



**The Transmission Solution:  
Non-Profit, Consumer-Owned Transmission  
Companies**

**by Charlie Higley**

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## About the Author

Charlie Higley is Energy Research Director for Public Citizen, where he specializes on issues concerning national energy policy, particularly the deregulation of the electric power industry. Prior to joining Public Citizen in 1996, Charlie worked for five years on energy efficiency programs for the Energy Center of Wisconsin in Madison. Born and raised in Omaha, Nebraska, Charlie earned his B.S.E. in engineering physics from the University of Michigan, and an M.S. in urban and regional planning, with certificate in energy analysis and policy, from the University of Wisconsin.

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Public Citizen's Critical Mass Energy Project  
215 Pennsylvania Ave., SE  
Washington, DC 20003  
[cmep@citizen.org](mailto:cmep@citizen.org)  
202-546-4996  
f: 202-547-7392  
[www.citizen.org/cmep](http://www.citizen.org/cmep)

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# The Transmission Solution: Non-Profit, Consumer-Owned Transmission Companies

## Summary

For-profit transmission companies would be the electricity consumer's worst nightmare. Instead, three consumer-owned, non-profit transmission companies (consumer transcos) should own and operate the transmission systems of the Eastern, Western, and Texas Interconnections.

Each consumer transco should be responsible for providing non-discriminatory open access to each transmission system at affordable rates approved by the Federal Energy Regulatory Commission. Each consumer transco should stand alone without affiliations with any other company.

By having a board of directors accountable to the needs of electricity users, the ownership and operation of the consumer transco would be of consumers, by consumers, for consumers. Putting consumers in charge is the best way to ensure that the transmission system is owned, operated, maintained, and planned in ways that minimize costs to consumers and damage to the environment, instead of maximizing the money harvest of for-profit suppliers.

Duties and responsibilities of each consumer transco should include scheduling and dispatching power plants; maintaining the transmission system; planning, building, and owning transmission system improvements; developing and implementing standards for system reliability; and arranging for the provision of ancillary services.

For the first time in the history of the electric power industry, all of the transmission workers, facilities, and responsibilities (including reliability) of each Interconnection would be under one non-profit roof. Under the full embrace of a consumer transco, each Interconnection would be planned, operated, and priced as an interconnected and coordinated system. For the first time, cross-subsidies and self-dealing between regulated and non-regulated subsidiaries would disappear, decades after a structural remedy was proposed by the administration of President Franklin D. Roosevelt.

## Introduction

With two dozen states in various stages of dismantling the laws and regulations regarding electricity rates, terms of service, and planning, federal regulators are trying to figure out how to reorganize the ownership and operation of the nation's three transmission systems.<sup>1</sup>

In its most recent action, the Federal Energy Regulatory Commission issued Order 2000, which attempts to encourage investor-owned utilities to form regional transmission organizations, with the goal of “promot[ing] efficiency in wholesale electricity markets and to ensure that electricity consumers pay the lowest price possible for reliable service.”<sup>2</sup>

Order 2000 confirms that engineering and economic inefficiencies inherent in today's transmission system may be affecting the development of wholesale power markets and system reliability. These engineering and economic inefficiencies include: the Balkanization of the “single machines” that are the Eastern, Western, and Texas Interconnections; parallel path flows; limited availability of critical information regarding the operation of the transmission grids; pancaked transmission rates; lack of coordinated planning for grid improvements, and others.<sup>3</sup>

Order 2000 also confirms that transmission owners, especially vertically integrated utilities, could easily profit by denying competitors open access to their transmission systems. Many of the organizations that submitted comments on FERC's rule described how transmission owners discriminate against competitors by taking transmission service away from them, forcing competitors to pay more for transmission service received, or denying access to the transmission system in the first place.<sup>4</sup>

All of these transmission problems ultimately lead to higher electricity prices for consumers, either through excessive profits on a monopoly service, or through bizarre rules that come about from grid Balkanization (for example, contract-path pricing), or through the stifling of competitive wholesale electricity markets.

