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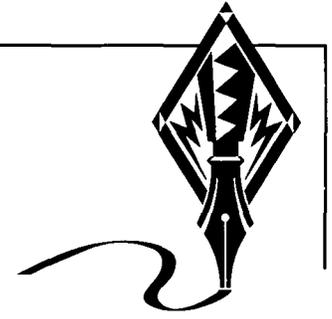
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FEATURE ARTICLES



A Future of Green Power: Impacts of the Electric Utility Deregulation in America

By Christine Garcia

Introduction: A Foundation and Background to Deregulation

Today, the deregulation of the electric utility industry is sweeping our nation and has become one of the hottest issues among businesses, economists, environmentalists, and consumer advocates. Utility deregulation raises different concerns and suspicions for these high interest groups. Deregulation issues include, but are certainly not limited to: techniques used, opportunities created, and consequences following. Although there are similarities with the deregulation of the telecommunications and gas industries, this article only addresses the deregulation of the electric utility industry. Utility "deregulation" may connote a lack of restraint in businesses; thus, it is also referred to as utility "restructuring," a less chaotic term. Regardless of terminology, this change in the utility industry will impact every facet of our community.

At one time, electric utility companies had been "granted monopoly franchises to take advantage of the cost benefits of centralized production."¹ In return, state governments regulated these monopoly franchises which provided consumers with electricity generation, transmission, and distribution.² Thus, the state had the "right to regulate price and quality of service."³ This relationship, between the powers of the monopoly franchises paired

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with the limits of state governments, is now taking different shape. State by state, legislatures are deciding that it is time for change in the utility industry.

The ultimate intent of the utility deregulation is to open this once monopolistic utility industry to competition. According to the California Public Utilities Commission ("CPUC"), competition will provide several benefits, such as: 1) offering consumers greater choice in purchasing energy services, 2) lowering rates, 3) stimulating technological advances through competition, and 4) introducing performance-based ratemaking for the remaining monopoly services.⁴ Several states are presently in transit toward this new competitive market. Some legislative bills which

deregulate electric utility companies have already been passed, while others are in legislation, up for debate, or not yet solidified.⁵ California, one of the first states to open the utility market, began allowing competitors to bid for the purchase of energy plants, formerly owned by larger utility companies, as early as March 1998.

At the same time, increased competition in utilities may adversely impact certain areas of the country in their environmental movements. Presently, environmentalists have become more concerned with newly evolving issues. One pressing issue for midwest regions in particular involves the projected increase of air pollution resulting from increased coal usage. This article includes an in-depth discussion on pollution transport as well.

Additionally, socio-economic issues impact the utility industry's deregulation and legislation. Economically, many utility companies are attracted to the opportunities made available in a competitive market to make profits by selling their nuclear plants. Unfortunately, the electric companies' drive towards sales and profits averts their objectives away from energy conservation.⁶ Economic incentive is also a significant factor in the implementation and utilization of more new environmentally friendly technologies and alternative sources of energy. For example, renewable energy sources, also known as green power, "generally produce lower emissions than conventional electricity generation," but are usually more costly.⁷ Socio-economic issues, such as this, are directly intertwined with the political and commercial issues of utility deregulation.

These last issues, political, commercial, and liability, are discussed following the economic and environmental discussions. Political issues include the rifts between different activist

groups. For instance, consumer advocate, Ralph Nader, claims that environmental groups hesitate to speak out on energy because they fear losing funding from those utility businesses.⁸ Commercial issues mainly involve the pollution risks and liability concerns of transporting harmful emissions across state lines and affecting other state's pollution levels. This seems to be more of a midwest and east coast problem because coal is an energy source more popular in the midwest, as opposed to the west coast. Cummulatively, these factors impact one's choice of energy available, its price to the consumer, as well as the consumers' health and environment.

Below, this article discusses these various factors that impact deregulation legislation. Namely, it focuses on economic incentive, commercial liability, transport problems, and the impact upon political groups which include consumers, environmentalists, and businesses. These subjects are the litmus of America's future of deregulation in the electric utility industry.

The Consumer Dream: Lower Prices, But Who is Swallowing the Costs?

