

THE BEST ENERGY BILL CORPORATIONS COULD BUY

On July 28, the U.S. House of Representatives voted [275 to 156 to approve the energy bill](#); on July 29, the US Senate [voted 74 to 26 to approve it](#). And on August 8, 2005, President Bush signed the [final bill into law](#).

Since 2001, energy corporations have showered federal politicians with \$115 million in campaign contributions—with three-quarters of that amount going to Republicans. This cash helped secure energy companies and their lobbyists exclusive, private access to lawmakers, starting with Vice-President Dick Cheney’s Energy Task Force, whose report provided the foundation of the energy bill passed by Congress and signed by President Bush on August 8.

This energy bill will do nothing to address America’s energy problems; rather, it will make matters worse. The United States is one of the largest producers of energy—for example, we are the third-largest producer of crude oil in the world—so our problem is not that we don’t produce enough energy, but that our rates of consumption are among the highest of all countries. Our economic competitors in Europe and Asia typically use half the energy per person than we do, which helps explain why the United States alone uses 25% of the world’s energy every day. Reflecting the fact that energy companies helped write the legislation, the energy bill lavishes these lucrative corporations with billions of dollars of taxpayer subsidies, while doing little to curb energy demand.

In addition to providing billions of dollars to already wealthy oil, nuclear and coal companies, the energy bill abandons consumers by repealing the Public Utility Holding Company Act (PUHCA), one of the most effective consumer and protection laws governing the power sector. With this law now gone, investment banks, hedge funds, insurance companies and oil companies will now be allowed to own utilities, giving these new corporate owners license to raid the utilities’ guaranteed revenue streams for use in leveraging non-utility acquisitions, opening the door to price-gouging of ratepayers.

Below is a summary of the major components of the energy legislation:

OIL & GAS SUBSIDIES: \$6 BILLION

Section 1329

Allows “geological and geophysical” costs associated with oil exploration to be written off faster than present law, costing taxpayers over \$1.266 billion from 2007-2015. The provision claims to raise \$292 million from 2005-06, and cost taxpayers \$1.266 billion from 2007-2015. It originated in the House (there was no such provision in the original Senate bill). Record-high oil prices should provide a sufficient incentive for oil companies like ExxonMobil to drill for more oil without this huge new tax break.

Section 1323

Allows owners of oil refineries to expense 50% of the costs of equipment used to increase the refinery's capacity by at least 5%, costing taxpayers \$842 million from 2006-11 (the estimate claims the provision will actually raise \$436 million from 2012-15). This provision was added by the Senate. Record high prices for oil and gasoline, and record profits by refiners like ExxonMobil and Valero should provide all the incentive needed to expand refinery capacity without this huge tax break.

Sections 1325-6

This tax break allows natural gas companies to save \$1.035 billion by depreciating their property at a much faster rate. This tax break makes no economic sense, as natural gas prices remain at record high levels, and these high prices—not tax breaks—should be all the incentive the industry needs to invest in gathering and distribution lines.

Section 342

Allows oil companies drilling on public land to pay taxpayers in oil rather than in cash.

Sections 344-345

Waives royalty payments for drilling for some natural gas in the Gulf of Mexico.

Section 346

Waives royalty payments for drilling in offshore Alaska.

Sections 353-4

Waives royalty payments for gas hydrate extraction on the Outer Continental Shelf and public land in Alaska.

Section 383

Allows oil companies drilling in federal land off the coast of a particular state to pay the state 44 cents of every dollar it would have paid to the federal government for the privilege of drilling on federal land.

The royalty-in-kind provisions in this section allow corporations drilling for oil on public land to forgo paying cash royalties to taxpayers. Instead, companies provide an amount of the oil as an in-kind contribution to the federal government. Since federal land supplies one-third of the oil and gas produced in the United States, expansion of this program could have a significant impact on the federal treasury.

This proposal has its origins in Bush's National Energy Policy (www.whitehouse.gov/energy/Chapter5.pdf), which requested that the Secretary of the Interior "explore opportunities for royalty reductions."

