

State	<p style="text-align: center;">Further Proposed State Responses</p> <p style="text-align: center;">(Ann Stewart contributed significantly to this Appendix) (Current as of April 30, 2007: Note, the status of many proposals has been changing daily.)</p>
<p>California</p>	<ul style="list-style-type: none"> ▪ The Governor’s 2004-05 budget proposed to eliminate the state power authority, as it had constructed no new plants since its creation. http://www.lao.ca.gov/analysis_2004/resources/res_15_8665_anl04.htm The Governor’s 2006-07 budget proposal recited that the “purpose of the California Consumer Power and Conservation Financing Authority (CPA) was to assure a reliable supply of power to Californians at just and reasonable rates, including planning for prudent energy reserves. The CPA was also created to encourage energy efficiency, conservation, and the use of renewable resources. The CPA was authorized to issue up to \$5 billion in revenue bonds to finance these activities. After two and a half years, it was apparent that the CPA was providing minimal value in assisting the state in meeting its energy objectives. Consequently, ongoing activities have been transferred to other state organizations pending a reorganization of the state’s energy related functions.” http://www.ebudget.ca.gov/StateAgencyBudgets/8000/8665/mission_statement.html ▪ While it has not been eliminated, the CCPFA role has been diminished. Funding for the CCPFA was eliminated in SB 1113, Chapter 208, the 2004-05 budget. No additional funding has been proposed in the Governor’s budgets. ▪ In March 2004, the PUC Division of Strategic Planning provided a report to the Legislature (with the apparent approval of Chairman Peevey) on the topic <i>A Core/Non-Core Structure for Electricity in California</i>, in light of the fact that several bills were pending in the legislature to extend retail choice for larger customers, while maintaining the retail monopoly for utilities with respect to smaller customers. http://www.cpuc.ca.gov/PUBLISHED/REPORT/34806.pdf ▪ In 2004 the legislature passed AB 2006, which would have significantly enhanced the PUC’s regulatory authority. The bill was vetoed by Gov. Schwarzenegger. ▪ In October 2005, Energy Action Plan II, issued by the CPUC and the CEC, committed the two agencies to work for the continued ability of current retail choice customers to shop, and the development of a core/non-core model for the industry. ▪ In 2005, Prop. 80, which would have repealed key provisions of the 1996 electricity deregulation and restored authority to regulate rates to the California Public Utilities Commission (CPUC), and would have required that 20 percent of electricity be from renewable sources by 2010, failed to pass. Specifically, the Proposition would have extended some CPUC regulation to Energy Service Providers (competitive suppliers); barred customers currently receiving electricity from an IOU from switching to an ESP; codified in law the long-term procurement process that the PUC had adopted for IOUs, and extended it to ESPs, including a requirement that retail providers

	<p>"the best value" for ratepayers; and required both IOUs and ESPs to maintain adequate reserves to ensure system reliability.</p> <p>In 2004, the Staff filed a report with the legislature calling for a return to competitive markets by 2009. CPUC President Peevey filed a separate letter urging that competition be restored earlier than the Staff proposal. On December 6, 2006, a coalition of ESPs, public sector, C&I customers and trade groups filed a formal petition asking the CPUC to open an Investigation or Rulemaking on the reintroduction of retail competition (P0612002). Proponents were joined by an additional 147 entities who had previously signed petitions in support of the request. The pro-competition advocates suggested several threshold issues be examined during an investigation or rulemaking, including:</p> <ol style="list-style-type: none"> (1) Whether the Commission has the statutory authority to determine when to reopen the direct access market; (2) The type of retail market structure to be adopted; (3) The treatment of customers that do not elect retail choice; (4) Adoption of rules regarding customers switching between competitive service and default service; (5) Assuring recovery of bond costs; and (6) Making sure that public purpose program charges continue to be collected from all customers. <p>Petitioners asked that the CPUC respond quickly, instituting a rulemaking or investigation that could be concluded by July of 2007. The DA advocates would like to see the DA market reopened no later than January 1, 2008. Replies to the petition were due on January 5, 2007, and responses were filed on January 22, 2007. Although no decision has been issued, in April, a number of additional entities asked that the petition be amended to include their organizations. On April 24, 2007, the Chair of the PUC issued a proposed decision that would open an investigation and rulemaking docket to consider whether and under what conditions the current ban on "direct access" should be lifted.</p> <p>http://www.cpuc.ca.gov/EFILE/PD/67131.pdf</p>
<p>Connecticut</p>	<p>In 2006, the Attorney General issued a call for a package of reforms, including (a) the formation of a Connecticut Energy Authority, and (b) a windfall profits tax on earnings of Connecticut nuclear plants in excess of 20%. In the AG's proposal, the CEA would "have the authority and ability to participate directly in the energy markets purchasing power for Connecticut consumers, acquiring and operating strategic power generating facilities and assisting new private power producers in Connecticut." It would also serve as the statewide administrator of energy efficiency programs.</p> <p>Numerous efforts have been made to change the electricity structure in the state. The General Assembly adjourned in 2006 without passage of any further changes to the restructuring statutes. Efforts to hold a special session were unavailing. In 2007, legislative proposals (some of which triggered hearings) have included: 1) A proposal</p>

