Battle Report: Electricity Deregulation Is Under Attack

by Anita Gallagher

Abraham Lincoln's famous saying, "You can't fool all of the people all the time"—although you can fool all of the people some of time, and some of the people all the time—aptly describes how electricity deregulation got passed in 25 states so far (see **Figure 1**), as well as why it is now becoming "unpassed."

EIR has consistently exposed the fraud of deregulation—in trucking, airlines, and banking, to name a few. Our Aug. 18 issue contained a 20-page *Feature* on energy deregulation, including an exposé of the ties of Presidential candidates George W. Bush and Al Gore to the "robber" conglomerates that are buying up legislators and energy capacity, as well as the history of Franklin Roosevelt's successful fight against Wall Street to regulate energy in the 1930s. That package has been widely acclaimed as invaluable in the fight against energy deregulation.

At an Emergency Town Meeting on Oct. 7 in Los Angeles, attended by about 100 people and sponsored by Lyndon LaRouche's FDR-PAC, Nevada State Sen. Joe Neal (D) presented an unassailable study on the fraud of deregulation. Senator Neal came fresh from his victory a few weeks ago, in engineering the executive postponement of the electricity deregulation law enacted by Nevada's legislature. We present here the masterful study of the issue in Senator Neal's speech, which can be used as a primer by anyone fighting to repeal deregulation or stop it from being passed. Senator Neal is now drafting repeal legislation for introduction into the Nevada legislature's 2001 session. As he notes, at the time the legislation was enacted earlier this year, only he and one other legislator voted against it. Now, only few months later, a hue and cry has been raised against deregulation's effects which elected officials dare not ignore.

Repeal of deregulation is urgently needed in California, as the doubling of electricity bills in San Diego, as well as the exponential increases in power costs that the utilities in northern California are now trying to pass on to consumers, clearly demonstrate.

In Montana, although deregulation is just beginning to be implemented, and will not be completed until 2002, its bad effects, such as layoffs in electricity-dependent industries, including mining, have already become manifest. But as the case of Nevada shows, the finality of "a done deal" can shift very rapidly. The following speech and interview offer the basis to "unfool" yourself and others.

It's Time To Reverse Deregulation Policies

by Joseph M. Neal, Jr.

The following "Address on Domestic Retail Electric Competition" was delivered by Nevada State Senator Neal (D) to an Emergency Town Meeting in Los Angeles, sponsored by Lyndon LaRouche's FDR-PAC, on Oct. 7. Subheads have been added.

The current rich man's rage sweeping the United States is competition in the electric generation sector. The only real competition is to see who can gouge the deepest and loot the most from consumers. Electric restructuring is merely the latest in a succession of industry deregulations that began in the late 1970s and early 1980s, starting with airlines, transportation, telecommunications, and financial institutions. Each time, the process was sold on the promise of lower prices and better service. The pledge has not been kept.

The savings and loan crisis, precipitated by government deregulation, and the subsequent bailout, is estimated to have cost $200 billion. This amounts to roughly $4,000 for every man, woman, and child in the United States. Imagine what could be accomplished if that sum were instead spent on education, health coverage for children and seniors, or to treat sufferers with mental illness.

The greed and corruption rampant in that deregulation experiment should have put policymakers on notice that market forces have no moral component and, in the absence of sound oversight, are a prescription for uncontrolled avarice.

The promise of better financial service has not materialized, either. Today, in many banks you cannot talk to a live teller, or else pay a fee for the privilege. Meanwhile, branch offices are closing nearly as fast as ATM fees are appearing. Folks in rural areas have to drive many miles just to cash a check or make a deposit. Poor citizens are left to the mercy of so-called "payday check cashing services," a fancy name for loan sharks.

In the telecommunications industry, while long-distance rates fell after the breakup of AT&T, local rates increased. Meanwhile, how many consumers have seen their cable bills decrease? In 1992, Congress determined that cable rates needed to be regulated. When price controls went into effect in 1993, rates initially dropped and the savings to consumers amounted to billions of dollars.

Later, the industry pressured Congress to repeal these provisions. In February 1996, Congress passed the Telecommunications Act, providing for the deregulation of cable rates commencing March 31, 1999. The act established an arbitrary three-year period during which it was assumed that increased competition from satellite broadcasters and telephone companies would cause rates to fall. Instead between the time Congress passed the 1996 act and the end of March 1999, cable rates increased 24%. During that same time period, inflation only rose 6%.

