

SPARK

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The on-line gateway for readers of Public Utilities Fortnightly magazine.



Fortnightly contributing author Michael T. Burr attempted to ferret out what would our nation's energy policy look like under a John Kerry presidency. And while Kerry's campaign people were elusive, ducking Burr's questions, he was able to ascertain a good deal of information. Also, because past is prelude, Kerry's Senate energy voting record is compiled for Spark readers, giving a snapshot of where he would take the nation if elected.

With the utility industry focused on Customer Information Service in May because of the big CIS conference in Miami, Accenture has some startling information for the industry. It looked at consumer confidence and attitudes after the August 2003 blackout, finding that consumers actually are willing to pay more for electric reliability.

I hope you enjoy this month's issue of Spark.

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ENERGY POLICY

Shadowboxing With John Kerry

BY MICHAEL T. BURR

When the Republican National Committee aired a TV commercial supporting Pres. George W. Bush last November, it signaled the beginning of the longest, most expensive presidential campaign in American history. Furthermore, with the candidates opening the fight by removing their gloves and exchanging low blows, it might also prove be among the ugliest.

Some of these blows are targeting energy issues. The Bush camp, for example, aired an attack ad that said, in part, "Some people have wacky ideas, like taxing gasoline more so people will drive less. That's John Kerry. He supported a 50-cent [per gallon] gas tax."

Meanwhile, at a gas station that was charging \$2.15 a gallon, Kerry crowed, "These aren't Exxon prices; those are Halliburton prices."

Amid the rising din of campaign rhetoric, policy positions can be difficult to discern. The Bush administration has had three years to advance its energy policy—embodied largely in the undead Omnibus Energy Bill. Kerry's policy positions, however, aren't nearly so well defined. This is attributable to the fact that it's still early in the campaign, and in general energy policy doesn't lend itself to campaign sound bites.

"Kerry is primarily interested in getting elected," said Doug Dunn, a partner with Milbank, Tweed, Hadley & McCloy in »

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New York. "He's not looking to take a stance and get pinned down."

Indeed, despite numerous requests (and shameless pleading) by *Fortnightly's Spark*, the Kerry campaign declined to comment for this story. Thus *Spark* readers – and American voters – are left to speculate about Kerry's energy policies.

"His policy has yet to unfold in detail," says Michael Zimmer, a partner with Baker & McKenzie in Washington. "It's probably premature to expect a full policy at this juncture."

Zimmer, who serves as an advisor to the Democratic Party's Environment 2004 initiative, points out that even if Kerry's policy positions are vague, his priorities are clear. Thus, some reasonable guesses can be made about Kerry's policy, by examining the priorities that the Kerry campaign has espoused – as well as Kerry's Senate voting record on energy and environmental issues.

Conserve and Renew

On the campaign trail, and via the official Kerry for President website, the Kerry campaign has outlined broad positions on some energy issues (see <http://www.johnkerry.com/issues/energy/plan.html>). These positions boil down to the following concrete policy changes:

- Reduce oil imports by two million barrels a day by creating trust funds (financed in part by oil and gas royalty revenues) to support renewable energy, more efficient transportation and a hydrogen-based economy.
- Set a goal to have renewables generating 20 percent of the nation's electricity by the year 2020.

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A cornerstone of Kerry's energy policy platform is the notion of reducing dependence on oil imports by increasing efficiency and alternative energy sources.

- Require federal agencies to conserve enough energy to reduce their energy costs by 20 percent; encourage municipalities and institutions to do the same; and provide tax credits to encourage conservation in the private sector.

- Advocate gas-pipeline connections to Canada and Mexico; institute "temporary incentives" to encourage drilling in permitted gas fields in the Gulf of Mexico; and support development of the Alaska gas pipeline by "providing appropriate regulatory streamlining."
- Cancel the Bush EPA's proposed changes to New Source Review standards and "vigorously enforce" environmental laws.
- Advance efforts to meet ozone and air-quality standards, stop acid rain and reduce mercury emissions.
- Re-engage the international community in developing a strategy to address global warming.

