$ 0.102	\$ 0.043	\$ 0.121	\$ 0.146
1994	\$ 0.078	\$ 0.166	\$ 0.176	\$ 0.060	\$ 0.032	\$ 0.180	\$ 0.088	\$ 0.150	\$ 0.178	\$ 0.099	\$ 0.040	\$ 0.123	\$ 0.164
1995					\$ 0.037	\$ 0.209	\$ 0.109	\$ 0.167	\$ 0.204	\$ 0.113	\$ 0.059	\$ 0.132	\$ 0.169
84-95 %													
Change	32.2%	95.3%	72.5%	62.2%	270.0%	167.9%	109.6%	94.2%	145.8%	73.8%	156.5%	55.3%	89.9%

	Japan	Luxem	Mexico	Nether	New Zea	Norway	Port	Spain	Swed	Switz	Turkey	UK	US
1984	\$ 0.126	\$ 0.068	\$ 0.041	\$ 0.088	\$ 0.027	\$ 0.037	\$ 0.069	\$ 0.083	\$ 0.039	\$ 0.059	\$ 0.042	\$ 0.069	\$ 0.075
1985	\$ 0.126	\$ 0.067	\$ 0.039	\$ 0.087	\$ 0.028	\$ 0.038	\$ 0.077	\$ 0.086	\$ 0.039	\$ 0.059	\$ 0.037	\$ 0.067	\$ 0.078
1986	\$ 0.170	\$ 0.087	\$ 0.035	\$ 0.094	\$ 0.037	\$ 0.048	\$ 0.100	\$ 0.111	\$ 0.049	\$ 0.082	\$ 0.045	\$ 0.078	\$ 0.074
1987	\$ 0.188	\$ 0.105	\$ 0.026	\$ 0.108	\$ 0.047	\$ 0.056	\$ 0.117	\$ 0.130	\$ 0.057	\$ 0.100	\$ 0.042	\$ 0.085	\$ 0.074
1988	\$ 0.207	\$ 0.108	\$ 0.036	\$ 0.105	\$ 0.057	\$ 0.064	\$ 0.123	\$ 0.146	\$ 0.062	\$ 0.102	\$ 0.035	\$ 0.097	\$ 0.075
1989	\$ 0.187	\$ 0.102	\$ 0.038	\$ 0.099	\$ 0.054	\$ 0.062	\$ 0.121	\$ 0.157	\$ 0.065	\$ 0.093	\$ 0.039	\$ 0.095	\$ 0.076
1991	\$ 0.191	\$ 0.119	\$ 0.059	\$ 0.114	\$ 0.057	\$ 0.073	\$ 0.163	\$ 0.198	\$ 0.097	\$ 0.112	\$ 0.066	\$ 0.128	\$ 0.081
1992	\$ 0.203	\$ 0.123	\$ 0.068	\$ 0.119	\$ 0.054	\$ 0.075	\$ 0.184	\$ 0.211	\$ 0.105	\$ 0.120	\$ 0.092	\$ 0.132	\$ 0.083

1993	\$ 0.230	\$ 0.115	\$ 0.071	\$ 0.110	\$ 0.058	\$ 0.068	\$ 0.164	\$ 0.177	\$ 0.082	\$ 0.119	\$ 0.099	\$ 0.113	\$ 0.083
1994	\$ 0.250	\$ 0.120	\$ 0.068	\$ 0.115	\$ 0.067	\$ 0.067	\$ 0.163	\$ 0.174	\$ 0.085	\$ 0.131	\$ 0.076	\$ 0.123	\$ 0.084
1995	\$ 0.269	\$ 0.146	\$ 0.045	\$ 0.136	\$ 0.078	\$ 0.078	\$ 0.181	\$ 0.194	\$ 0.094	\$ 0.165	\$ 0.076	\$ 0.124	\$ 0.084
84-95 %													
Change	113.5%	114.7%	9.8%	54.5%	188.9%	110.8%	162.3%	133.7%	141.0%	179.7%	81.0%	79.7%	12.0%

Note: Information taken from International Energy Agency's "Energy Prices and Taxes, Second Quarter 1995" and "Energy Prices and Taxes,

Second Quarter 1996."

## Summary of Restructuring Activities in Other States

### Introduction

A number of states have either adopted restructuring plans or have required utilities to submit restructuring plans. Of these states, states with average rates that are higher than the national average typically have adopted more aggressive restructuring plans while lower cost states have generally adopted a slower approach with additional measures to ensure that consumers are not adversely impacted by restructuring. These restructuring initiatives have been established through legislation or by regulatory commission order. This appendix will briefly summarize restructuring plans for those states with plans. These states are as follows: New Hampshire; New York; New Jersey; Rhode Island; Massachusetts; California; Vermont; Maine; Arizona; Pennsylvania; Michigan; Nevada; Oklahoma and Montana. These summaries are presented in descending order based on average electrical prices (highest cost states to lowest cost states).

The plans reviewed do not directly address stranded margins and generally do not address many of the specific technical issues associated with the provision of retail choice.

### New Hampshire- (Average Cost 11.56 ¢/kWh, Residential Cost 13.51 ¢/kWh)

The New Hampshire restructuring plan was established through legislation enacted in May, 1996 and through an order issued by the New Hampshire Public Utility Commission in February, 1997. Retail access is scheduled to be provided to all customers on January 1, 1998 or at the earliest date determined to be in the public interest by the Commission. Choice can not be delayed beyond July 1, 1998 without further legislative action.

The New Hampshire Commission supports the formation of an ISO to be developed from the existing New England Power Pool. The Commission also supports a combination poolco/ bilateral contract model. Distribution utilities must divest their generation and marketing services within two years from the commencement of direct access and cannot be affiliated with competitive service providers after that time.

