

Looting Indonesia: The Energy Brokers' 'Warm-Up' for California

by Michael Billington

It is now widely acknowledged among sane individuals, that the ongoing looting of California (and other states) by a handful of energy brokers, under the cover of "deregulation," is having the effect, as if by design, of collapsing an economy which was already weakened by the bursting of the financial bubble. It is instructive to those who may doubt that such corporate geniuses would consciously destroy an economy, for nothing more than an apparent short-term gain, to examine the process of looting which has taken place against Indonesia since the mid-1990s, by many of the same entities now "doing" California. Although the specific mechanism used was different, the species characteristic of the looting process was precisely the same.

After the near-breakdown of the world financial system in 1987 and 1989, a hyperinflationary process was unleashed out of New York and London, based on the creation of a huge derivatives-based financial bubble, in order to preserve the power of the (actually bankrupt) global financial institutions. One aspect of this bubble was the "globalization" process, generating hot money flows into developing nations, financing *maquiladora*-style cheap-labor export industries, and creating local bubbles in the real estate and equity markets in much of the Third World, and in Asia in particular. Energy generation, like most infrastructure in the Third World, was woefully inadequate in Asia, so the energy companies jumped in to meet the need — an admirable task, under normal circumstances, but conditions were hardly normal. Although the following profile of the Indonesia situation was repeated throughout the region, the Indonesian case is exemplary.

Sweetheart Deals with Suharto

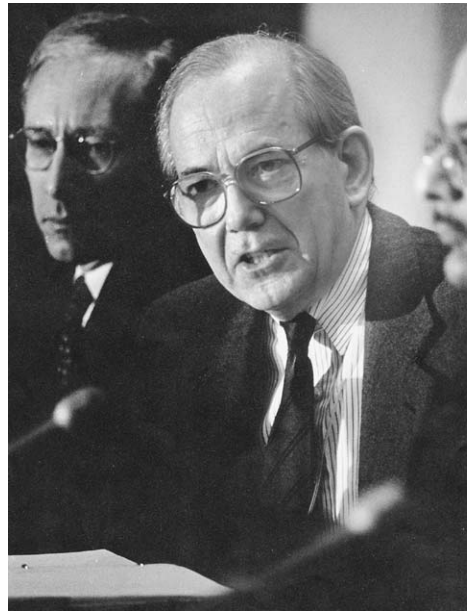
Altogether, 27 joint-venture energy contracts were set up in the early to mid-1990s in Indonesia. Each one included a foreign power producer — we'll examine below projects with MidAmerican, Edison Mission, and Florida Power and Light — in partnership with the Indonesian state electricity company, Perusahaan Listrik Negara (PLN), and an Indonesian private firm, inevitably run by one of President Suharto's children. All had the same general character: A power plant would be built on the condition that PLN (i.e., the government) would be bound to purchase a fixed amount of electricity each year, *regardless of whether the electricity was needed at the time*, and that the cost of the electricity would be deter-

mined in *dollars*, not in the Indonesian currency, the rupiah. These lucrative deals were set up through personal connections between the energy producers (and their international banks) and the Suharto family and friends, the same circle which was later denounced as "corrupt" by the so-called "international community."

While the fantasy persisted that the financial bubble would expand forever (a fantasy that persisted within the United States up until the past year), the Indonesian energy deals proved to be a bonanza for everyone involved. However, when the bubble burst in 1997-98, brought on by the speculative attack on the Asian currencies by the hedge funds, and the conditionalities imposed by the International Monetary Fund (IMF), the energy deals were exposed for what they were: a scam which left the government helpless before the combined power of the multinational corporations, international banks, the IMF, the United Nations, and the U.S. State Department, all of which demanded that the corrupt contracts be honored in full, or Indonesia would be subjected to credit termination, economic sanctions, seizure of assets, and political destabilization by non-governmental organizations (NGOs) and other "private" operations controlled by the Wall Street and London power elite.

With the sudden collapse of the economy, and the subsequent rapid decline in energy needs, many of the newly built power plants were no longer needed. The risk, however, had been entirely transferred to the Indonesian government, through the corrupt conditions written into the contracts. Indonesia was required to pay for electricity for which it had no use. And, because the electricity was priced in dollars, when the speculative raid drove the value of the Indonesian rupiah to about one-fourth its former value, the government-owned PLN was forced to pay four times the actual value (in Indonesian terms) for the electricity it didn't need.

