



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group  
Joan Claybrook, President

April 12, 2005

Dear Energy & Commerce Committee Member:

On behalf of Public Citizen and our 150,000 members nationwide, I urge you to oppose any energy bill that includes a repeal of the Public Utility Holding Company Act (PUHCA). This statute has protected electricity and natural gas consumers, utility investors, and the national economy for seventy years. During this period, our nation has enjoyed utility systems that set a standard for the world, and our economy has reflected this.

### **PUHCA Promotes Utility Investment**

The repeal of PUHCA could have untold economic impacts on not only utility consumers, but on the national economy, such as occurred pre-PUHCA in the 1930s. At that time, there were 53 utility holding company bankruptcies, because the owners of utilities could not resist using the captive utility revenues to invest in riskier businesses. The insurance companies, investment banks, and other investors that are itching to get their hands on public utilities again have mounted a huge campaign to convince Congress that investment in utility infrastructure is being limited by PUHCA.

Exactly the opposite is true: PUHCA regulation promotes investment in utilities since investors want protection for their money, and PUHCA prevents investments in riskier, unregulated businesses. **As both *Standard & Poor's* and *Fitch* credit rating agencies pointed out in reports on the utility industry issued in 2004, PUHCA regulation has *protected* electric utility holding companies from bankruptcies, and PUHCA-regulated utilities have much better credit ratings than unregulated plant owners.** In fact, Harbert Distressed Investment Master Fund Ltd. has recently filed a complaint asking the Securities and Exchange Commission to stop granting waivers of PUHCA provisions and instead protect its investment in Allegheny Energy Inc., a PUHCA-regulated utility holding company.

The partial repeals of PUHCA in 1992 have had catastrophic results in many cases, resulting in bankruptcies and the lowering of credit ratings for the entire utility industry by S&P in 2004. Many “merchant power plant” owners exempted from PUHCA have sold power plants, often at “fire sale” prices, to investment bankers and others. For example, Goldman Sachs and other investors bought 25 utility plants and “flipped” them for a reported one billion dollar profit; an AIG subsidiary recently bought 25 power plants from El Paso; and Duke Energy sold 9 plants to a private equity fund. Recovery of

the high profits such investors anticipate can ultimately only come from one place: utility bill payers.

### **PUHCA Prevents an Oil/Electric/Natural Gas Cartel**

PUHCA has also prevented the creation of an oil, electric and natural gas cartel, since it prevents non-utility companies from owning PUHCA-regulated electric and natural gas public utilities. Repealing PUHCA would eliminate any effective method of limiting the size or ownership of such holding companies. The antitrust laws preceded PUHCA, but were unable to prevent three companies from owning half of the nation's utilities in 1929.

### **PUHCA Repeal Would Mean Massive Consolidation of Utilities**

Utility experts agree that repeal of PUHCA will lead to massive consolidation in the electric and natural gas utility businesses. Yet, the Federal Energy Regulatory Commission (FERC) is *deregulating* wholesale electric rates on the theory that there will be increasing *competition* among electric suppliers. This can hardly be the case if a handful of electric and natural gas holding companies can control the vast majority of the utilities in the United States.

Under PUHCA, speculators and investors, such as Warren Buffett, who specialize in big profits for big investors, are not allowed to control public utilities (although they can invest in them), and with good reason. Companies wanting big profits from utilities to pursue other businesses wrecked the utilities of the 1930s and took down hundreds of thousands of investors with them, while raising utility rates.

### **PUHCA Repeal Will Mean Skyrocketing Utility Bills**

In a time of record high gasoline prices, consumers who are faced with rapidly rising electric and natural gas bills that result from massive utility consolidation and the other abuses PUHCA now prevents will react strongly when their electric bills continue to skyrocket – as will happen if the seventy-year protections of PUHCA are eliminated. I urge you to reject any proposed repeal of PUHCA.

Sincerely,



Joan Claybrook

Attachments:

PUHCA At Work Protecting Consumers in 2005