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Electric Chairmen Can Throw Switch on Phony Deregulation

By Clyde Wayne Crews Jr.[1]

The local electric power monopoly is the only game in town for consumers, something reformers have been trying unsuccessfully to change for years. The Clinton administration proposal being released April 14 is the latest in years-long string of efforts to bring about federal electricity deregulation. Will 1999 be the year?

Not likely. Electricity competition is being done in by its very advocates in the administration, on Capitol Hill, and on K Street. All proposals so far would allow consumers to select any electricity provider while forcing the former monopoly to deliver the power over its wires. Such "open access" was supposed to have been simple, but its excruciating complexity continues to obstruct reform years longer than necessary.

Got magnets to twirl? You, too, can play! In a misguided effort to ensure that practically everybody with a kite and a key gets to sell their electricity uninvited across everybody else's wires, mandatory access requires overwhelming, crippling regulation. The planners themselves will tell you so, in typical contradictory bureaucratic newspeak: "[E]ffective competitive markets require that FERC be given additional regulatory authority," says the Federal Energy Regulatory Commission to the OMB.[2] As for pro-access lobbyists, they no longer even pretend what they're proposing is deregulation. The Electricity Consumers Resource Council now calls for the entire national grid to be placed under the command of three "regional transmission organizations." (Why not one, or five?) This gathering spiral toward crushing central planning menaces healthy electricity competition and consumer benefits – as well as its advocates' own best interests.

There is an alternative. Consumers are artificially denied access to competitive electricity by state-granted monopoly franchises (typically called "certificates of convenience and necessity"). Policymakers should simply end monopoly franchise protections, affording aggressive newcomers the legal right to bypass local utility franchises and figure out how to serve customers by their own wits. Their options would include pursuing access deals with the (no longer protected) local utility, collaborating with developers to provide growing suburbs with electricity and other services, and sharing telecommunications and railroad rights-of-way. Under competition, some wires will be

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[2] *Report to Congress On the Costs and Benefits of Federal Regulations*, Office of Management and Budget, Office of Information and Regulatory Affairs, 1998, p. 87.

operated on an open-access basis, while others will be proprietary.[3] Would-be competitors could string a wire across my uncle's farm, if the price is right.

The Electric Chairmen to the Rescue? All eyes are on Sen. Frank Murkowski (R-AK) of the Senate Energy Committee, and Rep. Joe Barton (R-TX) of the House Commerce Committee's Energy and Power Subcommittee. If a bill is to happen in 1999, the electric chairmen need to act fast in their spring committee hearings to jettison the open access model. Indeed, every fundamental dilemma raised by open access – stranded costs, state vs. federal jurisdiction, reciprocity, transmission pricing schemes, ensuring reliability – remains as hotly debated as ever.

On the other hand, the chairmen will find few to argue that today's statutory monopoly rights are justified -- and therein lie the seeds of reform. States have no business stopping parties engaging in voluntary trades, and Barton and Murkowski should inform the states of their limitations.

Reject Soviet-style grid planning: Barton and Murkowski should make it clear that competition and profit-making are as important to wires as they are to generation. Few will bother with innovations – including those that perfect reliability – if open access supporters succeed in creating a regulated, inert husk out of the grid. By preempting the profit motive as a driver of tomorrow's advances in transmission and distribution, mandatory access freezes today's grid in time, weakening incentives to adopt emerging technologies, such as silicon switches that allow better control of power flows.

Also threatened by open access are promising renewable sources, including those the Clinton administration favors, and other on-site generation technologies that have little use for the grid at all. These would remain artificially cut off from customers – and investment – thanks to official regulatory sponsorship of the competing "technology" of open access and central station generation. New technologies and reliability require the competitive jolt of an end to monopoly territories.

Some utilities will hope to stonewall competition in deregulated markets, of course. But such holdouts simply provoke rivals to install competing (and better) infrastructure and siphon off business, and invite revenge when they try to garner access deals into distant markets. At most, historical monopoly might justify occasional rifle-shot, not universal, mandatory access.

Embracing a market alternative could help Barton and Murkowski bridge the gap between warring parties and protect consumers to a degree that open access renders impossible. The Chairmen could convince hesitant utilities that accepting an end to franchises – which gives them the right to expand beyond present borders – is far more attractive than losing control over wires altogether. Industrial power users could accept competitive bids immediately without waiting years for open access if they abandon their present ill-advised lobbying strategy.

Our electric chairmen should repudiate mandatory access in favor of market-oriented reform.

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[3] For further detail on competitor's alternatives to mandatory access, please see http:\\www.cei.org.