A **Coalition** to preserve Wisconsin's Reliable and Affordable Electricity

Customers First! the Wire

Plugging you in to electric industry changes

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Riding the rails

For years, Wisconsin utilities have pointed to railroad shipping costs driving up energy prices. Now, the U.S. Department of Agriculture has released a study (http://www.ams.usda.gov/RuralTransportationStudy) indicating it's seen strong evidence that monopoly rail-service providers have been taking advantage of fuel surcharges to build their bottom line.

The report came just in time for the national Rail Customer Day in Washington, sponsored by Consumers United for Rail Equity (CURE) (*See Matt Bromley's column inside.*) It included what CURE called "dramatic findings about the cost to American farmers and consumers from the lack of competition in the freight rail industry and 'considerable evidence' that freight rail companies used excessive fuel surcharges to artificially boost profits."

Among key findings:

• Rail industry consolidation through mergers has decreased routing choices and competition,

• Almost three-fourths of agricultural areas lost rail competition between 1992 and 2007,

• Between 2001 and 2007, fuel surcharges were 55 percent higher than the increase in the cost of fuel, and

• Service problems and high rates directly affect consumers by driving up electricity prices.

CURE Executive Director Robert Szabo said the report demonstrates that the economy is being harmed by "the current lack of protections against monopoly pricing by freight rail companies."

Senators Herb Kohl (left) and Jay Rockefeller (below) address the CURE rally in a Senate hearing room. Also shown at left is CURE Executive Director Bob Szabo.

Sempra, fie! Settlement saps holding company

San Diego was arguably the epicenter of the California electricity crisis a decade ago and the aftermath is still being felt all these years later: This spring, the local utility holding company, Sempra Energy, coughed up $410 million to settle a lawsuit brought by the state.

California officials alleged that the company padded its profits by rigging prices in the chaotic markets that followed their state's 1998 electric restructuring. Some of that money will now go back where it came from: The settlement orders Sempra Generation and Sempra Commodities—the power-plant and energy-trading subsidiaries of the holding company—to make refunds to consumers.

Last month the company reported first-quarter earnings of $106 million, down two-thirds compared with the same quarter last year, in large part because of the settlement costs.

Sempra also owns San Diego Gas and Electric (SDGE) and Southern California Gas Company. Readers may recall stories in the *San Diego Union-Tribune* during the 2000–01 crisis and photos of office workers enduring rolling blackouts, toiling without lights or air conditioning on sweltering days even as electricity bills were skyrocketing.

Only later did consumers learn that power providers—including the now-defunct Enron—had been gaming the system, keeping generation assets off-line, sometimes on the pretext of contrived maintenance problems, in order to drive up wholesale market prices.

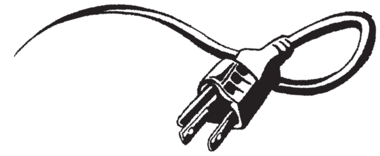
Sempra will now have refunded more than $700 million to consumers. To settle a different lawsuit connected with its behavior during the crisis, Sempra in 2005 agreed to return some $300 million to consumers through price concessions.

Also eating into Sempra's bottom line in this year's first quarter: No earnings from a joint commodities venture with the Royal Bank of Scotland, which had generated more than $300 million in earnings a year earlier, and a $5 million spike in fire insurance rates. The latter expense stemmed from litigation over SDGE's responsibility for destructive wildfires in 2007, traced to poor line-maintenance practices.

THE WIRE is a monthly publication of the *Customers First!* Coalition—a broad-based alliance of local governments, small businesses and farmers, environmental groups, labor and consumer groups, retirees and low-income families, municipal electric utilities, rural electric cooperatives, wholesale suppliers, and an investor-owned utility. *Customers First!* is a coalition dedicated to preserving Wisconsin's reliable and affordable electricity.

If you have questions or comments about THE WIRE or the *Customers First!* Coalition, please call 608/286-0784.