A recent Government Accountability Office (GAO) report (www.gao.gov/new.items/d03296.pdf), however, criticizes the current royalty-in-kind program, concluding that the government is unable to determine whether taxpayers receive a fair shake from the program. For example, the GAO notes that the pilot program currently "relies upon royalty payors to *self-report* the amount of oil and gas they produce, the value of this oil and gas, and the cost of transportation and processing that they deduct from royalty payments" (emphasis added). The reporting system caused the GAO to express concern about "the accuracy and reliability of these data."

Indeed, the industry's cheerleading for the royalty in-kind program stems from recent court decisions that found U.S. oil companies, equipped with an "honor system" self-reporting system, routinely underreported the volume of oil and natural gas removed from taxpayer land, therefore allowing the companies to cheat the public. By seeking to end cash payments for the privilege of drilling on public land altogether, it appears as though the oil companies are attempting to hedge their losses from the embarrassing court decisions.

In 1998, the Mineral Management Service (www.mrm.mms.gov/RIKweb/) estimated that similar provisions would cost taxpayers between \$140 million and \$367 million every year.

There was a vote on April 21 in the House to strike the section providing a suspension of royalty payments for offshore oil and gas production in the Outer Continental Shelf (OCS) in the Gulf of Mexico, but it failed, 227 to 203 (<http://clerk.house.gov/evs/2005/roll128.xml>).

Title IX, Subtitle J

This section would provide \$1.5 billion in direct payments to oil and natural gas corporations to drill in deepwater wells. This section is a pet project of Texas Republican and House Majority Leader Tom DeLay. It would designate a private entity, Sugar Land-based Texas Energy Center, as the "program consortium" to dole out taxpayer money to corporations. The Texas Energy Center has strong ties to Tom DeLay, with six different executives (Herbert W. Appel, Jr., Robert C. Brown, III, Philip E. Lewis, Thomas Moccia, Ronald E. Oligney, and Barry Ashlin Williamson) giving a total of \$8,000 to DeLay's campaign since March 2004. In addition, three of the Center's executives have given a total of \$4,500 to President Bush's 2004 re-election effort.

The Center's lobbyist is Barry Ashlin Williamson. In 1988, Williamson went to work for the Reagan administration and became principal advisor to the U.S. Secretary of Energy in the creation and formulation of a national energy policy. President George H.W. Bush later chose him to be the U.S. Department Interior's Director of the Minerals Management Service, which managed oil and gas exploration and production on the nation's 1.4 billion-acre continent shelf. Williamson then served as Chairman of the Texas Railroad Commission from January 1993 to November 1995.

The Texas Energy Center will play host to The Research Partnership to Secure Energy for America, whose members include Halliburton and Marathon Oil.

OIL & GAS REGULATORY ROLBACKS

Section 322

Exempts from the Safe Drinking Water Act a coalbed methane drilling technique called "hydraulic fracturing," a potential polluter of underground drinking water. One of the largest companies employing this technique is Halliburton, for which Vice President Richard Cheney acted as chief executive officer in the 1990s. This exemption would kill lawsuits by Western ranchers who say that drilling for methane gas pollutes groundwater by injecting contaminated fluids underground. Only 16 companies stand to significantly benefit from this exemption from clean water laws: Anadarko, BP, Burlington Resources, ChevronTexaco, ConocoPhillips, Devon Energy, Dominion Resources, EOG Resources, Evergreen Resources, Halliburton, Marathon Oil, Oxbow (Gunnison Energy), Tom Brown, Western Gas Resources, Williams Cos and XTO. These companies gave nearly \$15 million to federal

candidates—with more than three-quarters of that total going to Republicans. Moreover, the 16 companies spent more than \$70 million lobbying Congress (<http://www.citizen.org/documents/section29.pdf>).

Section 323

Provides an exemption for oil and gas companies from the Federal Water Pollution Control Act for their construction activities surrounding oil and gas drilling.

Section 311

The section severely limits the ability of local communities and states to have adequate say over the siting of controversial Liquified Natural Gas (LNG) facilities. The section states that the Federal Energy Regulatory Commission (FERC) “shall have the *exclusive authority* to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal” under the Natural Gas Act (emphasis added).

