

Smart Grid: Rest of the Story

(Part 3)

Industry Self-Regulation

After deregulating the utilities – separating bulk power generation from transmission and distribution, legislation was passed to authorize the collective organizational system of electric grid transmission to become self-regulating. Great idea after what we experienced with Enron’s gaming of the transmission grid that cost electricity customers billions of dollars. Even better is the fact that the organization chosen to be the lead in self-regulation, is an international organization – the North American Electric Reliability Council – covering the U.S., Canada and Mexico.

Mr. Rick Sergel

North American Electric Reliability Council

[Testimony before the U.S. Senate Committee on Energy and Natural Resources](#)

May 15, 2006

“On August 8, 2005, the President signed into law the Energy Policy Act of 2005. One of the most important elements of that legislation was authorization to FERC to approve and oversee an Electric Reliability Organization (ERO) that will promulgate and enforce mandatory reliability standards for the bulk power system.

On April 4th, the North American Electric Reliability Council, most often called NERC, filed applications with the Federal Energy Regulatory Commission, the National Energy Board of Canada, and with eight Canadian provinces to become the North American Electric Reliability Organization, or ERO. These filings represent a major milestone in NERC's effort to become the ERO – a strong, independent organization with the authority to establish and enforce mandatory reliability standards for all users, owners and operators of the interconnected North American bulk electric system.”

Description of the [North American Reliability Corporation \(NERC\)](#) from the NERC website:

“The North American Electric Reliability Corporation is a not-for-profit entity whose mission is to ensure the reliability of the bulk power system in North America. NERC develops and enforces Reliability Standards; annually assesses seasonal and long-term reliability; monitors the bulk power system through system awareness; and educates, trains and certifies industry personnel. NERC’s area of responsibility spans the continental United States, Canada and the northern portion of Baja California, Mexico. NERC is the electric reliability organization for North America, subject to oversight by the Federal Energy Regulatory Commission and governmental authorities in Canada. Entities under NERC’s jurisdiction are the users, owners and operators of the bulk power system, which serves more than 334 million people.”

In 2005, the National Association of Regulatory Utility Commissioners ([NARUC](#)) approved a resolution to become an active participant in NERC:

[Resolution on Increased Public Utility Commissions Participation in NERC's Standard Development Process](#)

The electric grid is an interconnected “whole” under the smart grid system design. The bulk power system connects to the distribution system which connects to homes and businesses. The flow of electricity is continuous which means that the facilities and entities involved from bulk production through to end-use constitute a contiguous system. The evidence that bulk power system, distribution system and home end-use are not being considered as separate entities is apparent in the two DOE funded projects mentioned in Part 1 for modification of home appliances to include computer and communications technology to respond to conditions of the grid and/or direct instructions to shut down during grid peak periods of usage. Any unit of equipment responding to the grid is under the authority of NERC regardless of what NARUC thinks.

The Smart Meter is the gateway device connecting the home to the smart grid.

Forced installation of the smart meter on a home is the extension of “governing authority” by the Public Utilities Commission over the activities of the home that are dependent upon electricity. Congress, through the EISA of 2007 setting of standards for appliances and the Department of Energy funding for the development of appliances with computerized controls to interact with the Smart Grid – all constitute an overreach of technocratic authority over the activities of citizens – who also happen to be electricity consumers.

NARUC recognized the overlap of their jurisdiction with a Resolution on Maintaining State Authority to Ensure Reliable Electric Service at Reasonable Rates sponsored by the Committees on Electricity, Critical Infrastructure, and Energy Resources and the Environment Adopted by the NARUC Board of Directors dated July 20, 2011. Yet, they ignored the fact that the smart meter is an extension of their authority over my jurisdiction – my home.

[Resolution on Maintaining State Authority to Ensure Reliable Electric Service at Reasonable Rates](#)




New New Deal Same as the Old New Deal?

The system of industry self-regulation is epitomized by NERC. It is an industry syndicate authorized under law to establish standards of reliability and to monitor compliance of those standards. It is very much like FDR's New Deal, National Industrial Recovery Act of 1933. Under FDR's plan, the appointed industry self-governing group mission was to implement codes of 'fair competition'. NERC's self governing mission is to implement codes of reliability for the bulk power system but because of the nature of electricity traveling in an unbroken path to the home, regardless of jurisdictional boundaries, NERC can – and already has exceeded those

jurisdictional boundaries. The “efficiency system” and regulatory structure has already brought private residences into their sphere by way of the Smart Meter Gateway.