	<p>championed by the state’s two IOUs to allow them to resume the obligation to serve and with it the ability to build generation without the limitations of PA 05-1. CL&P testified in December 2006 in favor of an annual energy supply planning process is needed to address what the state requires in terms of generation types, fuel diversity, location, efficiency programs and renewables, and how that mix of resources can be obtained for the benefit of Connecticut consumers. CL&P suggested the utilities build peaking capacity and that conservation investments be expanded, and that if the legislature requires present cost increases to be deferred, that securitization be used to fund the utilities’ cost of deferrals.</p> <p>2) Proposals by the governor to restructure the Department of Utility Control (DPUC); create a new Department of Energy that would help Connecticut plan for its energy needs; and establish a task force “to study the current process by which electric generation services are procured for Standard Service and Supplier of Last Resort customers. The latter will make recommendations on methods for procuring these services in order to provide consumers with equitable and stable electricity prices and it will investigate the use and effectiveness of efforts in other states to reduce or control electricity generation prices in order to make recommendations for Connecticut.” http://www.ct.gov/governorrell/cwp/view.asp?A=2791&Q=331968</p> <p>3) The AG’s proposals http://takebackthepower.net/tbtp/docs/blumenthal.pdf</p> <p>4) Two bills to create micro “energy independence districts” and allow the participants to finance energy projects by selling municipal tax-exempt bonds.</p>
DC	<p>In 2005, AARP asked the PUC to direct utilities to seek 10-year contracts; the PUC declined. Efforts to seek longer-term contracts in 2005 were reputed not to have received satisfactory bids, and this was not pursued. The PUC also rejected a call by competitive suppliers that utilities be subject to the same requirement to put up financial security as their competitors.</p>
Delaware	<p>State has engaged a consultant to provide a report on consequences of re-regulation. S.J.R. 3. State agencies have been implementing HB 6, including considering responses to an RFP issued in the fall of 2006 for long-term Delaware resources. Opinion has been divided over whether to proceed with a procurement under the RFP.</p> <p>On April 27, 2007, the Sustainable Energy Utility Task Force submitted a report recommending a Sustainable Energy Utility for Delaware.</p>
Illinois	<p>A ten-year rate freeze that ended on January 2, 2007 resulted in substantial rate hikes, especially for retail customers of Ameren’s Illinois companies (AmerenCIPS, AmerenIP and AmereCILCO). In fall 2006, ComEd had responded to consumer advocates’ concerns by removing parent-company Exelon’s representatives on the ComEd board and taking additional steps to ring-fence its retail subsidiary. Both utilities repeatedly threatened bankruptcy, layoffs, and the potential for blackouts if regulators or legislators mandated a rate freeze. Bond ratings agencies also warned of downgrades. Shortly after the January 2007 increases were reflected in consumers’ bills, the public became outraged</p>

and demanded relief. Hearings throughout the state to gauge public response resulted in several bills directed at Ameren and ComEd.

Legislative proposals in the 2006 and 2007 sessions include:

- 1) Roll back rate increases for ComEd and Ameren customers to December 31, 2006 levels (e.g. in 2006, Amendment #1 to HB 1944; in 2007, HB 1750 which would have rolled back rates to 2006 levels until 2010)
- 2) Freezing rates for various lengths of time (e.g. six months, three years) while exploring a more equitable solution
- 3) SB 1592 as originally filed would roll back electric rates for Ameren only retroactive to January, and freeze them for as little as six months; the freeze could be kept in force until electric delivery and generation companies meet legislators' expectations regarding rate relief.

Ameren reacted to SB 1592 by warning of a credit downgrade with the following consequences:

- Immediate steps to lay off employees;
- Nearly all of the companies' contractors would be laid off;
- Reliability projects -- including tree trimming -- would be postponed;
- Connections for new homes and businesses would be delayed;
- Response to customer calls would stretch from seconds today to many minutes;
- Elimination of the proposed \$20 million customer credit, primarily for the relief of residential electric heat customers;
- Elimination of the zero-percent interest Customer Elect Plan (CEP) for phasing in higher electricity rates;
- Elimination of the zero-percent deferral assistance program for certain non-residential customers;
- Elimination of the \$15 million pledged for energy assistance, energy efficiency programs and aid for low-income customers; and
- All community donations and projects would be discontinued.

Ameren had filed with the ICC for approval of \$20M in credits (a one-time rebate in March for high-use customers; the \$20M to be funded entirely by its IL units and the AmerenIP hazardous materials adjustment clause trust fund) to ease the burden on its customers, and for approval of changes to its Customer Elect Plan (CEP) for phasing in the higher electricity rates. If implemented Ameren's request would have completely eliminated the 3.25% interest rate for customers who enroll in the CEP. Ameren warned that if its bond ratings were reduced in light of legislative proposals to roll back rates to pre-January levels, it would withdraw the credits proposal. The ICC approved the plan in early March 2007.

