

EIA Information Disclosure

by

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◇ To Paraphrase Charlton Heston

”If market-information is
made criminal, only
criminals will have
market information.”



EIA's Proposed Policy

The EIA published notices in the Federal Register proposing changes to EIA's treatment of certain data submitted by electric power plants:

- ❖ Treating fuel quality, fuel consumption, financial data, and thermal output as confidential.
- ❖ Aggregating plant-specific information.



Vermont PSB FOIA Request

- ❖ EIA's FOIA response of May 4, 2001 revealed no claim by EIA form-respondents of commercial injury caused by the public availability of such data.



State Regulatory Commissions

- ❖ Commissions must ensure the establishment and maintenance of energy utility services required by public convenience and necessity, and ensure that such services are provided at rates and conditions that are just, reasonable and nondiscriminatory to all consumers.



The Need for Information

- ❖ Disclosure is imperative for States making the transition from regulated to competitive electricity supply markets.
- ❖ Denying general access to this information will reduce the technical competence and effectiveness of policy makers nationwide.
- ❖ Without EIA info., how will policy makers evaluate the costs and benefits of present policies, and develop improved policies in the future?
- ❖ Lack of transparency equates to lack of accountability.
- ❖ Public disclosure and general availability of generator data will promote the rationality and the legitimacy of any restructuring efforts.



States Need Plant-Specific Data

- ❖ To regulate retail electric markets efficiently on behalf of consumers who do not participate in competitive retail electric markets;
- ❖ To monitor the integrity of competitive markets where retail customers select retail electric supply; and
- ❖ To provide environmental information to retail customers who want electricity from sources with lower environmental impact.



I. Regulating Retail Markets 1 of 4

- ❖ EIA information is a vital tool for states:
 - ❖ Implementing energy policies.
 - ❖ Siting energy facilities.
 - ❖ Developing renewable energy initiatives.



I. Regulating Retail Markets 2 of 4

- ❖ EIA data are used to assess monopoly utility functions:
 - ❖ Operational efficiency.
 - ❖ Fuel purchases.
 - ❖ Generating unit characteristics.
 - ❖ Capacity reserve margins.



I. Regulating Retail Markets 3 of 4

- ❖ EIA information serves as input data for:
 - ❖ Cost-benefit analyses;
 - ❖ Long-term forecasts and short-term implementation models;
 - ❖ Assessment of future energy supply and demand; and
 - ❖ Benchmarks for PBR or other incentive programs.

I. Regulating Retail Markets 4 of 4

- ❖ EIA information has historically been a source for:
 - ❖ Congress;
 - ❖ States;
 - ❖ EPRI; and
 - ❖ GRI.

II. Monitoring the Integrity of Competitive Markets.

- ❖ Markets are regional
 - Today retail customers can :
 - ◆ Pay rates of traditionally regulated utility or
 - ◆ Choose standard offer under retail competition or
 - ◆ Choose electricity supplier under retail competition.



III. Market Concentration 1 of 2

- ❖ In 1992, the 10 largest utilities owned 36 percent of all IOU generation capacity; by the end of 2000 the 10 largest companies' share will increase to an estimated 51 percent.
- ❖ EIA figures include only "integrated" IOUs, and do **not** include NUGs or unregulated affiliates.
- ❖ In regional markets concentration is much higher. EIA: "measuring concentration is problematic in this context due to the difficulty in defining relevant markets."
- ❖ NSTAR alleges 2 generators control nearly 90% of NEMA market.

The Changing Structure of the Electric Power Industry 2000: An Update at 97.



III. Market Concentration 2 of 2

- ❖ In 1992 the 20 largest companies owned 58 percent of total IOU generation capacity; by the end of 2000 their share is expected to increase to approximately 72 percent.



IV. What Do Customers Want Most?

- ❖ Reliable service
- ❖ Lower prices, lower bills
- ❖ Minimize environmental impacts
- ❖ Energy efficiency
- ❖ Protection for low-income customers
- ❖ Rate stability
- ❖ Ability to choose

--Maine PUC customer survey 11/96; Texas deliberative polling Q2-3, 1998



V. Environmental Information for Retail Customers. 1 of 4

- ❖ Fossil fuel is America's principle source of electricity.
- ❖ Fossil fuel combustion for electricity generation is America's single largest source of air pollution.
- ❖ Public awareness of environmental impacts of generation can accelerate the demand for renewable resources.
- ❖ Consumer knowledge is a good thing.



V. U.S. Air Pollution: CO₂ & NO_x 2 of 4

More Than 1/3

About 1/3

Less Than 1/3

3,000
Power Plants
300 Plants = 90%

200 million
Cars & Trucks

2 Billion
Other Sources



V. Environmental Impacts 3 of 4

- ❖ Electricity costs 2 1/2% of U.S. GNP, yet
- ❖ The U.S. environmental impacts from electric generation in 1998 were:
 - SO₂ 67%
 - NO_x 25%
 - CO₂ 40%
 - Mercury (1996) 34%

--The Role of Environmental Information in Highlighting Electricity Choices, Kurt Johnson, et al., US EPA (2001)

V. Info. About Environmental Attributes is Needed 4 of 4

- ❖ Environmental Disclosure
- ❖ Consumer Protection (Marketing/Solicitation)
- ❖ Renewables Portfolio Standard
- ❖ Fuel Diversity
- ❖ Possible Future Environmental Regulation (Carbon)

VI. EIA's Duty 1 of 4

- ❖ Federal Energy Administration Act of 1974 (“FEA Act”) and Department of Energy Organization Act (“DOE Act”) require EIA to carry out a centralized, comprehensive, and unified energy information program.



VI. EIA's Duty 2 of 4

- ❖ In creating the EIA, Congress sought to ensure access to such energy information as is required: to define and permit analysis of . . . the institutional structure of the energy supply system, including patterns of ownership and control of mineral fuel and non-mineral energy resources and the production, distribution, and marketing of mineral fuels and electricity.

15 U.S.C. § 790a (b).



VI. EIA's Duty 3 of 4

- ❖ According to the U.S. District Court for the District of Delaware,

The DOE Act mandates disclosure of all EIA information to all segments of the DOE, upon request. It also directs that such information shall be promptly made available to the public unless it is subject to an exemption from mandatory disclosure under the Freedom of Information Act ("FOIA").

Shell Oil vs. DOE, F. Supp. 413, 424 (Dist. of Del. 1979); cert denied 450 U.S. 1024 (1981).



VI. EIA's Duty 4 of 4

- ❖ The FEA Act and DOE Act, *i.e.*, EIA's enabling legislation:

clearly evidence the view of Congress that the presence or absence of competition in the energy industry is of crucial importance to energy planning and that the presence of competition is essential to attainment of the goals of that legislation.

Shell Oil at 426.