The deregulation of the utility companies promises a competitive market for consumers. Frank Murkowski, a chairman of the Senate Energy Committee, says that the "basic goal of electricity decontrol is to give consumers the opportunity to choose their electricity suppliers."⁹ He continues by saying, "California, Rhode Island, and Pennsylvania have [already] passed laws requiring... 'retail choice' be [given to] consumers in the next few years, [and] other states are expected to follow suit."¹⁰

Competitive markets are already beginning

to grow. For example, companies such as Big Planet, a technological service provider, are expanding with plans of becoming a utility provider in the future.¹¹ While these competitive effects of deregulation might not be immediately apparent, most consumers should anticipate increased benefits from competing utility companies. Utility rate reductions, as well as the guarantee from existing companies of unfettered and reliable service, entice consumers to encourage deregulation. For example, California's electric utility industry promises an automatic 10% reduction in billings,¹² and Illinois is looking toward utility savings with a 15% decrease in rates.

Many of these states, predicating utility competition, have already included consumer protection clauses in their proposals. For example, California is strong on consumer protection since they consider electricity "essential to the health, safety, and economic well-being of all California consumers."¹³ The California legislature continued by purporting that the deregulation of the utility industry will create a surge of new products, "many of which may not be readily evaluated by the average consumer."¹⁴ Upon this finding, the California legislature decided that unfair marketing practices were a key concern to protect customers from.¹⁵ Furthermore, industry competitors should "demonstrate their creditworthiness and technical expertise in order to engage in power sales to these members of the public."¹⁶ Although the intent of the Senate is comforting and considerate, the main concern of most consumers is the bottom line; will deregulation lower rates?

One of the first things expected to change are energy rates. Peter Kendall, staff writer of the Chicago Tribune, thinks that "coal power in a deregulated marketplace could be relatively

inexpensive, which consumers will like."¹⁷ ComEd, the main Illinois utility company, also promises that electric service will become more affordable.¹⁸ ComEd projects that a 15% reduction in electric bills can be expected by the year 2001.¹⁹ Illinois electricity groups say that the "phasing in" process of accepting competitors into the market will take place over the next five years.²⁰

The minority view of electric utility deregulation is that restructuring will not equate to competition and lower prices. In fact, one cynical theory postulates that the utility industry is too difficult for interested investors and firms to enter or exit at will.²¹ The theory contends that the ingredients to create a conducive competitive utility market: 1) opportunism, 2) bounded rationality, 3) externalities, and 4) an absence of sunk costs, are non-existent in our utility market.²² This would result in keeping numerous competitors out of the market and encouraging the consolidation of those utility companies which presently exist.²³ Under this theory, the utility "markets will evolve into tight oligopolies," a few large groups that have a monopoly in their specific markets.²⁴ These oligopolies could rob "society [of] both the benefits of a government regulated monopoly and technology stimulating competition."²⁵

However, *this* article builds on the majority view and assumes that the deregulation of the utility industry will manifest in a healthy competitive spirit. For the most part in our country, competition has fostered industry's push toward progress and the consumer's ability to be selective.²⁶ Nonetheless, utility industry competition may have also constituted a factor spurring the growth of more regulatory environmental laws.²⁷

Lower prices in a competitive market are

the desired result, however, confronting environmental issues could initially "raise the cost of electricity."²⁸ For example, some critics of utility deregulation in northeastern states say that consumers would eventually pick up the tab for tougher environmental controls on the utility companies which "burn cheap and dirty local coal to produce power."²⁹ Further discussion on environmental costs follows in the next section of this article.

Another cost to consider are the stranded costs left after established utility companies invest in huge energy sources. Specifically, stranded costs represent monetary losses which utility distribution companies are left with from "past investments in generating facilities and contracts with non-utility generators."³⁰ Stranded costs may be thought of as a mortgage which companies have not yet paid off. In order to help alleviate and recover such stranded costs, the California legislature has created a Competition Transition Charge ("CTC") to help these companies.³¹ This CTC charge is only temporary and will not entirely remedy the debt companies incur. Nonetheless, considering environmental costs, transition costs, and stranded costs, the socio-economic impact on consumers is questionable for both businesses and customers.