The language is clearly aimed at a July 2004 lawsuit filed by the State of California claiming that FERC illegally ruled in March 2004 that states have limited jurisdiction over the permitting and siting of LNG facilities inside their borders. The lawsuit is being closely watched by other states, where officials have expressed alarm about the inability of state and local governments to have adequate input into these projects. LNG projects are particularly controversial because liquefied natural gas is extremely volatile and dangerous. Even if one supports increasing the number of LNG terminals in North America, there is absolutely no justification for limiting the ability of states and local communities to have control over the permitting and siting of these facilities. (See our Liquid Natural Gas section: http://www.citizen.org/cmep/energy_enviro_nuclear/electricity/Oil_and_Gas/lng/)

LNG proponents claim that states still can veto LNG projects, as they retain jurisdiction over the facilities under the Coastal Zone Management Act, the Clean Air Act and the Federal Water Pollution Control Act. But these three acts have very limited jurisdiction (for example, LNG facilities don't really pollute the water or air, so states have no real ability to raise objections under these laws). The broadest possible law is the Natural Gas Act, so it is no surprise that natural gas companies and their allies in Congress pushed to give FERC “exclusive authority” under the one law (Natural Gas Act) with the most sweeping power.

Language added during the conference committee (meaning it wasn't in either the original House or Senate bills) gives the Department of Defense veto authority over LNG projects proposed near military bases, directing FERC to “enter into a memorandum of understanding with the Secretary of Defense for the purpose of ensuring that [FERC] coordinate and consult with the Secretary of Defense on the siting, construction, expansion, or operation of liquefied natural gas facilities that may affect an active military installation.” FERC is further required to “*obtain the concurrence of the Secretary of Defense* before authorizing the siting, construction, expansion, or operation of liquefied natural gas facilities affecting the training or activities of an active military installation” (emphasis added).

But a similar proposal in the Senate to provide states with these exact rights now given to the DoD was rejected by a vote of 52 to 45

(http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00146) (a “yea” vote is bad, in that it was a vote to kill, or table, the amendment that would have forced FERC to get the approval of states to permit LNG facilities).

The House also rejected an amendment that would have removed this section entirely, thereby preserving the status quo and allowing the state of California to continue its challenge in federal court (<http://clerk.house.gov/evs/2005/roll131.xml>) (so an “aye” vote is good, as it was to remove the entire LNG section).

Section 357

Authorizes a survey of the oil and natural gas available underwater off the coasts of states. This is the first step in opening these areas to more drilling. There was an amendment to strike this language that failed 52 to 44

(http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00143).

Section 390

Increases the ability to exclude a broad range of oil and gas exploration and drilling activities from public involvement and impact analysis under the National Environmental Policy Act.

Section 381

Limits the ability of states to protect their coastlines from oil and gas exploration by limiting their appeals process under the Coastal Zone Management Act.

Section 369

Mandates that the federal government make available oil shale and tar sands extraction on federal land for oil companies.

COAL SUBSIDIES: \$9 BILLION

Section 1307

Provides \$1.612 billion in tax credits to invest in new coal power plants.

Section 1309

Provides \$1.147 billion in tax breaks for owners of coal power plants to install pollution control equipment.

Section 401

Authorizes the appropriation of \$1.8 billion of taxpayer money to help build a new fleet of coal power plants.

Section 421

Authorizes the appropriation of \$3 billion of taxpayer money to help build a new fleet of coal power plants.

Section 962

Authorizes activities that will cost \$1.137 billion of taxpayer money to help make coal power a cost-competitive source of power generation.

Section 963

Authorizes the appropriation of \$90 million to research ways to sequester carbon dioxide emitted from coal power plants.

Section 964

Authorizes activities that will cost \$75 million to help develop new coal mining technologies.

Title XVII

Authorizes spending of hundreds of millions of dollars in loan guarantees to build new coal and nuclear power plants. The Senate voted on June 23 by a vote of 76 to 21 to keep this section in the bill (http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00155).