The currency eventually settled at about one-third its former value. PLN raised the price substantially on the electricity it sold to Indonesian consumers, but it could not even begin to charge a price to cover what it was forced to pay the foreign producers. In fact, when President Suharto allowed an increase in the costs of certain fuels, it precipitated riots which ultimately brought down his government, and similar instability would have been certain in the case of any further drastic rate increases.



General Suharto (left) in 1998. After Suharto's downfall, the IMF, under Managing Director Michel Camdessus (right), and the UN demanded an end to "corruption, collusion, and cronyism," and that the new government honor the corrupt contracts worked out through collusion between the foreign energy cartels and Suharto's cronies.

The result, then, was that PLN was faced with purchasing huge quantities of energy at prices in the range of 5-8¢ per kilowatt-hour (kwh), while reselling only a fraction of that amount, and at only about 2-3¢ per kwh. This ridiculous, untenable situation could only be truly appreciated by a California governor!

Who Is Corrupt?

The Indonesian government approached the 27 different foreign producers with a request that the contracts be renegotiated to account for the drastically changed circumstances. In some of the cases, where plants were not yet completed or not yet begun, the contracts were cancelled, with requests for reasonable breach of contract settlements. The response was a barrage of hypocritical demands that the sanctity of contracts must be upheld. The extent to which thug tactics were used is demonstrated in the case studies below. Several leaders in the new Indonesian government pointed out the obvious inconsistency: Why is it that the IMF and other foreign interests insist that the "cronyism and corruption" of the Suharto era must be ended, by imposing "transparency," and by bringing those guilty of corruption to trial, but that the foreign partners who participated in the corruption (or, more likely, *instigated* it) are not only let off the hook of criminal responsibility, but also their corrupt contracts must be respected to the letter?

In August 1999, then-PLN president Adhi Satriya said he would ask the courts to "annul contracts secured by the Independent Power Brokers through corrupt practices, and to punish all those involved." He accused former PLN directors of signing contracts with "marked-up prices," even before the devaluations. One former PLN chief, Djiteng Marsudi, said that he had been "forced" to sign such contracts under political pressure.

In fact, as shown below, failure by the Indonesian govern-

ment to meet the terms of these corrupt contracts led to legal proceedings in international courts which simply disregarded the question of the general welfare of the Indonesian people, and ignored rulings by Indonesian courts, while U.S. Ambassador Robert Gelbard and the IMF issued explicit threats of sanctions if the pound of flesh were not delivered.

As a result, the government is now losing billions of dollars every year to the power brokers, while the country descends further into poverty, social divisiveness, and rising levels of violence. Is that California's future under the current deregulation "free-market" policy?

Case Study #1: MidAmerican Energy Holdings

MidAmerican Energy Holdings Company (formerly CalEnergy), owned by Warren Buffett, is both a leading international energy producer and a major player in the deregulated energy markets in the United States and the United Kingdom.

MidAmerican contracted to build two geothermal power plants in Java. One plant was completed, and one was under construction at the time of the 1997-98 collapse in Southeast Asia. When Indonesia put a hold on the incomplete plant, and could not meet the contracted purchases on the other, MidAmerican refused to renegotiate, but took the matter to the United Nations Commission on International Trade Law (Uncitral). This international body ruled in favor of MidAmerican, ordering that Indonesia immediately pay \$572 million to MidAmerican for breach of contract.

PLN responded in May 1999, by filing suit in a Jakarta District Court to annul the Uncitral ruling as having "gravely prejudiced PLN's legal rights by ignoring or misinterpreting the Indonesian laws," according to PLN president Adhi. The contracts, he said, were "clearly specified to be subject to the sovereign laws of Indonesia."

MidAmerican returned to the Uncitral, which simply as-

served its jurisdiction over the dispute, “notwithstanding Indonesian court orders purporting to enjoin the arbitration . . . in violation of generally recognized principles of international law.”

Since Indonesia had no means of paying the extortionists, MidAmerican turned to its insurers, which included the U.S. government’s insurance operation, the Overseas Private Investment Corp. (OPIC), which paid the American firm for its loss in the collapsed Indonesian market. Rather than leaving it at that, the U.S. State Department, behind the thuggish U.S. Ambassador to Indonesia, Gelbard, went to work to collect the blood money.