The Commission intends to adopt consumer protection measures including supplier registration requirements and codes of conduct. Distribution suppliers must act as administrators for default power services for customers who do not enter into contracts with competitive suppliers.

Recovery of stranded costs in New Hampshire will be limited for utilities with costs that exceed regional averages. Utilities are challenging the legality of this decision.

### New York- (Average Cost 11.52 ¢/kWh, Residential Cost 14.48 ¢/kWh)

The New York restructuring plan was initiated by regulatory commission order issued in May, 1996. The order sets forth a number of restructuring goals and objectives and provides only a few specific directives. Details will be developed through individual utility proceedings. The order establishes goals for having full scale wholesale competition in place by early 1997 with retail choice underway in 1998. Individual utility filings would phase-in retail choice over a 2 to 5 year period with retail choice commencing as early as October, 1997 in certain utility systems. Certain proposals would grant choice to larger customers first.

The Commission order concludes that a combination poolco/bilateral contract model is appropriate and that such a model should be administered by an ISO which would replace the existing New York Power Pool. Although divestiture is not immediately required under the order, the Commission strongly encourages divestiture for addressing market power concerns. Utilities were required to submit studies of the potential for market power along with compliance filings made in October, 1996.

The order notes that alternative suppliers should be licensed or certified but does not develop specific requirements. Transmission and distribution companies are expected to act as suppliers of last resort for customers who do not select competitive alternatives in the short term.

The order notes that stranded costs will be addressed in individual utility proceedings. Settlement proposals submitted by individual utilities generally provide for a sharing of stranded costs between ratepayers and shareholders. One proposal provides for a 20 percent sharing of stranded costs by utility shareholders.

#### **New Jersey- (Average Cost 10.51 ¢/kWh, Residential Cost 12.00 ¢/kWh)**

The New Jersey Board of Public Utilities issued its findings and recommendations for restructuring in May, 1997. Restructuring details will be developed in individual utility filings. The Board recommends that retail access be initiated one year after the implementation of full scale wholesale access. Assuming full wholesale access and the development of a PJM based ISO, the board recommends a phase-in of retail competition. The scheduled phase-in is as follows: 10 % Oct., 1998; 20 % Jan., 1999; 35 % April, 1999; 50 % Oct., 1999; 75 % April 1999; and 100 % July, 1999. The percentages must represent a cross section of the various customer classes so that no class is given preferential treatment. It is not clear whether the above dates will be adjusted for slippage in the establishment of the PJM ISO.

The Board supports a poolco/ bilateral contracts model. Divestiture is not required under the Board's recommendations. However, utilities were required to submit detailed market power studies with compliance filings made in July, 1997. Over the long term, the Board plans to prohibit distribution companies from purchasing supplies for the provision of universal service from affiliates. Such prohibitions will, however, not be placed into effect in the short term.

A task force has been established to develop consumer protection proposals. Such proposals may include supplier registration requirements, supplier eligibility criteria, and consumer education initiatives. Local distribution utilities must act as universal service providers in order to provide an orderly transition to a competitive market. The prices charged for this service will reflect a pass-through of costs associated with competitively procured power supplies.

Stranded cost recovery may be limited to assure near term rate reductions of 5 to 10 %. Stranded cost determinations are to be based on the estimated market value of generating assets. The Board indicates that regulatory assets, even those associated with generating assets, should continue to be recovered through transmission and distribution rates. Nuclear decommissioning costs will be recovered through a separate non-bypassable wires charge. Funds from this separate decommissioning charge will be placed in a dedicated trust fund.

#### **Rhode Island- (Average Cost 10.44 ¢/kWh, Residential Cost 11.78 ¢/kWh)**

Rhode Island's restructuring plan was initiated by legislation enacted in August, 1996. The legislation established retail access for state and municipal owned facilities and certain commercial and industrial customers in July, 1997 with the remaining industrial and commercial customers having access in January, 1998. Residential customers will be granted access in July, 1998. The Utility Commission can delay access for up to six months.

The legislation supports the development of an ISO and a voluntary power exchange. The ISO is expected to evolve from the existing New England Power Pool. Distribution utilities will be prohibited from owning generating facilities and from selling

power at retail. While utilities may continue to own generating resources through affiliates of distribution companies, they must divest 15 percent of their non-nuclear generation in order to recover stranded costs.

Competitive power providers must be registered by the Commission. Additional consumer protection measures are being developed. Distribution utilities will procure supplies to support a standard offer service for customers who do not take service from a competitive supplier.

Utilities will be allowed to recover prudently incurred stranded costs associated with generation related regulatory assets and nuclear decommissioning costs. Securitization will be allowed as long it will produce quantifiable savings.

#### **Massachusetts- (Average Cost 10.29 ¢/kWh, Residential Cost 11.6 ¢/kWh)**

In Massachusetts, customer choice has been initiated by a Massachusetts Department of Public Utilities (DPU) order issued in December, 1996. The order calls for full retail competition by January, 1998. Specific details will be developed in individual utility proceedings.

The DPU favors the development of an ISO and a power exchange. The DPU also favors voluntary generating unit divestiture. In the absence of voluntary divestiture, utilities must form separate marketing affiliates and provide for competitive divisions within regulated utilities.

Alternative power suppliers must register with the DPU. Applications for registration must provide evidence of financial soundness. Applicants are also required to provide a toll-free telephone number for customers and to comply with the DPU's existing billing regulations. Distribution companies are required to continue providing generation services to customers who do not switch to alternative suppliers for a five year transition period.

Utilities will be allowed to recover prudently incurred stranded costs. Stranded costs are to be determined through an administrative process with periodic true-ups.

#### **California- (Average Cost 9.89 ¢/kWh, Residential Cost 11.98 ¢/kWh)**

On September 23, 1996, California enacted legislation to restructure its electric utility industry. The legislation is basically consistent with an earlier regulatory commission order issued in December, 1995. California's restructuring plan provides for retail choice for all customers by January, 1998.

