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Review & Outlook

Power Grab

One of the perks of having the world's biggest economy is that Americans get to be blasé about the implications of their political choices. We wrote in this space recently about the energy consequences of California's business elites embracing the state's blowin'-in-the-wind environmentalism. Here's chapter two of that tale.

For years, unions have intimidated and badgered power plant builders to employ only the 25% of California's construction workers who hold union cards. These demands by construction unions for bans on nonunion labor have both delayed and driven up the cost of, you guessed it, new power plants in the state.

About a decade ago, union lawyers hit on the novel but, for California, entirely sensible idea of threatening environmental lawsuits based on state and federal laws. The game is to delay the construction of power plants until their builders sign what are called project labor agreements, or PLAs. Such pacts go beyond Davis-Bacon requirements to pay union wages by also requiring builders to force any remaining nonunion employees to pay union dues, hire everyone else only from union halls and use union-appointed arbitrators. Union videos, for example, show activists how to use endangered species lawsuits to delay cogeneration and other power plants.

According to an analysis by the Engineering News Record, the result has been significant delays in starting power plants, an average 20% increase in costs because of the exclusion of nonunion contractors and fewer power plants being built. Last year, union objections blocked a \$200 million plant in Kern County. Texaco sold the project to Edison Mission Energy, which finally won approval for it this month only after signing a PLA.

The union drumbeat for PLAs picked up steam after President Clinton in 1993 rescinded an executive order banning them from federally funded projects. Later that year, the Supreme Court ruled they were legal in the public sector. California Unions for Reliable Energy was formed in 1997 to promote PLAs by targeting the approval process for power plants. Since then not a single nonunion power plant has been built north of tiny Imperial County on the Mexican border. The state Energy Commission rejected a challenge to CURE's activities in 1997, finding it had an "undeniably relevant" role in the process.

One use of that role came in 1999 when a union law firm threatened an Endangered Species Act lawsuit. It contended that a seismic survey of land in Elk Hills, Calif., could harm plants such as the San Joaquin woolly-thread, a member of the sunflower family. John Braun, president of a nonunion construction company, believes such threats have played a role in forcing the signing of PLAs. The unions "don't care anything about the environment," he said in a report on PLAs by Chip Power of the Bakersfield Californian. "That's a farce."

PLAs are rationalized on the basis that they buy labor peace and lead to on-time and on-budget projects. But the largest PLA ever granted, the rebuilding of San Francisco International Airport, belies that. It is now \$259 million over budget, six months late and has already suffered strikes by electricians and carpenters. Small wonder that last November, Santa Rosa's city council rejected a PLA for construction of its new city convention center.

PLA battles are moving beyond California. Hawaii Governor Ben Cayetano has supported legislation that would effectively force all private companies doing state work to unionize. Only public fears that the law would weaken Hawaii's already fragile economy have blocked the legislature from acting so far. Union work rules are also at the center of a dispute between Maryland and Virginia over the construction of a new Woodrow Wilson bridge linking the two states across the Potomac River. Maryland is insisting on PLAs to ensure avoiding strikes or union slowdowns. Virginia Governor James Gilmore insists he won't allow any bridge funds to be spent on delays or cost overruns caused by the PLAs.

The fact that this noxious idea is spreading to state after state is one reason an executive order overturning the 1993 Clinton order in favor of PLAs has been drafted and is on President Bush's desk. It would simply hold that that the federal government shouldn't discriminate against employees on the basis of their union status and would ban PLAs on federally funded projects in order to "promote and ensure open competition." Another possible executive order would stipulate that any environmental complaint in a federal court cannot be dismissed in exchange for nonenvironmental considerations such as the signing of a PLA.

Almost as important are President Bush's new appointments to the National Labor Relations Board. Under Bill Clinton the NLRB did away with a rule barring local governments from entering into union-only work agreements when they merely finance construction projects. Putting some legal restraints on the abuses of project labor agreements would not only enhance worker freedom, but might just get some new power plants in California built faster. It's something for the state's energy-strapped citizens to think about the next time the news fills with stories of celebrity-studded political fund-raisers in Hollywood.

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