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<sup>1</sup> As predicted, all the benefits of state-led deregulation are going to investor-owned utilities in the form of multi-billion dollar bailouts, and to large industrial and commercial customers who have the clout to negotiate lower electricity prices. Meanwhile, residential and small commercial customers are receiving few if any benefits—electricity in many deregulated states is still more expensive than the national average. Nearly 150,000 utility workers (or 30% of the 1990 utility workforce) have lost their jobs, which is negatively affecting the reliability of the electric power system since fewer hands are available to do needed maintenance or to restore service after blackouts. Old coal-fired power plants have belched out millions of tons of pollution, which is literally killing thousands of people each year, while ruining lakes, rivers, forests, and farmlands.

<sup>2</sup> Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. 31,089 (2000) at 30,991 (“Order 2000”).

<sup>3</sup> Order 2000 *supra* note 2, at 31,014-15.

<sup>4</sup> Order 2000 *supra* note 2, at 31,008-12.

FERC hopes that the voluntary creation of regional transmission organizations, which are to operate, maintain, and plan (and maybe even own) the grid on a non-discriminatory basis, will reduce the problems created by the engineering, economic, and behavioral problems plaguing consumers and the Interconnections today.

However, instead of relying on utilities to voluntarily create regional transmission organizations, or worse yet, for-profit transmission companies, the FERC should draw from suggestions put forward by progressive politicians more than 65 years ago.

## **Progressives Challenge the Holding Companies**

After the first World War, the U.S. economy entered the Roaring Twenties, a period of unprecedented economic boom. Electricity use exploded, and utility holding companies began merging and consolidating into empires that stretched across state and national borders.

Although some operating efficiencies resulted from these mergers, many were done to increase profits and to escape state regulation; state regulatory commissions were and remain powerless from controlling the operations of holding companies or subsidiaries organized in other states. Prior to 1935 there was no federal regulation of utility holding companies, so they were essentially unregulated monopolies.

The utility holding companies committed numerous evils, such as forcing ratepayers to pay high rates to cover excessive profits as well as cross-subsidies between regulated and non-regulated affiliates, or misleading investors into purchasing watered stock. Indeed, the holding companies were ridiculed by President Franklin D. Roosevelt for engaging in “private socialism,” or forcing the ratepaying public to pay for excessive profits and rates, which go into the pockets of private interests, on an essential public service.

In response to the abuses of the holding companies, Senator George Norris of Nebraska, Pennsylvania Governor Gifford Pinchot, Senator Robert LaFollette of Wisconsin, New York Governor Alfred Smith, and President Roosevelt led the fight against the abuses of the utility holding companies.

Their leadership culminated in a massive restructuring of the industry through the creation of the New York State Power Authority in 1931 and the federal Public Works Administration in 1933; the enactment of the Tennessee Valley Act of 1933, the Public Utility Holding Company Act and the Federal Power Act of 1935, and the Rural Electrification Act of 1936; the creation of the Bonneville Power Administration in 1937 (followed by the development other federal and state systems), and the consumer takeover of all private electric utilities in Nebraska by 1950.<sup>5</sup>

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<sup>5</sup> Richard Hellman, *Government Competition in the Electric Utility Industry*, New York: Praeger Publishers, 1972, at 22-38; Thomas McCraw, *TVA and the Power Fight 1933-1939*, New York: J.B. Lippincott Company, 1971, at 1-25; Lorel Wisniewski, Is This Déjà Vu All Over Again?, *Public Power*, November-December 1999, at 51-55.

Most of these progressive victories over the tyranny of the for-profit holding companies included the three pieces needed to solve the transmission puzzle of today: non-profit ownership, interconnected and coordinated operation, and stand-alone utilities with no affiliates or subsidiaries.

## **Three Pieces of the Transmission Puzzle**

The transmission puzzle can be solved by combining three, well-known policies: non-profit ownership of electricity facilities; interconnected and coordinated operation of the transmission system, and stand-alone transmission utilities.

### ***1. Non-Profit Ownership***

As intended by the progressive leaders of the first half of the 20<sup>th</sup> Century, the non-profit municipal, cooperative, and federal power systems continue to provide low-cost power to millions of households and businesses at rates often lower than neighboring investor-owned systems, in part because they don't charge profits on an essential public service, they don't pay income taxes, and they can use low-cost debt to finance their operations.

