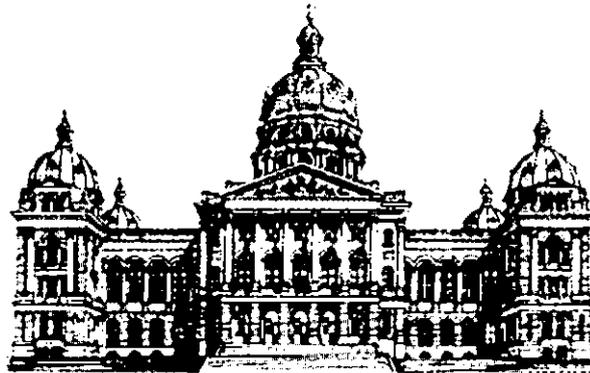


FINAL REPORT

**DEREGULATION AND RESTRUCTURING
OF THE ELECTRIC UTILITY INDUSTRY
STUDY COMMITTEE**



Presented to the
LEGISLATIVE COUNCIL
and the
IOWA GENERAL ASSEMBLY
June 1999

Prepared by the
LEGISLATIVE SERVICE BUREAU



Legislative
Service
Bureau

FINAL REPORT

Deregulation and Restructuring of the Electric Utility Industry
Study Committee
June 1999

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AUTHORIZATION AND APPOINTMENT

The Deregulation and Restructuring of the Electric Utility Industry Study Committee was established by the Legislative Council. The Committee was authorized to conduct five meetings during the 1998 Interim.

1. Committee Charge.

Review the actions of other states in deregulating and restructuring the electric utility industry and other states' experiences in enacting legislation for this purpose. Consider the potential impacts of deregulating and restructuring upon electric utilities and commercial, business, and residential consumers. Develop recommendations regarding deregulation and restructuring of this industry.



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2. Overview of Committee Proceedings.

The Committee held meetings on October 19 and 20, 1998, November 23 and 24, 1998, and December 15, 1998. The Committee received extensive testimony at each meeting from a variety of persons. The Committee made no formal recommendations at the conclusion of its study, but did encourage a group of affected stakeholders that had been meeting in an attempt to develop proposed legislation to continue their efforts and submit a legislative proposal to the General Assembly as soon as possible.

3. Testimony Received.

a. October 19 and 20 Meeting.

Stakeholders Group. Mr. James Aipperspach, Iowa Association of Business and Industry, provided a summary of efforts being made by a group representing eight different entities affected by restructuring to develop proposed legislation restructuring the electric utility industry. He indicated that this group planned to complete its work and draft legislation prior to the convening of the 1999 Legislative Session. He briefly described the process used to develop their proposal. The group provided an overview of the proposal at the study committee's final meeting.

Iowa Utilities Board. Mr. Alan Thoms, Chairperson, Iowa Utilities Board (IUB), highlighted several issues he believes the Legislature must recognize if it restructures the electric industry, including reliability of electric service, market structure and power, customer focus, public benefits, environmental assessment, and transition costs and benefits.

Iowans for Choice in Electricity (Panel Presentation). This panel included a variety of perspectives concerning restructuring:

◇ Mr. James Henter, Iowa Retail Federation and President of Iowans for Choice in Electricity (ICE), informed the Committee that 17 states have implemented restructuring. He indicated that 31 states have lower residential rates and that 24 states have lower commercial rates than Iowa. He indicated that industrial customers in Iowa currently have good rates compared to other states.

◇ Mr. George Anderl, Genecor, International, and representing the Large Energy Group (LEG), a group consisting of primarily large industrial and commercial electricity users who support restructuring of the electric utility industry, indicated that protections for residential customers must be included in the restructured environment.

◇ Mr. Jerry McKim, Iowa Community Action Association, indicated that residential customers must be engaged in the discussion of restructuring. He stated that this class of user is not represented in the current discussions.

