

## INTRODUCTION

In 1996, the Nebraska Legislature passed Legislative Resolution 455 (LR 455) which directed the Legislature's Natural Resource Committee to perform a two phase study to examine issues related to competition and restructuring of the electric utility industry and the possible effects on the state. Advisory groups and task forces were formed and utilized, along with a consultant.

The first phase of the study examined the history and current status of Nebraska's electric industry. The report produced in Phase I provided a comprehensive overview of the structure, governance, operations, financing and comparative effectiveness of Nebraska's consumer-owned electricity industry. Phase I was completed in December 1997.

Phase II of LR 455 examined the transition of the electric utility industry nationwide and developments at the federal level and in other states related to possible impacts and options for Nebraska's electric industry. Based on these examinations, the Phase II report provided a planning framework for Nebraska centered on a "condition certain" approach to retail competition. Several states that pursued a 'time certain' approach to retail competition encountered problems which probably could have been avoided had a "condition certain" approach been followed. The "condition certain" approach requires that specific preconditions in structure and market be in place when, and if, a transition to retail competition is to be made for Nebraska's electric industry. The Phase II report was completed at the end of 1999.

In early 2000, the elements of the "condition certain" approach as outlined in the LR 455 Phase II report were incorporated in legislation that was introduced in the Nebraska Legislature. Legislative Bill 901 (LB 901) was passed by the Legislature on April 11, 2000.

LB 901 (2000), the pertinent part of which is now codified at Neb. Rev. Stat. Section 70-1003(5), (6) and (7) (Reissue. 2003), directs the Nebraska Power Review Board (NPRB) to hold annual hearings concerning the benefits of retail competition in the electric industry in Nebraska and what steps, if any, should be taken to prepare for retail competition. LB 901 also directs the NPRB to submit an annual report to the Governor, with copies to the Clerk of the Legislature and the Natural Resources Committee, analyzing five items or conditions concerning the electric system in Nebraska and the region to help determine when and if retail competition should be initiated in Nebraska.

To carry out the mandate of LB 901 (2000), the NPRB formed Technical Groups comprised of experts from Nebraska's electric industry to conduct research and prepare the part of the study corresponding to each of the five conditions outlined in the legislation. The members of the Technical Groups that addressed the five issues are shown in the individual issue reports.

The NPRB also formed a Review Group to allow for participation in the process by a wide spectrum of interested parties. The Review Group includes representatives from government agencies, consumer groups, public power entities, investor-owned electric utilities, residential, agricultural, commercial and industrial consumers and other groups. The Review Group acts as a sounding board for the Technical Groups' information and findings, and offers suggestions for the final report. The members of the Review Group have changed during the period the LB 901 (2000) issues have been monitored. A listing of the current members follows.

| <b>NAME</b>     | <b>REPRESENTING</b>                          |
|-----------------|--|
| Doug Bantam     | Lincoln Electric System                      |
| Fred Bellum     | American Association of Retired Persons      |
| Tim Burke       | Omaha Public Power District                  |
| Richard Duxbury | NMPP Energy                                  |
| Marvin Fishler  | Irrigation Customer                          |
| Joe Francis     | Nebraska Department of Environmental Quality |
| Gary Hedman     | Southern Public Power District               |
| Jay Holmquist   | Nebraska Rural Electric Association          |
| Clint Johannes  | Nebraska Electric Generation & Transmission  |
| Don Kraus       | Central Nebraska Public Power & Irrigation   |
| Richard Kuiper  | IBEW/NE State Utility Workers                |
| Gary Mader      | Grand Island Utilities                       |
| Derril Marshall | Fremont Utilities                            |
| John McClure    | Nebraska Public Power District               |
| Dave Mazour     | Tri-State Generation & Transmission          |
| Steve Pella     | Aquila                                       |
| Bruce Pontow    | Nebraska Electric Generation & Transmission  |
| Mary Powers     | Nebraska League of Women Voters              |
| Frank Reida     | Residential Customer                         |
| Marvin Schultes | Hastings Utilities                           |
| Adam Smith      | Industrial Customer                          |
| Tim Texel       | Nebraska Power Review Board                  |
| Robert White    | Loup River Public Power District             |

The NPRB retained PAPE CONSULTING SERVICES as the Coordinating Consultant. The Consultant is responsible for coordinating the activities and meetings of both the Technical and Review Groups, and for assembling the annual report. The first Annual Report was issued in October 2001, with subsequent reports issued in October 2002, 2003 and 2004.

Although Nebraska is unique in the United States in that it's electric utilities are exclusively consumer-owned, Nebraska's major public power utilities have historically participated in the initial development and growth of the region's high voltage electric transmission system. It is critical that a reliable and adequate transmission system exists in Nebraska and in the region. Nebraska is not and cannot be an island. Nebraska is electrically interconnected to numerous investor-owned and consumer-owned utilities, and regularly trades wholesale electricity with these utilities as well as other energy service providers for reliability and economic purposes.

Nebraska needs to be aware of the successes and failures of customer choice programs in other states, and congressional and regulatory activities at the federal level. Although the "Condition Certain" approach to customer choice being followed in Nebraska is more conservative than the approach being taken in other states, it should enable Nebraska to move towards customer choice in a more orderly manner with reasonable assurance of success, when, and if, the State believes that Nebraska's electric consumers will benefit.

In order for customer choice to be effective in Nebraska, it would not be adequate to only have a viable regional transmission organization and adequate transmission in Nebraska or in a region that includes Nebraska, only a viable wholesale electricity market in a region that includes Nebraska, or only wholesale electricity prices in the region comparable to Nebraska prices. For an effective customer choice program, all three of these conditions must be favorable.

This 2005 report is the fifth report following up on the five "Condition Certain" issues identified in LB 901 (2000).