Because transmission service has to be paid for, the interests of electricity consumers are in direct conflict with the interests of for-profit transmission owners. The conflict is very straightforward and simple: Consumers want to minimize their use of the transmission system and pay as little as possible, whereas for-profit transmission owners want consumers to use the transmission system as much as possible and to pay the highest possible prices.

The motivation for a for-profit transmission owner is simple and straightforward: Higher usage and higher rates lead to larger profits; for-profit transmission owners have a legal obligation to maximize profits for shareholders.

A for-profit transmission owner will also encourage electricity consumers to use as much electricity as possible, especially if the for-profit transmission owner is part of a utility holding company that produces or sells electricity. Encouraging consumers to use as much electricity as possible leads to overconsumption, which diverts consumer dollars away from purchasing other goods, or away from personal investment or savings.

Overconsumption creates more pollution. Overconsumption leads to unneeded investments in power plants and transmission lines, and it takes away electricity from those who need it. Overconsumption is not in the interest of either the consumer or the public, yet overconsumption clearly benefits companies that profit from electricity use, including for-profit transmission companies.

As long as for-profit transmission owners are allowed to exist, they will try to manipulate the operation of their systems to maximize profits, especially if they (or their affiliates, or their so-called "passive owners") own power plants or provide marketing services.

To reduce competition and maximize profits, the for-profit transmission owner will try to withhold or distort information concerning the operation, maintenance, or planning of their systems.

To increase profits, the for-profit transmission owner will try to cut costs wherever it can, potentially threatening the reliability of competing power suppliers, and perhaps the reliability of the grid itself.

For-profit transmission owners will try to serve only profitable customers and will ignore everyone else. The lines serving profitable customers or regions will receive more maintenance and upgrades compared to lines serving less profitable customers.

For-profit owners will make transmission improvements that generate more profits, fighting against any solution that threatens transmission revenue, such as distributed generation or energy efficiency, even though costs could be reduced for consumers.

For-profit transmission owners will try to favor themselves or their affiliates, requiring expensive and ultimately ineffective regulation of cross-subsidies and self-dealing.

And, just as for-profit utilities have demanded that ratepayers bail them out for at least \$150 billion (largely for nuclear power plants that should never have been built in the first place), soon we could hear the cries for another stranded-cost bailout, this time for transmission systems owned by for-profit utilities.

Despite the obvious problems of having for-profit companies own and operate transmission systems, investor-owned utilities are trying to consolidate their stranglehold on consumers by creating for-profit transmission companies. They are being aided by FERC Commissioner Curt Hébert, Jr., who believes for-profit transmission companies would best maintain, operate, plan, and expand the transmission system.<sup>6</sup>

Despite their beliefs that for-profit transmission companies would provide low-cost transmission service, Commissioner Hébert, the Edison Electric Institute, and others have gone to great lengths to explain why for-profit transmission owners need “incentives” to create for-profit transcos.

Starting with the myth that stand-alone transmission companies would face higher investment risks, they argue that for-profit transcos should receive higher returns on equity; that transmission facilities should be valued at replacement cost instead of original cost; that cost-recovery for transmission investments should be accelerated; and that so-called performance-based ratemaking should be used.<sup>7</sup>

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<sup>6</sup> Curt Hébert, Jr., *The Year in Review: Electric Transmission*, ELEC. J., Dec. 1999, at 17 (“Hébert”). Comments of the Edison Electric Institute, Regional Transmission Organizations, Federal Energy Regulatory Commission Docket No. RM99-2-000 (filed August 23, 1999), at 37-41 and 45-57.

<sup>7</sup> Hébert, *Id.*, at 15.

Whenever for-profit companies or their promoters use the word “incentives,” they really mean “show me the money.”

Moody’s believes that stand-alone transmission companies would see lower investment risks.<sup>8</sup> This is true because transmission systems will always have captive customers and, therefore, a steady source of revenues. Further, it will take years if not decades before distributed generation seriously competes with central station power plants and their necessary transmission lines. Low business risk for the transmission business not only means the systems could be financed and maintained solely by low-cost debt, but that “incentives” needed by for-profit transmission owners are nothing but a consumer shakedown.