On March 12, 2007, Ameren's IL subsidiaries' bond ratings were downgraded to junk status, and Ameren canceled the "Customer Elect Plan" that would have allowed payment of the full amount of electric rate hikes to be deferred and withdrew its proposal for \$20M in credits to high-use customers which the ICC had approved earlier on the same day. The ICC subsequently sought information from Ameren regarding the events leading to the downgrade and the IL AG opened an investigation. In an op ed in a Peoria newspaper on March 17, 2007, Ameren's CEO proposed that generation be re-regulated, and offered to put the \$20M credits back on the table if legislators would suspend further consideration of rate freezes. ComEd subsequently issued a press release opposed to reregulation. On March 20, 2007, Ameren's CEO appeared before the ICC, whose members criticized Ameren for not yet formally notifying customers about cancellation of its CEP.

In April, 2007 both ComEd and Ameren proposed new packages of credits and benefits to targeted customers, in exchange for legislative agreement to drop all efforts to roll back and freeze rates. ComEd said it would cancel its plan to give \$44M to help low-income customers with their bills if an amendment approved by a Senate Committee adding ComEd to SB 1592 passed. Ameren stated that while \$85M in rate relief is no longer available, it was willing to negotiate; like ComEd, Ameren consider SB1592 unconstitutional. On April 20, 2007, the Senate President, a supporter of ComEdison, shelved the amendment to SB 1592 that added ComEd to the roll-back/rate freeze bill. <http://12.43.67.2/legislation/billstatus.asp?DocNum=1592&GAID=9&GA=95&DocTypeID=SB&LegID=29675&SessionID=51>

The Senate then reconsidered and passed the bill as "Ameren-only", sending it to the House. The House Speaker added back ComEd, and the House passed the bill and returned it to the Senate on April 27, 2007, whereupon the legislature adjourned for the weekend. As of April 30, 2007, news reports stated that the House Speaker and Senate President are negotiating. Legislators have received death threats in connection with the rate increases.

4) HB 4091, the Illinois Power Authority Act, proposed by the Speaker of the House, would create a non-profit Illinois Power Authority; the bill was assigned to committee in March.

<http://12.43.67.2/legislation/BillStatus.asp?DocTypeID=HB&DocNum=4091&GAID=9&SessionID=51&LegID=33253>

In March, 2007, Ameren called for re-regulation of supply. ComEd opposed re-regulation. The governor refused to hold a special session.

Meanwhile, on March 15, 2007, the Attorney General filed a complaint at FERC seeking an investigation of market abuse by all suppliers in the September 2006 wholesale auction that led to the 2007 rate hikes. Ameren was reported to support the investigation.

<p>Maryland</p>	<p>On July 1, 2006, a decade of rate caps came off and rate hikes were as much as 72% (Baltimore Gas & Electric customers). After months of political wrangling, the General Assembly overrode a gubernatorial veto and Senate Bill 400 was enacted, which phased in rate hikes. http://mlis.state.md.us/2007RS/bills/sb/sb0400e.pdf</p> <p>In 2007, a new governor appointed a new chair and 2 new members to the PSC who are now examining energy issues as mandated by the 2006 legislation. A preliminary report identifying the issues relating to options for reregulation as required by Chapter 5 of the 2006 special session, including discussion of costs and benefits of returning to a regulated electric supply market is due December 1, 2007. A final report containing the complete set of evaluations, findings, and recommendations required under Chapter 5, as amended by <i>Senate Bill 400</i>, is due December 1, 2008. http://mlis.state.md.us/2007rs/90-Day-report/Part-H.pdf Although June 1, 2007 will bring rate hikes per the 2006 legislation for BG&E customers, there is little political will to revisit the issues until 2008.</p>
<p>Massachusetts</p>	<p>The newly elected governor supports competitive markets, as does the new attorney general. The governor filed a plan to reorganize the energy and regulatory functions of the commonwealth, to provide more centralization and accountability. Relevant state agencies have been combined, and are overseen by a Secretary of a combined Energy and the Environment cabinet Office, with the Department of Telecom and Energy now a three-person commission operating under the rubric of a renamed Commonwealth Utility Commission. Only one of the Commissioners has a protected term. The plan was approved by the state legislature in February.</p> <p>Since Massachusetts enacted deregulation in 1997, it has not considered similar “landmark” legislation. The two-year session that began in January 2007 includes the following:</p> <p>1) HB 3965, the Green Communities Act (proposed by the Speaker of the House), a catch-all bill that would:</p> <ul style="list-style-type: none"> • Consolidate funds for renewable energy and energy efficiency, which would allow up to half of the funds to be bonded in order to leverage funds for clean energy purposes • Promote a fuel-efficient fleet of state-owned vehicles • Establish a pay-on-the-bill program to allow homeowners to purchase renewable energy products without a down payment • Establish a commission to study the siting of biofuel manufacturing facilities • Implement smart meter technology, whereby gas or electric meters must be replaced by advanced meters that track energy usage on an hour-by-hour basis to allow customers to adjust their usage in order to save on costs <ul style="list-style-type: none"> ▪ Further reorganize telecom and energy oversight and planning agencies. ▪ The legislation assumes the continuation of retail choice and support of regional markets. It specifies that distribution utilities are the default providers of basic service, and establishing a procurement scheme whereby