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◇ Ms. M.J. Dolan, Iowa Association of School Boards (IASB), discussed the Iowa Joint Utility Management Program (IJUMP), which is a program designed to provide more dollars for instruction as a result of savings realized through pooled purchasing of natural gas and electricity. She also indicated that IASB supports deregulation so that IJUMP and individual schools can save additional dollars through lower energy costs which can then be used for student instruction.

Consumer Advocate. Mr. James Maret, Consumer Advocate, voiced his concern regarding restructuring. He indicated his belief that restructuring is not inevitable and that there is no need to rush implementation at this time. He noted that the restructuring which has occurred around the country has primarily been in high-rate states and that Iowa is a relatively low-rate state which may not benefit from such restructuring.

Iowa Community Action Association. Mr. Michael Coverdale, Iowa Community Action Association, voiced concern that lowans with low or fixed incomes should not be forgotten if the state moves forward with restructuring.

Iowa Brotherhood of Electrical Workers (IBEW) Local 204. Mr. Dan Holub, IBEW Local 204, indicated that the IBEW is not opposed to restructuring, but cautioned that it is not something that the state should rush to implement. He indicated that the Legislature should consider the impact of restructuring on employment levels, stranded costs and the manner in which such costs are written down, establishing benchmark levels of service and reliability, safety issues, greater local control over service standards, and requiring out-of-state electricity providers to provide adequately qualified workers.

Iowa Alliance for Fair Competition. Mr. Charles Gassmann, Iowa Alliance for Fair Competition, indicated that small contractors may be at a disadvantage after restructuring. Cross-subsidization of nonregulated services by revenue generated from regulated services should be prohibited.

Iowa Citizen Action Network. Ms. Lisa Davis Cook, Iowa Citizen Action Network, indicated that deregulation/restructuring must be implemented responsibly, if it occurs at all. She stated that consumer rights, environmental concerns, and energy efficiency/renewable energy resources must be considered. She recommended that under any plan, the Legislature make a firm commitment to renewable energy resources and to programs for low-income consumers.

Iowa Farm Bureau. Mr. Jon Muller, Iowa Farm Bureau, indicated that a restructuring plan must maintain reliability of service, guarantee universal access, and, overall, cause prices to decrease due to competition rather than as a result of structured redistributions.

National Conference of State Legislatures. Ms. Eileen Doherty, National Conference of State Legislatures, provided information concerning restructuring activity in other states, and briefly discussed the issues involved.



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Panel Presentations. A series of panel presentations was conducted as follows:

◇ *End-users Panel.* Mr. Henter stated that restructuring should move ahead as soon as possible. Mr. George Van Damme, Deere and Co., indicated Deere and Co.'s support for restructuring, and provided a list of conditions necessary for restructuring to occur. Mr. Bill Serbousek, PMX Industries, stated that the benefits of competition in a restructured environment would include lower prices, and that an appropriate balance must be found between competition and regulation. Mr. Coverdale stressed the need for equal access to electric service, and indicated that expensive access is not really equal access. Mr. Ron Polle, Office of Consumer Advocate, indicated that customer choice must mean meaningful customer choice for all customers.

◇ *Retailers.* Mr. Brent Gale, MidAmerican Energy, provided an overview of the roles, rights, and responsibilities of retailers in a restructured market. Mr. Brad Roos, Denison Municipal Utilities, indicated that independent ownership or operation of transmission facilities is necessary in a restructured environment to prevent an abuse of market power. Mr. Dennis Murdock, CIPCO, expressed concerns regarding limitations on the ability to compete, as well as concerns regarding public "slamming." Ms. Sue Landwehr, Enron Corporation, stated that Enron is the largest wholesaler of electricity in the United States and that Enron would like to see competition in Iowa as soon as possible.

◇ *Delivery Service Providers.* Mr. Erik Madsen, Alliant Energy, provided an overview of the roles, rights, and responsibilities of delivery service providers in a restructured market. Mr. Colin Hansen, Iowa Association of Municipal Utilities, stated that restructuring legislation should provide for local control in setting rates, terms, and conditions. Mr. Murdock also stated his support for local control of rates and complaint processes.