Section 411

Provides taxpayer-guaranteed loans for a coal project. The most likely beneficiaries of this provision are North Dakota-based Basin Electric Power Cooperative and Ohio-based Nacco Industries. Basin Electric Power Cooperative owns the Great Plains Synfuels facility in Beulah, North Dakota, an alternative fuels plant originally financed mostly by the federal government and later sold to the Cooperative for a fraction of the amount invested in the plant. The plant gasifies lignite coal to produce synthetic natural gas as well as fertilizers and other chemicals. Nacco Industries would benefit from the loan guarantees because it has long-term contracts to supply Basin Electric with lignite from the nearby Freedom Mine, which Nacco owns. In addition, Basin Electric and Nacco Industries co-own the Antelope Valley Station, a coal-fired power plant at the same location as the Great Plains Synfuel Plant and the Freedom Mine. Since 2001, Basin Electric and Nacco Industries have contributed over \$100,000 to federal politicians, with contributions evenly split between Republicans (51%) and Democrats (49%).

Section 412

Lends \$80 million to the Healy Plant in Alaska to convert an existing “clean coal” plant into a regulator coal plant.

Section 413

Senator Larry Craig, on behalf of Senator Ken Salazar, got Section 413 into the energy bill by unanimous consent on June 23. Corporate lobbyists representing Pacificorp and Xcel recommended the language to Sen. Salazar. While the intended recipient may be Pacificorp and/or Xcel (for unannounced projects), another company qualifying for the loan guarantee is the Medicine Bow Fuel & Power project in Wyoming (the section requires that the project “be located in a western State at an altitude greater than 4,000 feet”) The section explicitly states that “the demonstration project shall not be eligible for Federal loan guarantees”—making the relationship between this section and the very similar-sounding loan guarantee project outlined in Section 1703 a little unclear. Medicine Bow, Wyoming is at an altitude of over 6,500 feet. Medicine Bow is owned by DKRW, a Houston-based firm led by four former Enron executives, including Thomas White. White served as Secretary of the Army from May 2001 to March 2003. Prior to that, he served as vice chairman of one of Enron’s largest divisions, Enron Energy Services (EES).

Under White’s tenure, EES played a major role in the California energy crisis. In 1998, the year he became its vice chairman, EES was America’s 61st largest energy trader. When he left, his division was the 28th largest energy-trading firm in the country. Until March 2001, the trading operations of

EES were separate from the rest of Enron's Wholesale Energy unit—meaning White was responsible for a huge trading operation that played a significant role in California's energy crisis.

Also, under White's direction, EES severed at least two large retail contracts in California in January and February 2001 during the height of the energy crisis, which Enron helped create. Based on the evidence on hand, it appears that EES took the power that had been obligated to serve these retail consumers and sold it in the wholesale market where EES could fetch higher prices than it could by continuing to sell power at lower, fixed rates to retail customers. This significant wholesale trading operation, combined with White's decision to break retail contracts in California, made the division a major player in California's deregulated wholesale market (<http://www.citizen.org/pressroom/release.cfm?ID=1960>).

Section 414

The recipient of Section 414, has not yet been identified. The provision authorizes the federal government "to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers."

Section 415

This section provides "loan guarantees for at least 5 petroleum coke gasification projects" which have not been identified.

Section 1703

Subsection (c)(1)(B) describes a project almost exactly the same as what is described in Section 413, except that the demonstration project grant outlined in Section 413 does not allow the recipient to also receive a loan guarantee. So, the most likely recipients are the former Enron executives with DKRW or Xcel Energy.

Subsection (c)(1)(C) provides \$800 million in federal loan guarantees to controversial Excelsior Energy (<http://www.citizen.org/documents/ACF42FD.pdf>) for a coal power-generating plant (ConocoPhillips is a partner in the project). The DOE awarded the company a \$36 million in October 2004 during an event that appeared to be designed to boost the image of President Bush in Minnesota just weeks before the election (http://www.fossil.energy.gov/news/techlines/2004/tl_ccpi2_excelsior.html).

