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DYNEGY

December 10, 1999

The Honorable Thomas Bliley
United States House of Representatives
2409 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Bliley:

Dynegy Inc., a full-service energy provider based in Houston, Texas appreciates your dedication and leadership on restructuring the electric power market. I greatly appreciate your office's accessibility and interest in discussing this important matter. With your leadership, I am confident the Commerce Committee will ultimately develop a bill that promotes an open and competitive electric market. **Something the bill as currently written does not do.**

Dynegy has some comments for you to consider as you prepare to address the "Electricity Competition and Reliability Act" (HR 2944) in full committee. We believe effective competition will only occur if the rules offer no advantages or disadvantages to any specific customer class. Therefore, our comments concentrate on creating the most reliable and efficient use of the nation's grid. We believe some provisions of the bill will actually deter from the creation of an open and competitive market and **Dynegy would not support the bill as currently written.**

Again, Dynegy commends you for your vision and leadership. We share your goals and believe your hearings will advance the debate to a point where restructuring as a topic is no longer a question of "if," just "how." We look forward to working with you on this important endeavor and welcome any questions or comments you may have for us.

Sincerely,

David N. Keane
Sr. Director, Legislative Affairs

Summation of Dynegy's Comments on the "Electricity Competition and Reliability Act"

- **Sec 101 "Open Access Transmission"**

  In order to create an efficient and reliable grid, capable of delivering the benefits everyone envisions the legislation must not allow a differentiation between a utility's native load and sales to other consumers. The bill must clarify FERC's authority to put everybody on the same tariff. In accordance with FERC Order 888, wholesale transmission users must be treated comparably to the transmission provider's native load customers, including retail customers. **There should be no differentiation between a transmission provider's native load and a third party's sale to either residential, industrial, or other wholesale customers**.

  The Amendment's language will not allow consumers access on an equal basis to transmission facilities and will ensure that some classes of consumers pay a higher rate for the same service. Without this provision, the market will bifurcate into preferred and non-preferred services. As with the deregulation of the natural gas market, Congress recognized that such an arrangement is inefficient and impairs reliability; we urge you to adopt the same strategy in this situation as well. **Dynegy could not and would not support any bill that differentiates between various customer classes.**

- **Section 103. "Authority to Establish Regional Transmission Organizations ("RTO")"**

  The bill removes the mandate that utilities be required to join RTO's. Instead, the legislation merely encourages their creation. **FERC must have authority to establish RTO's for the purpose of independent operation, control, and planning of interconnected transmission facilities.** FERC should have authority, from the date of enactment, to require transmission-owning entities join RTO's. This change is critical for an open and competitive market to develop. Additionally, this must also apply to Federal transmitting utilities, such as the TVA. Dynegy's concern is that if RTO's, of significant geographic size, are not mandated there will be a further fragmentation and "Balkanization" of the U.S. electric industry, which will not be good for industry or residential consumers.

- **Section 513 "Repeal of the Public Utility Holding Company Act of 1935"**

  Dynegy supports repeal of PUHCA and believes the repeal should be effective on the date of enactment of the bill. As the competitive market develops, **there is no reason why there should be a delay of 12 months for repeal of PUHCA,** since the market should be allowed to determine the speed with which consolidation does or does not take place.

- **Section 532 "Prospective Repeal of PURPA"**

  Dynegy supports the prospective repeal of PURPA, specifically section 210. **Dynegy also believes that PURPA section 201 should be repealed to allow for ownership, above 50%, of Qualifying Facilities ("QF") by companies involved in the generation and sale of electricity.** As the market moves to a more open and competitive environment, there is no need to restrict the ownership of QF's. PURPA contracts with above market prices should be included in the utilities' stranded assets, eligible for cost recovery in much the same manner as above market generation.

- **Section 401 "Electric Company Mergers and Disposition of Property"**

  Dynegy supports the development and application of policies that safeguard the restructured electric industry against market power abuses, especially after the repeal of the Public Utility Holding Company Act ("PUHCA"). The new market structure, and the institutions developed to support it, must be designed to minimize opportunities for anti competitive behavior and the exercise of market power.

  FERC has a tremendous amount of experience regarding these issues and has developed a vast amount of expertise in this area, specifically as it relates to the energy industry. Dynegy supports the bill's efforts to develop a methodology to require FERC to change and expedite its review procedures. As Dynegy has said before, FERC's review procedures for mergers are extremely cumbersome and actually increase the time required to get merger approval, which seems to go against the concept of developing an open and competitive electric market.

- **"Retail Reciprocity"**

  Dynegy supports the concept of retail reciprocity and believes it is an important tool in forcing utilities that operate in closed states to push for electric restructuring in their home state. The bill should not allow companies, whose home state does not allow retail access, to participate in the market of a state that does allow for retail sales of electricity. Allowing a company that protects its home turf to sell into the market of an "open" state hinders the opening of the entire electric system and will lead to the further "Balkanization" of the U.S. electric industry. The retail market cannot grow without the development of a vibrant wholesale and retail power market. There needs to be a method to ensure that all participants in the market, wholesale and retail, are treated as equals.

- **Section 701 "Renewable Energy Production Incentive"**

  Dynegy applauds the Subcommittee for not mandating a renewable program. Renewable mandates only serve to encourage the development of high cost generation at the expense of low cost, clean burning, and efficient natural gas.

Dynegy is concerned about the incentive payments provided by the bill for the production of renewable energy. Dynegy does not support a renewables program that confers a competitive advantage on fuels and technologies that are less efficient or more hazardous to the environment. Dynegy, however, does support incentives for research and development activities that will make renewable sources more available and cost effective. Such activities can and will be funded by the private sector when it is determined that the market exists for such generation.

- **Date Certain**

Dynegy again supports customer choice as quickly as possible. While some states are making progress on retail unbundling, there needs to be a national deadline in order to avoid regional market distortions and to maximize consumer cost savings nationally. Dynegy believes a January 1, 2003 nationwide deadline provides the appropriate balancing of national and individual state interests. Dynegy is also concerned that individual states may adopt rules that hinder the movement of electricity between states and supports clarifications defining FERC's jurisdiction over these matters as broadly as possible consistent with existing laws.