## ***2. Interconnected and Coordinated Operation***

Since the early part of the 20<sup>th</sup> century, utility engineers and economists have known that utilities could reduce the cost of producing power while increasing system reliability if power plants could be shared by interconnecting utility systems with transmission lines, and by coordinating the operation of the interconnected systems.

The principles of interconnection and coordinated operation ultimately became the basis of federal utility law, but only after the utility holding companies of the Roaring Twenties proved the inefficiencies of owning systems that were not interconnected or coordinated. According to the Roosevelt administration:

The growth of the holding-company systems has frequently been primarily directed by promoters’ dreams of far-flung power and bankers’ schemes for security profits, and has often been attained with the great waste and disregard of public benefit which might be expected from such motives. Whole strings of companies with no particular relation to, and often essentially unconnected with, units in an existing system have been absorbed from time to time. The prices paid for additional units not only have been based upon inflated values but frequently have been run up out of reason by the rivalry of contending systems. Because this growth has been actuated primarily by a desire for size and the power inherent in size, the controlling groups have in many instances done no more than pay lip service to the principle of building up a system as an integrated and economic whole, which might bring actual benefits to its component parts from related operations and unified management. Instead, they have too frequently given us massive, overcapitalized organizations of ever increasing complexity and steadily diminishing coordination and efficiency.<sup>9</sup>

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<sup>8</sup> Julie Doetsch and Jeffrey Davidson, *Asset Divestiture: Exit from Generating Business Seen as a Benefit to Credit Quality*, New York: Moody’s Investors Service, March 1999, at 1.

<sup>9</sup> *Report of the National Power Policy Committee*, 74th Congress, 1st Session, House Doc. No. 137, March 12, 1935, at 5 (“NPPC”).

The Public Utility Holding Company Act of 1935 was signed into law in response to the wave of mergers and consolidations that gripped the industry during the 1920s and 30s. One of the goals of PUHCA was to reorganize the ownership of utilities into systems that “are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system....”<sup>10</sup>

The utility mergers that occurred during the Roaring Twenties did not result in interconnected and coordinated systems. The large holding companies of the day owned utilities scattered throughout the U.S. and the world, making it mostly impossible for the economic interconnection and coordinated operation of their systems; the holding companies could not deliver on their promises of lower electricity rates.

The enforcement of PUHCA reorganized the industry into utility systems that were able to provide benefits to consumers that can only be achieved by interconnected and coordinated operation. Between 1938 and 1951, average monthly bills for ratepayers dropped 10 to 14 percent, mostly due to the benefits of interconnected and coordinated operation.<sup>11</sup>

The logic of PUHCA’s interconnected and coordinated principle, and the words of the Roosevelt administration are still relevant today, especially given the wave of dubious mergers sweeping the industry.<sup>12</sup>

If utilities cannot be connected to each other into a single interconnected and coordinated system, few savings will result to the consumer. Or conversely, having many owners of a transmission system that is a single machine will frustrate economies that can only be achieved by interconnected and coordinated operation.

Until 1997, all aspects of generating, transmitting, distributing, and selling electricity were regulated,<sup>13</sup> so it was possible for many utilities to own pieces of the three Interconnections. Utilities were able to voluntarily coordinate the operation of the Interconnections because, as regulated companies, they were not in competition with each other.

With deregulation now replacing cooperation with competition, the physical and economic laws that define the three Interconnections as natural monopolies can no longer tolerate having multiple owners. In fact, since each Interconnection is a natural

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<sup>10</sup> 15 U.S.C. §79b(a)(29). Section 202(a) of the Federal Power Act, 16 U.S.C. §824a(a), also includes the interconnected and coordinated principle.

<sup>11</sup> Joel Seligman, *The Transformation of Wall Street*, Boston: Northeastern University Press, 1995, at 263 (“Seligman”).

<sup>12</sup> The following proposed mergers all appear to violate PUHCA’s “interconnected and coordinated” requirement: American Electric Power Company and Central & South West Corporation; New Century Energies and Northern States Power Company; Unicom Corporation and PECO Energy Company; Carolina Power & Light Company and Florida Progress Corporation; and Energy East and CMP Group.

