

## Commentary

# From a Power Crisis to a Crisis of Power

By HARVEY ROSENFELD

**T**he Public Utilities Commission stole \$7.5 billion from California consumers last week.

The money will be used to bail out both utility companies and big businesses from their losses during the energy debacle. The deregulation rip-off already has cost Californians \$70 billion; we cannot allow the public officials responsible for this latest thievery to get away with it.

The 1996 deregulation law, sponsored by Southern California Edison, forbids the \$5-billion-a-year utility bailout that the PUC approved last Thursday. Utilities reaped \$20 billion in profits during the first two years of deregulation. But when Enron and other energy wholesalers created phony shortages to jack up the price of electricity in 2000, a rate freeze in the law prevented the state's utility companies from passing the higher charges

### PUC decisions by Davis appointees are costing the state's taxpayers billions.

on to customers.

Pacific Gas & Electric declared bankruptcy, but Edison recruited Gov. Gray Davis to back bailout legislation. Unwilling to cross incensed voters, legislators refused to pass it. So the PUC, controlled by Davis appointees, authorized the bailout itself. The agency announced in October 2001 that it had secretly negotiated a \$3-billion bailout with Edison. PG&E's creditors were offered the same terms.

Six weeks ago, however, a federal court of appeals ruled that the Edison deal violated the deregulation law, the state Constitution and open-government laws. It sent the case to the California Supreme Court — which had previously refused to hear a challenge to the PUC's conduct — suggesting that the California

court might want to review the matter after all. Last week's PUC decision brazenly ignored the federal court ruling.

The same contempt for state law and consumers is behind the PUC's separate order forcing residential ratepayers to subsidize the greed of the largest users of electricity. These corporations backed deregulation so they could negotiate cheaper energy prices from wholesale suppliers. But when wholesale prices soared, the companies ran back to the utilities, whose frozen rates were lower.

Later, Davis capitulated to blackout blackmail and signed \$43 billion in long-term contracts, locking the state into exorbitant rates for up to two decades. The "shortages" instantly disappeared, and wholesale

prices fell. The big users scurried back to the wholesalers. The Legislature ordered the PUC to ensure the big users paid for the \$3 billion in energy that Davis had purchased on their behalf.

But on Thursday, the PUC let them off for \$500 million. Small ratepayers will pay the balance. Commissioner Jeff Brown, a Davis appointee, said making the companies pay more would send "a terrible signal to the business community."

What about the signal the voters sent last Tuesday when Davis barely got reelected because of his handling of the energy crisis and when pro-deregulation candidates, mostly Republicans, consistently lost?

If our democracy was in working order, the PUC's conduct would never be tolerated. Davis would withdraw his appointment of former Edison President Michael Peevey and choose true consumer advocates rather than cronies to fill that and a coming vacancy on the PUC.

Despite Davis' effort to distance himself from the agency, it is his agenda that the PUC is loyally carrying out. It's no accident that the PUC waited until after the election to strike.

Davis could also cancel the long-term energy contracts on grounds of fraud and seize control of the wholesale power plants that perpetrated the energy rip-off, saving billions and blocking future machinations. But such bold leadership would offend big business.

State legislators ought to be convening hearings on whether the five commissioners should be impeached for deliberately violating state laws. They should order commercial and industrial energy users to pay their fair share. But like Davis, lawmakers are happy to have the PUC making decisions that benefit their benefactors without having to cast a vote themselves that might anger the public.

In the short run, Californians will have to rely on the state Su-

preme Court to enforce state laws and invalidate the Edison deal. Since Atty. Gen. Bill Lockyer initially filed a court document opining that the bailout was legal, consumer advocates may end up with the responsibility for protecting the public in court. Victory there would result in billions of dollars in refunds, triggering another bailout battle in the Legislature.

If our public officials do not protect us, we'll have to take matters into our own hands with a ballot initiative to reverse the bailouts, order refunds and create an elected utilities commission whose members would have personal liability for failure to obey the law. Deregulation has proved to be a license to steal. One way or the other, we are going to get our money back.

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