Airline deregulation has not been any better. It brought less leg-room, longer waits, loss of service in many smaller communities, and dangerous cutbacks in maintenance and safety procedures. A discounted fare was no comfort to the 83 passengers on Alaska Airlines Flight 261 who died after a terrifying plunge into the ocean, caused by the failure to replace a worn jack-screw in the tail.

The experience in transportation has been no different. A news article from a year ago, entitled "The Killer Trucks," described the death of a young family of four who were killed when three huge 30-foot concrete pipes that had been improperly secured, fell off a truck and crushed their minivan. A Nevada couple in a second car burned to death in the same accident when the 10,000-pound pipes crashed into their vehicle and it burst into flames.

The article went on to note that 5,302 people were killed in truck-related accidents in 1998, and asked: "So what's going on? The evidence is clear that truck drivers are under more pressure than ever to keep their wheels moving in the wake of increasing competition. Meanwhile, the Federal government has actually reduced industry scrutiny."

Electric Deregulation Has Led to Extortion

Electric deregulation is on the same path as the other industries. In anticipation of competition, utilities slashed their preventive maintenance budgets instead of spending the money cutting tree branches. As a result, trees under high-voltage lines grew too close to the wires, causing them to arc. The short-circuits triggered two massive Western regional blackouts in 1996. In one event, over 5.5 million customers in ten Western states, and parts of Mexico and Canada, were without power for up to 16 hours in the height of a summer heat wave. In another incident in California, the sparks ignited an inferno that destroyed homes and caused millions of dollars in damage.

Electric rates have been red hot, too. Since June, wholesale electric prices in California have risen an average of 270% over the same time period the year before, resulting in more than $1 billion in added payments for power. For example, on June 29, 1999, California used 763,000 megawatts (MW) of electricity and paid $45 million; on June 29 of this year, Californians used 795,000 MW, but paid over $340 million.

This Summer in San Diego, the first area in the U.S. to experience competition at the retail level, residential and small commercial customers got burned—and it was not by the Sun: They found their rates doubling and tripling. There were reports of some senior citizens and low-income families turning their refrigerators off to avoid bills they could not afford to pay. But just to be fair, deregulation does not always hurt individuals: The CEO of our electric utility in Nevada received a $3 million golden parachute when he resigned in July!

At the same time that ordinary folks were struggling to juggle their budgets, power plant operators were reaping record earnings. One company reported a 176% profit increase for the quarter ending June 30 of this year. Another large concern realized a 233% increase during the same period. It is obscene when poor people have to let their food spoil just so some captain of industry can improve the bottom line.

No one objects to businesses earning a reasonable profit. Prior to deregulation, our laws specifically allowed utilities an opportunity to earn a fair return on investments while providing customers with just and reasonable rates. However, what consumers are experiencing with deregulation is extortion. They are paying a ransom for a basic necessity that, in extreme weather, can mean the difference between life and death for the elderly and the infirm.

Business customers suffer as well. A 20-minute blackout at a high-tech manufacturing plant can cause a loss of $30 million for one day's production. In July 1999, power outages

FIGURE 1

Electricity Deregulation: States Which Have Implemented Some Form, as of June 2000

Source: Electric Power Supply Association.

were caused by extreme heat waves in the Midwest, and along the East Coast. Outages occurred in Delaware, Long Island, Maryland, New Jersey, New York City, Virginia, and the South Central states. Downtown Chicago was without electricity for 19 hours.

A Department of Energy team was assigned to review the causes and make recommendations to prevent recurrence of these blackouts. In an interim report released on Jan. 4, 2000, the team noted that while the electricity industry is undergoing fundamental change, the necessary operating practices, regulatory policies, and technological tools for dealing with those changes are not yet in place to assure an acceptable level of reliability. A significant increase in electricity use, especially during times of peak demand, is stressing the electric system. As a result, prices spiked to new highs in the Midwest, with a megawatt of electricity sometimes selling for more than $9,500.

In mid-June 2000, San Francisco suffered rolling blackouts due to unseasonably early hot weather and generating plant outages. Price spikes occurred throughout the Pacific Northwest; Kaiser Aluminum and Vanalco, in Washington, both laid off over 400 workers due solely to the cost of electricity. The Continental copper mine in Montana closed down for the same reason, idling nearly 325 employees.

The calamity in California has reached such proportions, that even public officials who previously championed deregulation are calling for its repeal, while others urge consumers to revolt and burn their utility bills. Some commentators say, "You can't put the genie back in the bottle." A more apt analogy might be that Frankenstein's monster has escaped from the lab, but, in either case, the process can and must be halted. I have requested a bill in Nevada to repeal deregulation and restore the consumer protections our citizens formerly enjoyed.