California's restructuring plan required the creation of a state wide ISO and Poolco. The ISO and the poolco were required to be separate entities to assure that bilateral transactions would be given comparable treatment as poolco transactions. Both the ISO and the poolco are scheduled to begin operations on January 1, 1998. The plan calls for the voluntary divestiture of 50 % of utility owned fossil generation as a means for mitigating market power concerns.

The plan calls for a number of consumer protection measures including supplier registration, information disclosure requirements, and rate caps coupled with an up-front 10 % rate reduction for residential and small commercial customers. Universal service will be provided by distribution utilities through purchases from the power exchange.

Utilities will have an opportunity to recover all of their stranded costs through a non-bypassable transition charge. Stranded cost recovery may be limited if a utility does not divest 50 % of its fossil generating units. California is also using securitization as a means for partially addressing stranded costs. The 10 % rate reduction is attributable to the up-front cost savings produced by securitization.

#### **Vermont- (Average Cost 9.83 ¢/kWh, Residential Cost 11.27 ¢/kWh)**

The Vermont Public Service Board issued its restructuring plan on December 31, 1996. The plan provides for full direct access by the end of 1998. Choice is expected to be phased-in throughout 1998.

The plan supports the development of an ISO and a voluntary power exchange. Divestiture is not required under the plan.

Vermont's plan requires certification of all retail service providers with disclosure requirements for price terms and generating characteristics. The exact requirements will be developed later, and will provide for an emissions portfolio, a renewables portfolio, and generation disclosure properties. Certification for suppliers will be based on financial and managerial resources, information disclosure, and consumer protection. A code of conduct is being developed to apply to all suppliers. The plan requires distribution companies to act as suppliers of last resort.

The recovery of stranded costs will depend on a utility's mitigation efforts, the ability to provide competitive pricing, and will be subject to case-by-case proceedings. Such proceedings will evaluate the circumstances under which the costs were incurred, will compare current mitigation of costs to potential mitigation, will review the rate impact of recovery, will examine the financial integrity of utilities, and the impact of stranded cost recovery on the public welfare. The stranded cost recovery period is expected to be five to ten years, as determined in the individual proceedings. Nuclear decommissioning costs may warrant a longer period.

**Maine- (Average Cost 9.57 ¢/kWh, Residential Cost 12.70 ¢/kWh)**

Maine's restructuring plan was established through legislation enacted in May, 1997. Implementation of the act will take place according to a procedural schedule issued by the Maine Public Utilities Commission on September 16, 1997. The plan calls for a flash-cut to retail competition for all customers on March 1, 2000.

Maine's restructuring plan requires divestiture of generating assets and generation related businesses. The Maine Commission supports the development of a regional ISO and a voluntary power exchange.

Competitive power suppliers must be licensed by the Maine Commission in accordance with specific criteria including: evidence of financial soundness, the ability to enter into needed technical arrangements; disclosure requirements, and the inclusion of renewable resources in the supplier's resource portfolio. The Commission must also develop codes of conduct and minimum consumer protection standards. The Commission will administer a bid-process to procure a standard-offer service provider for customers who do not select a competitive supplier.

The Maine Commission will estimate stranded costs for each electric utility and use these estimates as the basis for stranded costs charges to be assessed when retail access begins. The commission will periodically correct any substantial inaccuracies in the stranded costs projections and adjust the stranded costs charges to reflect such corrections.

**Arizona- (Average Cost 8.34 ¢/kWh, Residential Cost 9.50 ¢/kWh)**

The Arizona Corporation Commission adopted rules for restructuring in December, 1996 which provides for a phase-in of retail competition beginning in 1999. The phase-in is as follows: 20 % in 1999; 50 % in 2001 and full competition in 2003. The residential class must be represented in each year of the phase-in with 15 % of the residential class having access in 1999 and 30 % in 2001.

The Commission will conduct an inquiry into the development of a spot market and the independent operation of the transmission grid. The rules do not address market power issues and divestiture is not required.

Competitive power suppliers must be certificated by the commission. Competitive suppliers must also have toll free numbers for billing and safety inquiries. The rules do not address universal or standard offer service.

The Commission will allow recovery of unmitigated stranded cost by affected utilities and has established a working group to develop recommendations for the analysis and recovery of stranded costs.

**Pennsylvania- (Average Cost 7.90 ¢/kWh, Residential Cost 9.73 ¢/kWh)**

Pennsylvania's restructuring plan was established by legislation enacted in December, 1996 and requires that retail access be

phased-in. The phase-in schedule is as follows: 33 % by January 1, 1999; 66 % by January 1, 2000; and 100 % by January 1, 2001. The Pennsylvania Commission can delay access for up to two six month periods for certain reasons as specified in the legislation.

The plan generally encourages the formation of an ISO and does not address the need for a power exchange. Several Pennsylvania utilities are members of the PJM power pool and are participating in the development of a PJM ISO. The plan does not require divestiture. The Pennsylvania Commission is required to monitor the competitive market for potential market power abuses.

Competitive suppliers must be certified by the Commission and must adhere to a uniform code of conduct. The code of conduct provides for the disclosure of certain information and the maintenance of adequate generating reserves. Local distribution utilities will be obligated to provide electricity at market prices to customers who have not chosen a competitive supplier and to customers whose supplier failed to deliver. The legislation also provides for consumer education and minimum service standards.

Utilities will be allowed to recover stranded costs through a competitive transition charge. Stranded costs and other transition costs may be securitized and recovered through separate charges.