Environmental Issues: The Expense of Green Power v. the Savings of Coal

Environmentalists, especially in the midwest, fear that utility deregulation "will create a surge of coal power."³² The use of coal is more common in the midwest because the midwest has a plethora of old coal plants which produce energy cheaply. Analysts predict that "coal power in a deregulated market place could be relatively inexpensive."³³ While

"inexpensive" power is great for consumers economically, it is also quite harmful for the environment. Coal power plants "pump out more of the chemical that is the primary cause of acid rain," than any other plant.³⁴ Currently, power plants fueled by coal contribute most to the "key pollutants [which] cause acid rain and smog."³⁵ In fact, in Illinois, coal power makes up 33% of the entire air pollution in the state. Thus, choice of energy sources of electric utilities pose both benefits to consumers, as economic financiers, as well as threats to consumers, as environmentalists.

Before the 90's, both scientists and the public were aware that sulfur dioxide (SO₂), and nitrogen oxides (NO_x) were being emitted from the older coal plants.³⁶ As a "primary component of smog, [nitrogen oxide...] finds its way into the air through a variety of sources, including coal-burning utility power plants."³⁷ When mixed with other emissions, the sun chemically converts these compounds into smog, or ozone.³⁸ Ozone contributors include SO₂, NO_x, and other chemicals that, when activated by volatile organic compounds ("VOCs"), create O₃. O₃ is known as ozone, which is the layer helpful for the outer stratosphere of our planet, but harmful to the planet in the tropospheric layer. The tropospheric layer is closest to the earth and constitutes much of the air people breathe. In the stratospheric layer, VOCs shield us from harsh radiations of the sun, whereas on the tropospheric layer, VOCs contribute to health problems such as lung disease and cancer.

The alternative to burning coal for energy would be investing in more environmentally friendly power sources, also known as green power, or renewable energy. Unfortunately, investing in environmental technology is very expensive. For instance, the environmental

controls and modifications of two coal-fired power plants in Kentucky cost the utility \$30 million to meet Nitrogen oxides (“NO_x”) limits set by the Clean Air Act Amendments of 1990.³⁹ NO_x limits are maximum amounts of pollutants allowed in the air, prescribed by the Environmental Protection Agency (“EPA”). Consequently, in the Midwest, speculators say that cleaner air will equal higher utility bills.⁴⁰ Other experts disagree and contend that while the new environmental rules will “push electric[ity] rates up,...[the competition through] utility deregulation could cancel out those increases.”⁴¹

Doug Aburano, an environmental engineer for the U.S. Environmental Protection Agency (“EPA”), says that “utility power plants produce about 33% of the nitrogen oxide in...22 states.”⁴² The reason why utility power plants are responsible for so much air pollution is “because the power is generated mostly by burning coal.”⁴³ Alternatives to coal include, but are not limited to, wind, solar, geothermal, biomassic energies, and hydro-electric power. These electricity sources are “friendlier” to the environment than fossil fuels and are available.

One obstacle to the ideal of renewable energy sources is that energy sources must be built for a great amount of consumers for it to be “worth it” for companies to pay for. Thus, a new company’s initial costs of building green power energy sources are very high and are only economically advantageous to the company if the company has a large amount of consumers to distribute the energy to. Therefore, these renewable electricity sources are usually more costly,⁴⁴ especially for the new venturing business competitor in the utility market. Additionally, even though coal power is economically enticing for companies, existing regulations prevent the possibility of every

utility plant being an SO₂ and NO_x emitting coal burner. And again, because the new pollution control requirements encourage the use of renewable energy, most companies cannot afford immediate changes.⁴⁵ Therefore, it may take time for companies to afford to use cleaner energy. Thus, environmental groups say that “it may take a decade to phase in the new pollution control rules” which regulate these harmful emissions.⁴⁶

