

BAILOUTS – THE NEW “NUCLEAR TERRORISM”

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- I. History
 - A. 2013-14 -- Exelon’s first rumblings, demands; not being rewarded for its “low-carbon attributes”
 - B. 2014 – HR1146, a study to “show”
 - C. 2015 – “Clean Jobs Bill”, and Exelon’s and ComEd’s
 - D. 2016 – Exelon’s “Future Energy Jobs” Bill
 - E. Dec. 2016 – legislation passes;
 - F. 2017 – 2 lawsuits lodged against the Exelon ZEC Sections of the new law

- II. NEIS response
 - A. “a nuclear hostage crisis” -- ransom note
 - B. Introduced the notions of:
 - a. Energy transformation
 - b. Exelon’s anachronistic business model
 - c. Nuclear is NOT clean and green
 - d. Challenged jobs issues
 - e. Need for “Just Transitions” programs to pre-empt the hostage crisis
 - C. “Against the onslaught of humor, nothing can stand!”; humor and outrage
 - a. Alms for Exelon
 - b. Ransom notes
 - c. Exelon Bake Sale
 - d. Radioactive waste auction at Exelon (never occurred)
 - e. “nuclear terrorism,” “nuclear hostage crisis” themes

- III. Lessons learned
 - a. “Strange bedfellows”: allies -- coal/competing companies; large industrials, AARP,
 - b. Big Greens will act “opportunistically”, based on their national policies

- IV. Specific Recommendations (with detailed explanations):
 - 1.) ***Undercut the utility’s ability to “game” the jobs/economic hostage crisis card by enacting a pre-emptive “just transitions” program; need to involve the affected communities, the workers and the unions if possible***

COMMENTARY: Exelon and others “used” (exploited) the very justified fears of the workers and leaders of the reactor communities around Clinton and Quad Cities threatened with imminent job loss and near-instantaneous destruction of the tax base that supports essential public services. Those people went to bat for Exelon in droves; so strongly, in fact, that they were not willing to listen to the proposals to establish the “just transitions” funds (which implied plant closures; they were fighting to keep the plants open and the cash cow milking).

We can remove this utility influence, and put them on the DEFENSE, by insisting on the establishment of pre-closure, escrowed funds (funded by many possible options and means) that would be available to those communities and workers when the operating license is terminated. If Exelon/others can’t get/loses the LOCAL community support, they are less likely to prevail before the state legislatures and the governor.

We approach this in steps:

1. ALL reactors WILL close at some date in the future, by license
2. ALL those nasty threatened things WILL happen to communities that do not plan ahead to mitigate the damage.
3. Better to build an advance safety net, than scramble at the last minute for bailouts.
4. REMIND the locals and legislatures that Exelon is within their legal right to close the reactors any time they choose. It is EXELON doing the damage, not the legislatures that don't commit to bailouts.
5. Reactors can also be closed by other circumstances: natural disasters, terrorism, NRC order, safety violations, accidents and operational errors. The safety net will be there for those circumstances, too.
6. Bailouts are particularly unpopular in election years for legislators. How many times do the legislators want to be subjected to this level of economic blackmail by the utilities?
7. Why are the "no-nukes kooks" the ones arguing for help for these communities and workers? Why aren't the unions arguing to defend their workers? The local politicians? (puts the opposition on the DEFENSE that way)
8. See attached doc we used.

2.) Do whatever it takes to undermine or weaken the utility's claims that the bailouts are for environmental reasons, and therefore under the jurisdiction of the States and not FERC

COMMENTARY: As explained, Exelon is arguing that the Hughes v. Talen decision by the Supreme Court, which overturns bailouts, will not apply in Illinois because 1.) the legislation was (largely) and ENVIRONMENTAL bill to get nukes rewarded for their "positive societal benefit" of generating electricity in a low-carbon manner; and 2.) and that states have the rights and authority to enact legislation that have definite environmental benefits.

If on the other hand, the legislation can be shown to be primarily of economic nature, Hughes v. Talen WILL apply, and theoretically the bailouts can be overturned by the Courts. There are some nifty legal arguments in the two suits filed in IL that really severely attack Exelon's "environmental" position and reasoning, which we will be glad to send to anyone.

So, as much as possible, discredit any bailout as coming from the place of environmental benefit or necessity, to get the Supreme Court ruling to work for you.

3.) Understand that the Big Greens will go for compromise; determine ways to either form a stronger unified block with them against the bailouts, or in opposition to them

COMMENTARY: We lost the Big Greens in IL, who were selected to head up the negotiations with Exelon and ComEd over the legislation. While they did win some extraordinary gains (at least on paper so far; the proof is in the implementation) in renewables, efficiency and environmental justice, the price paid was to go along with the bailout. We could not get any of them except Sierra to publicly state (and only very late in the game), clarify and make the distinction between what they actually supported (the RE/EE/EJ provisions), and what they didn't (the bailout).