A cornerstone of Kerry's energy policy platform is the notion of reducing dependence on oil imports by increasing efficiency and alternative energy sources. "There will be some effort to focus, fund and get more market stimulus behind conservation and efficiency," Zimmer says. In the past Kerry has been a big supporter of corporate average fuel **»»**

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Kerry has criticized the Bush administration's policy on licensing the Yucca Mountain waste repository in Nevada, but his position on relicensing and new development of nuclear plants hasn't been defined. Some suggest, however, that a window might open for Kerry to come out in support of nuclear power.

economy (CAFE) standards. The senator introduced legislation in 2002 that would have raised CAFE standards for cars and light trucks from 20.7 miles per gallon to 35 miles per gallon (See fig.1, "Kerry's Senate Record on Energy," page 4.)

A Kerry administration likely would push the conservation initiative beyond transportation and into heating, cooling, lighting and industrial processes.

The intent of such efforts, in addition to reducing fuel imports, would be to support job creation – as companies pursue and manufacture new technologies – and help retain manufacturing capacity by reducing the effect of rising fuel prices.

"If they don't become more efficient, industries [that are energy-intensive] will be forced to go offshore to remain competitive," Zimmer says.

Likewise, Kerry is advocating more support for renewable energy. In the electric sector, Kerry would seek to increase renewable power generation enough to serve 20 percent of the electric load by 2020. Again, the campaign argues that encouraging the development of renewable technologies and projects will create new jobs – specifically 500,000 of the 10 million jobs that Kerry promises to create in his prospective first term.

As always, the devil is in the details. How a Kerry administration would

quadruple renewable power generation is unclear. In fact, how the campaign defines renewables is open to some discussion. Kerry's energy plan refers to wind, solar, biomass, geothermal and hydrogen, but makes no mention of hydropower or waste-to-energy.

"We've tried to make sure in current legislation on the Hill that the definition for renewables is the same as was used in PURPA," says Lynne Church, president of the Electric Power Supply Association in Washington. PURPA's definition includes waste-fired plants and small hydro units. "Kerry's plan doesn't talk about waste to energy, but biomass is sometimes used for shorthand," Church says.

Beyond defining renewables, however, the Kerry camp says little about how it would spur renewable development, except for the proposed renewable energy trust fund.

"Probably a three-fold approach would be effective to support the transition to renewables as we've seen in Europe," Zimmer says. This approach includes setting the aforementioned 20 percent goal, plus instituting rate or tax incentives, and financing research and development (R&D) of renewable technologies.

Such investment might come from a shift of funding from fossil and nuclear R&D programs. "Only 5 percent of our energy R&D funds go into

renewables," Zimmer says. "A lot of R&D is being done on proven technologies that don't need that level of support" – and might not get it under a Kerry administration.

What position Kerry will take on nuclear energy is uncertain. "The biggest issue for nuclear is agnostic by administration, and that involves coming to grips with the waste-disposal issues," Zimmer says. "That transcends political parties, and is an issue that is long overdue for final resolution."

Kerry has criticized the Bush administration's policy on licensing the Yucca Mountain waste repository in Nevada, but his position on relicensing and new development of nuclear plants hasn't been defined. Some suggest, however, that a window might open for Kerry to come out in support of nuclear power.

"The Democrats can get away with things that the Republicans can't, and vice versa," says Dunn of Milbank, Tweed. "Nuclear power plants are more benign environmentally than coal-fired plants. The Democrats could get away with mounting an independent campaign in favor of nuclear power, where the Republicans never could."

Clearer Skies?

Predicting Kerry's environmental policies might be easier than guessing about the more specific (Continued on p. 5)