The Underlying Flaw

The underlying flaw in deregulation is the assumption that competition will drive energy prices down. In order for that to happen, there must be an adequate supply of generation facilities with non-discriminatory access to the transmission system for all suppliers; however, these conditions do not exist and will not for some time, if ever. In a deregulated environment, the system is characterized by weak oversight, manipulation by generators and transmission line owners, as well as exploitation of consumers. It is no surprise that in some instances this summer, electricity that normally sells for $30 to $40 a megawatt-hour (mwh) has been going for more than $1,400. As I noted before, evidence indicates that during the Summer of 1999, some prices on the spot market reached $9,500/mwh.

The president of the California Public Utilities Commission recently observed that states have not deregulated electricity, they have Federalized it. Deregulation surrenders local authority over retail prices to the Federal Energy Regulatory Commission (FERC). As widely reported in trade journals such as *Natural Gas Intelligence* (June 19, 2000), even FERC's own staff has acknowledged the agency is "impotent in our ability to monitor, foster, and ensure competitive electric power markets," with the result that the electric generation and transmission markets have "run wild and unrestrained" over the past several Summers. Another fallacy underlying deregulation is that it fosters competition. However, experience has shown that deregulation promotes mergers and consolidations until, in the end, there are only a handful of oligopolies in each industry. Every time a new start-up company enters the market, it is either crushed or bought out.

This trend has already manifested itself in the electric industry, where dozens of mega-mergers have occurred and more are anticipated. At the beginning of the electric restructuring movement, there were several thousand local utilities, co-ops, and municipal systems in the U.S. Some observers forecast that eventually there may be as few as 50 power suppliers.

A New Wave of Colonialism

As their size grows, so does their economic and political influence. Historically, it has been difficult enough for state commissions and legislatures to regulate local utilities. The task will be even more daunting when faced with multinational behemoths, for these mergers are not restricted to service territories in the United States alone. Several of the large power companies are now worldwide, with interests in Latin America, Asia, and Europe. Like a giant octopus, the power industry is spreading its tentacles around the globe in a new wave of economic colonialism.

These countries are attractive targets, because as they strengthen, diversify, and modernize their domestic economies, they require tremendous additional quantities of electricity. It should come as no surprise that the rapacious multinational power firms have cast covetous eyes on these countries.

Nor are U.S. citizens immune; last year, Scottish Power Company purchased Pacificorp, which serves a large part of the inter-mountain west. Other English firms have taken over some East Coast utilities. How much traction will a customer, a commission, or a state legislature have with a corporate home office in London? By its own admission, FERC cannot even effectively police domestic firms, so how much can we expect when it confronts a foreign power company?

Another aspect of electric deregulation that is particularly offensive, is the political duplicity of the power companies. They exert all their considerable influence during the legislative process to have the program skewed as much as possible in their favor. Consumers wind up paying utilities billions of dollars in stranded costs, while the companies receive everything from property tax concessions to anti-competitive advantages, such as allowing non-regulated affiliates to use the utility's name and logo.

And yet, as soon as competition begins to work to the companies' disadvantage, they either challenge the statutes in court or plot to convince lawmakers to redo the deal to ensure that the companies do not suffer any loss. They want the benefits of deregulation, but insist on being insulated from any risks inherent in competitive mechanisms. They talk-the-talk, but won't walk-the-walk; the whole performance is pathetically hypocritical.

During the last session in Nevada, our utility actively participated in formulating the competitive retail market scheme enacted by our legislature, a bill that I voted against. That program included the abolition of deferred energy accounting and a three-year rate freeze. Company representatives even went so far as to formally sign a copy of the final bill draft. This was done at the insistence of one of my colleagues who wanted to symbolically confirm that the utility was on record as agreeing to the total legislative package. Less than a year later, the utility instituted legal action to have the legislation declared unconstitutional. The company had the audacity to publicly claim, it knew all along the measure was constitutionally infirm.

What caused the about-face? The company had been gambling that fuel prices would drop in the coming months. When fuel costs rose instead, the utility had to pay considerably more than it had anticipated, and needed a way to escape from the bargain it had struck with the legislature. The company used the legal action as leverage to negotiate a settlement in July that allows it to increase rates every month for three years to cover fuel costs. So far, the company has boosted rates four times for a cumulative increase of 8.4%. Potentially, the rate increases could total 64% by the time the settlement runs its course.