O-Zone Transport: A National Problem and a Scapegoat for Threatened Competitors

The flow of NO_x emissions and other air pollutants across state lines is also relevant to the issue of ozone transport. Thus far, the EPA is empowered with state and federal jurisdiction to regulate the amount of ozone contributors emitted into the air under the Clean Air Act.⁴⁷ Carol M. Browner, the EPA Administrator, gave a speech regarding the regional ozone problem in Washington D.C. Browner said that the EPA was “taking action to reduce sources of what we call ‘transported’ ozone — the kind that travels long distances and contributes to the smog problems in far-off areas, as well as locally.”⁴⁸ Pollutant transfer is constantly occurring from one environment to the next bringing along new health, commercial, and economic problems.⁴⁹ The EPA has especially focused on this huge problem in the eastern parts of the country.⁵⁰ The east believes that ozone pollutants are being transported to them from midwestern states. However, utility officials say that the Northeast’s claim of ozone transport is a difficult case to prove.⁵¹ Spotting the direct and specific source of pollution and differentiating it from local pollution is a difficult task. In fact, David

McCarthy, assistant general counsel for Indianapolis Power & Light Co., says "it's almost impossible to prove."⁵² Additionally, scientists say it is unclear how much "reducing emissions from power plants in [the midwest] will improve air quality in [the east]."⁵³

The deregulation of the utility industry will most likely result in direct competition between companies in the northeast and midwest. Because states in different regions will be competitors for customers, it is natural for them to make their competitor states less attractive as energy producers. In the utility industry, one way to hinder your competitors is to try to restrain them with the legal tools available, such as EPA statutes. Thus, states anticipating competition from other opponent states are already seeking sabotaging opportunities through EPA proposals.

Jim See, environmental-affairs manager for American Electric Power in Ashland, says that a defense mechanism to protect businesses from outside producers is to "drive up generating costs in the Midwest by requiring pollution cuts."⁵⁴ Because compliance with the EPA's clean air standards is the financial responsibility of all companies, that responsibility may be used as a mechanism to legally impose restrictive costs on many of these companies. Consequently, the ozone transport issue takes on the dual purpose of harrasing competitors away from their state, while keeping harmful industry emissions from getting out of control.

EPA Regulations: Are They Being Used to Save the Environment?, or To Sabotage Competing Power Companies?

In 1990, the EPA proposed changes to the Clean Air Act in an effort to combat air pollutants. The EPA set attainable goals for each

state to achieve a national standard of clean air. Some believe that most businesses in the utility industry cannot meet the EPA proposals. Kristi Clemens, Grand Rapids' government and community affair representative, felt that for EPA officials to "go ahead and impose these regulations, which are not technologically feasible or affordable, is just a little outrageous."⁵⁵

Although the EPA claims no direct correlation exists between the implementaion of this proposal to reduce NO_x and the utility industry's deregulation, the "agency expects...that the lion's share of the reductions will come from power plants."⁵⁶ EPA administrator Carol Browner envisioned that "the best and most cost-effective way to reduce these emissions is to focus on large industrial sources — primarily major utility plants."⁵⁷ Browner explained that "states could meet this goal by cutting emissions from utility power plants by an average of 85%."⁵⁸

Critics of this proposal to cut emissions have suggested that "the standards are [unfairly] aimed at the nation's coal-fired plants as electricity utility deregulation nears in Congress."⁵⁹ Paul Billings, of the American Lung Association, concurs with this belief stating that the "air pollution battle [for health] is linked with utility deregulation."⁶⁰

Some people are happy that the EPA proposals are directed towards the utility industry. The deputy director of the Southern Environmental Law Center ("SELC") says that the "initiative announced by EPA will help tame this plague of air pollution by cracking down on its largest single industrial source — power plants."⁶¹ If the states do not comply to the EPA's demands by 2005, the EPA could attempt to impose a federal program that ties federal highway funds to compliance with

these standards.⁶² The EPA's clean air standards may be considered a protective measure against eager competitors who would otherwise take advantage of cheap coal during this occasion.