Fig. 1: Kerry's Senate Record on Energy

BILL/STATEMENT	POLICY ISSUE	POSITION TAKEN	DATE
Energy Policy Act of 2003	To invoke cloture on the bill.	Absent	11/21/2003
Energy Policy Act of 2003	To enhance energy conservation and secure the US energy supply.	Absent	7/31/2003
Dorgan Amendment No. 865, Energy Omnibus Bill	To set targets and timelines to maintain the production of 100,000 hydrogen-powered vehicles by 2010, and 2.5 million vehicles annually by 2020.	Yea	6/10/2003
Boxer Amendment No. 272, Budget Resolution FY2004	To prevent consideration of drilling in the Arctic National Wildlife Refuge within the budget reconciliation bill.	Yea	3/19/2003
Motion to Invoke Cloture on the Murkowski Amendment No. 3132, Energy Security Policy Bill	To limit debate and force vote on bill to allow drilling in the Arctic National Wildlife Refuge.	Nay	4/18/2002
Levin Amendment No. 2997, Energy Security Policy Bill	To replace the Corporate Average Fuel Economy standard with a new automobile efficiency standard in 15 months.	Nay	3/13/2002
CAFE Standards Bill, S.1926	To increase the CAFE standard for cars light and trucks from 20.7 mpg to 35 mpg.	Introduced (Bill died in committee.)	2/8/2002
The Hyde Park Declaration	To achieve a 10% reduction in greenhouse gases by 2010 through a domestic emissions trading system.	Signed	8/01/2000
Roth Amendment No. 2955, Congressional Budget Resolution	To table amendment on striking revenue assumption from the Arctic National Wildlife Refuge receipts in fiscal year 2005.	Nay	4/06/2000
Gorton Amendment No. 1677	To permit the Department of Transportation to examine and increase Corporate Average Fuel Economy standards for sport utility vehicles and other light trucks.	Yea	9/15/1999
FY2000 Energy Water Development Appropriations Act	To table motion to recommit bill, which would have sent the bill back to committee to include increased funding for renewable energy sources.	Nay	6/16/1999
S.104, Nuclear Waste Policy Act of 1997	To amend Nuclear Waste Policy Act of 1982	Nay	4/15/1997
Bingaman Amendment No.41, Nuclear Waste Policy Act of 1997	To strike all provisions relating to special consideration of potential sites for an interim storage facility.	Yea	4/10/1997
Johnston Amendment No. 2446, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995	To table motion to limit funding for ethanol	Nay	8/03/1994

Energy Policy*(Continued from p. 3)*

energy issues. Although the campaign hasn't said much in detail, Kerry is positioning himself as an environmental leader. He has promised to reverse Bush-era policies on Clean Air Act regulation and other environmental laws, and to bring the United States back to a position of global leadership on environmental issues.

"This is not just a regulatory issue. Other world markets have converted environmental protection into an issue of sound business practices and investment in the future," Zimmer says.

Perhaps the first thing to change under a Kerry administration would be the EPA's revisions to New Source Review standards. Last year the EPA initiated changes in the way it would define new sources of pollution under the Clean Air Act. The change would effectively exempt many plant-repowering projects from the Act's strictest emissions standards.

A Kerry EPA would almost certainly strike a more aggressive regulatory stance than the Bush EPA seems to have done. Yet Kerry would likely support reforming the Clean Air Act, to establish standards for mercury emissions and modernize the law's air-quality requirements. The Kerry energy plan mentions emissions trading as a viable market-based approach to controlling pollution.

"He appears to recognize the need for clear benchmarks and a flexible framework, and that is critical for reforming the Clean Air Act going forward," Church says.

It's probably also safe to predict that Kerry's policy on global warming would be more aggressive than Bush's. Kerry was among the 73 Democratic politicians to sign the Hyde Park Declaration in the year 2000, which among other things resolved to achieve a 10 percent reduction in greenhouse gas emissions by 2010, using an emissions-

He has promised to reverse Bush-era policies on Clean Air Act regulation and other environmental laws, and to bring the United States back to a position of global leadership on environmental issues.

trading system. The Kerry campaign has vowed to advance efforts to control global warming, but it hasn't revealed any specific plans yet.

The Rise of the Regulators

Kerry's positions on more technical issues like electric-system restructuring and regional transmission organizations are difficult to ascertain. RTOs aren't exactly a hot issue on the campaign trail, and in any case the Federal Energy Regulatory Commission (FERC) hasn't acted in an especially partisan way under recent administrations.

"The FERC has been quite activist in its efforts to establish RTOs, under Democrats and Republicans both," Dunn says. "The philosophical background of the Democratic party is a little closer to central planning, but I don't see deregulation becoming a big topic in the campaign."

Considering Kerry's geographic roots, one might expect him to favor continued efforts toward competitive power markets. "It's solely speculation, but generally policymakers from New England have recognized that restructuring has brought savings and greater reliability," says Lynne Church, president of the Electric Power Supply Association (EPSA) in Washington, D.C. "I assume he would follow the lead of many of his colleagues in supporting competitive markets, and probably opposing some of the restraints that policymakers in the southeast and northwest are trying to put on regional markets."

More broadly, however, a Kerry presidency could herald a more aggressive federal regulatory regime. "The Democrats are committed to competition, but not necessarily unbridled competition that allows excesses to evolve in the marketplace," Zimmer says. "It was the lack of cross-checking for compliance with sound principles that created the S&L and corporate governance problems, and it has created a state-level distrust of federal mandates."

