

Restructuring in the Rearview Mirror – a 10-Year Retrospective of California's Doomed Experiment with Electric Deregulation. By The Energy Overseer

Making Policy in a Panic

California is experiencing an energy emergency--not just the repeated power system alerts of the past five weeks, but a political emergency that threatens to undo the effort to create a competitive electric services market and instead bring us back to command-and-control regulation.

Ironically, the person who poses the most direct threat to the workings of the evolving market is state Senator Steve Peace, the same person widely credited with forging the (near) consensus landmark law, AB 1890, that set up the open market back in 1996.

Peace has been relatively quiet on energy matters in past months, spending more time on the politically influential budget committees and, I understand, recently proposing a compromise on the issue of "open" primaries following the Supreme Court's rejection of California's populist balloting policy.

In this case, "compromise" does not seem to be part of Peace's lexicon as he pursues a scorched-earth campaign against anyone who dares to stand in his way. As usual, working in coordination with Southern California Edison, Peace is bringing great pressure to bear on other utilities and individuals to bow to his vision of how the market should be working. They are pulling together a formidable consortium of allies from the governor's office and Legislature and enlisting the political operatives who now preside over the California Public Utilities Commission and the Electricity Oversight Board.

Unfortunately for the state and for the electric industry generally, Steve Peace's recasting of the market would be nothing short of a disaster.

Several times, this columnist has warned of the constant threat of "re-regulation" that hangs over the market and the outlines of Peace's re-regulation strategy are becoming clear:

- Arbitrary caps on market prices, possibly made retroactive. The rationale for Peace's \$250/MW cap on Cal-ISO energy and ancillary service is to bring the entire power market back in line. The true agenda is to protect stranded-cost collections.
- Dismantling of the independent board that governs Cal-ISO and resurrecting Edison's WEPEX monster by combining the ISO with the California Power Exchange. Of course, this completely disregards the fact that Cal-ISO and CalPX are federal jurisdiction agencies.
- Confiscation of private property by "taking back the operation of certain peaking plants" that have been publicly auctioned by utilities, or perhaps an executive appropriation of hydro facilities.
- Railroad the construction of new power plants and transmission lines under emergency orders from the governor. "Reliability" will trump careful consideration of the impacts. Local environmental considerations be damned.

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Most dangerously, Peace is targeting individuals for personal and professional destruction. We've seen him do it before--taking an obsessive vendetta against a company such as Commonwealth Energy and turning it into public policy--and the word in the halls is that he is going to try to do it again.

It would be foolish for me to argue that California's electric market is perfectly fine and working exactly as planned. There are significant problems that need to be addressed--immediately.

The transition period was meant to provide a buffer for utilities, consumers and regulators to prepare for a different kind of energy industry. The utilities were granted a four-year period to collect as much money as possible under the guise of recovering stranded costs. Well, it's become obvious that there are no stranded costs, and the generation assets that the utilities feared would be uneconomic in a competitive marketplace have brought in multiples of their book values when put to market.

True enough, the California Public Utilities Commission has been bogged down in the multiple proceedings meant to work out rules for the competitive market and frequently finds itself being outpaced by the rate of market change. Two years into the restructured market, parties still struggle endlessly over details such as direct-access interconnections, the CalPX credit calculation, distributed generation policies and ways of implementing new metering technologies that enable new kinds of services and force consumers to consciously use electricity.

Direct access is moribund, and it is entirely possible that the few energy service providers still active in the market will be forced to give up and return all of their customers to utility service.

Possible market gaming--both by generators seeking to maximize profits and by certain utilities trying to maximize stranded-cost returns--needs to be investigated and prevented through more competition.

Yes, we have a lot to do to make this a workable marketplace. Mid-course corrections to energy policy are justified as long as they don't sink the ship. But the solutions cannot be dictated by a single individual who believes he knows what is best for everyone else. If an emergency action is necessary, it should take the form of a summit, presided over by the governor or his top representative. Possible solutions should be drafted, debated and--if deemed workable and appropriate--acted upon with dispatch **[Arthur O'Donnell]**.

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