Subsection (c)(1)(D). There are two general possibilities for the recipient of this federal loan guarantee. One could be Lexington, Kentucky-based EnviRes to build a coal gasification facility to create fuel in East St. Louis, Illinois. The total cost of the project is \$254.2 million. EnviRes is a joint venture of three companies, including Triad Research, which is controlled by Robert Addington of AEI Resources, a huge coal conglomerate.

The other possibility is Pennsylvania-based Waste Management & Processors Inc. On October 26, the Bush Administration announced a \$100 million grant for a "clean coal" project in the swing state of Pennsylvania, benefiting Waste Management, headed by John Rich (http://www.fossil.energy.gov/news/techlines/2004/tl_abraham_gilberton.html). His family and company employees have contributed over \$60,000 to candidates for federal office since 2001.

While Waste Management is the lead company on the project, they have teamed up with several other companies: (1) Shell Global Solutions U.S., as gasification technology supplier; (2) Uhde GmbH, a Dortmund, Germany-based global engineering company; (3) Sasol Synfuels International, as liquefaction technology provider; and, (4) Nexant, Inc., as owner's engineer.

NUCLEAR POWER SUBSIDIES: \$12 BILLION

Section 1306

Production tax credit of 1.8-cent for each kilowatt-hour of nuclear-generated electricity from new reactors during the first eight years of operation, costing \$5.7 billion in revenue losses to the U.S. Treasury through 2025. Considered one of the most important subsidies by the nuclear industry.

Section 638

Authorization of \$2 billion in "risk insurance" to pay the industry for any delays in construction and operation licensing for six new reactors, including delays due to the U.S. Nuclear Regulatory Commission or state agencies, litigation, sabotage or terrorist attacks, or other events. The payments would include interest on loans, operation and maintenance costs, the price of power, and taxes.

Section 951 and Section 952

Authorization of more than \$432 million over three years for nuclear energy research and development (R&D), including the Department of Energy's (DOE) Nuclear Power 2010 program to construct new nuclear plants, and its Generation IV program to develop new reactor designs.

Section 951 and Section 953

Authorization of \$580 million over three years for DOE's program for R&D of nuclear reprocessing and transmutation technologies, which reverses the long-standing U.S. policy against irradiated nuclear fuel reprocessing and needlessly augments security and environmental threats.

Section 951 and 954

Authorization of \$149.7 million over three years for DOE to invest in human resources and infrastructure in the nuclear sciences and engineering fields through fellowships and visiting scientist programs; student training programs; collaborative research with industry, national laboratories, and universities; upgrading and sharing of research reactors; and technical assistance. This program would further subsidize the nuclear industry and entrench nuclear power research within the university system.

Section 951 and 955

Authorization of \$420 million over three years for DOE to develop a plan to improve infrastructure at national laboratories and for nuclear energy R&D, including a plan for the facilities at the Idaho National Laboratory.

Section 951 and 957

Authorization of \$18 million over three years for DOE to survey industrial applications of radioactive sources and develop a R&D plan for developing small particle accelerators.

Section 971 and 972

Authorization of \$1.1 billion over three years for the Fusion Energy Sciences program for fusion energy R&D. Authorization for DOE to negotiate an agreement for the United States to participate in the ITER (International Fusion Energy Project). Requirement of DOE to submit a plan for a domestic burning plasma experiment if ITER becomes “unlikely or infeasible.” The fusion process requires deuterium and tritium, and would produce low-level radioactive waste.

Section 1001

Requirement of DOE to use 0.9 % of its applied energy R&D budget for matching funds with private partners to promote “promising technologies” for commercial use, which could include nuclear power technologies.

Section 1101

Authorization of \$60 million over three years for DOE to give grants to train technical personnel in fields in which a shortage is identified, including the nuclear power industry, which has been very vocal about its shortage of skilled workers.

Title VI, Subtitle C

Authorization of more than \$1.25 billion from FY2006 to FY2015 and “such sums as are necessary” from FY2016 to FY2021 for a nuclear plant in Idaho to generate hydrogen fuel, a boondoggle that would make a mockery of clean energy goals.

Section 625

Exemption of construction and operation license applications for new nuclear reactors from an NRC antitrust review.