The U.S. Supreme Court struck down FDR’s program of self-regulating syndicates in *Schechter Poultry Corporation v. United States* and I believe that the privatized, self-regulatory syndicate for our electric grid could be struck down on the same principles.

It’s not a coincidence that the same type of propaganda campaign for FDR’s industry syndicates are being used by today’s industry syndicates:

<p>FDR’s NRA</p>  <p>Graphic of NRA Blue Eagle, ca. 1933</p>	<p><u>ENERGY STAR</u> is a U.S. Environmental Protection Agency (EPA) voluntary program that helps businesses and individuals save money and protect our climate through superior energy efficiency.</p> <p><i>The ENERGY STAR program was established by EPA in 1992, under the authority of the Clean Air Act Section 103(g). Section 103(g) of the Clean Air Act... In 2005, Congress enacted the Energy Policy Act. Section 131 of the Act amends Section 324 (42 USC 6294) of the Energy Policy and Conservation Act...</i></p>  <p>1992</p>
	<p><i>Under EPA’s leadership, American consumers, businesses, and organizations have made investments in energy efficiency that are transforming the market for efficient products and practices, creating jobs, and stimulating the economy. Now in its 20th year, the ENERGY STAR program has boosted the adoption of energy efficient products, practices, and services through valuable partnerships, objective measurement tools, and consumer education.</i></p>

Electricity Rate Decoupling

The “efficiency movement” to save electricity rather obviously puts the utilities in the position of having to purchase high cost technology and systems and to promote products and programs that reduce their sales of electricity. Decoupling electric rates from the traditional method of regulated rate calculation provides the electric utilities with the incentive to squeeze you as hard as the Public Utilities Commissioners want – without losing any money because the PUC guarantees the utilities ever increasing profits for their cooperation in this racket.

In real terms, what it means for electric consumers is that the more you cut down on electricity usage, the more it will cost you. For the utilities and for the regulators, it means that it doesn't matter how much money they waste on inefficient “efficiencies” because anything that drives the price of electricity up – also drives demand down which meets the goals of “efficiency”.

Deregulation also decoupled revenue generation and distribution from grid operations. The grid operators don't generate electricity and don't receive their income from the sale of electricity. They wouldn't lose a dime if they shut down the grid. In 2008, according to the media, the bankers supposedly threatened to shut down the economy if they didn't get bailout money but what if it wasn't the banks? The banks didn't want the money. They were forced to take it as a cover for some other entity. With even a glimmer of understanding of the costs associated with implementation of the smart grid and related technologies, it's not a far leap to think that it was actually the self-regulated, utilities cartel that threatened to shut down the country by shutting down the grid – and that really would be Armageddon.

Idaho Power – Decoupling Electric Rates

On the Idaho Public Utilities Commission closed case files there are a lot of references to electric rate decoupling over the last decade so I can only include excerpts from one of them - Case No. IPC-E-04-15 - Order 30267 which was approved by the IPUC – emphasis added:

On January 27, 2006, Idaho Power filed an Application requesting authority to implement a rate adjustment mechanism that would adjust the Company's rates upward or downward to recover the Company's fixed costs independent from the volume of the Company energy sales. This type of ratemaking mechanism is commonly referred to as a "**decoupling mechanism.**" However, Idaho Power in its Application believes that a more accurate description of what the Company is proposing is a "true-up mechanism." **The true-up mechanism, entitled Fixed-Cost Adjustment" (FCA) would be applicable only to Residential Service (Schedule 1 Schedule 4 and Schedule 5) and Small General Service (Schedule 7) customers.**

The FCA is proposed to change rates coincidentally with Idaho Power's Power Cost Adjustment (PCA) and Idaho Power's seasonal rates. Although the FCA would be timed to adjust on the same schedule as the PCA, the accounting for the

FCA will be completely separate from the PCA. **Additionally, the Company proposes to include a discretionary cap of 3% as a potential rate mitigation tool for the Commission's use.**

The purpose of the FCA, the Company contends, is to **remove the financial disincentive in current rate design to the Company's investing fully in energy efficiency activities.** Limiting implementation to only residential and small general service customers, the Company states, provides an incremental approach for evaluating a new type of mechanism for the Company and its customers. **The Company's Application details proposed FCA accounting entries for monthly deferrals plus interest...**