<sup>13</sup> On July 1, 1997, Rhode Island became the first state to implement its retail deregulation law.

monopoly, then by definition one owner of each system can provide transmission service less expensively than many owners.<sup>14</sup>

Creating a single owner/operator for each Interconnection will eliminate the needless Balkanization of the transmission system. Creating a single owner will also eliminate all the bizarre rules and practices that have been caused by having many owners, and that have been created in preparation for deregulation.

For example, with one owner/operator, loop flow problems would disappear. Pancaked rates would disappear. Most of the bizarre and unfair penalties exacted for scheduling imbalances should disappear. Inconsistent and inaccurate calculations for total transmission capability and available transmission capability would be replaced by *real* values available to all suppliers and consumers at the same time. Discriminatory operation, maintenance, and improvement of parts of each Interconnection should cease.

With a single owner, each Interconnection would have a system-wide pricing structure that relies on straightforward, system-wide, cost-of-service pricing, instead of more complicated pricing methods, which are easier to game.

Any regional transmission organization smaller than an Interconnection will have to deal with all the engineering and economic inefficiencies mentioned above, ultimately leading to higher cost transmission service for consumers.

It is time to look at the interconnection and coordination requirements of PUHCA in a new way. It is time to create single non-profit owner/operators for that part of the industry that would benefit the most from interconnected and coordinated operation: the Eastern, Western, and Texas Interconnections.

### ***3. Stand-Alone Transmission Utilities***

As long as regulated and non-regulated businesses are part of the same holding company system, ratepayers of the regulated business will likely end up paying higher rates to cover cross-subsidies and self-dealing to non-regulated affiliates. Competitors suffer because they have to compete against affiliates receiving cross-subsidies.

If generation and marketing prove themselves to be free of the need of regulation (which is doubtful<sup>15</sup>), then in order to end cross-subsidies and self-dealing, the regulated transmission services need to be separated from the non-regulated businesses.

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<sup>14</sup> Charles Phillips, Jr., *The Regulation of Public Utilities*, Arlington, VA: Public Utilities Reports, 1993, at 51-54.

<sup>15</sup> There is a great chance that generation may have to be regulated after all, otherwise price fixing and price discrimination may become rampant. See Eugene Coyle, *Price Discrimination, Electronic Redlining, and Price Fixing in Deregulated Electric Power*, Washington, DC: American Public Power Association, January 2000.

In its Order 2000, the FERC concludes that cross-subsidies and self-dealing between transmission owners and their generation or marketing affiliates could be impeding the development of efficient and competitive wholesale markets.<sup>16</sup> In particular, the Commission expresses concerns that standards of conduct, which are intended to prevent cross-subsidies and self-dealing, “[are] not the best way to correct vertical integration problems. Their use may be unnecessary in a better structured market where operational control and responsibility for the transmission system is structurally separated from the merchant generation function of owners of transmission.”<sup>17</sup>

President Roosevelt’s administration proposed 65 years ago a solution to the problems caused by cross-subsidies and self-dealing. In the debate preceding the enactment of PUHCA, the Roosevelt administration recommended that utility holding companies should not own regulated and non-regulated businesses:

Holding companies should be restricted as soon as practicable to the business of operating and owning the securities of public utility properties; they should not be permitted to engage in non-utility or speculative ventures.<sup>18</sup>

At the time, all aspects of the electric utility were considered regulated services. Thus, Roosevelt’s recommendation would have prohibited ownership by utility holding companies of any business that did not produce, transmit, distribute, or sell electricity (the holding company lobby was able to defeat Roosevelt’s approach, and instead PUHCA was weakened to allow holding companies to own both regulated and non-regulated businesses<sup>19</sup>).

Today, Roosevelt’s policy would prohibit regulated transmission companies from having any affiliation with any company generating or selling power—the “better structured market” referred to by the FERC. In other words, Roosevelt’s policy would create stand-alone transmission companies with no affiliations or subsidiaries (it would also keep distribution systems unaffiliated with generators or marketers).