Because of clean air requirements, the progression of pollution between states has also become a source of legal dispute. Dealing with transported pollution is just one subissue of the Clean Air Act ("Act") found in § 126. The Act's § 126 addresses different interstate pollution abatement procedures that allow states to point the finger at other pollution emitting states. The Act mandates states to complain to the EPA when emissions from utility plants contribute significantly to air pollution. Specifically, the Act provides that:

utility plants or any emission source: which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards...to provide notice to all Nearby states...[plus] ...Any State...may petition the [EPA] for a finding that any major source [such as a utility plant]...emits...any pollutant in violation of the [Clean Air Act].⁶³

Several eastern states are using § 126 to get their petitions heard by the EPA in hopes of getting environmental enforcement from neighboring polluting states. Currently, the § 126 proposal has resulted in requiring 22 states, mostly mid-western and eastern, "to cut their NO_x emissions by a total of 1.6 million tons per year."⁶⁴

EPA authority, clean air standards, and transported air pollution across states, fuel much litigation. A pressing issue under § 126 is whether the statute grants EPA the power to regulate power plants and other air pollution sources.⁶⁵ In *Midwest Ozone Group v. EPA*, a group of Midwestern utilities petitioned a

federal court to review the issue of whether the EPA has "authority to regulate power plants and other air pollution sources based on petitions filed by...states seeking further reductions in nitrogen oxides' emissions from these sources."⁶⁶ As a result, a reduction of NO_x emissions in midwestern states would help other states affected by pollution transport meet clean air standards. Several east coast states even banded together to write petitions under § 126 claiming that "power plants and other sources in the East and Midwest...contribute to the petitioning states' inability to meet air quality standards for ozone."⁶⁷ Those petitions requested the EPA "to invoke a sweeping rule that allows the government to target specific sources of pollution with strict limits."⁶⁸

Following the petition, northeastern states brought a suit charging that "coal-fired plants in Indiana and along the Ohio Valley are producing smog in places such as New York City."⁶⁹ Similarly, western parts of Michigan complain that up to 70% of their pollutants are directly attributable to Chicago, IL, Milwaukee, WI, and Gary, IN.⁷⁰ Confirming the two complaints, studies have demonstrated that smog ingredients show no boundaries, and that these pollutants are "carried by winds for potentially hundreds of miles."⁷¹ Thus, the pollution problem for power plants on a state level becomes a national problem when emissions cross state lines.

Businesses on Alert

Other organizations blame the EPA for the insurmountable burdens placed on small companies. Business activists, such as the Immediate Temporary Help in Midland ("Midland"), Michigan, recently sued the EPA "for

not properly considering how new federal clean air legislation would affect small companies.”⁷² The Midland group sued the EPA with similar concerns to those of the *Midwest Ozone Group*. Midland feared that “if the EPA can violate that law [of prying into business as is intended in the *Midland* case], it will affect all small business.”⁷³ Midland, like other businesses, views the EPA’s powerful hand in the utility industry as an indicator of the power they may impose in business. Midland chairperson, Sharon Miller, says that “enforcing a new law that protects small businesses from unnecessary federal regulation tops [their] list of concerns.”⁷⁴

Utility deregulation comprises one of the top business concerns of the EPA.⁷⁵ Because the deregulation of the utility industry impacts so much legislation, lawmakers are careful to take various concerns into consideration. For example, in July of 1997, “Gov. Parris N. Glendening of Maryland appointed a task force of lawmakers, government officials, and private citizens” to look at electric utility deregulation and rewrite the rules of the industry.⁷⁶ A task force may enable the state to create a more diplomatic statute that is inclusive of various groups’ concerns. Although much conflict exists between the competing interests of environmental goals and industrial change, the EPA still stands in support of “utility deregulation, but...wary of its effects on air quality.”⁷⁷ While not much comfort to small businesses, the EPA claims its imposition into the small business sector is in the best interest of the people.

Jurisdictional and Liability Issues

Liability concerns overshadow the transition toward utility deregulation. Such concerns

include: liability for the pollutant sources which pass through the hands of several energy owners, those liable under Environmental Protection policy enforcement, the trend of respiratory problems near coal plants, and the possible increase of anti-trust law suits in the utility industry open market. Because of out of state competition and because the possibility that emissions will impede into other jurisdictions, commerce suits have also become a subissue regarding liability. Liability issues also incapsulate coal pollution concerns, economic debate, and energy efficiency ideas.