This created the illusion and cover needed by some legislators to say, "See the enviros support the bailout too; so I'm safe to vote for it."

Get the Big Greens ON PAPER, TAPE AND THE RECORD to state that they DON'T support the bailout, but feel coerced by the corrupt political sausage-making legislative process to support it to get movement on RE/EE/EJ.

Ideally, get them on board early in opposition, period. This seems to have happened in Michigan surrounding the proposed Palisades closure, where certain groups have taken unequivocal positions in opposition to bailouts and letting Palisades continue to operate. Therefore, whatever has already happened must therefore be possible.

4.) *Insist on a reverse-HR1146 study: have the legislature determine the lost "opportunity costs" on renewable/efficiency energy sectors if the bailout is granted*

COMMENTARY: In Illinois the political brokers dodged Exelon's first attempt at the bailout by passing a study resolution to examine the negative effects closing the reactor would have on Illinois. Four state agencies worked 7 months on this, on taxpayer time and money. Then, when the report came out, the results were not as bad as Exelon would have liked. NEIS was able to hold 1-1 meetings with report authors from 3 of 4 of the agencies, and saw some of our counter-arguments appear in the final report.

In House and Senate Committee testimony we chastised the Legislature for only doing HALF-a-study. The Legislature needed to explore with the same detail and vigor the negative effects on the Illinois RE/EE sectors (and resulting economic losses) if the nuclear bailout was allowed. They never ended up doing this study; but the point was not lost on them.

So, PRO-ACTIVELY call for such a study to take place in other states BEFORE a bailout bill is permitted for a vote. It'll at least slow down the process; and it might even result in a stake through the nuclear heart.

5.) *If the governor/legislature wants to bailout anything, it should be the reactor communities absent a "just transitions" program, not a profitable private sector corporation. Bailout the affected communities, close the reactors, and save \$\$ on the HLRW that WON'T be generated and stored.*

COMMENTARY: This was the public statement we made at the last minute, and after the legislation passed to "zing" the governor, who ran on the platform that he would run the state like a businessman (sound familiar??):

"Gov. Rauner said he supported the Exelon bailout because, "closing the plants would have "devastated the two communities." If he really and truly believes that, then he should have worked to bail out the potentially devastated communities, not the hugely profitable Exelon corporation."

And...

“If one were to amortize the \$2.35 billion electric rate hike bailout over the 1,500 direct jobs Exelon claims would be lost if it had closed the Clinton and Quad Cities nuclear stations, Governor Rauner and Exelon are forcing Illinois ratepayers to pay \$1.57 million per job “saved.” We could buy these workers out cheaper, close the reactors, and stop the production of ~900 tons of high-level radioactive wastes over the next 10 years,” Kraft points out.”

6.) Amicus briefs for the opposition suits

COMMENTARY: NEIS is awaiting an opportunity and seeking legal assistance to file amicus briefs or other supportive documentation in support of the two lawsuits in Illinois. We would be happy to provide copies of the lawsuits on request.

7.) Harp on the “energy transitions” and “anachronistic business models” themes

COMMENTARY: This is NEIS dictating the terms of the debate by creating the dialog, language etc., and denying Exelon that linguistic space. We killed them on “clean and green.” We were (among?) the first to use the term “bailout,” certainly the first among the enviros, and while we can’t say for sure others copied us, once *Crain’s Chicago Business* started using it, it stuck for the duration.

We wanted to bring up larger issues of context with the public and legislators that the bailout was only a small piece of a much larger play and transition going on internationally. The first responder and investors would prosper; the laggards would be left behind, and we supplied articles to back this up. While this argument was lost at the time, we hear it being discussed now that the dust has settled on the legislation. Lose the battle, win the war.

The notion of an anachronistic business model was originally aimed at the allegedly business-minded governor. But there too, we heard this phrase used later on in the legislative debate. Other large industry reps and competing utilities used it on occasion.

Finally, we wanted to create “toxic language” associated with Exelon and its position, so that NO ONE would want to be associated with it or them. That’s where the more aggressive terms like “nuclear terrorism” and “nuclear hostage crisis” come in. They’re at first just attention getters; but then we get the opportunity to explain the parallels, and people “get it.”

[NOTE: the definition of “international terrorism”:

“[Criminal] acts intended or calculated to provoke a state of terror in the public, a group of persons or particular persons for political purposes....”

We would point out that threatening the immediate loss of jobs and decimation of the local tax base UNLESS you bail out a private profitable company constitutes a targeted threat aimed at legislators, especially in an election year. This is economic terror, plain and simple – known in other circles as “extortion.”]

8.) Utilize election cycles, make the bailout/rate-hike an issue

COMMENTARY: Pretty self-explanatory.