	<p>annual auctions would be used to procure basic service power, with limits on the variability of rates eligible to bid to supply such power for the first 6 or 12 months.</p> <p>On April 2 at the public hearing, concerns were raised about financial and managerial complexities; repealing the authority of the attorney general to intervene in utility proceedings; and reducing funding for low-income energy efficiency. The attorney general opposed the creation of an Office of Ratepayer Advocacy (it currently resides with the AG). http://www.mass.gov/legis/bills/house/185/ht03pdf/ht03965.pdf; http://www.mass.gov/legis/HD4254.pdf http://masstech.org/renewableenergy/public_policy/DG/resources/2007-04-03-hearing-energy-bill-SHNS.pdf</p> <p>2) A proposal to establish a procurement board to sign off on providers' efforts to offer efficient, least cost services.</p>
<p>Michigan</p>	<p>In January 2006, the Public Service Commission issued a report on the Capacity Needs Forum, pointing out the economic drain on Michigan from imported energy, and recommending that the state build at least one coal-fired plant by 2012. http://www.michigan.gov/mpsc/0,1607,7-159--133381--,00.html</p> <p>In March 2006, the chair of the legislature's Energy and Technology Committee organized a bipartisan work group to define a long-range energy plan involving power generation, transportation fuels and renewable energy sources. Among the issues was a proposal for introducing a competitive bid process for procuring new generation. (In March 2007, the House Majority Leader said that allowing independent power production in Michigan means that production will be low, since customers can migrate under retail choice, and it will not assure a funding base for new plant investment.</p> <p>On April 6, 2006, the governor issued Executive Directive No. 2006-2, calling for the development of a comprehensive plan for meeting the states electric power needs. The directive asked for recommendations to ensure the state can both reliably meet its growing electric needs and keep electric costs competitive. The final report, issued on January 31, 2007, calls for an RPS of 10% by 2105, the building of at least one additional baseload plant, and adopting energy efficiency standards over the next 8 years. One proposal would require all customers who benefit from new generation to contribute to the costs of such plant investments, giving customers a choice of whether to participate in the benefits and pay the costs, or otherwise. The Report also calls for PSC authority to require all suppliers to maintain planning reserves. http://www.michigan.gov/documents/mpsc/21stcenturyenergyplan_185274_7.pdf</p> <p>In August, 2006, a Michigan Court of Appeals decision to reverse the PSC's order to begin collecting 5 cents from all customers per meter per month to support renewable energy initiatives was affirmed. The PSC asked the legislature in</p>

	<p>the August 16, 2006 letter, and repeated the request in its report.</p> <p>In its January 2007 report on the state of the markets as of 2006, the PSC renewed its recommendation that the legislature affirm the requirements in PA 141 for the PSC to establish and sustain the Michigan Renewables Energy Program.</p> <p>The Commission is reviewing the power buy-back contract associated with the Consumers Power plan to sell its 798 MW Palisades nuclear power plant to Entergy Nuclear Palisades, LLC. Consumers Energy is seeking Commission approval to buy all of the plant’s power output for 15 years through a Power Purchase Agreement. The sale is currently under review by the PSC, FERC, and the NRC. The Michigan Attorney General opposes the transaction because it would move control over this key asset to an unregulated company not under the PSC’s jurisdiction. http://www.abate-energy.org/MediaClips/MIRS012207.pdf</p> <p>Detroit Edison announced it is seeking a license from the Nuclear Regulatory Commission to build a 1500 MW plant at its Fermi site on Lake Erie. However, the utility says that it will stop work on the project if Michigan does not eliminate its Customer Choice programs, so that the utility can get financing. http://www.customerchoicecoalition.com/mediaclips/MonroeEveningNews021307DTENucPlant.PDF</p> <p>In March 2007, the House held hearings on the need for more in-state resources in Michigan, and exploring why, in a competitive market, competitive suppliers are not coming forward with proposals for new generation. On April 11, 2007, the head of DTE, parent of Detroit Edison, told the Michigan House of Representatives' Energy & Technology Committee that DTE is in favor of going back to a modified version of a fully regulated environment that uses incentives as a means to encourage more efficient generation of electricity, according to press reports. http://www.freep.com/apps/pbcs.dll/article?AID=/20070411/BUSINESS06/70411019/0/ENT03&template=printart. CMS Energy, the holding company that owns Consumers Power, said in late April 2007 that it will soon issue a proposal to build new plant if retail choice were repealed, according to the Detroit News. http://www.detnews.com/apps/pbcs.dll/article?AID=/20070429/UPDATE/704290345/1396</p>
Montana	<p>In 1997, the PSC supported SB 390, a deregulation bill that resulted in the bankruptcy of IOU Montana Power Company and its sale. In 2002, Initiative 145 to force the buyers of Montana Power’s plants to sell them back failed. The state tried to persuade FERC to declare that one of the purchasers, PPL Montana, having a monopoly in Montana, should be required to limit its wholesale prices in the state to cost. FERC rejected the proposal to deny PPL the right to sell power at market-based rates on May 18, 2006. ER99-3491-005, etc.</p>

