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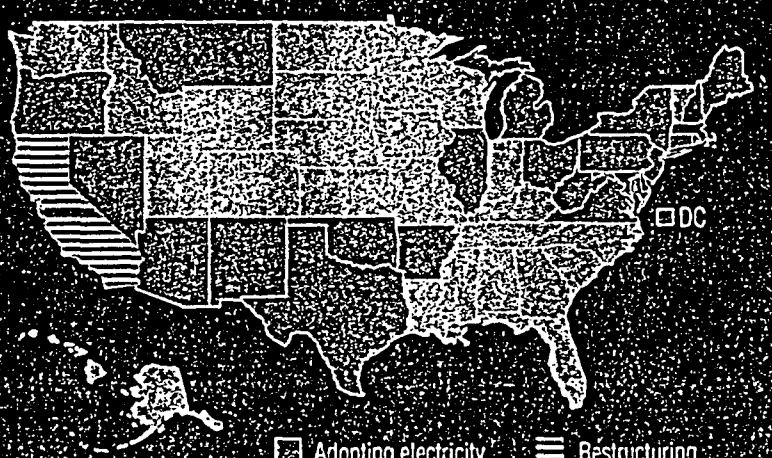
EDISON ELECTRIC INSTITUTE

Electric Competition in the States

A SUMMARY

The most important changes in the history of the electric power industry are happening right now. The industry is being restructured from one that has been highly regulated to one in which there is significant competition among electricity producers and marketers.



Competition gives consumers the power to choose their electricity providers. It holds the promise of spurring development of new products and services and encourages more efficient ways of producing power to fuel America's economy.

So far, 23 states and the District of Columbia have adopted retail competition. These initiatives are revealing what works — and what doesn't — in the new competitive marketplace. This booklet provides a snapshot of the status of restructuring activities in the states. Information was current as of March 1, 2002.

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New Mexico*

Based on legislation passed in April 1999, retail electricity choice was to be phased in between January 2001 and January 2002. Utilities could recover no more than 50 percent of their transition costs over five years, and a system benefits charge was to fund low-income assistance and renewable energy projects. The law also mandated separation of generation from transmission and distribution facilities, but divestiture of generation was not required.

On March 8, 2001, the governor signed legislation to delay the start of retail access for five years in response to California's energy crisis. Retail choice for schools and residential customers is now set to begin on January 1, 2007, with all retail customers having choice on July 1, 2008.

New York*

Regulators issued an order to permit retail competition under a phased-in approach beginning in 1998. Dates for starting consumer choice vary according to the restructuring plans of individual companies. Under the order, companies would recover transition costs on a case-by-case basis through a non-bypassable charge.

North Carolina

The General Assembly took no action on restructuring during its 2001 session, and the study commission authorized to research the issue did not meet during the year. No future meetings of this commission have been scheduled, and legislation is not expected to be considered during the 2002 legislative session, which begins in May.

North Dakota

A study was begun in 1997 by the Electric Industry Competition Committee to examine the impact of competition on the generation, transmission, and distribution of electric energy within the state. The committee's work continues, and no recommendations on restructuring or retail competition are expected to be made in 2002.

Ohio*

In July 1999, the state adopted a comprehensive restructuring law starting retail choice for all consumers by January 2001. The law freezes electric rates for five years and cuts residential customers' rates five percent. The law requires use of regional transmission organizations, provides for transition cost recovery, and includes standards of conduct provisions.

Oklahoma*

In 1997, the state adopted a restructuring policy that was to provide for customer choice by July 2002, but retail access could not have begun until the state enacted much more detailed legislation on how to implement restructuring. Implementing legislation that was to fill in the details of the 1997 law was defeated in the 2000 legislative session.

In early June 2001, Governor Frank Keating signed into law SB 440, delaying restructuring and requiring further investigation of the issue. The new law says retail access cannot begin in Oklahoma until a committee assigned to study electric restructuring issues a final report. This report must be completed by the end of 2002. While only the start date in the 1997 law was actually revoked by SB 440, retail access can only begin if a new restructuring enabling law is enacted.

Oregon*

In July 1999, the state enacted a law giving large nonresidential customers direct access by October 2001, and residential and small commercial customers a "portfolio of rate options." The law included provisions for recovery of transition costs, public benefits programs, and standards of conduct.

Governor John Kitzhaber signed HB 3633 into law, postponing the start of retail access from October 1, 2001, to March 1, 2002. Under the new law, the portfolio of rate options, as well as retail access for large customers, will be delayed until the new start date.

Pennsylvania*

Legislation was adopted in 1996 that phased in retail competition for all customers in 2000. The law provides for transition cost recovery, reduced rates

*** Indicates states with final regulatory orders or laws adopting restructuring and retail competition as state policy.**

through refinancing of utility capital, universal service, energy conservation programs, and separation of rates for generation from transmission and distribution services. In April 2000, regulators adopted standards of conduct.

Rhode Island*

Rhode Island was the second state in the nation to adopt a restructuring law that deregulated generation, and the first to actually start retail competition, which began in July 1997. The law provided for recovery of transition costs, including full recovery of nuclear decommissioning costs and purchased power contracts, public benefits programs, and standards of conduct. Another law provided for securitization of purchased power contract buy-outs and buy-downs under certain conditions.

The Rhode Island House of Representatives passed a resolution on May 8, 2001, calling for a review of the state's 1996 restructuring law because of increased prices for electricity in the state. While rates subsequently declined, some customers had experienced increases of as much as 30 percent. The legislature has taken no further action on the issue. One moderating factor was the decline in electricity prices in New England as the year progressed.

South Carolina

The 2000 session of the legislature studied restructuring, but took no action. The legislature did not seriously consider restructuring legislation in the 2001 session, and no action is expected in 2002. The state has electricity rates below national averages.

South Dakota

No electric industry restructuring legislation was introduced in the 2001 legislative session, and none is expected in 2002. The state's Public Utilities Commission says that "there is currently little impetus for electric industry restructuring" in the state.

Tennessee

In 2001, the governor placed a moratorium on applications for siting new merchant generation facilities in the state until new guidelines for their development can be promulgated. The legislature is not expected to consider any type of restructuring legislation in 2002. Tennessee is predominantly served by the Tennessee Valley Authority (TVA), a federal utility that is largely exempt from state regulation.

Texas*

In June 1999, Texas enacted a retail competition law that provided for consumer choice for most residents by 2002, recovery of transition costs, new environmental requirements for older plants, caps on generation ownership, standards of conduct, competitive metering, renewable energy requirements, and a retail pilot program.

While full retail access started as expected in most of the state on January 1, 2002, the Texas Public Utility Commission delayed the start of retail access in several smaller power regions because these areas were not yet ready to begin competition. The panhandle region in the northern part of the state has been exempted by the legislature from having to provide retail competition to customers.

Utah

A legislative task force to investigate restructuring has broadened its focus, shifting away from restructuring and competition. The task force is instead considering Utah's future energy needs and the overall structure of the state's electric industry, including ways to encourage more generating capacity in the state and expand transmission capacity. Industry observers see little momentum to pursue restructuring in the state at the current time, and do not expect the issue to be brought up in the legislature in 2002.

Vermont

In March 1999, a voluntary plan was submitted by Green Mountain Power Corporation and Central Vermont Public Service Corporation to offer customer choice starting in September 2001. This plan was set aside in December 2001, however, when the Vermont Public Service Board reversed its previous position on retail competition and ruled that retail competition was not in the public interest. No further efforts towards restructuring or retail competition are expected in 2002.

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