

# Restructuring - New Mexico

## PRINCIPLES FOR RESTRUCTURING THE ELECTRIC INDUSTRY

The electric power industry in the West, as in other parts of the country, is experiencing fundamental change driven by customer demands for choice, lower cost sources of generation and state and federal regulatory reforms to create a competitive electricity market. Some states have already passed laws or promulgated rules to institute retail customer choice in electric power procurement in a competitive market.

This issue has been under study in New Mexico for a few years. The New Mexico Public Utility Commission initiated a rulemaking inquiry on this subject in 1995. The New Mexico legislature, through the Water, Utilities and Natural Resources Committee, has been conducting its own examination for a few years.

I think it is time to act to provide New Mexico retail electric consumers the freedom to choose their electric power suppliers operating in an effectively competitive marketplace. It appears to me that the following principles, at a minimum, should be addressed in any proposed legislation to institute retail electric customer choice in New Mexico:

1. Establish a firm date by which all New Mexicans will be able to choose their electric power supplier;
2. Maintain or enhance the reliability of New Mexico's electric power system;
3. Institute appropriate consumer protection measures;
4. Minimize market power by encouraging fair and effective competition;
5. Ensure environmental protection; and
6. Stabilize rates for customers during the transition to a competitive market.

DONE AT THE EXECUTIVE OFFICE THIS  
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### **PRINCIPLE 1: Establish a firm date by which all New Mexicans will be able to choose their electric power supplier.**

A firm date will help all stakeholders take appropriate measures.

- Customers with contracts can give cancellation notices;
- Power marketers and suppliers can initiate steps to enter the market;
- Utilities can initiate cost reduction measures to reduce outstanding debts.

Principles developed by the states of Montana and Washington do not specify a deadline; they direct that a date be determined in the legislation. California's retail choice begins on January 1, 1998. Arizona's plan will be implemented in three stages: 20% - January 1, 1999; 50% - January 1, 2001; 100% - January 1, 2003.

**PRINCIPLE 2: Maintain or enhance the reliability of New Mexico's electric power system.**

Currently, the interconnected transmission network in the West is operated by utilities in a cooperative manner. Utilities voluntarily abide by industry-developed reliability standards. In a competitive market, these utilities will be competing with each other, and the cooperative spirit may disappear. Several other competitors, such as power marketers and independent power producers, will enter the market to use the network. All participants should operate under the same reliability directives, developed by public process and enforced by regulators with appropriate penalties for violations. Proper maintenance should be ensured, because under competitive pressures maintenance could be compromised.

**PRINCIPLE 3: Institute appropriate consumer protection measures.**

The New Mexico Public Utility Commission and the New Mexico Attorney General should continue and/or enhance their consumer protection measures. These measures include:

- Licensing and bonding of new power suppliers to prevent "fly by night" suppliers from taking advantage of customers;
- Disclosure of generation sources to enable customer evaluation of supply reliability when choosing their supplier;
- Prohibition of a competitor changing the customer's power supplier and disclosing customer information without the customer's authorization;
- Prevention of unfair trade practices, such as fraud, misrepresentation and price fixing;
- Provision of universal service ( i.e., whoever is willing to pay for service should be able to receive it ) and low income customer assistance.

**PRINCIPLE 4: Minimize market power by encouraging fair and effective competition.**

Effective competition is characterized by attracting multiple power suppliers and preventing market power abuse of any market competitor. If the market is deregulated without ensuring minimization of market power, an unregulated monopoly could evolve which could establish its own (potentially high) prices.

A company which owns generation, transmission and distribution assets and declares the generation portion of the business as competitive could exercise considerable market power and shift costs from competitive areas to regulated areas in various subtle ways. A competitor who owned only generation assets would be disadvantaged. Divestiture of assets or transfer of operational control of two of the three functions to an independent system operator are two possible methods to mitigate market power.

#### **PRINCIPLE 5: Environmental protection should be ensured.**

Compliance with all existing state environmental standards, energy conservation measures and enhanced use of renewable energy resources are included in this category. States have different preferences on promulgation of energy conservation measures and promotion of renewable generation sources.

Free market advocates maintain that choices to implement energy conservation measures should be made by the consumer and that renewable energy generation sources, like all other power sources, should compete in a free market. Mandates for a required percentage of electrical generation from renewable energy resources could contribute to higher average generation costs and be a disincentive for lowering renewable energy costs. If "customer choice" is the cornerstone of electrical industry restructuring, mandates for use of generation sources preferred by some population sectors could inhibit the selection of other "clean" generation sources, such as natural gas, which are not renewable.

Advocates lobbying for mandated renewable energy generation portfolios (a required portion of electric generation from renewable energy sources) claim that long term environmental benefits and independence from foreign oil sources offset the more immediate effects of required renewable generation.

#### **PRINCIPLE 6: Stabilize rates for customers during the transition to a competitive market**

Transition issues, which include "stranded costs", should be resolved by the designated regulatory body. Stranded costs can be defined as the difference between a utility's fixed purchased power commitments and the estimated cost of purchased power in a competitive market.

During the transition period to true competition, customers should not pay higher rates for electricity in exchange for promises of lower rates in the future. Freezing existing rates during the transition period may provide time for utilities to recover some of the uneconomic expenses incurred from investments made and leases arranged prior to industry restructuring.

Quantification of stranded costs requires vast amounts of data and precise computer models for interpreting data. Because stranded cost issues are complex and raise questions of legitimacy of recovery and relationship of costs to past regulatory provisions, many states are choosing to leave resolution of stranded cost issues to the appropriate regulatory body.