◇ *Generators.* Ms. Landwehr provided an overview of the roles, rights, and responsibilities of generators in a restructured market. Mr. Bob Haug, Iowa Association of Municipal Utilities, discussed new types of generation, including fuel cells, thin-filmed technology, and wind. Mr. Murdock urged the Committee not to consider divestiture of generation facilities as a requirement of restructuring. Mr. Gale indicated that electric generation is not a monopoly and that most generation facilities are jointly owned. He also indicated that some Iowa providers currently rely on out-of-state generation sources to satisfy a portion of the total energy demands of their customers.

◇ *Regulators.* Ms. Lisa Stump, Iowa Utilities Board Staff, provided an overview of the regulator's role in a restructured market. She briefly discussed issues including reliability of service, market structure, customer education and protection, public benefit programs, and transition costs and benefits. Mr. Polle expressed concern that if restructuring legislation is enacted, it could be two to three years before all consumers would have an effective choice of suppliers. He stated concerns regarding the ability of the IUB to effectively regulate out-



of-state electricity suppliers in a new market environment. Mr. Haug indicated that the owners and customers of a municipal utility are the same. Mr. Bob Swindell, Iowa Association of Electric Cooperatives, stated that government intervention should be kept to a minimum as competitive markets develop.

b. November 23 and 24 Meeting.

Issues Background. The Study Committee received background information on a variety of issues associated with restructuring, including the following:

◇ *Consumer Issues.* Ms. Stump, Mr. Polle, and Ms. Susan Weinstock, American Association of Retired Persons (AARP), provided an overview of some consumer-related issues which may arise as a result of restructuring. Ms. Stump briefly reviewed the issues regarding the default provider, the provider of last resort, standard offer service, licensing of suppliers, disclosures to consumers, customer privacy, and low-income assistance, among others. Mr. Polle briefly reviewed a proposed consumer bill of rights for a restructured market. Ms. Weinstock urged the Committee to proceed cautiously, and averred that customers who do not benefit as a result of restructuring should not be required to pay for stranded costs of utilities.

◇ *Market Power Summary.* Ms. Stump provided a summary of issues relating to market power which may arise in a restructured marketplace. She indicated that market power is the ability to increase profits by setting prices above competitive levels and restricting output below competitive levels in a particular market. She reviewed what other states have done to address this issue in a restructured electric utility industry.

◇ *Retail Marketing Areas.* Mr. Kenneth Rose, National Regulatory Research Institute, Ohio State University, provided an overview of retail marketing areas, a concept for deregulation developed by the Institute which is under consideration in Ohio. Under the proposal, the state would be divided into geographic areas and a bidding process would be used to select a supplier for each area.

◇ *Illinois Experience.* Mr. James Monk, Illinois Energy Association, provided an overview of the process and events which occurred during Illinois' passage of utility restructuring legislation.

◇ *Renewable/Conservation Issues.* Ms. Nancy Lange, Izaak Walton League, reviewed the concerns regarding restructuring. Mr. Floyd Barwig, Director, Iowa Energy Center, Iowa State University, detailed the activities of the Center. Ms. Sharon Tahtinen, Department of Natural Resources, reviewed the activities of the Department regarding energy efficiency and increased use of alternative energy resources.

◇ *Transition Costs/Benefits.* Mr. Stuart Ormsbee, Iowa Utilities Board Staff, provided an overview of the concepts of transitions costs and benefits



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and explained the Iowa Utilities Board Staff model for determining transition costs and benefits. He defined transition costs as those costs associated with investments and contractual obligations undertaken by utilities pursuant to their historical responsibilities. A panel discussion followed.

c. December 15 Meeting.