#### **Michigan- (Average Cost 7.13 ¢/kWh, Residential Cost 8.54 ¢/kWh)**

In June, 1997, the Michigan Public Service Commission adopted a program to establish retail choice for 2.5 % of retail load in each utility's service territory in 1997 and for all customers in 2002. Additional access will be granted to customers in increments 2.5 % per year during the period 1998- 2000. Each customer class is to be proportionally represented in through out the phase-in of customer choice. Customers will be selected for participation during this phase-in based on their willingness to pay exit fees. Revenues derived from exit fees will be credited towards future stranded cost calculations.

The Commission staff will conduct public meetings to develop a methodology for implementing a state or regional ISO and addressing market power. Staff is expected to file a report in June, 1998. Functional or corporate unbundling or divestiture was not specifically addressed in the Commission's plan.

The Commission staff will also submit a report addressing the adoption of standards of conduct in June, 1998. The Commission's order adopting the restructuring plan implies that local utilities will provide basic supply services for each customer class.

Stranded costs will be recovered through exit fees paid by customers in exchange for access and through wires charges. Stranded cost charges will commence when a customer is granted access and will continue through 2007.

#### **Nevada- (Average Cost 6.09 ¢/kWh, Residential Cost 6.99 ¢/kWh)**

Nevada's restructuring was established through legislation enacted in July, 1997. The legislation gives the Nevada Public Service Commission significant discretion to determine whether a given electric service is competitive and to decide how the market should be structured and dates for retail access. All customers must be able to obtain "generation, aggregation and any other potentially competitive services from an alternative seller" no later than December 31, 1999, unless the commission determines that gradual implementation is needed in order to protect the public interest.

The legislation does not specifically address an appropriate market structure. While not mentioning divestiture specifically, the Nevada legislation states that in order to ensure the development of effective competition for electric services, the commission shall "establish conditions and limitations on the ownership, operation and control of the assets of a provider of an electric service . . ." These conditions include "limitations on the ownership, operation and control of transmission facilities and any generation necessary to the reliable and economic operation of such transmission facilities.

Competitive suppliers will be licensed by the Nevada Commission. Conditions for such licensing are being developed and may include specific consumer protection measures related to service termination, billing practices, etc. The legislation also requires the Commission to designate a vertically integrated electric utility to provide electric service to customers who are unable to obtain electric service from an alternative seller or who fail to select an alternative seller. The utility selected by the commission is obligated to provide electric service to these customers. The Commission may, upon a finding that the public interest will be promoted, prescribe alternate methods for providing electric service for the customers described above, e.g., the direct assignment of customers to alternative sellers.

Shareholders of vertically integrated electric utilities are to be compensated fully for all stranded costs determined by the Commission pursuant to certain guidelines set forth in the legislation.

**Oklahoma- (Average Cost 5.24 ¢/kWh, Residential Cost 6.42 ¢/kWh)**

On April 25, 1997, Oklahoma enacted restructuring legislation requiring full direct access by July, 2002. The date for retail access will be extended if an uniform tax policy for all competitors is not developed by that time. The Oklahoma Corporation Commission must conduct a number of studies with respect to many of the details that must be developed for restructuring.

One such study which must be completed by January, 1998, will address ISO related issues. A second study addressing reliability, safety, unbundling, market power and transmission and distribution access related issues must be completed by the end of 1998. Divestiture was not directly addressed by the legislation.

The Oklahoma Commission must also conduct a study to review consumer related issues such as obligations to serve and connect, consumer safeguards, and licensing requirements for competitive suppliers. This report must be completed by August 31, 2000.

A final report to be completed by the end of 1999, will address stranded costs, stranded benefits, and stranded cost recovery mechanisms. The legislation provides some general guidance regarding stranded costs and indicates that stranded costs will be recovered through a non-bypassable wires charge over a limited period of 3 to 7 years.

**Montana- (Average Cost 5.15 ¢/kWh, Residential Cost 6.03 ¢/kWh)**

Montana's restructuring plan was enacted through legislation on May 2, 1997. The plan provides retail access to customers with loads in excess of 1 MW and loads in excess of 300 kW that can be aggregated to more than 1 MW by July 1, 1998. Other customers will be granted access as soon as administratively feasible but no later than July, 2002. The Montana Public Service Commission can delay access for smaller customers for up to an additional 2 years if implementation is not administratively feasible, if reliability would be materially affected, or due to the lack of a competitive electricity supply market. Other questions relating to the degree of competition will be addressed by a transition advisory committee established by the legislation. The committee may make additional recommendations during the transition to customer choice.

The legislation specifically enjoins the Commission from requiring or prohibiting divestiture.

The legislation requires the Commission to license competitive suppliers and provides some general conditions for such licensing. The Commission may also adopt additional standards for licensing. The plan also seeks to protect consumers through rate caps. Rates are frozen through June, 2000. The generation component of rates is then capped through June, 2002 for smaller customers. Utilities can seek increases in the transmission and distribution components of their rates after June, 2000. The Commission will continue to regulate power supplies for those customers who have not chosen a competitive supplier during the restructuring transition period (July 1, 1998 through July 1, 2002).

Utilities will be allowed to recover stranded costs through recovery periods to be determined on a case by case basis.

**APPENDIX**

**i. INTRODUCTION**

To date six comprehensive bills have been introduced in the 105th Congress which address the restructuring of the electric

industry. This appendix summarizes features of the bills relating to (1) grandfather clauses for State retail competition programs, (2) prescriptive requirements of the various bills on States, (3) stranded cost provisions, (4) identification of a date certain for retail competition, (5) the requirement of competitive reciprocity, (6) market power provisions, (7) renewable energy requirements, (8) the Public Utility Regulatory Policies Act ("PURPA"), (9) the Public Utility Holding Company Act ("PUHCA"), and (10) public power.

