Legal Eagle

Feds Seek Jump in Hydro Rates

PACIFIC NORTHWEST UP IN ARMS

By Gary M. Stern

LET MARKET FORCES determine energy rates. End federal subsidies. The Department of Energy (DOE) is determined to end any hydroelectric subsidies that keep market rates low and artificially drive down energy prices. As expected, a DOE proposal to change the rates charged by the Bonneville Power Administration (BPA), Western Area Power Administration and Southeastern Power Administration, is facing concerted opposition. A powerful group of public utility commissioners, trade and consumers groups and politicians — mostly from the Northwest — is vowing to squelch the proposal before it gains momentum and end prospective rate hikes.

Springing from the federal government's Office of Management and Budget (OMB), the DOE's proposal would move hydroelectric rates to market level starting in 2006 for five years. "The power marketing administration was created for a certain purpose in the 1930s, but the market has changed," says Joe Davis, a DOE spokesman. "We'd like to level the playing field, and we'd like more money returned to the federal treasury to help reduce the deficit."

While the proposal caps rate increases at 20 percent each year for five years, other details are still being worked out.

What effect would this move to market rates exert on the country? Dustin Johnson, a Republican elected public utilities commissioner in Pierre, S.D., says if passed, the bill would have a devastating impact on millions of Americans. "Currently, rates are based on the cost of production," Johnson says. "That deal was brokered, and it worked. It allows power marketers to pay off debt."

According to Johnson, if the proposal were enacted, it would squelch economic development in many states. In South Dakota, for example, nearly 20 percent of its 800,000 population would be affected. Exemplifying the resistance to the proposal, 50 public utility commissioners — regulators who usually shy away from controversy — wrote a letter to the DOE and OMB opposing its move to market rates.

"It would affect 70 percent of the nation and consumers in 33 states," declares Patrick Lavigne, manager of media relations for the National Rural Electric Cooperative Association (NRECA), a trade organization of 900 electric cooperatives based in Arlington, Va., whose members would be hard hit by the proposal. "It doesn't affect the Northeast, but the dams of these power marketers affect the rest of the nation."

In fact, a study conducted by the Northwest Power Planning and Conservation Council in January 2005 concludes that if the bill passes, 13,000 jobs could be lost, says Jerry Leone, who retired in April 2005 as manager of the Public Power Council, a Portland, Ore.-based trade association of 114 consumer-owned utilities. If BPA in the Northwest were to raise its rates to market levels, it would trigger a $59 million increase in state tax revenue but a $275 million drop in federal personal income tax revenue.

For many small businesses already facing a severe upturn in health costs, this electric power increase would have damaging repercussions. "If you own a dairy farm or a Dairy Queen franchise and depend on electricity, your cost of business will rise," Lavigne says.

Seattle City Light, a municipal distribution utility serving 350,000 customers, says that the price increase couldn't be determined at this time. William Gaines, its deputy superintendent for power management, says he expects BPA's rates to rise from $30 to $50 a megawatt hour — an increase that would cost its customers an additional $80 million to $100 million a year or 17 percent. Since BPA sells power to more than 60 percent of all residential and industrial customers in the Northwest, the rise would have a detrimental effect on its economy.

Some experts, however, argue that opponents of DOE's proposal are exaggerating price increases — when in fact there might not be any rise at all.

"Will prices increase?" asks Dick Munson, executive director of the Northeast Midwest Institute, a regional policy center in Washington, D.C. "No one knows. Opponents say 20 percent increases, but introducing 11,688 megawatts of hydroelectric capacity on the open market would cause the region's market price of power to fall."

He disputes opponents' contention that the price of power would simply rise to current market levels. In fact, Munson says that moving hydroelectric power rates to market levels could improve efficiency in the Northwest. Since so much of electricity costs are subsidized, people waste electricity, even keeping their fluorescent lights on through the night. "People

News ***Flash***>>

www.energycentral.com

FIRST ENERGY AGREEMENT

FirstEnergy Corp. will make more than $1 billion worth of improvements at four power plants in Ohio to curb pollution. The investment will settle six years of legal battles with state and federal officials.

It will pay fines amounting to $8.5 million stemming from alleged violations of the Clean Air Act. The announcement represents the ninth settlement between federal agencies and coal-burning utilities.

According to the *Wall Street Journal*, FirstEnergy is not sure how it will pay for the improvements.

in the Northwest think it's a God-given right to have cheap electricity provided by the government," Munson adds. "They have a wonderful deal, through subsidized electricity, and they will do anything to maintain it."