KEEPING CURRENT



With CFC Executive Director Matt Bromley

Freight rail customers from Wisconsin joined others from across the country on Capitol Hill in Washington, DC., last month to voice support for federal rail-reform legislation. Representatives of the state's electric utilities, paper manufacturers, and forest products industries made the trek to the nation's capital on behalf of Badger CURE (Consumers United for Rail Equity), an alliance of 46 Wisconsin businesses and organizations frustrated with excessively high rail rates and inadequate service.

Bromley

The *Customers First!* Coalition is an active participant in Badger CURE because high freight rail rates drive up the price of coal used for power generation, and these costs are passed to ratepayers through higher electric bills. Railroads get away with charging excessive rates because in many parts of the state there are no competitive transportation alternatives available for shippers to move their products. Shippers who are captive to one railroad are subject to that railroad's monopoly or "market power." Analyses of freight rail rates show that captive shippers often pay twice as much or more than shippers with competitive options.

As we report elsewhere in this *Wire*, a recent U.S. Department of Agriculture study on freight rail's impact on rural America shows considerable evidence that the railroads have levied fuel surcharges on shippers that far exceed the actual cost of the fuel.

In our meetings with members of Congress we asked for their help to level the playing field and bring some relief to captive rail shippers by supporting legislation that would allow for more competitive railroad pricing and reliable service. We asked them to support S. 146 and H.R. 233, sponsored by Wisconsin Senator Herb Kohl and Congresswoman Tammy Baldwin, that would repeal the railroads' special exemptions from the nation's antitrust laws. These exemptions have allowed the railroads to avoid competition and keep rates unfairly high.

We also asked our elected officials to reform the Surface Transportation Board, the federal agency that oversees the railroads, in order to increase rail competition, strengthen oversight, and improve shippers' access to regulatory relief. A good step toward accomplishing these goals could come from passage of the Surface Transportation Board Reauthorization Act (S. 2889), a bipartisan bill sponsored by Senator Jay Rockefeller.

In speeches to the rail shippers assembled on Capitol Hill, Senator Kohl, Senator Rockefeller, and Rep. Baldwin vowed to keep fighting to protect consumers from the freight railroads' monopoly power. Let's hope their determination can overcome the railroad industry's extraordinary influence in Congress that has stopped reform efforts in the past.

Crossroads in Connecticut

For the second time in 12 years, Connecticut lawmakers have approved far-reaching changes in the ways electricity is bought and sold in their state. Now it's up to outgoing Governor Jodi Rell to decide whether or not to sign it into law.

At press time for *The Wire*, she'd been contemplating that decision for more than two weeks, and little wonder: *The Hartford Courant* described the bill as "wide-ranging," while New London's *The Day* called it "complex, controversial," and in a *Connecticut Post* op-ed, an energy marketer said it was "sweeping," and also "a dangerous gamble."

So, if you're a Connecticut legislator and you're in the mood for a sweeping, complex, controversial, wide-ranging, dangerous gamble, what would it look like?

It would be about 130 pages long. It would require non-utility energy marketers to pay part of the costs of their customer recruitment, which is now covered by the customers. It would include subsidies for development of solar power. It would apply California energy-

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Offshore wind getting real

The first U.S. offshore wind farm took decisive steps toward actual construction last month, with a pair of needed federal approvals in hand and an all-important long-term power-purchase agreement to help ensure financing.

The first of the two regulatory approvals actually came in April when Interior Secretary Ken Salazar gave the go-ahead for the Cape Wind project in Nantucket Sound. The second came in May when the Federal Aviation Administration issued its finding that the wind farm would pose no hazard to air navigation.

Soon after, the project cleared a big financing hurdle with the announcement that Cape Wind Associates had agreed on a long-term power-purchase agreement with National Grid, the largest power provider in Massachusetts.

National Grid will buy half the output of the 130-turbine array for 20.7 cents per kilowatt-hour beginning in 2013. At press time, Massachusetts regulators were considering whether to approve the deal. The overall project has been strongly supported by state government.

In announcing its approval, the Interior Department said the project, spread over a 25-square-mile expanse of the sound, would have a maximum capacity of 468 megawatts and an average anticipated output of 182 megawatts, serving three-fourths of the electrical demand from Cape Cod, Martha's Vineyard, and Nantucket Island.