## **ii. summary of legislation**

### **A. H.R. 655, Representative Schaefer (R-CO), the "Electric Consumers' Power to Choose Act of 1997"**

#### **1. Grandfather Clause**

Sections 103 and 107 of this bill provide that States establishing retail electric energy service choice before December 15, 2000, will be grandfathered to the extent such State statutes, rules, or regulations satisfy the requirements of the proposed bill. Section 101 of the bill defines "retail electric energy service" as every retail electric energy service, including electric energy, aggregating or marketing, billing and metering services and equipment, energy management services and equipment, and any other electric service or equipment for which a customer is offered an alternative.

#### **2. Prescriptive Requirements on States**

Subsections 103(c) and (d) of the bill address what States must do regarding retail competition. These subsections provide that when retail competition begins, States are required to implement "flexible pricing procedures and incentive-based regulation" for each retail electric energy service provided by regulated utilities. The regulation of existing traditional utilities providing local distribution service will continue until the State regulatory authority or the Federal Energy Regulatory Commission ("FERC") finds "effective competition" for any retail electric energy service a utility provides in the geographic area where it provides local distribution services. Effective competition is not defined in this bill.

#### **3. Stranded Costs**

Section 103(e) of H.R. 655 provides that a State shall consider applying terms and conditions to the local distribution or sale of retail electric energy services, allowing any State regulated electric utility to recover costs incurred prior to July 11, 1996, and any costs incurred pursuant to a contract entered into under Section 210 of the Public Utility Regulatory Policies Act ("PURPA").

#### **4. Mandate for Retail Competition-Date Certain**

Section 102 of H.R. 655 provides that by December 15, 2000, all electric utility retail customers are to have the right to purchase "retail electric energy services" from any person offering such services. Section 103 provides that a State may elect to establish competition by December 15, 2000. The State regulatory authority makes its election by giving notice of the election to FERC within six months of enactment of the bill. If the State notifies FERC that additional legislative authority is needed for the State to make the election, the six-month period is extended to two years after enactment of the legislation. A State that has already established retail choice may submit a notice within six months after enactment of the bill. Under Section 106 of the bill, if a State does not submit a notice to FERC within six months of enactment of the bill, then by December 15, 2000, FERC shall implement the bill's requirements for retail competition for that State.

#### **5. Reciprocity**

H.R. 655 does not contain any provisions addressing this issue.

#### **6. Market Power Provisions**

The bill has no explicit market power provisions, however, the bill's prescriptive provisions that describe how State retail programs must be structured to comply with the bill are based on market power concerns.

#### **7. Renewable Energy Requirements**

Section 113 provides that after the year 2000, each electric generator selling electricity must submit to FERC renewable



energy credits equal to the bill's required annual percentage of the total amount of electricity generated by that generator. The required annual percentage rises from 2 percent in 2001 to 4 percent in 2010. Hydropower is not considered a renewable energy source. A utility which purchases renewable energy under a PURPA contract will be treated as the generator for purposes of this program.

### **8. Public Utility Regulatory Policies Act ("PURPA")**

Section 301 amends PURPA section 210 by eliminating the mandatory purchase obligation of a utility if the State makes a determination that the retail customers of the utility are able to purchase electricity at retail from any supplier on a competitively neutral and nondiscriminatory basis. The provision does not affect existing contracts.

### **9. Public Utility Holding Company Act ("PUHCA")**

Title II of the Schaefer bill replaces the 1935 PUHCA provisions with new requirements for holding companies and their utilities. The existing PUHCA provisions will no longer apply to a holding company and to each of its public utilities when every State in which each public utility affiliate of the holding company sells electricity determines that their retail customers in the State are able to purchase electricity from any supplier. If the holding company also has a gas utility, each State in which such utility distributes gas at retail must also make a determination that the retail customers of the utility can purchase gas from any supplier.

The PUHCA title of H.R. 655 also addresses Federal and State access to books and records, FERC exemption authority, and FERC and State jurisdiction over affiliate transactions.

### **10. Public Power**

Section 104 requires nonregulated utilities, including electric cooperatives and municipal utilities, to also establish retail competition for their customers by December 15, 2000. However, the nonregulated utilities are able to establish their own transition rules, including stranded cost recovery.

Section 109 expands FERC's authority to order any transmitting utility to provide comparable open access transmission. Thus, FERC may order utilities not traditionally subject to its jurisdiction, including electric cooperatives, public power systems, and Federal power marketing administrations, to provide open access to its transmission systems.

## **B. H.R. 1960, Representative Markey (D-MA), the "Electric Power Competition and Consumer Choice Act of 1997"**

### **1. Grandfather Clause**

H.R. 1960 does not address this issue.

### **2. Prescriptive Requirements on States**

H.R. 1960 imposes extensive restrictions on State retail competition programs by establishing Federal requirements for retail competition and public benefits standards. A State must meet these standards in order for utilities in the State to get relief from PUHCA and PURPA.

Section 152 of the bill requires competition in all electric energy services, including metering and billing services, and related information and communications services. Under subsection (b)(2) of Section 152, the State must impose non-bypassable charges on consumers to help pay for low-income services, renewable energy and energy efficiency, and worker retraining. In lieu of a non-bypassable charge for renewables and energy efficiency, the State may impose minimum resource portfolio standards that ensure improvement of current levels of reliance on renewable energy resources and energy efficiency. The State must require electric utilities to purchase electricity generated by retail customers through renewable energy resources.

### **3. Stranded Costs**

Since this bill does not impose a Federal mandate for retail competition, the States may make decisions concerning stranded cost recovery. Section 152(B)(3) of the public benefit certification standard in H.R. 1960 provides that protections are to be in place to assure that consumers are not burdened with an unfair share of the recovery of any stranded costs approved by the State.

#### **4. Mandate for Retail Competition-Date Certain**

H.R. 1960 does not require retail competition. However, utilities that operate in States that adopt the bill's retail competition and public benefit standards will get relief from the mandatory purchase obligations under PURPA and from PUHCA.