	<p>In 2001, then-State-Senator Ken Toole introduced SB 503 proposing to allow the state to issue bonds to buy back both the dams and their associated water rights, with revenue from the sales of electricity paying back the bond debt.</p> <p>In 2005, a state representative filed legislation to allow the successor to Montana Power, NorthWestern Energy, to acquire or build power plants as a more traditional utility. The bill failed partly because NorthWestern Energy did not fully support it. http://www.helenair.com/articles/2006/01/08/montana_top/a01010806_02.txt</p> <p>In April 2006, PSC Staff presented draft legislation to repeal most of the state’s deregulation law, although commissioners did not officially endorse the measure. The proposal was meant as an alternative to efforts by a legislative interim committee to resuscitate the bill from the 2005 Legislature that would have allowed NorthWestern Energy to go into the power generation business. Montana’s energy “picture” then became complicated when NorthWestern Energy announced a \$2.2B acquisition by Australian-based Babcock & Brown Infrastructure, subject to the PSC’s approval (the PSC process is expected to begin in early May 2007).</p> <p>In April 2007, the only re-regulation bill surviving was HB 25, “Generally revise electric industry restructuring laws.” The bill went into effect without the Governor’s signature on April 30, 2007. As passed it provides:</p> <ul style="list-style-type: none"> • The PSC cannot approve a proposed plant for coverage in retail utility rates until the final air quality permit is in place and the public has had a chance to review it • The PSC cannot approve a proposed coal-fired plant unless the state or federal government enacts a law requiring carbon sequestration or the plant will capture and sequester at least half of its CO2 • Gas-fired plants must mitigate a portion of their CO2 emissions through carbon offsets or emissions credits • Flexibility for NorthWestern Energy to purchase enough firm power for periods when wind generation is unavailable <p>The Governor may call a special session to take up proposed changes to the statute.</p>
<p>New Hampshire</p>	<p>Consumer Advocate has requested “anti-gaming” provisions to limit switching back and forth at expense of non-shoppers. PUC rejected proposal in Order No. 24,714 for lack of evidence, but required PSNH to monitor switching.</p> <p>Staff requested that PSNH be required in its 2007 LCIRP filing to present an analysis of the benefits and costs to consumers of the divestiture of its remaining plants. The Commission rejected this proposal. Order No. 24,695 at 25-26, citing the legislative process established to deal with this question, RSA 369-B:3a. http://www.puc.state.nh.us/Regulatory/Orders/2006orders/24695e.pdf</p>
<p>New Jersey</p>	<p>The draft Energy Master Plan and the final document are scheduled to be released for in spring 2007. Public hearings are tentatively scheduled for August or September, with exact schedules to be announced.</p>

<http://www.bgs-auction.com/>

As noted at the above site, the Board has used staggered three-year, Internet-based declining price auctions to procure supply for non-shopping customers since 2002. In its December 8, 2005, Order approving the BGS procurement process for 2006, the Board announced its tentative support for continuing this process, and that it would seek comment in 2007 as to whether to continue to use this form of procurement. Docket No. EO05040317.

In July 2006, after taking comments, the Board determined to continue with the declining price auctions for staggered three-year terms, but signaled a willingness to consider the addition of portfolio options, including longer term procurements and demand response, through a separate proceeding, to commence with utility comments filed in July 2006. http://www.state.nj.us/bpu/wwwroot/energy/EO06020119_20060710.pdf

The Board recently reopened its consideration of the portfolio approach to obtaining Basic Generation Service (BGS), including longer-term contracts and demand-side options. As stated in the Staff's "BGS Working Group Notification,"

The Board in its Order dated December 22, 2006, Docket No. EO06020119 directed Staff to convene and chair a BGS working group to review and make recommendations regarding the incorporation of a BGS Portfolio approach as part of the BGS-FP supply mix in the future. The Board indicated that the BGS working group should consider a portfolio approach that includes the use of longer-term contracts as part of the BGS-FP supply mix to provide greater price stability to BGS-FP customers. Further, the Board also indicated that the BGS working group should also consider and make recommendations concerning the inclusion of demand-side resources and renewable energy as part of the BGS supply mix with the goal of reducing supplier's peak resource needs thereby having a positive impact for all consumers.

In February 2007, the Board approved the results of New Jersey's sixth electric auction for BGS: "As in previous years, there were two descending clock auctions -- one for fixed price service for residential and small business customers, and another to meet the needs of the state's largest commercial and industrial electric customers based on market hourly rates set by PJM, the Regional Transmission Organization. This year, the total value of both auctions was approximately \$6.5 billion representing a potential 7200 megawatts of energy." The Board's media release also stated: "Prices obtained in this year's auction, while lower than those of last year, will still result in an increase in overall electric rates, as the energy secured in the auction will be replacing supply and prices obtained in the 2004 auction when wholesale prices were significantly lower. The prices in this year's auction reflect the higher costs for both fuel and the additional costs companies will have to pay for capacity in the PJM transmission area to meet peak