Title XVII

Unlimited taxpayer-backed loan guarantees for up to 80% of the cost of an “innovative” energy technology project, including building new nuclear power plants. Authorizes “such sums as are necessary,” but if Congress were to appropriate funding for loan guarantees covering six nuclear reactors, this subsidy could potentially cost taxpayers approximately \$6 billion (assuming a 50% default rate and construction cost per plant of \$2.5 billion, as Congressional Budget Office has estimated).

Title VI, Subtitle A

Reauthorization of the Price-Anderson Act, extending the industry’s liability cap to cover new nuclear power plants built in the next 20 years.

Section 608

Incentives for “modular” reactor designs (such as the pebble bed reactor, which has never been built anywhere in the world) by allowing a combination of smaller reactors to be considered one unit, thus lowering the amount that the nuclear operator is responsible to pay under Price-Anderson.

ELECTRIC POWER SUBSIDIES

Section 1308

Will allow a monopoly electric industry to save \$1.239 billion over the next ten years by depreciating property at a much faster rate. This makes no economic sense because current owners of transmission lines qualify for the tax break, meaning that no additional investment to improve reliability is required.

Section 1305

Provides \$452 million in tax breaks to owners of transmission lines from 2005-08 (it will raise \$471 million from 2009-15) if they sell their lines to anti-consumer Regional Transmission Organizations. These multi-state organizations seek to control transmission for use by power marketers, and not for consumers or reliability.

Section 1311

This is a provision inserted by Senator Max Baucus, and it only benefits one company: Xcel Energy. It will cost taxpayers \$134 million from 2006-08 (and claims to raise \$81 million from 2009-15, for a net loss to taxpayers of \$53 million). This allows Xcel to get tax credits for transmission and pollution control investments the company had already been required to make and was already planning on making.

OTHER INDUSTRY BENEFITS IN ELECTRICITY TITLE

Section 1221: Siting of Interstate Electric Transmission Facilities

OVERTURNS nearly a century of local control over the siting of electric transmission lines. It authorizes the Federal Energy Regulatory Commission (FERC) to overrule local and state governments in the siting of transmission lines and allows such projects to acquire rights-of-way through eminent domain. The section also authorizes the FERC to issue a permit for a facility if a state takes longer than one year to review the application, or if a state places certain conditions on the permit for approval.

Section 1241: Transmission Rate Reform

Allows a monopoly industry—transmission line owners—to charge consumers more by replacing cost-of-service ratemaking with incentive-based rate making. But cash “incentives” are meaningless in an inherently monopolistic industry like transmission. Rather than improve reliability (as is its stated purpose), this incentive-based ratemaking will simply act as a tax increase on consumers—with consumers receiving no guarantee that the higher rates they will be paying will lead to better service. This rate increase on consumers will be charged not only by builders of new transmission lines, but owners of existing lines will be able to now pass on higher rates for routine maintenance and operation costs. The August 2003 blackout was caused not by inadequate transmission line capacity but by poor management of power across plentiful lines—a problem associated with deregulation. This section ignores the recent experience of the telecom industry, which went on a billion-dollar building spree of cable lines following the deregulatory Telecommunications Act of 1996. But the building spree in the inherently monopolistic lines sector resulted in massive over-capacity, which directly led to the crash of many telecommunications companies. It also gives in to the COMPETE Coalition demand that supports FERC’s push to provide financial incentives to utilities for selling their transmission lines to RTOs—while dropping language originally passed by the Senate that would have forbade FERC from doing anything to coerce utilities into joining RTOs.

Title XII, Subtitle G: Market Transparency, Enforcement, and Consumer Protection

This section only directs FERC to establish an “electronic information system” to collect a very limited amount of information on electricity trading. FERC already was collecting this information when Enron, Reliant Energy, and other companies stole billions of dollars from West Coast consumers in the energy crisis of 2001. Simply collecting information doesn’t stop market manipulation—only re-regulating energy markets and establishing cost-of-service rates will adequately protect consumers. The fact that FERC is still unable to sort out the extent of company market manipulation five years after the West Coast energy crisis is proof that market-based electricity rates are far too complex for regulators to effectively monitor. This section also prohibits the filing of false information and round trip trading—neither of which would have done anything to stop what Enron and other energy companies did to contribute to the West Coast energy crisis. The only way for regulators to effectively protect consumers is to end the failed deregulation experiment and re-establish cost-of-service rates.