Some challenges remain before construction is likely to begin. At least nine potential plaintiffs have lined up to sue, alleging the project would violate at least half a dozen federal environmental laws.

Possible plaintiffs include local government in Massachusetts' Barnstable Township; local fishing clubs; two Wampanoag Indian tribes; and organizations including the Industrial Wind Action Group, The Animal Welfare Institute, Californians for Renewable Energy, the Oceans Public Trust Initiative (affiliated with the Earth Island Institute), and the Lower Laguna Madre Foundation.

It remained to be seen how many, if any of those groups, would pursue litigation to block the project. Cape Wind has been in the process of obtaining regulatory approval and fending off challenges by opposition groups for 10 years.

Production down, prices up?

With most of the electric generation capacity built in the U.S. since the mid-1990s fueled by natural gas, power providers buying electricity on wholesale markets will be watching closely to see if any effects of a change in federal monitoring of natural gas production are trickling through into electricity prices.

It's unlikely there'd be anything to be done about it if they do, since the new system would appear to more accurately reflect reality than the system it recently replaced.

At the end of April, the Energy Information Administration (EIA) unveiled a new methodology in estimating monthly natural gas production. The numbers have been going down.

That's because the prior method was believed to be producing bigger numbers than the actual gas output—by some estimates yielding a margin for error as large as 12 percent, according to a Dow Jones report earlier this spring.

The old method surveyed large producers and made assumptions across the entire industry based on what they reported. As a result, the estimates failed to take into account variations in output from smaller producers and may have reported output that didn't actually occur.

Using the new methodology, the EIA developed new estimates for all of 2009, making a downward revision that grew from -0.3 percent at the beginning of the year to -1.3 percent at year's end. January 2010 estimates for the lower 48 states were revised downward 0.6 billion cubic feet per day, the EIA said. The agency said it started applying the new method to current estimates as of February.

The new methodology, the EIA said, "relies on the most recently available information." Natural gas production "has become much more dynamic in recent years, and making extensive use of more historical data, as EIA did in the past, has become less appropriate," the agency said on introducing the new method at the end of April.

Connecticut

Continued from page 2...

efficiency standards that prohibit the sale of some consumer electronic devices based on their energy consumption in standby mode. It vests regulatory powers in a newly created state energy and technology authority. It sets a goal of reducing electric rates 15 percent in a little more than two years.

Skeptics, including non-utility providers in Connecticut's supposedly competitive retail electricity market, say it could drive rates higher instead of lower, based at least in part on state agency estimates.

The Day said the bill is "an attempt to finally deliver on the promise of retail choice in electricity markets," a choice that theoretically became available in 1998.

"That year," *The Day* said, "many lawmakers voted for a deregulation bill they didn't fully understand, the conventional wisdom now holds. And the promises that deregulation would cut rates turned out to be wrong, leaving elected officials here to explain soaring power bills to angry constituents."

Time—and Governor Rell's decision to sign or veto—will tell whether or not they've done it again.

Energy saver tip

On most summer days a good dehumidifier can be as effective as air conditioning to keep your home comfortable. Look for a high-efficiency model that can give better results than two or more ordinary ones. It will take more moisture out of indoor air and use less energy getting the job done.

Customers First!

P.O. Box 54
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A **Coalition**
to preserve
Wisconsin's
Reliable
and Affordable
Electricity

Be sure
to check out the
Customers First!
web site at

www.customersfirst.org

Quotable Quotes

"I realize that some of you may have been surprised by this, but I strongly believe that the settlement was the best solution to put to rest litigation that has gone on for nearly a decade and could have continued for years to come."

—Sempra Energy CEO Donald Felsinger, explaining to investment analysts his company's decision to pay $410 million to settle with the State of California in a lawsuit over power market manipulation ten years ago, quoted in the *San Diego Union-Tribune*, May 4, 2010

Help us share our messages with others. If you know of businesses or organizations that would like to learn more about protecting Wisconsin's reliable and affordable electricity, please feel free to copy and share with them all or part of this newsletter, or you can call 608/286-0784 to arrange an informational meeting.

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Plugging Wisconsin In