	<p>demand with a required reserve. PJM has proposed making such capacity more expensive, and these increases are reflected in today's market environment. The utilities do not profit from these higher costs and are a straight pass thru to customers.” http://www.bpu.state.nj.us/home/news.shtml?46-06</p> <p>In May 2007, the BGS Working Group’s final recommendations on the portfolio approach go to the Board.</p> <p>In spring 2007, the state’s draft Energy Master Plan and the final document are scheduled for release, to be followed by public hearings.</p>
New York	<p>In 2001-02 at the time of the crisis in merchant generation, the State Assembly proposed changes in the state’s deregulation policy, including allowing distribution utilities to enter into long-term purchased power contracts (essentially, the changes would have turned the distribution utilities into purchasing agents, with responsibility to maintain a portfolio of short-, medium- and long-term generation contracts). In fall 2002, the state senate and the governor rejected the proposals.</p> <p>In 2004, the PSC “adopted the Statement of Policy on Future Steps Toward Competition in Retail Energy Markets. The Policy Statement sets forth the Commission's goals and visions for the further development of robust retail energy competition in New York and provides a flexible framework for the Commission to analyze and respond to evolving market conditions and thereby to facilitate market development as required. The Commission ordered electric and gas utilities to prepare and file plans to foster the development of retail energy markets in collaboration with staff and other interested parties.”</p> <p>http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/F4746B665D1C642685256EFB00622E91/\$File/201a.00m0504.pdf?OpenElement</p> <p>In 2006 the PSC focused on ConEd’s response to a week-long blackout in New York City and a pending merger between National Grid and KeySpan. The proposed merger is still under consideration, with settlement talks in progress in late April 2007 and continuing into May 2007.</p> <p>In 2007, there are 11 legislative proposals related to renewables and other matters.</p>
Ohio	<p>In spring 2007, some state legislators suggest a connection between a decade of deregulation and the faltering state economy. Industrials and trade groups are seeking price stability before the end of 2008 when rate caps expire for investor-owned utilities (with the exception of DP&L). The governor plans to lay out some principles. Ohio’s utilities (e.g. American Electric Power, parent of FirstEnergy which has the highest rates in Ohio) would re-regulate the industry along the lines of the Virginia legislation; the Ohio Consumers Counsel favors market-based solutions (e.g.</p>

	<p>greater competition); consumer groups debate whether residential and small C&I should pay for renewables (modeled on Austin TX City Light); if returning to any cost-of-service must be incremental; and the state’s coal dependency. The Consumer Counsel has been talking with a variety of parties about alternative paths. Although too soon to tell, observers believe any scenario ultimately adopted in Ohio will include another extension of the transition period. Any proposals will likely require legislation.</p>
<p>Oregon</p>	<p>In 2002, the Oregon Public Utility Commission opened a review of the Market Price Rule limitation against utility plant additions to rate base at cost, Docket UM-1066, but in 2005 http://apps.puc.state.or.us/orders/2005ords/05-133.pdf it put the docket on hold. Oregon’s dependence on the Pacific Northwest’s hydro system and Bonneville Power Administration influence regulators to take a “go slow” approach. However, CO₂ emissions issues are a priority.</p> <p>In 2005, a new bill, SB 408 (Oregon Laws 2005, chapter 845) requires Portland General Electric, PacifiCorp, NW Natural and Avista to file tax reports annually with the PUC. On September 15, 2006, the PUC adopted an order to implement SB 408 in Docket AR 499. http://apps.puc.state.or.us/edockets/docket.asp?DocketID=12794.</p> <p>In January 2007, in rejecting PacifiCorp’s proposal to issue an RFP to build new coal plants, the PUC declined to resolve issues related to CO₂ risk but it opened a separate proceeding to review CO₂ risk related to the expected cost, risk and uncertainties of coal resources. Also in 2007, Enron “leftovers” include a legal battle between the City of Portland and PGE (when it was owned by Enron) over tax collections.</p> <p>2007 legislation includes:</p> <p>April 6: SB 838, the Oregon Energy Renewable Act, establishes an RPS for electric utilities and electricity service suppliers. Specifies renewable energy sources that can be used to generate electricity for purposes of complying with standard. Provides exemptions from compliance with standard; Directs the State Department of Energy to establish a system for RECs and specifies renewable energy certificates that may be used to comply with the RPS and compliance requirements and establishes penalties; and requires utilities to offer green power rates.</p>
<p>Pennsylvania</p>	<p>In May 2006, the PUC opened a docket on Policies to Mitigate Potential Electricity Price Increases, Docket No. M-00061957 http://www.puc.state.pa.us/general/search.aspx. On February 8, 2007, the PUC issued proposals for comment based on the proposals and commentary gathered in the docket, which include:</p> <p>a) Launch a statewide education campaign to help residential and small commercial customers understand the cost of energy and how to avoid higher bills by reducing usage. The proposed budget is \$5M, to be recovered from distribution utilities ratably based on their respective numbers of small consumers. The topics would be as follows:</p>