#### **5. Reciprocity**

Section 153 of H.R. 1960 bars anyone with a retail electric service territory from providing retail service, directly or by an affiliate, to anyone outside of the retail service territory, if competitive retail service is not available inside the service territory.

#### **6. Market Power Provisions**

Section 111 prohibits any person from acquiring an interest in a gas or electric public utility that results in ownership of "a substantial interest" and "effective control" of such company, unless the person makes certain certifications to FERC and FERC approves the merger or acquisition.

Section 112 provides that a public utility or its affiliate may not use its ownership or control of any resource to create or maintain a situation "inconsistent with effective competition" in retail electric or natural gas sales in any market in which such company has a designated retail distribution territory.

Section 113 directs FERC to establish regulations to ensure that public utility company diversifications: (1) have no adverse impact on electric or natural gas customers of the company; (2) are subject to an arm's-length relationship between transmission and distribution service activities, retail sales activities and any other business activities of the company or its affiliates; and (3) are subject to FERC and State commissions having access to books and records.

FERC is to deny any diversification unless the State commission with ratemaking authority over the public utility certifies that it has the authority and resources to prevent the diversification from having an adverse effect on retail customers of the utility. State commissions must also make a similar determination in order for any contract with a value of \$1 million or more between a public utility and an affiliate to be valid.

#### **7. Renewable Energy Requirements**

The public benefit standards of Section 152(b), with which the States must certify compliance for a utility to qualify for relief from PUHCA and PURPA, require, among other things, that all electric suppliers have the incentive and opportunity to provide energy efficiency and renewable energy resources, and that the State impose non-bypassable charges for funding renewable energy.

Section 126 of this bill requires every person who generates and sells electricity to submit renewable energy credits to DOE in an amount equal to a specified percentage of its total sales in the preceding year. The percentage increases from 3 percent in 1998 to 10 percent for 2010 and beyond. States can impose additional renewable energy requirements. A utility purchasing power under a PURPA contract will be treated as the generator of that power.

#### **8. Public Utility Regulatory Policies Act**

The bill adds a new subtitle to PURPA containing standards and requirements for State retail competition programs, including a retail competition standard and a public benefit standard. These standards must be considered by the State regulatory authority and each nonregulated electric utility.

Section 102 amends Title II of PURPA by adding a new Section 214 to that Act which states that the mandatory purchase requirements of PURPA § 210 shall not apply as long as a utility has a certification of competition from a State regulatory authority. Existing PURPA contracts are not affected.

## **9. Public Utility Holding Company Act**

Section 101 amends PUHCA so that the Act will not apply to a holding company and affiliate utility of such company, if such company and affiliate has received a certificate of compliance with the bill's standards and requirements of competition from all State commissions having ratemaking authority over the electric utility.

In Section 103, the bill also amends PUHCA to overturn SEC decisions allowing registered holding companies to invest up to 100 percent of consolidated retained earnings in foreign utility companies; allowing holding companies to expand investment in energy service companies without having to comply with PUHCA's functional relationship test and other requirements; and establishing FERC and State authority to disallow the inclusion of contract or transaction costs incurred by registered holding companies where the SEC has already approved the transaction.

## **10. Public Power**

In the bill's reciprocity provision, Section 153, it prohibits the Tennessee Valley Authority from providing retail electric service to any person outside the TVA's statutory service territory, or "fence," if retail service is not available on a competitive basis within the fence.

Section 154 of this bill makes no separate reference to the obligation of nonregulated utilities, such as public power systems and electric cooperatives, to make determinations about retail competition. However, the existing sections of PURPA (which the bill amends) require nonregulated utilities to consider the same standards and make the same determinations as to whether to adopt them as State regulatory authorities are required to do.

Effective one year after enactment, Section 122 of the bill makes all FERC wholesale or retail open access rules applicable to all nonjurisdictional utilities (including public power systems and electric cooperatives) and Federal marketing agencies.

## **C. H.R. 1230, Representative DeLay (R-TX), the "Consumers Electric Power Act of 1997"**

### **1. Grandfather Clause**

H.R. 1230 does not address the grandfather clause issue, but requires choice for all consumers by January 1, 1999. The bill does not appear to grandfather any existing State programs.

### **2. Prescriptive Requirements on States**

Section 4 of H.R. 1230 provides that States must establish unbundled distribution rates by January 1, 1999. If that does not occur, FERC will set distribution rates until such time as State unbundled distribution rates take effect. The bill also impacts State authority by requiring utilities to separate personnel and assets involved in transmission and distribution from those involved in the provision of electric service and by imposing information and operating requirements on distribution systems. Sections 3, 4, and 13 of the bill require competition in electric service, e.g., electric energy, billing, metering, energy equipment and ancillary services.

### **3. Stranded Costs**

Section 3(b) of H.R. 1230 prohibits Federal or State stranded cost recovery, providing that a governmental authority may not grant a protection from competition to any electric service provider.

### **4. Mandate for Retail Competition-Date Certain**

Section 3(c) of H.R. 1230 requires retail competition for all consumers by January 1, 1999.

### **5. Reciprocity**

This bill does not address this issue.

## **6. Market Power Provisions**

Section 5 of the bill requires vertically integrated utilities to separate personnel and assets involved in transmission and distribution from those involved in providing electric service. No entity responsible for operating a transmission or distribution system may purchase or sell electricity except in narrow circumstances. Section 5(b) of the bill expands FERC authority to provide for non-discriminatory prices and access to both transmission and distribution systems.

Section 6 requires FERC to issue, by September 30, 1999, rules providing for nondiscriminatory access to transmission and distribution services and which eliminate barriers to competition presented by existing contracts. FERC must ensure that utilities are not exercising market power over sales of electric services.

## **7. Renewable Energy Requirements**

The DeLay bill does not include any renewable energy requirements.