The Company agrees to provide with its annual March 15 filing a detailed summary of energy efficiency and demand-side management (DSM) activities that demonstrate an enhanced commitment resulting from implementation of the FCA mechanism and removal of the financial disincentive to energy efficiency and DSM. **Evidence of enhanced commitment will include, but not be limited to, a broad availability of efficiency and load management programs, building code improvement activity, pursuit of appliance code standards, expansion of DSM programs, pursuit of energy savings programs beyond peak shaving/load shifting programs and third party verification.** As part of this commitment, the Company's 2008 Integrated Resource Plan will include an evaluation of the costs and potential for energy savings that would occur if the appliance and equipment efficiency standards adopted by the State of Oregon were applicable in the State of Idaho. **In addition, the Company makes the following specific commitments in regard to building code improvements and enforcement of such standards:**

a. **The Company will promote the adoption of energy codes to achieve improved levels of efficiency in new commercial and residential construction and appliance standards in Idaho consistent with the Model Conservation Standards released by the Northwest Power and Conservation Council that exceed the 2003 IECC and ASHRAE 90.**

b. **As part of its enhanced commitment to DSM described above, the Company will promote and support appropriate energy code training programs and advocate the enforcement of energy codes. Idaho Power will identify ways to support energy code implementation and enforcement in all jurisdictions in Idaho Power's service territory.**

... In support of the proposed FCA, Gale contends that if a utility recovers the material portion of its fixed costs through variable energy rates, it is not rational for the utility to embark on any programs or initiatives that reduce the amount of energy sold. The proposed FCA, he states, strikes a middle ground between sound business practice and energy efficiency. **With approval of the proposed FCA, Gale contends that the utility becomes indifferent to increases or decreases in energy**

sales and the disincentive to promote programs and services that reduce energy consumption is eliminated.

It should be noted that the extraction of a promise on the part of Idaho Power by the Idaho Public Utilities Commission to promote energy codes for buildings and appliances, forces Idaho Power into the lobbying business for purposes that increase the cost of living outside of the area of utility regulation. This is an “ordered overreach” into the political arena and into the pockets of citizens beyond the Public Utility Commission’s jurisdiction.

In 2012, Case IPC-E-12-15, Order 32667, Demand Side Efficiency, Idaho Power provided a report to the Idaho Public Utilities Commission on the costs for their Demand Side Efficiency programs for 2011. The reimbursement costs that Idaho Power required were \$42,641,361. In the Final Order 32667, the IPUC authorized Idaho Power to collect from electric consumers \$41, 942,123. That \$42 million was on top of what Idaho Power already charges electric consumers meaning that electric consumers got a hefty rate increase in their electric bills despite the fact that the company reported that 179,424 MWh was saved as a result of the efficiency measures taken.

**The more electricity is saved.....
the more electricity consumers will pay.**

Intervenors

Adding insult to injury, the IPUC can order Idaho Power to pay “intervenor” costs. An intervenor is a group or individual – but usually a special interest group. The costs that an intervenor incurs to promote their position include attorney’s fees, research costs, report preparation costs, etc. In other words, lobbyist costs. Any costs that the electric utility incurs are passed on to electric consumers – mostly from residential and small business customers.

From IPUC Order 30267:

Petition for Intervenor Funding

On December 26, 2006, a Petition for Intervenor Funding was filed by the NW Energy Coalition. Reference Idaho Code § 61-617A; IDAPA 31.01.01.161- 165. The Coalition requests \$8,342. 10.

Idaho Code § 61-617A and Rules 161- 165 of the Commission s Rules of Procedure provide the framework for awards of intervenor funding. Section 61-617 A(1) declares that it the "policy of this state to encourage participation at all stages of all proceedings before the Commission so that all affected customers receive full and fair

representation in those proceedings. Accordingly, the Commission may order any regulated utility with intrastate annual revenues exceeding \$3,500 000 to pay all or a portion of the costs of one or more parties for legal fees, witness fees and reproduction costs, not to exceed a total for all intervening parties combined of \$40,000.

The [Northwest Energy Coalition](#) “is a regional alliance of more than 115 environmental, consumer, civic, faith-based and human service organizations, labor groups, and progressive utilities and businesses primarily from Washington, Oregon, Idaho, Montana and British Columbia. My guess would be that most of the people involved make their living as utility company parasites either directly or indirectly and the Idaho Public Utilities Commission contributes by subsidizing them.

IPUC Orders for expenditures are passed through to electricity consumers which raises the price of electricity – squeezing the electric consumer – hitting low income consumers of electricity the hardest when the price of electricity goes up to cover the IPUCs liberal surrogate spending.