- The true cost of electricity.
 - Why electricity rates change.
 - When electricity rates will change.
 - How to prepare now for potentially higher energy prices.
 - How energy efficiency and conservation measures benefit customers.
 - That customers may realize savings by purchasing electricity from an alternative electric generation supplier.
- b) Expand utility-specific educational efforts along the same lines.
- c) Continue the Demand Side Working Group initiated in December 2006, from which a report is due May 15 on the topics of energy efficiency, demand side response, advanced metering and revenue decoupling mechanisms. The Commission has apparently focused on the advanced metering demand response issues.
- d) Address on a case by case basis the proposals that utilities and others have put forth for phasing in the effects of otherwise sudden rate increases. It now has pending before it a different proposal by PPL, by which PPL would start buying now the supplies it will need to serve its non-shopping customers in 2010, through 6 individual procurements from 2007 through 2009. Contracts would be laddered to mitigate price volatility. PPL's proposal is still pending at the Administrative Law Judge stage.
- e) Promulgate final rules on Provider of Last Resort Service. The Commission issued proposed POLR regulations in late 2004. Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2), Docket No, L-00040169 (Order entered December 16, 2004). <http://www.puc.state.pa.us/general/results.aspx> . The public comment period was extended to April 2006 to address compliance with the Alternative Energy Portfolio Standards Act of 2004, 73 P.S. § 1648.1, et seq. On April 7, 2008, a final version of this regulation must be delivered to the Independent Regulatory Review Commission, or it will be deemed withdrawn. The OCA, OSBA, DEP, and most EDCs encouraged the use of long term contracts and contract laddering procurement practices to minimize price volatility. Strategic Energy Limited and Direct Energy Services suggested greater use of short term pricing, including hourly priced service for large customers, and policies that will facilitate the participation of EGSs in Pennsylvania's retail market. The Commission expects to issue final form POLR rules and a separate policy statement in the first half of 2007 that will implement many of these recommendations. The Commission's proposed default service policy statement will encourage the default service provider to offer retail customers the option to prepay or defer some portion of a significant rate increase.
- f) Expand low-income assistance availability. In an earlier docket, the Commission held that enrollment ceilings on CAP programs should be eliminated, that EDCs were authorized to use a surcharge to recover CAP costs, that cost-recovery would be limited to residential customers, and that the tariff filing process would be used to simultaneously address cost-recovery and program design elements. Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms, Docket No. M-00051923 (Final Investigatory Order entered December 18, 2006). The

	<p>Commission will initiate a rulemaking process to modify its CAP policy statement and regulations.</p> <p>g) Involve the PUC in pushing for state LIHEAP funding. "The Commission finds that the public interest would be served by becoming a stronger advocate for increased state funding of LIHEAP before both the Pennsylvania General Assembly and in the LAC. Therefore, the Bureau of Consumer Service will actively participate in LAC and vote on policy recommendations. With this change in policy, the Commission can now actively participate with DPW, OCA, Public Utility Law Project and other concerned parties to secure state funding."</p> <p>h) The Commission decided not to take up suggestions for an increase in Low Income Usage Reduction Program funding in this docket, but said it would consider the issue on a case by case basis, and noted that it had recently approved an increase in the settlement of an individual company's rate case.</p> <p>i) The Commission agrees that aggressive representation of Pennsylvania's interests before FERC is an important component of efforts to address electricity price issues. The Commission will continue its policy of active participation at FERC, and will intervene in relevant proceedings as opportunities arise.</p> <p>j) Finally, the Commission will attempt to address a number of important retail and wholesale market issues through collaborative processes. In 2006, the Commission initiated a proceeding to develop standardized request for proposal and supplier master agreement documents. <i>Standardization of Request for Proposal Documents and Supplier Master Agreements in the Context of Default Service</i>, Docket No. M-00061960. In the default service policy statement, we will be directing the formation of a Retail Markets Working Group to study a series of issues relating to retail competition. We expect that these collaborative processes will result in meaningful policy changes that will facilitate the participation of wholesale suppliers and EGSs in Pennsylvania's energy market.</p> <p>Separately, in Docket No. C-20065922, the OCA and local public officials of Pike County proposed that Pike County Light & Power be sold to a nearby cooperative utility for the purpose of reducing the high rates that resulted from a 2005 auction of PCL&P POLR service. The utility opposed this proposal, and instead proposes to extend to PCL&P service area a plan in effect in New York whereby customers who switch to a competitor get a guaranteed discount on their supply bill for the first two months of switching. The matter is still pending before an Administrative Law Judge.</p> <p>On April 13, 2007, the PUC issued a NOPR (to fulfill its duties under the Electricity Choice and Competition Act of 1996); the PUC seeks to impose a reporting requirement for EDCs and EGSs that includes specific information on electric sales activity in the state and drafts of the forms that would be used in submitting the information. The purpose is to "facilitate measurement of the development of Pennsylvania's competitive retail electric supply market" according to the Commission's press release. http://www.puc.state.pa.us/general/press_releases/press_releases.aspx?ShowPR=1733</p>
Rhode	<p>On January 30, 2007, the governor's state of the state address proposed "the formation of a new <u>Rhode Island Power</u></p>