Harmful emissions that cross state and national lines trigger liability and jurisdictional issues. For example, Canada recently conducted a forum regarding liability in certain pollution transport cases. In deciding between state or private industry, the Delegation on Transfrontier Pollution asked:

whether the state should be directly liable on a principle akin to that of vicarious liability for transnational injuries caused by private enterprises under its jurisdiction or control or whether liability should attach, in the first instance at least, to the polluting enterprise itself.⁷⁸

The Canadian delegation proposed that “local private remedies should be the primary mechanism for dealing with [transported pollution] damage claims involving private parties.”⁷⁹ However, they also cited a traditional international legal doctrine, which asserts that “states should be indirectly liable as defendants of last resort where they fail to ensure the availability of legal remedies that meet the legitimate expectations of injured parties.”⁸⁰

Liability for transported ozone is one of many other environmental issues. For example, who will get pinned with clean-up costs when

a new company purchases plants previously owned by other utility companies. Some states say that the purchaser buys the existing problems along with the land, but considerations also need to be made on how old the plant is, and what EPA rules attach to that particularly aged plant. Thus, various circumstances created by ozone transport and the current bidding for used utility plants invent new opportunities for litigation and dispute.

Health & Safety: We Consume More Than Just Kilowatts

The Natural Resources Defense Council ("NRDC") has devised a harmful emissions study "to measure a key aspect of the federal Clean Air Act."⁸¹ The study required "electric utilities to install monitoring systems on power plant stacks to measure emissions of sulfur dioxide (SO₂), nitrogen oxides (NO_x), and carbon dioxide (CO₂)."⁸² The purpose of the study was to "get at the financial risk that different companies face with respect to future requirements to reduce carbon dioxide emissions."⁸³ NRDC officials said the study gave "environmentally conscious energy consumers" information on the effects of deregulation in power purchasing.⁸⁴

Consistent with this study, some utility groups will luckily face low exposure to monetary costs "imposed by the enforcement of carbon dioxide emissions regulations."⁸⁵ For example, Central Maine Power Company has a ranking of low financial risk from additional air emission limits which "reflects the benefit of [their] diversified, clean and renewable fuel mix."⁸⁶ Renewable fuel is also known as green power, such as hydroelectric, wind, photovoltaic/solar, geothermal, and biomass generation plants.⁸⁷ Other utility companies at the 'clean'

end of the spectrum include Boston Edison, Connecticut Light and Power Co., and the Sacramento Municipal Utility District⁸⁸

Carbon dioxide emission constraints and regulations are also integral to health liability issues which may confront the utility industry in the future. This has led some directors to speak positively of these constraints. For example, Tom Leanord, executive director of the West Michigan Environmental Affairs Committee ("WMEAC"), said carbon dioxide emission regulations and pressure to comply with the regulations is a "necessary evil."⁸⁹ Leanord continued by saying "studies show that respiratory problems, especially among the region's youngest and oldest residents, have climbed in correlation with the area's growing number of ozone action days, and have even resulted in more deaths in recent years."⁹⁰ Ron Burke, environmental health director for the American Lung Association, speaks in favor of the new EPA rules for cleaner air.⁹¹ This will affect "millions of people"⁹² who are beleaguered by harmful emissions, a noted "major cause of unhealthful smog levels in many of the region's metropolitan areas."⁹³ The health effects of breathing polluted air include thousands of cases of premature deaths, aggravated asthma, high levels of lead in blood, and a significant decrease in lung function in children.⁹⁴ Browner elaborates by saying that "[r]educing smog-causing emissions from these sources is absolutely essential to ensuring healthy air for many millions of Americans."⁹⁵

Health and property liability suits are a possible symptom of the pollution caused by the competing utility industry. Liability suits for "pollution damage [are] evolving" and have become more widely accepted as utility industry changes occur.⁹⁶ However:

proof of actual causation is often particu-

larly difficult in pollution cases because the injury may be of a cumulative or gradual nature; because a number of concurrent sources may have contributed to the injury; or because it may be difficult to trace the pollution to its source.⁹⁷

Some Canadian critics believe that private suits against specific polluters may be “an entirely impractical remedy” when injuries result from several “concurrent sources,” each being insignificant on its own.⁹⁸ Nonetheless, health issues and corrosive property damage due to pollution transport to other states flavor the future of liability suits in the utility industry.