## **8. Public Utility Regulatory Policies Act**

Section 7(b) of the bill provides that PURPA's mandatory purchase obligations will no longer apply to a utility as soon as each State in which the utility is providing electric services determines that competition exists in the markets served by that utility. The provision does not affect existing contract obligations.

## **9. Public Utility Holding Company Act**

Section 7(a) of the bill states that PUHCA will no longer apply to an electric utility or holding company if each State in which the utility is providing electric services determines that competition exists in the markets served by that utility.

## **10. Public Power**

Section 3(b) prohibits Federal, State or local authorities from granting any "preference" or "protection from competition" to any electric service provider. These terms would include any direct or indirect subsidy, and any exit fee (except for a negotiated service contract charge or a nondiscriminatory access charge).

## **D. S. 237, Senator Bumpers (D-AR), the "Electric Consumers Protection Act of 1997"**

### **1. Grandfather Clause**

S. 237 provides in Section 104 that State retail access statutes and regulations issued prior to January 30, 1997, are grandfathered if they result in retail competition by December 15, 2003. State retail statutes and regulations are deemed to comply with the retail choice and stranded cost requirements of the bill, "for so long as such retail competition exists."

### **2. Prescriptive Requirements on the States**

There are no identifiable restrictions on State retail competition programs.

### **3. Stranded Costs**

This bill provides for stranded cost recovery if a Federal mandate for retail competition is imposed. Section 106 of the bill authorizes a retail electric energy provider subject to State regulation to submit an application for stranded cost recovery to the State regulatory authority if (i) State legislation or regulations adopted after January 30, 1997, requires retail competition but does not provide for full recovery of stranded costs or (ii) the retail electric energy provider's customers have access to retail competition as a result of this bill. States can choose between the following methods of calculating stranded costs: (i) a method allowing all legitimate, prudently incurred and verifiable investments in generation assets, including binding power purchase contracts and regulatory assets or (ii) by requiring divestiture and allowing the difference between the book value of generating facilities less the amount received for their sale. If the State regulatory body does not grant stranded cost recovery,

FERC will establish the level of stranded cost recovery using the divestiture methodology. After the amount of retail stranded cost recovery is calculated, a retail electric energy provider is entitled to recovery of all of its stranded costs over a reasonable period of time from its distribution and retail transmission customers through a non-bypassable stranded cost recovery charge.

#### **4. Mandate for Retail Competition-Date Certain**

Under Section 102 of S. 237, all consumers are to have retail choice beginning December 15, 2003. Beginning on that same date, all persons seeking to sell retail electric energy are to have unbundled access to local distribution and retail transmission facilities. Section 104 of the bill provides that a State can elect to initiate retail competition prior to 2003. State retail programs enacted through legislation or established by regulation before January 1, 1997, that require competition before December 15, 2003, are grandfathered.

#### **5. Reciprocity**

S. 237 does not address this issue.

#### **6. Market Power Provisions**

Section 111 of this bill requires that within two years of enactment, FERC will establish ISOs in the "broadest feasible transmission regions" to manage and operate the transmission system in each region beginning December 15, 2003, the date for retail choice in this bill. Under this bill the ISO shall not be subject to the control of any person owning transmission in the region or any retail electric energy supplier selling retail energy to consumers in the region in which the ISO will operate.

Section 113 of this bill expands FERC's authority regarding mergers and controlling market power. This section requires FERC to consider the promotion of competitive wholesale and retail electric generation markets in the public interest consideration for mergers. The bill also requires FERC approval of all acquisitions of a natural gas company by a public utility. In addition, this section requires FERC to take such "actions as it determines are necessary" to prohibit any retail electric energy supplier or provider, or affiliate, from using its "ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale suppliers."

#### **7. Renewable Energy Requirements**

Section 110 of this bill establishes a renewable energy requirement for retail energy suppliers as a percentage of the total energy sold by such supplier in the preceding calendar year. The bill allows States to impose additional requirements. Beginning in 2003, the percentage is 5 percent; in 2008, it rises to 9 percent; in 2013, to 12 percent. The requirements sunset on December 31, 2019. This bill's definition of renewable energy includes hydropower. Under this bill, FERC is to establish and administer a credit trading program. Under the program, retail suppliers get one-half credit for each unit of energy generated by large hydro projects; one credit for each unit of energy generated by facilities, other than large hydro, constructed before the date of enactment; and two credits for each unit of energy generated at a facility, other than large hydro, built on or after the date of enactment.

#### **8. Public Utility Regulatory Policies Act**

Title III of this bill provides that the mandatory purchase obligation under PURPA shall not apply to any facility that begins commercial operation one year after the bill's enactment. After the earlier of December 15, 2003, or when retail competition is implemented in all its service territories, no utility is required to enter into a new contract under the mandatory purchase obligation. Under this bill, existing contracts are not affected.

#### **9. Public Utility Holding Company Act**

Title II of this bill would repeal the 1935 PUHCA provisions and replace them with new PUHCA provisions which would continue into effect until FERC determines that, due to retail competition, they are not needed for consumer protection. Such findings are to be made on a holding company by holding company basis. Title II of this bill would expand FERC and State authority over access to books and records. This bill also gives State authority to review the prudence of power purchases under FERC-approved wholesale rates. The bill gives States and FERC dual authority over affiliate transactions.

## **10. Public Power Provisions**

Section 115 of this bill essentially takes down the TVA fence, allowing TVA to sell outside its current service territory and other suppliers to sell within the service territory, beginning December 15, 2003, or earlier if TVA chooses to set an earlier date for retail competition. This section is inapplicable if the Secretary of Energy, in consultation with the Office of Management and Budget, determines that allowing competition with regards to TVA is contrary to the financial interests of the United States.