No One-Way Commitment to Market Mechanisms

There is no question that fuel prices have risen dramatically in the last year. However, if a company makes a business judgment about the future course of development in its industry, and negotiates a legislative compact based on that judgment, the company should be bound by its agreements even when its assessment proves erroneous. It would be just as great a breach of faith if the legislature were to revoke provisions of the program because fuel costs fell more than expected and the company reaped greater profits. It is this one-way commitment to market mechanisms that makes me skeptical about the wisdom of embracing competition.

A similar process appears to be under way in California. The electric utilities here were among the chief architects of deregulation. One of the key provisions in the California scheme was that, in exchange for utility recovery of billions of dollars in stranded costs through rate-payer financed bonds, there would be a multi-year rate freeze. The utilities assured legislators and the public that deregulatton would bring lower rates after the freeze ended. Now, the utilities are floating the notion that they need to recover from rate-payers several billions of dollars in "unforeseen costs" for fuel increases that are accruing during the freeze. Apparently because these costs would be tracked in balancing accounts and assessed after the rate freeze ends, the utilities do not feel this violates the legislative compact.

Free markets are a two-edged sword; by their very nature they involve risk, as well as reward. There are winners and losers when there is competition. The power companies must be required to live with the consequences of normal market fluctuations and their own business miscalculations if they are going to insist on receiving the benefits of deregulation. They must not be allowed to always keep any gains, but pass losses through to ratepayers. Their persistent attempts to avoid the downside of a free-market philosophy exposes the hollowness of their competitive rhetoric.

Where have these policies and platitudes led us? There is an energy crisis spreading across the nation and the globe. Like a shadow of darkness in its wake, power blackouts, skyrocketing prices, business closures, and layoffs have appeared like plagues. Only decisive leadership will cause the blight to pass over us and spare our citizens the chaos befalling those who are currently shuddering under its influence.

We must prevent the specter of unrestrained greed from descending on consumers. Instead, we must restore and strengthen those principles which have produced reliable and affordable electric power for many generations, and that spread the benefits of energy to all classes, not just those in the boardroom.

Interview: Ted Anderson

'You Can't Rely on Private Industry'

Ted Anderson, of Billings, Montana, is a longtime observer of the state's energy industry. He was interviewed on Oct. 9 by Anita Gallagher.

EIR: What's the situation in Montana with regard to energy deregulation?

Anderson: Well, deregulation was passed by our state legislature in 1999, and will be fully implemented by the year 2002. The major supplier of power in the state of Montana was Montana Power, which, shortly after getting the legislature to deregulate, sold their generation to Pennsylvania Power & Light, and then subsequently sold their transmission and distribution to Northwestern Public Service—which was just recently sold—and it will probably take effect in January 2001. Deregulation takes effect in 2002.

EIR: What kinds of energy does Montana use?

Anderson: There are two, primarily: hydroelectric and fossil, which is coal production.

EIR: Have people seen an increase in the cost of their energy yet?

Anderson: Oh, yes. Electricity has gone up, and natural gas has gone up—from the standpoint of home heating. Both of those have gone up, but the price hasn't gone up to the point where the public has really questioned it yet, because they haven't seen the full impact—we haven't had a bad Winter yet. And if we have a bad Winter, and the bills start coming in, you'll see a major complaint, especially from the poor, and the population living at the poverty level.

EIR: Our publication exposed what a bonanza deregulation has been for the backers of George W. Bush and Al Gore, and also wrote about the history of President Franklin Roosevelt's imposition of regulation [See "Deregulation Strikes: Buying Energy from Bush," *EIR Feature,* Aug. 18, 2000.] Did you find that a useful set of articles?

Anderson: That was very well-written; it gave a complete history of the whole process, and the reasons for it, and in the time I've been been looking at the energy issue, it was the best article that put the whole thing together—from the beginning to the end, and the complete reasons for it.

EIR: Do you think that action will be taken to reverse deregulation, or to study it further before it goes into effect?

Anderson: Not in Montana. If it is going to be reversed, it has got to be by an upswell of the people. And the way our legislature is right now—they meet every two years, unless there is an emergency session, and the governor has to call that. I don't see that happening, not unless energy prices go so high, like they did in California this last year. It may be a done deal here in Montana in 2002, because there is that time lag between when it was implemented—the sales of the distribution, the transmission, and the generation facilities.

EIR: Could you go through the phases of what happened from the time it was enacted until 2002?

Anderson: Well, Montana Power came to the legislature and gave them a proposal to deregulate the electric utility industry in the state, and in doing so, they started donating money to