<p>Island</p>	<p><u>Authority</u>. As we develop wind and hydro power, especially on state-owned land, we will use the Authority to manage this power for the state’s benefit. The Authority will also be able to sell low-cost energy for economic development and low-income assistance.” Legislative proposals (52 to date) include:</p> <p>1) H5317, The Rhode Island Energy Authority Act of 2007; The Authority’s purpose would be</p> <ul style="list-style-type: none"> (1) to provide Rhode Island residents, institutions and businesses the benefit of stability through diversification of energy resources, (2) to facilitate the development of renewable energy resources, and (3) to make the cost of energy more affordable. <p>The Authority would be the state’s lead agency for energy development, and would promote the preservation, expansion and sound development of new and existing sources of energy in Rhode Island. The Authority would have bonding power to support construction of plants, and could obtain real property to secure sites for power generation. It could lease or sell the plants it develops or maintains to the state or municipalities. It could contract for the management of its energy facilities. It could engage in commodities trading.</p> <p>The Authority would also take over the function of administering energy efficiency programs from the distribution utilities, and would over from the economic development authority the responsibility for promoting the development of indigenous renewable power sources in Rhode Island, among other things by entering into long-term contracts to procure credits or to support the construction of such projects.</p> <p>It could enter into long term contracts with energy suppliers. It could set the prices and collect the charges for output of any Authority plants. It may also “alter and investigate rates and practices of charging, which affect energy projects so as to increase commerce in the state.”</p> <p>2) S0806, to amend the Energy Consumer and Savings Act of 2005 by requiring that “Not later than June 1, 2012, a general service incandescent lamp shall not be sold in the state.”</p> <p>3) H5551, requiring the PUC to establish incentive rates for electricity generated from renewable energy resources</p> <p>As with the other New England states, Rhode Island is active in regional activity on greenhouse gas emissions.</p>
<p>Texas</p>	<p>In 2005, some legislators called for changes in the way the “price to beat” was set (e.g. requiring reductions when wholesale prices dropped).</p>

In February 2006, the PUCT rejected a legislative proposal to reduce the price-to-beat in light of declining natural gas prices.

In 2007, the PUCT, governor and state legislators have been dealing with (a) the February offer by Texas Pacific Group and KKR to pay \$45M to acquire TXU in a leveraged buyout; (b) ERCOT's market monitor's report in March on TXU market manipulation in summer 2005 and the PUCT's suggested fine of \$210M; allegations in the lawsuits (February and April) of two traders fired by TXU; (c) allegations by FPL (filed in 2004; trial begins May 29, 2007) that TXU caused transmission congestion that caused FPL to fail to meet its contractual obligations to supply wind generation to TXU; and (d) price spikes on April 3, 2007 following ERCOT's rule changes on April 1.

In 2007, the PUCT (*Report to the 80th Texas Legislature*) proposed limiting the ability of utilities to own more than a minor percentage of generation in Texas, and eliminating default service and moving all remaining non-shopping retail customers to competitive suppliers, assigning them at random if they do not choose an alternate supplier.
http://www.puc.state.tx.us/electric/reports/scope/2007/2007scope_elec.pdf

The 2007 legislative session (ends in May) offers proposals to prohibit companies from controlling more than 25% of electric generation within specific geographic regions (zones); bar vertical integration in the electricity market so that a single entity cannot control a retail electric provider, a wholesale generation and transmission; control (or expand) the PUCT's oversight over future M&As; rededicate the System Benefit Fund to again serve low-income customers. Coal dependency, emissions, support for wind generation, and FERC oversight of ERCOT are other issues.

Originally, Representative Phil King, chair of the House Regulated Industries Committee, filed legislation to prevent market manipulation, providing that no supplier in Texas could control more than 20% of the generating capacity. At present, TXU serves more than 40% of the North and West zones; NRG Energy serves about 86% of the Houston zone. Much of the past three months have brought forth various bills and amendments (against the backdrop of the February announcement of TXU leveraged buyout).

[SB 482](#) prohibits TXU from controlling both wholesale and retail divisions; authorizes the PUCT to limit residential rates if the commission finds that they are out of line; provides new protections against disconnections for low-income and elderly customers. The House version ([HB 1189](#)) requires new "firewalls" between different divisions of TXU, although it could continue to operate under a single corporate umbrella; removes the ability of commercial customers to bring complaints about service to the PUCT; and does not protect low-income and elderly customers.

[SB 483](#) prohibits any company from controlling more than 25% of power generation in any of four regions within Texas. The House version includes language that largely parallels current law regarding the amount of the wholesale market that any company can control.

[SB 896](#) clarifies the PUCT's authority to review the proposed sale of TXU.

[HB 1202](#) removes roadblocks to filing antitrust lawsuits against electric companies (i.e. protects against market abuses).

By March 15, the Senate had passed SB 482, SB 483 and HB 896; the House Regulated Industries Committee adopted amended versions of SB 482 and 483, and left the third pending.

On April 25, King added amendments to the March 15 House version of SB 483 to allow a company to exceed a 35% limit if the PUCT and ERCOT's market monitor approve its market mitigation report; lift the limits when ERCOT's nodal market is installed in 2009; and exclude new nuclear and coal generators from the 35% cap. The Senate version still limits companies to serving 25% of the wholesale market in every zone. The House version passed a key hurdle on April 27, 2007, and was approved by voice vote. It must undergo further House votes, but is expected to pass on to the Senate, after which a process to reconcile the differences in the bills will be undertaken.

On April 25, Texas Pacific Group and KKR expedited its filing of a Joint Report and Application with the PUCT (Case 34077-6) to allow the commission to immediately begin its review; the buyers expect the transaction will be completed in August 2007.

In January 2009, ERCOT switches from a zonal to a nodal market; by March, the price cap will reach \$3000/MWh from its 2007 cap of \$1000/MWh (most ISOs/RTOs have a cap of \$1000/MWh).