One insider reveals that the average electricity bill for homeowners in Oregon is $70 a month — about one-third the cost of heating in the Northeast. Even if rates were to rise 20 percent a year, it would take years to reach levels comparable to those in other parts of the country.

DOE is operating under a false impression regarding market rates, says Bob Jenks, executive director of the Citizens' Utility Board of Oregon, a Portland, Ore-based consumer advocacy group representing residential customers.

"For most publicly or investor-owned electric companies, rates are based on cost of service," Jenks says. "Only some states have decided on deregulation. When you invest in resources like hydroelectricity, there are upfront costs that are paid over time. If you put something at cost, it amounts to a subsidy. That means most ratepayers are being subsidized."

DOE's Davis counters that power marketers' rates have been subsidized because "they've got preferred interest rates from the Treasury on transmission and infrastructure projects. Since they get lower rates on borrowing, that is in effect a subsidy."

Lavigne doesn't think the proposal will ever be voted on. "It's truly unpalatable to many parties," he says. "The Pacific Northwest is still reeling from the overcharges and price manipulation of Enron and others, and now you're talking about increasing power costs 12 percent or more a year."

The opposition is very organized and boisterous, says Lavigne, who considers the proposal a "backdoor" tax increase. "OMB has historically seen raising electric rates as a way to increase revenue," he says. "Instead of raising taxes, it's a way of taxing consumers without having members of Congress vote on a tax bill."

The Northwest congressional delegation and its governors are united in opposition to the proposal, "We think there's a slim chance of it passing," Leone says. "It's not a zero chance, but very low, judging from what most politicos have said."

This is neither a Republican nor Democratic issue, Jenks maintains, because voters on the left and right and businesses and residential customers oppose it.

"It's causing an economic disaster so that everyone from Montana, Idaho, Washington or Oregon is opposed to it," he says.

Even Sen. Pete Domenici, the Republican chairman of the Senate Energy and Natural Resources Committee, isn't happy with every aspect of the president's budget request. "I think the push to make Power Marketing Administration's charge market-based rates is politically untenable," he says.

Since Congress is focused on the budget and Social Security, energy bills might stall in 2005, Munson suggests. However, if the bill makes it out of the Energy Committee in 2006, Congress might approve it. When you consider that people in the Northeast and other parts of the country are paying three times these monthly electric rates, Munson believes it might pass.

If this bill is enacted into law, it could trigger increases nationwide beyond the Northwest, Jenks says. "If the administration belief is setting rates based on costs is improper and represents a subsidy, and they appoint commissioners of FERC who oversee natural gas and electricity, which has a large stake in transmission, they can push that philosophy down the chain," he says. "It would lead to raising rates since electricity can't be stored, and prices will always be volatile. That would have repercussions for all electricity customers, beyond the power marketers."

Davis, on the other hand, thinks the proposal is sensible. "Our proposal would cap increases, and not do away with or abrogate any (power marketing) contracts," he says.

Stay tuned; the battle is just beginning.

Legal Eagle

GATHERINGS

www.energycentral.com/events

To view any of these events, please go to www.energycentral.com/quicklink and type the quick link code into the quick link box.

MAY 25

Spinning Green Energy into Gold: Implementing Pennsylvania's Alternative Energy Portfolio Standards Act
Mechanicsburg, Pa.
Quick link code: E11498

JUNE 16 — 17

Tribal Energy Northwest
Seattle
Quick link code: E11973

JUNE 27 — 28

2nd Annual Utility Mergers and Acquisitions Conference
New York
Quick link code: E11805

JULY 11 - 12

Municipal Broadband
Nashville, Tenn.
Quick link code: E11974

JULY 14 — 15

Energy in the Southwest
Santa Fe, N.M.
Quick link code: E11975

AUGUST 11 — 12

Energy Efficiency and Renewables
Seattle
Quick link code: E11976

Experience the power of LexisNexis®.

Strategic business information for the energy professional.

When it comes to generating business, nothing carries the dynamic force of strategic industry information. With LexisNexis, you get access to information giving you the power to:

Make smart market decisions by monitoring economic trends, factors that affect demands for power, and competitors' profiles, financials and R&D efforts.

Energize strategic planning by tracking emerging trends in generation/transmission/transport, new service offerings, and opportunities for acquisitions and partnerships.

Protect your business by staying informed of local, regional and national events, regulatory activities and environmental issues.

Power up your free trial at www.lexisnexis.com/energybiz. It's easy and hassle free. Or call 1-800-227-4908 for more information.

LexisNexis®
It's how you know™

the power to get there