Title XII, Subtitle F—Repeal of PUHCA and Merger Reform

The 70-year-old consumer and investor protection statute would be completely abolished within six months, opening up ownership of approximately \$1 trillion worth of electric generation, transmission and distribution assets and natural gas distribution assets to any kind of company, anywhere, for the first time since 1935. At that time, hundreds of Enron-type affiliate and other abuses took place between holding companies and their utility subsidiaries resulting in the collapse of the holding company empires, which wiped out tens of thousands of investors.

In PUHCA’s place, FERC would be given a virtually meaningless right to look at the “books and records” of conglomerates the size of GE, ExxonMobil, J.P. Morgan and Berkshire Hathaway, in the off-chance that FERC could discover whether these vast conglomerates have affiliates whose activities have in any way affected their affiliated utility’s rates. State review of such huge companies, the adequacy of which review would clearly be absurd in any case, would have even more restricted rights to look at these affiliated books and records. In addition, the bill would give certain additional merger authority to FERC over generating plants and holding companies. However, without the structural merger standards of PUHCA, which limit the size and geographic scope of utility mergers in order to protect local management and effective regulation, FERC will presumably continue to approve all the utility mergers that it reviews.

The only rates state utility commissions will have any control over at all will be distribution facility costs; the rest will be determined by FERC, which has abrogated its rate review to “the market.” However, with PUHCA repealed, interstate holding companies will also be free to buy up and consolidate distribution companies. Analysts agree that there will be “substantial consolidation” in the utility industry once PUHCA is repealed, which will effectively eliminate local control, accountability, and any adequate regulation of rates.

The repeal of PUHCA means we will have again the huge “power trusts”—only this time owning unregulated utility monopolies, thanks to FERC’s wholesale electricity deregulation, and the fact that Congress is rendering meaningless any effective state utility regulation by removing, via PUHCA repeal, all limits on the creation of gigantic, multi-state utility holding company conglomerates.

VOTES on AMENDMENTS

During debate, Congress repeatedly rejected efforts to improve the energy bill. On June 23, the Senate voted 67 to 28 to reject an amendment to improve automobile fuel economy standards (a “yea” vote was in favor of improving fuel economy standards)

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00157

The Senate also voted down measures to reduce greenhouse gases,

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00148

reduce oil imports,

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00140

and address climate change.

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00151

The Senate did approve a renewable energy standard,

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00141

but this measure was rejected by the House during the conference committee, so it isn't part of the energy bill signed by President Bush.

The Senate also voted to protect the ethanol industry.

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00137

The House voted down amendments to save PUHCA,

<http://clerk.house.gov/evs/2005/roll123.xml>

to block drilling in ANWR,

<http://clerk.house.gov/evs/2005/roll122.xml>

to increase fuel economy standards from 25 to 33 miles a gallon by 2015,

<http://clerk.house.gov/evs/2005/roll121.xml>

and to reduce oil demand by one million barrels of oil per day,

<http://clerk.house.gov/evs/2005/roll117.xml>

to remove the MTBE “safe harbor,”

<http://clerk.house.gov/evs/2005/roll129.xml>

and to delete the Refinery Revitalization Zone provisions

<http://clerk.house.gov/evs/2005/roll115.xml>

(ultimately dropped in conference)

Furthermore, the House failed to strengthen standards of environmental justice in law by voting down an amendment that sought to codify Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations”; provide a definition of “environmental justice”; establish offices of environmental justice in appropriate agencies; and reestablish the Interagency Federal Working Group on Environmental Justice.

<http://clerk.house.gov/evs/2005/roll130.xml>

The House approved amendments to expand the definition of renewable fuels eligible for grants,
<http://clerk.house.gov/evs/2005/roll125.xml>

and to conduct a study of the negative impacts of industry consolidation on consumer prices.

<http://clerk.house.gov/evs/2005/roll126.xml>