Plans to strengthen regulatory agencies could begin to evidence themselves in Kerry's speeches and debates, to the degree he uses corporate governance scandals as a campaign issue. Similarly, Kerry's overall energy-policy positions might make themselves more clear as the candidates spar over front-page issues involving Iraq, national security and the economy.

"Certainly there will be an attack on the Bush administration around oil and geopolitics," Dunn says. "But ideas? No. With the TV need for sound bites, we won't see people running on real ideas. I don't see that changing in my lifetime." ■

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FEATURE

Consumers Willing To Pay For Reliability

BY LORI A. BURKHART

In the wake of the disastrous August 2003 blackout, Accenture has released a residential survey with surprising results that could affect how utility companies treat customers as well as how they pay for reliability. In "Keeping the Lights On," Accenture surveyed residential consumers in Northeastern United States and Southern Ontario who experienced the blackout, and found that 60 percent of those consumers believe that their utility company and the government have not done enough to inform them of the causes of the power failure. Also, 85 percent want their utility company to provide more information on the electric system and supply.

Keith Mueller, managing partner for Accenture's North American utilities industry group, and study author, explained that Accenture waited to take the survey until February 2004 to let emotions quiet down among residential customers, especially in the Northeastern U.S., which also was affected by Hurricane Isabel. Overall, 416 respondents qualified to complete the survey.

Three major findings come from the study. They are that: (1) the blackout cost consumers money; (2) consumers did not get enough information from their utility company; and (3) customers are willing to pay for reliability.

A majority of respondents (62 percent) experienced up to \$300 in losses or expenses, while 71 percent lost up to \$500. Three percent of residential customers experienced financial losses over \$1,000 (see chart on next

page). Mueller pointed out that with 77% claiming to have lost money, he was "surprised not only at the percentage that said they lost money, but also at how many were tracking it and the granularity of it."

The consumers believe that responsibility for the stability of the electricity system as well as communications concerning the system rests with the utilities. They felt the top three reasons for the blackout were failed backup systems, poor coordination among power companies and insufficient investment in equipment. Almost three-quarters of respondents have doubts concerning the stability of the nation's electricity supply and 82 percent expect it to be the same or less reliable in the future. According to Stu Solomon, a partner in Accenture's utilities industry group, there really are two key areas that consumers need to be educated on. "One is the proactive stuff—the items you can do to help them understand what you are doing to maintain reliability, and the other one is the emergency plan, how you actu-

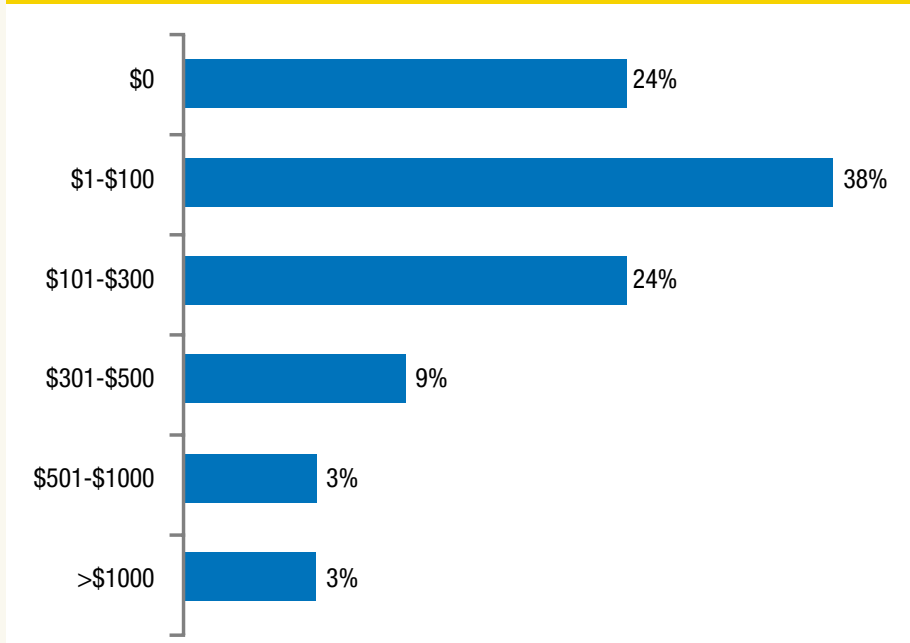
ally will respond when an emergency occurs," he points out. In other words, Solomon says, "emergencies will occur and when they do, this is what they need to do help get our customers back on line and help manage their expectations along the way."