Solutions and Hopes for Energy Efficiency

Many environmentalists hope that the new utility deregulation will be an opportunity for energy source alternatives. The EPA is encouraging electric utility companies to adopt new technologies for pollution reduction, such as green power.⁹⁹ Additionally, consumers may encourage alternative energy sources by demanding, for example, green power in the form of photo voltaic generations. Innovative technologies such as photo voltaic technology and solar electrification systems are energy source alternatives that do not impair the environment.¹⁰⁰ These renewable energy sources get their power from the sun’s radiations. These technologies promote growth while reducing greenhouse gases.¹⁰¹ California, as well as many southern and western states, are great sites for utilizing solar energy. Fortunately, some state laws require investment in energy conserving power generators, such as wind, or biomass, fueled on wood and plants.¹⁰² However, states, such as Illinois, have pending

proposals in their congresses which do not demand energy source alternatives on utilities, offering “little funding for energy efficiency programs.”¹⁰³ Additionally, sites like Chicago could benefit greatly from renewable fuel sources, such as the wind. Windmill generators placed out on Lake Michigan would make a great contribution toward cleaner energy.

Some utility companies already use alternative methods of energy sources other than coal. For example, most of the power generated for electric utilities in the Northeast come from nuclear power plants, or from oil and gas burning.¹⁰⁴ These sources cost more than coal-fired plants to operate, but produce less pollution.¹⁰⁵ Consequently, the natural question is whether consumers would be willing to possibly pay a little more for cleaner energy. Inevitably, consumers will pay, but a stronger demand of renewable fuels, or green power, will force billing rates down through competition. If enough consumers demand green power, then competing companies need to lower rates to win favor among purchasers.¹⁰⁶

Furthermore, either the states or the federal government should offer tax advantages to consumers who choose alternative energy companies to help defray costs until they become more established. If the environmental and health benefits do not convince consumers, maybe a \$500 tax deduction would encourage the consumer to choose green power. Likewise, governments should offer tax advantages to companies that use and offer a set percentage of renewable energy which they distribute to consumers. Ideas initiating an advancement toward green power necessitate a demand from consumers and some tax incentive granted by the government.

Conclusion

The utility deregulation occurring throughout our nation has set the stage for many issues among environmentalists, consumers, economists, politicians, lawyers, and scientists. Luckily, some states believe that consumer protection is the key to legislation and maintenance of diverse interests. For example, the California Public Utilities Commission requires energy providers to abide by an elaborate set of rules when soliciting and serving the consumer. California's law provides that notices and billings must be clear and itemized for the consumer.¹⁰⁷ Misrepresentations may result in a revocation of the provider's registration in the state.¹⁰⁸

As a country fueled by new innovations in technology and invention, energy is the necessary lifeline to our existence. Some authorities in the economic/industrial field believe that less consumption of electricity in America "would reduce the need to produce power and...build plants."¹⁰⁹ Our use of the electricity industry need not be that extreme since we are continuously on the super highway of production and consumption. However, with more education and conscious concern, energy consumers may be the group to impact the direction of the deregulated electric utility industry. Fortunately, our country has made extensive advances in green power technology, and with the right collective consumer demand, America can look forward to a better future in business, technological progress, socio-economics, health, and lifestyle.

Endnotes

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³ Gagax & Nowotny, *supra* note 1, at 63.

⁴ See CAL. PUB. UTIL. COMM'N, *supra* note 2, ¶ 4.

⁵ See, S.B. 477, Reg. Sess. (Cal. 1997); See, also, S.B. 55, Reg. Sess. (Ill. 1997) (unenacted).

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⁸ See Savannah Blackwell, *The Private Energy Elite: How the Energy Foundation has Abandoned Environmentalists and Used Big Money to Greenwash the Private Utility Industry*, ENERGY FOUNDATION (on file with *Loyola Consumer Law Review*) Oct. 8, 1997, at 2.

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¹⁰ See *id.*

¹¹ See Big Planet, *Big Planet Direction* (visited Apr. 2, 1998) <<http://www.bigplanet.com/prodserv/direction.html>>.

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13 S.B. 477, *supra* note 5, at §8(a).
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15 *Id.* at §8(c).
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23 *Id.* at 83.

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⁵⁵ David Czurak, *Chamber: EPA Blows Away Business*, GRAND RAPIDS BUS. J., Aug. 4, 1997, at 1.

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