

Sound Bites

(For use in demonstrating the linkage between regulatory certainty and capital access, and advocating regulatory reforms to provide increased certainty.)

- “In our view, business uncertainty in the utility sector has taken a step change due to the weakening credit quality among electric utilities, *an every riskier regulatory environment*, and the prospect that rebound in industrial demand is not likely in the near future.” (emphasis added) - **Carol Coale, Prudential Securities (reported in Electric Utility Week, October 14, 2002)**
- “...But then, finally, I’d emphasize something that I think policymakers can do something about, and that’s the kind of legal and regulatory uncertainty that overhangs the industry...I think, broadly, I would say that speed and consistency in applying rules are critical. For example, it seems to me that years into the open markets era, we still have no real definition of *just and reasonable*. It’s very difficult for people to invest, not knowing whether what they are doing is just and reasonable, and that’s the critical issue...(emphasis added)

We have many – a good number of deep-pocketed investors who are interested in the area (transmission or generation), and the principal issue, the reason that there are areas of shortage and areas of overbuild are principally that it has been easier to build in one area than another. And I think the reason for that is pretty straightforward. Some states, in particular, make it very difficult to build a power plant, for example, and other states make it relatively easy to build a power plant... And this puts, naturally – you know, when a group of investors gets together and goes to their board to decide, do we want to build a power plant in this state, somebody tends to raise the issue of whether they want us there. And if they don’t want us there, what kind of regulatory policies can they impose on us that will make the return of our capital and the return on our capital difficult.” (parenthesis added) - **Kit Konolige, Managing Director, Equity Research, Morgan Stanley; testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000) (Parentheses added)**

- “Capital can and will come back to this industry, assuming that a solid and workable regulatory framework is established and financial discipline of the various players is adhered to.” – **Richard Kaufman, First Vice President & Manager, Credit Lyonnaise, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**
- “...the risk profile of the electric IOU sector has changed significantly. What were formerly safe utility credits are now performing like corporate credits in other sectors...Regulatory risk at the state level comes from rate caps, combined with the inability to pass through costs, as well as from differences in state

regulatory decision making.” - **Kara Silva, Vice President, MBIA Insurance Corporation and the Global Utilities Sector Manager, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**

- “ From the beginning, investments in this industry have been attractive, in part due to a stable regulatory framework...Large amounts of capital are needed to finance the U.S. energy industry to make available, adequate generation and well functioning markets for all of us. Capital providers need the assurance of a stable, consistent regulatory environment and protection from regulatory change for existing investments made in good faith.” - **Don Peterson, Senior Vice President, GE Structured Finance, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**
- “In the utility industry, the most exciting thing there is the incentive-based ratemaking, so that someone who does things right, can, in fact, earn a superior return, and that that return is not taken away.”- **Joachim Schnabel, Managing Director, TIAA-CREFF Investment Management, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**
- “The failed experiment with deregulation in California, the questionable behavior of marketing participants, the significant failure of many companies, overbuilding, and a weakening economic environment, have brought us to a level of uncertainty and have developed a credibility crisis that has effectively shut down reasonably-costed capital to segments of the industry, and helped promote a liquidity crisis... We need to resolve the issues of the past, *and provide significantly more certainty about where we are headed for the future. There is no environment where capital is more costly than one that is dominated by a high degree of emotion and uncertainty...*” (emphasis added)
- “For all the years that I’ve been watching state regulation, when they used to focus on return on return on equity, when that represented such a small percentage of the overall bill to customers. If they incent them right on purchased power, they incent them right on how to generate electricity, they could have saved customers hundreds and hundreds of millions of dollars but they rather cut them a hundred basis points in return on equity and cut it \$10 million. I mean, it never seemed to be the right balance. ” - **Evan Silverstein, President, SILCAP, LLC, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**
- “...we have had investors sit across the battle from us when we go out to talk to them and say on thing you have to tell FERC – and fingers are being jabbed in our direction, so this would seem to be the forum – is, we have met an awful lot

of investor who are sensitive to the idea of regulatory investigation overhang, and certainly, I think, even more sensitive than we were to the idea. So maybe to give you an idea of relative quantum of concern, the investors are perhaps even more concerned that we are”- **Richard Hunter, Managing Director, Global Power Ratings, Fitch Ratings, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**

- “We have seen instances on the short side where access (to capital) has also been prohibitive. There have been instances where companies have paid 30 percent for access to capital, and I think we would all agree that that is not a positive situation for anyone. And it is not just that capital availability is limited for energy trading and other diversified activities that have not performed as expected. We’ve seen it spilling over to plain vanilla LDC financing...

And then finally, and I think very importantly, is regulatory innovation. That is the regulatory programs that use the marketplace to create tools that help LDCs manage risk. There is a very successful story to be told on the natural gas side emanating from the changes that have been made in the wholesale market. At our company we’ve been able to use those as a way to provide savings to our customers over the past ten years and I think that the blueprint is one that we can very much build upon to help address some of the issues that we heard about this morning in terms of price volatility and ultimately meeting the needs of customers. There have been a number of states around the nation that have embraced those changes, and we look forward and hope that they will continue to expand going forward. Because the reality is, a lot of those benefits that have been created have been done by using the market.” - **Larry Downes, Chairman and CEO, New Jersey Resources Corporation (the parent of New Jersey Natural Gas Company), testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**

- “Our view is that regulatory certainty is one of the crucial linchpins to capital availability and stability in the energy markets. Regulatory certainty is important to assure recovery of investment and to assure a firm footing on which companies can develop business plans. Regulatory certainty will help rebuild confidence in energy market and foster investment in needed new infrastructure.” - **Katie Houstma, Vice President and Controller, Commonwealth Edison Company, testifying at FERC’s open hearing, Capital Availability For Energy Markets, January 16, 2003. (FERC Docket No. AD03-3-000)**