### **E. S. 722, Senator Thomas (R-WY), the "Electric Utility Restructuring Empowerment and Competitiveness Act of 1997"**

#### **1. Grandfather Clause**

S. 722 does not address the grandfathering issue because it would leave retail competition decisions to the States.

#### **2. Prescriptive Requirements on States**

There are no prescriptive requirements on States since the bill leaves retail competition issues to the States.

#### **3. Stranded Costs**

Since the bill does not impose a Federally mandated date certain for competition, it does not address stranded cost recovery issues. However, Section 3 of the bill provides that a State can impose a charge on the purchase of electricity or local distribution service to advance policy goals, including the recovery of electric industry transition costs.

#### **4. Mandate for Retail Competition-Date Certain**

This bill does not provide a Federal mandate for retail competition and Section 3 clarifies that States have jurisdiction to regulate any retail electric supply or local distribution service provided to an ultimate consumer of electricity.

#### **5. Reciprocity**

Section 3 of the bill requires wholesale and retail reciprocity, *i.e.*, open transmission and distribution access.

#### **6. Market Power Provisions**

There are no market provisions in this bill.

#### **7. Renewable Energy Requirements**

This bill does not include any renewable energy requirements.

#### **8. Public Utility Regulatory Policies Act**

Under Section 6 of this bill the mandatory purchase obligations under PURPA would not apply to a facility that begins operation after the bill's date of enactment. After the date of enactment, a utility shall not be required to enter into a new contract or obligation under the mandatory purchase obligation. Existing contracts are not affected.

#### **9. Public Utility Holding Company Act**

Section 7 of this bill repeals the 1935 PUHCA provisions and replaces them with provisions that provide for Federal and State access to books and records of holding companies, that provide FERC with authority to exempt holding companies from providing such books and records, and that address the treatment of affiliate transactions.

## **10. Public Power Provisions**

Section 3 of this bill prohibits a person from using open access transmission or distribution for wholesale or retail electric supply, unless the person also offers open access transmission or distribution. This provision will require nonjurisdictional utilities, such as public power systems and electric cooperatives, to offer open access transmission or distribution if they want to use transmission or distribution lines subject to open access.

Section 4 of this bill extends FERC's jurisdiction regarding wholesale transmission service to all transmitting utilities.

Section 5 of this bill requires the U.S. Treasury Department to submit a report to Congress detailing whether and how Federal tax code provisions should be addressed in order to foster a competitive retail electric market, including tax benefits under the Internal Revenue Code received by shareholder-owned utilities, municipal and State utilities, and electric cooperatives.

### **F. S. 1276, Senator Bingaman (D-NM), the "Federal Power Act Amendments of 1997"**

#### **1. Grandfather Clause**

S. 1276 does not provide for Federally imposed retail wheeling. Section 4 of this bill gives States clear authority to order retail wheeling, requires States authorizing unbundled local distribution service to assure its provision on a nondiscriminatory basis, and provides for retail reciprocity. Section 4 also assures State authority to impose a nondiscriminatory charge on the unbundled local distribution service, retail sale, or generation for consumption of electric service.

#### **2. Prescriptive Requirements on States**

This bill would place a number of requirements on States. Section 4 of the bill recognizes State authority to require an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within the State, so long as the utility does not provide such service on an "unduly discriminatory basis". This section also provides that a State may bar an electric utility from selling electric energy to an ultimate consumer using local distribution facilities in the State if such utility or any of its affiliates owns or controls local distribution facilities and is not providing unbundled local distribution service.

Section 5 of the bill mandates that States or regulatory bodies that require an electric utility subject to its jurisdiction to provide unbundled local distribution service to consider adopting measures to assure that every consumer within the State has access to electric energy at reasonable and affordable rates and prevents the loss of service to rural, residential or low-income consumers. States must report any adopted measures to FERC.

#### **3. Stranded Costs**

S. 1276 does not directly address stranded costs. However, Section 10 of this bill protects wholesale contracts entered into in accordance with Section 210 of PURPA. The section provides that States may not bar a regulated utility from recovering the costs of any PURPA contracts. The section provides that such costs may be recovered, for example, through rates, charges, exit fees, etc.

Section 4 of the bill permits States or State regulatory bodies to assess a nondiscriminatory charge on unbundled local distribution service within the State, retail sale of electric energy within the State, or the generation of electric energy for consumption by the generator within the State. Section 2 of the bill defines "unbundled local distribution service" to mean the delivery of electric energy to an ultimate consumer if the electric energy and service of delivering it are sold separately and the delivery uses facilities for local distribution.

#### **4. Mandate for Retail Competition-Date Certain**

This bill does not contain a mandate for retail competition.

## **5. Reciprocity**

Section 4 of this bill provides that a State or State commission may bar an electric utility from selling electric energy to an ultimate consumer using local distribution facilities in the State if such utility or its affiliates owns or controls local distribution facilities and is not providing unbundled local distribution service.

## **6. Market Power Provisions**

Section 2 of this bill redefines "public utility" so as to extend FERC's authority to regulate transmission services of nonjurisdictional utilities, including TVA, power marketing agencies, municipal utilities, and rural electric cooperatives. Section 4 requires States that authorize utilities to provide unbundled local distribution service to assure that utilities provide distribution service on a nondiscriminatory basis.

## **7. Renewable Energy**

This bill does not include any renewable energy requirements.

## **8. Public Utility Regulatory Policies Act**

Section 10 of this bill protects wholesale contracts entered into in accordance with Section 210 of PURPA. The section provides that States may not bar a regulated utility from recovering the costs of any PURPA contracts. The section provides that such costs may be recovered, for example, through rates, charges, exit fees, etc.

## **9. Public Utility Holding Company Act**

This bill does not include any provisions addressing PUHCA.

## **10. Public Power**

Section 2 of this bill redefines "public utility" so as to extend FERC's authority to regulate transmission services of nonjurisdictional utilities, including TVA, power marketing agencies, municipal utilities, and rural electric cooperatives.