



LINCOLN ELECTRIC SYSTEM
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June 13, 1997

The Honorable John D. Dingell, Ranking Member
Commerce Committee Democratic Office
564 Ford House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Dingell:

Thank you so much for soliciting Lincoln Electric System's (LES) input regarding retail competition and related issues. I commend you for taking the time to find out how those of us with the responsibility to provide electric service feel about these issues.

Following are the questions you posed and our response to each of them.

- 1. What are your biggest concerns about retail competition? If retail competition has been adopted by the state(s) you serve, or is under active consideration, what position have you taken and why?**

Nebraska is the only all public power state in the country. We enjoy electric rates among the lowest ten percent in the nation. We would be concerned that opening the state to retail competition may drive rates upward rather than maintaining them at their current low level. We would also be concerned if retail competition only benefitted our commercial and industrial customers (those with market power) to the detriment of our residential customers.

LES is participating in Legislative Resolution 455, a legislative study to evaluate the impact of competition and deregulation on Nebraska's public electric utility industry. That study is scheduled to be completed by the end of 1999.

From our perspective, retail competition should meet the following criteria:

- 1) Reliable service for all customers;

- 2) Benefits of competition accrue to all customer classes, not just those with market dominance;
 - 3) Safeguards for abuse of market power by new power suppliers;
 - 4) Local control is maintained;
 - 5) The reliability of power supply and adequacy of the transmission system is maintained;
 - 6) Compensation for legitimately incurred stranded investments, obligations, and benefits; and
 - 7) Elimination of private use restrictions on tax-exempt bonds.
2. **Do you believe Congress should enact legislation mandating retail competition by a date certain, and why or why not?**

No. A one-size-fits-all approach to retail competition will not work. State and local authorities are in a better position to determine how to structure retail competition in a manner that will best benefit customers and local economic growth and development.

3. **Some privately owned utilities assert that public power enjoys a broad range of tax-related and other advantages which independently owned utilities (IOU) do not, and that these would unfairly benefit public power in a competitive retail marketplace. Do you agree? Do IOU's enjoy any benefits public power does not?**

I do not agree that public power enjoys any tax-related advantages. This argument is frequently advanced by the IOU's who want to raise public power's low rates to higher levels that are more in line with the IOU's. This is an ongoing debate that detracts from what the focus should be—which is what is best for consumers.

As a local governmental entity, LES is authorized to issue tax-exempt bonds which provides significant financial benefit to Lincoln ratepayers. We do not pay income taxes because we do not earn an income. We do pay 5 percent of revenues in-lieu-of-taxes to the city, county, and school district. We recently paid a total of \$5.7 million making us the single largest "taxpayer" in the county. While IOU's cannot issue tax-exempt debt, they are able to claim significant tax credits and defer taxes.

I would also point out that public utilities are subject to extensive open meetings and public records laws, which IOU's are not subject to.

4. If Congress were to mandate retail competition, please provide any recommendations you have with respect to the following issues.

a. *Stranded investment:* How should IOU's stranded investment be treated? Does your company face anything similar and, if so, how should it be treated?

To the extent retail stranded investments, obligations, and benefits are legitimately incurred, consideration should be made for compensation. Utilities should be required to mitigate those costs to the extent possible, but in an all public power state like Nebraska, there are no stockholders to pass on or shift legitimate stranded unrecovered costs just the remaining customers.

b. *Reciprocity:* Should Congress consider provisions barring access to markets in states which have adopted retail competition by generators in states which have not? Which interests would this affect, and how?

While the concept seems logical and fair, it may have constitutional implications on interstate commerce and impairment of contracts that we have not yet evaluated.

c. *Local distribution companies (LDC):* Should Congress require unbundling of LDC services in order to subject them to competition?

Unbundling of LDC services may be necessary to assure competitive rates and costs in areas served by IOU's. In the case of public power where the LDC is local, owned by the customer it serves, it seems to me that local ownership and control provide the proper checks and balances to assure responsible and efficient operation.

Of even greater concern, and not addressed in the retail competition discussions of today, is the fact that there will still remain a monopoly, with the very large LDC's serving a majority of the American customers. With the many mergers that have occurred, giant IOU's serve more than one state. This raises the question about effective regulation over the retail delivery system. Competition at bulk power is assured. Fair access and regulation of transmission exists and will further evolve effectively, but final performance of cost effective delivery of electric power at the LDC, in my mind, remains a question. The critical role of public power for more than a hundred years has been "competition by example." That will continue and should be encouraged to expand, because much of the side by side competition of IOU's within the same state or region that once existed has been significantly reduced and may well further disappear with additional mergers.

The Honorable John D. Dingell

Page 4

June 13, 1997

Once again, we appreciate the opportunity to provide input on these issues. I hope we will have additional opportunities for input as this issue proceeds.

Sincerely,

A handwritten signature in cursive script that reads "Walter A. Canney".

Walter A. Canney

LES Administrator

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