In July 2000, Gelbard announced that he was “running out of patience” with Indonesia’s tardy repayment to OPIC of the \$290 million it had paid to MidAmerican. “There is always the possibility of declaring expropriation” of Indonesian assets, snarled the diplomat. “If we were to do this, it would result in a dramatic deterioration of the rupiah and would hurt Indonesia very much.”

Case Study #2: Edison Mission Energy

Edison Mission Energy (EME), the international arm of the same holding company, Edison International, which owns Southern California Edison, launched a \$2.5 billion project in Indonesia in February 1994, called Paiton Energy, in partnership with General Electric, Mitsui, and a local firm run by an associate of General Suharto. The total energy production was contracted to PLN, with all costs indexed to the Indonesian rupiah/U.S. dollar exchange rate established at the time the agreement was executed. The 30-year agreement called for PLN to pay 8.4¢ per kwh for six years, declining slightly after that. As with MidAmerican, the entire risk was transferred to the Indonesian government.

After the collapse in 1998, PLN president Adhi called on Paiton to lower its prices, calling the original price a “world-class mark-up.” Adhi pointed out that the “take-or-pay” clause, which held PLN to pay \$995 million per year for “fixed costs,” was enough to develop a new power plant of 600 megawatts each year. After a year of fruitless discussions, PLN went into court in Jakarta to nullify the contract as “unlawful, unfair, and not transparent,” and called on the court to declare the contract “void and not enforceable.”

Paiton then followed the path of MidAmerican’s successful use of “extraterritoriality,” going outside the Indonesian court system, to international arbitration, “to preserve the sanctity of its power-purchase agreement and to protect the interest of its shareholders, lenders, and other credit support providers”—let the welfare of the Indonesian people be damned.

The Central Jakarta District Court appeared to be moving toward a favorable ruling for PLN, when the new government of President Abdurrahman Wahid, under intense pressure from the “international community,” decided to drop the suit, agreeing to an out-of-court settlement. PLN president Adhi and a top assistant resigned.

Case Study #3: Florida Power and Light

In 1994, Florida Power and Light (FPL), in partnership with Caithness Energy (which has recently attached a lien on Southern California Edison for unpaid bills from the debt-ridden utility), contracted with PLN and Indonesia’s state oil firm, Pertamina, to build a 400 MW geothermal plant in West Java. As in all the sweetheart deals with the Suharto regime, all risk was shifted to the government, including a clause which specified that Indonesia would bear the entire burden if the government took any action detrimental to the project. Between 1994 and 1998, FPL and its other foreign partners spent \$93 million for onsite search, testing, and other preparatory measures, but had not begun construction when the crisis hit, causing the government to cancel the project, in January 1998.

FPL took the case to the UN arbitration board, which not only awarded FPL its entire invested capital (since, of course, these “free trade” deals bore zero risk), but awarded them an additional penalty of \$150 million, for “lost profits”—i.e., profits they could have extracted had the project gone through.

In February of this year, FPL took the case to the U.S. District Court in the Southern District of Texas, with a petition to confirm the award and enforce payment. Why Texas? Because Pertamina has property and assets in Texas—the same assets Ambassador Gelbard had threatened to seize for MidAmerican—which FPL plans to grab for itself if the Indonesians refuse to wring the unearned profits out of the bare sustenance of the population.

Other Cases: Enron

There are other cases. Enron, the power broker now at the center of the energy looting process in the United States, signed an agreement in 1996 to build a power plant in East Java, which was to begin construction in late 1997. When the contract was cancelled after the crisis, Enron walked away with \$15 million. And there are more. Indonesia, with half its population suddenly thrust into poverty, with ethnic and regional conflicts tearing at the very structure of the republic, has been forced to bear the entire burden of the foreign “shareholders’ value.”

For the year 2000, PLN posted losses of \$2.2 billion, adding drastically to the nation’s overall, intolerable debt burden—and there is no indication that the looting process will end in the foreseeable future. Wherever the sovereign regulation of utilities are manipulated, eliminated, or ignored, the power brokers have been proven to follow the lure of fast money, rather than the long-term need for the development of a nation’s infrastructure. That this process destroys the future market for such power industries themselves, seems to be of no concern.

America has watched passively as its friends and neighbors have been financially and economically raped, often in its name. Will we remain passive, now that the rapists have turned their sights on California?