Mueller adds that when one sits down and talks to utility companies they believe the storm response workers are heroic—and they are—in responding to emergencies. "These guys in the field are out there working 24 hours a day, working around the clock for as long as they can to respond to emergencies," he explains. "Yet the consumer feels 'where are they, I don't know what is going on,' and are upset." Mueller says that gap is really wide and needs to be managed better by the utility companies. Solomon gives an example where a utility brings in other outside utility companies to help with emergency response. "The consumer may think that other utilities' trucks that they never have seen before that are rolling up their street is a sign of chaos, when in fact it took a lot of proactive planning to get those crews from outside regions into the area to help get reliability and get the distribution network up and operating," he notes.

While the majority of respondents believe the utility company should pay to improve the electric transmission system to minimize chances of future blackouts, 55 percent are willing to pay more »



TOTAL FINANCIAL LOSS/EXPENSE FROM BLACKOUT(S)



for improvements that would maximize the reliability of the system. Mueller interpreted that as the ratepayers saying, "if you can give me better reliability and more communication, I actually would be willing to pay more for that." That finding, he noted, "is causing a big commotion in the marketplace because people are surprised by it."

It means people are saying, "something that was considered a given before, is no longer a given and I'm mad about it." Quite simply, residential customers want to be serviced better. Mueller says that if you step back and think about what has transpired, that five years ago it wasn't even thought about—whether supply could meet demand, whether the grid is working, whether there would be blackouts. But in the last year consumers are asking for better service and now are willing pay for that better service—to fix the electric system.

The flip side of the equation is that the industry believes is we have one of the best grids in the world—if not the best by far. But the problem, Mueller says, "we

just don't believe it anymore because we have lost the sense of confidence around it. Do we need to invest more, yes absolutely—around the seams, around communications etc. But we have lost the whole sense of confidence."

Customer Education

But will that lack of consumer confidence and willingness to pay for reliability drive the market? "The way I have been talking to companies about this is you cannot disregard that consumers are willing to pay more for reliability—but that is only one piece of the whole puzzle," Mueller says. "What you really need to do is put together a customer service approach that ups communications, emergency plans, and proactively puts in play more customer service approaches to this." He believes that, "if you do that and you can show that to the commissions and consumers, I think you can play into the whole regulatory environment to actually up the rates." But he cautions that "you can't just go in and say we need more money, that won't work."

Mueller explains that good »

Next Month's FORTNIGHTLY

Fortnightly magazine in May looks at Customer Information Service (CIS), with a special bonus distribution at the CIS conference in Miami. You'll find the experts letting the utility companies in on what they need to know when evaluating CIS systems.

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customer service translates into better rates of return for the utility. "We have had a correlation done a number of times, where you have customer service and you have regulated rates of returns, and we know that the better the customer service, the better and higher the rates of return the PUCs will allow," he says. The other side of the equation is that if consumers aren't feeling responded to, then the rate of return will be kept low. "That shows in commissions not being happy with the utility, and bad relationships with mayors and communities," he laments, but if the utility can turn that situation around, consumers then do not mind if the rates go up.

Although the survey was done in response to the August 2003 blackout, Mueller does not believe the residential consumers even know the final report

was released this month by the joint U.S.-Canadian task force. "I don't have the data, but my guess would be that 95% of the people who answered the survey don't even know that that was released." But he sees that as a perfect opportunity for utilities to educate consumers, which is what they are asking for. "What are the utilities actually doing to communicate back to them regarding what happened, why did it happen and what are we doing to fix it so it doesn't happen again?" he asks. He doubts that consumers are reading utility company Web sites, where they might find information of the final report. "I think this a perfect time for utilities to go out and explain what the findings were and what is being done to try to fix it," he believes. "But it is not happening, is it? "

Mueller concludes that that the sur-

vey points out pretty clearly that customer service is going to be something that utilities have to pay more attention to in the future. "There is not a lot of proactive communications in customer service done by utilities in the United States," he finds. "When we show the survey to utility companies, that is what they get caught up in –we need a plan in place to deal with our consumers that actually is proactive, it puts us in a good light with consumers so they understand what is transpiring, they understand why we are trying to build a generating plant in the back yard or transmission lines," he explains. "That is what people are waking up to through the blackout and Hurricane Isabel." ■

Lori A. Burkhart is contributing legal editor at Public Utilities Fortnightly magazine.

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