Stakeholders' Group Legislative Proposal. The Study Committee, at its final meeting, received an overview of a potential legislative proposal which is being developed by a group of stakeholders affected by restructuring. Mr. Aipperspach coordinated the presentation, which included a presentation of issues on which apparent agreement has been reached by the stakeholder group as well as identification of issues on which the group will attempt consensus. Mr. Aipperspach was joined by representatives of the various entities who have participated in these discussions to some extent. Entities participating in these discussions include MidAmerican Energy Company, Alliant Utilities, Iowa Association of Electric Cooperatives, Iowa Association of Municipal Utilities, Iowans for Choice in Electricity, Iowa Utilities Board, Office of Consumer Advocate, Iowa Farm Bureau, and International Brotherhood of Electrical Workers (IBEW) Local 204.

Proposal Overview. Issues reviewed were divided into two basic areas: issues associated with the "end-state" of the electric utility industry after restructuring is fully implemented, and those issues associated with the transition period from a regulated industry to a competitive one.

"End-state" Issues. "End-state" issues where there is apparent agreement among the stakeholder's group include the following:

◊ *Delivery Services (Transmission and Distribution).* Assigned delivery service areas would be maintained. Delivery services would remain regulated and would be "unbundled" from the generation function. Regulated rates for delivery services would be posted electronically on a Utilities Board site. There would be a regulated provider of last resort to assure service to all Iowans. Comparable and nondiscriminatory access to the grid must be assured.

◊ *Protections.* Safe and reliable service must be maintained. The IUB must establish quality of service standards and metering standards. Restructuring legislation must establish targeted protections for residential and small nonresidential end-use consumers and requirements for termination notification by a competitive electric service provider.

◊ *Market Power.* Standards of conduct for delivery service providers and control area operators may be necessary. Separate books and accounts must be maintained for investor-owned utilities' regulated activities. The IUB must maintain jurisdiction over affiliate transactions to prevent cross-subsidization between regulated and nonregulated activities, and to prevent anticompetitive behavior.

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◇ *Generation/Transmission Siting.* Competitive power supply providers must be responsible for obtaining generation plant siting approval. The IUB's authority to site transmission facilities must specifically permit such siting even if the siting does not directly serve an Iowa consumer.

◇ *Remaining Issues.* "End-state" issues needing further discussion include the level of detail of statutory language necessary to implement restructuring, IUB enforcement authority, the Office of Consumer Advocate's role in a restructured market, the level and type of support for public purpose programs, market power controls and remedies, and issues related to electric utility workers.

Transition Issues. Transition issues being addressed in the discussions include the following:

◇ *Consumer Education.* Consumer education is necessary and should be the responsibility of the Utilities Board. Although the stakeholders agree that consumer education must occur, they have not yet determined the amount and source of funding necessary to accomplish that education.

◇ *Rate Unbundling.* Competitive electric services must be unbundled from regulated services.

◇ *Customer Information.* There must be no release of consumer credit information. A regulated entity must not be required to issue publicly customer data which is not compelled under statute or rule, to customize data formats, or to aggregate data.

◇ *Timing.* Market pricing of competitive electric services must be available on the first day choice is available. The IUB must have restricted authority to suspend any transition schedule. Issues associated with timing that remain for further discussion include the start date of competition, whether restructuring will be phased in (resulting in some consumers being permitted choice of providers of competitive electrical services prior to others), or whether it will be implemented for all consumers at the same time (i.e., a flash-cut).

◇ *Standard Offer Service.* A standard offer service must be available to residential and small nonresidential consumers. The rates for such service must be regulated by the IUB. Further discussion is needed regarding the duration of the availability of standard offer service, whether rate caps should apply to such service, the definition of "small nonresidential consumer," and market conditions that must exist prior to elimination of standard service.

◇ *Transition Cost/Benefit Recovery.* The IUB must have authority over the amount and timing of investor-owned utilities' nuclear decommissioning funding. The Utilities Board must determine which regulatory assets and liabilities of the investor-owned utilities are currently reflected in rates. Further discussion is needed with respect to the identification and quantification of



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transition costs, relevant considerations associated with transition costs, and the amount and timing of recovery of transition costs. Further discussion will also occur concerning the securitization of such costs.