Roosevelt’s policy would focus regulation only on regulated services. No longer would there be the need to police affiliate transactions for self-dealing between regulated and non-regulated affiliates. It would eliminate “fishing expeditions” by regulators into the activities of non-regulated companies. It would reduce significantly the cost and intrusiveness of regulation. It would ensure the development of efficient wholesale markets and lower prices for consumers.

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<sup>16</sup> Order 2000, *supra* note 2, at 31,015-17.

<sup>17</sup> Order 2000, *supra* note 2, at 31,016.

<sup>18</sup> NPPC, *supra* note 9, at 10.

<sup>19</sup> Seligman, *supra* note 11, at 248; Douglas Hawes, *Utility Holding Companies*, New York: Clark Boardman Company, 1987, at 2-15; Philip Funigiello, *Toward a National Power Policy: The New Deal and the Electric Utility Industry, 1933-1941*, Pittsburgh: University of Pittsburgh Press, 1973, at 96; Michael Parrish, *Securities Regulation and the New Deal*, New Haven, CT: Yale University Press, 1970, at 175.

## **The Transmission Solution: Non-Profit, Consumer-Owned Transmission Companies**

Combining the three pieces of the transmission puzzle (non-profit ownership, interconnected and coordinated operation, and stand-alone transmission utilities) gives us the transmission solution: Three non-profit transmission companies (consumer transcos) should own and operate the transmission systems of the Eastern, Western, and Texas Interconnections.

Each consumer transco should be responsible for providing non-discriminatory open access to each transmission system at affordable rates approved by the Federal Energy Regulatory Commission. Each consumer transco would stand alone without affiliations with any other company.

Duties and responsibilities of each consumer transco should include scheduling and dispatching power plants; maintaining the transmission system; planning, building, and owning transmission system improvements; developing and implementing standards for system reliability; and arranging for the provision of ancillary services.

For the first time in the history of the electric power industry, all of the transmission workers, facilities, and responsibilities (including reliability) of each Interconnection would be under one non-profit roof. Under the full embrace of a consumer transco, each Interconnection could be planned, operated, and priced as an interconnected and coordinated system. For the first time, the ownership and operation of each Interconnection would finally match its physical reality of a networked system of power plants, power lines, and power consumers.

### ***Reliability, Planning, and Pricing***

The three consumer transcos would assume the duties and the staff of the North American Electric Reliability Council and its regional reliability councils. Consumer transcos would eliminate the needless, duplicative bureaucracies such as independent system operators, for-profit transcos, regional transmission groups, regional regulatory authorities, and all the other half-steps suggested by holding companies and others. These half-steps needlessly divide responsibilities for operation, reliability, and planning into separate organizations, even though operation, reliability, and planning are truly inseparable functions of an efficient, reliable, and low-cost transmission system.

Each consumer transco should be responsible for planning and building transmission improvements using the principles of integrated-resource planning. Since each consumer transco will correspond to one of the three Interconnections, planning decisions can be based on looking at the whole network, not at balkanized pieces arbitrarily created by the whims of holding companies or other entities. (Siting authority and the power of eminent domain should remain in the hands of local or state government, because public and private property owners are too easily abused when siting authority is centralized.)

The consumer transco can throw away complicated methods for determining transmission prices, and instead rely on straightforward, system-wide, cost-of-service pricing.

### ***Purchase of Transmission Assets with Long-Term Debt***

All transmission assets (regardless of whether the owners are private, municipal, cooperative, or federal) should be purchased by the consumer transcos at depreciated original cost (book value) using tax-free debt. Transmission assets to be purchased include the transmission wires, transmission substations, and all control area facilities.

Although distributed generation will hopefully eliminate many transmission lines, we will continue to be served by large power plants and large transmission lines for many years if not decades. Transmission assets are very long-lived, meaning they can be purchased with debt that can be paid back over many decades, thus taking advantage of lower interest rates. Further, many existing transmission facilities have been paid for, making a purchase of the entire transmission system a bargain at twice the estimated cost of \$52 billion.<sup>20</sup> Consumer ownership would also eliminate any chances that private transmission owners will shakedown ratepayers for a stranded cost bailout.

### ***Public Benefit, Not Private Profit***

A non-profit transco would stop the money harvest caused by the private socialism of for-profit companies that own and control natural monopolies providing an essential public service.

A consumer transco will have plenty of incentive to maximize the efficiency of the transmission system. Consumers want access to the least expensive power available, yet they also want to minimize transmission system investments, because they are costly, damaging to the environment, damaging to property values, and potentially dangerous.

This tension between access to low cost power and resistance to new transmission facilities will ensure that a consumer transco will build only those facilities that serve the public interest, provided that the governance of the consumer transco truly represents the interests of consumers.

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<sup>20</sup> Total Transmission Plant (without allowance for depreciation and amortization) for investor-owned utilities, \$66 billion; Public Generators, \$11 billion; Public Non-Generators, \$1 billion; Co-ops, \$7 billion; for a total of \$85 billion. For IOUs, accumulated provisions for depreciation and amortization equal 38 percent of total utility plant, 35 percent for public, and 30 percent for co-ops, thus the transmission system's estimated depreciated value is \$52 billion. All figures from Energy Information Administration, *Financial Statistics of Major U.S. Investor-Owned Electric Utilities 1996*, and *Financial Statistics of Major U.S. Publicly Owned Electric Utilities 1997*, Washington, DC.

## ***Accountability to Electricity Users***

By having a board of directors accountable to the needs of electricity users, the ownership and operation of the consumer transco would be of consumers, by consumers, for consumers.

The actual corporate structure of the consumer transco could take several forms. It could be organized as a private non-profit corporation, such as a hospital, or as a non-profit consumer-owned cooperative. The important thing is that the governance of the consumer transco be directly accountable to the consumers using the transmission system, and that the governance (and employees) be completely free of affiliation with any power supplier or marketer.

Putting consumers in charge is the best way to ensure that the transmission system is owned, operated, maintained, and planned in ways that minimize costs to consumers and damage to the environment, instead of maximizing the money harvest of for-profit suppliers.

Nevertheless, the consumer transco has room for everyone. Power plant owners, power marketers, and other suppliers can all participate through advisory committees, provided that all the important decisions are made by a board of directors directly accountable to consumers.

## ***No More Cross-Subsidies and Self-Dealing***

All of the employees involved in operating and controlling the transmission system should become employees of the appropriate consumer transco. As mentioned, this should include all the staff of the North American Electric Reliability Council and its member councils, since each consumer transco will be responsible for developing and implementing standards for maintaining system reliability.

Having all of the transmission and reliability employees under one non-profit roof will ensure that employees are making decisions for the good of the system, instead of the good of for-profit holding companies, who continue to employ most of the transmission system personnel, even under approved ISOs. No longer would there be paper walls created by “functional unbundling,” “standards of conduct,” and other useless “behavioral remedies” that attempt to separate transmission, generation, and power marketing employees of the same holding company.

After nearly 100 years of ineffective policing of affiliate transactions between regulated and non-regulated affiliates within the same holding company system, the consumer transco would remove the regulated assets, services, and staff into a separate, stand-alone, non-profit company that would have no affiliates and no subsidiaries.

Cross-subsidies between regulated and non-regulated subsidiaries would disappear, along with the need for expensive, intrusive, and ineffective regulation of affiliate cross-

subsidies and self-dealing. A structural remedy to holding company abuses would finally be in place decades after it was formally proposed by President Franklin D. Roosevelt's administration in March 1935.

Regulators could focus on making sure the regulated transmission system was providing the best possible service for the lowest possible price. They would be free from the political pressure to favor for-profit suppliers at the expense of consumers.

Holding companies would no longer have the books of their non-regulated subsidiaries opened for "fishing expeditions" by regulators. If they also divest their distribution systems to consumers, the holding companies would no longer own any regulated assets at all. Holding companies (no longer "utility" holding companies) would be free of most rate regulation for the first time since roughly 1900.

## **Conclusion**

The FERC should take advantage of the chaos gripping the electricity industry by creating three non-profit consumer transcos, and order them to purchase all the transmission facilities of the Eastern, Western, and Texas Interconnections.

Giving consumers control over the nation's three transmission systems is the best way to ensure that consumers receive reliable, affordable, environmentally responsible transmission service, without needlessly handing more money over to for-profit transmission monopolies.

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