4. Committee Recommendations.

The Committee made no formal recommendations.

5. Written Materials Filed With the Legislative Service Bureau.

- ◆ Rules of procedure as adopted by the Committee, distributed by Mr. Mark Johnson, Legislative Service Bureau.
- ◆ Videotape "Power Switch," filed by Mr. Dan Holub.
- ◆ The pamphlet "Will Deregulation Short-Circuit North American's Electric Power Supply," filed by Mr. Dan Holub.
- ◆ Community Action Agencies in Iowa (1997 Annual Report), filed by Mr. Michael Coverdale.
- ◆ Paper submitted by the Iowa Community Action Association, filed by Mr. Coverdale.
- ◆ Electric deregulation testimony by IASB, filed by Ms. M.J. Dolan.
- ◆ Document describing LEG (Large Energy Group), filed by Mr. George Anderl.
- ◆ Handout describing biomass energy and wind energy, filed by Ms. Lisa Davis Cook.
- ◆ Comparison of Selected Electric Restructuring Legislation (National Conference of State Legislatures), filed by Ms. Eileen Doherty.
- ◆ Handout "Electric Utility Restructuring: An Overview."
- ◆ Handout "Iowa Association of Municipal Utilities Restructuring Working Group," filed by Ms. Julie Smith.
- ◆ Handout "Iowa Electric Industry Restructuring," filed by Mr. Brent Gale and Mr. Erik Madsen.
- ◆ Handout "Iowa Restructuring Legislation, Roles, Rights, and Responsibilities in the End State," filed by Mr. Gale and Mr. Madsen.
- ◆ Presentation Handout, Consumer Protections in a Restructured Industry, Lisa Stump, Iowa Utilities Board (IUB).
- ◆ Presentation Handout, Market Power in a Restructured Electricity Industry, Lisa Stump, IUB.
- ◆ Personal Background, Mr. James Monk.

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- ◆ Summary of Illinois' Electric Service Customer Choice and Rate Relief Law of 1997.
- ◆ Presentation Handout, Policy Options for Iowa in a Restructured Electric Utility Industry.
- ◆ Presentation Handout, Stranded Cost Issues Associated with Nuclear Energy, Alliant Utilities.
- ◆ Presentation Handout, Transition Costs and Benefits, Stuart Ormsbee, IUB.
- ◆ Presentation Handout, The Year 2000 Project Plan, Alliant Utilities.
- ◆ Brochure, FYI: Year 2000, Alliant Utilities.
- ◆ Information Packet, FYI Year 2000, Alliant Utilities. Presentation Handout, Federal Initiatives, William Smith, IUB.
- ◆ Position statement: Consumer Protections/Consumer Bill of Rights, Office of Consumer Advocate.
- ◆ Written Statement of Remarks, Susan Weinstock, AARP.
- ◆ Written Statement of Remarks, Duane Armstead, Greenfield Municipal Utilities.
- ◆ Written Statement of Questions & Answers, Eileen Doherty, NCSL.
- ◆ Written Statement of Remarks, Bob Haug, IAMU.
- ◆ Written Statement of Remarks, Dennis Murdock, CIPCO.
- ◆ Update on Restructuring Activities in the States as of September 1, 1998, NCSL.
- ◆ The Great Ratepayer Robbery, How Electric Utilities Are Making Out Like Bandits at the Dawn of Deregulation, Safe Energy Communication Council, Fall 1998.
- ◆ Chart: Capacity Factors for Electric Utility Generating Units in Iowa, IUB.
- ◆ Chart: Reserve Margins, IUB.
- ◆ Presentation Handout, Electric Restructuring: A Legislative Approach, Mr. Jim Aipperspach, Iowa Association of Business and Industry (ABI).
- ◆ Glossary of Terms (10/8 Draft); ABI.
- ◆ The Costs of a Universal Service Fund in Iowa, Iowa Community Action Association.
- ◆ Draft Model Language: Employee Transition and Reliability/Service Standards, Dan Holub, IBEW Local 204.

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