

Reproduced with permission of the author.

The Strategy for Electricity is Democracy

by Richard L. Grossman

Co-Founder, PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

30 January 2001

The people of California chartered Pacific Gas & Electric Corporation, Edison International Corporation and their subsidiary corporations to provide for the state's energy needs. Not to define energy policy. Not to write the law. Not to buy public officials, publishers, editors, reporters and civic leaders. Not to pipe billions of ratepayer and taxpayer dollars out of state. Not to roam the world buying up other corporations, poisoning other people's communities and vacuuming up other people's money. Not to prevent appropriate, efficient, renewable, reliable and public energy systems from replacing wasteful, complex, expensive, and deadly corporate systems.

And not to run the state into the ground.

The US Constitution does not mention corporations. California's Constitution says: "All political power is inherent in the people" (article 11, section 1). Yet corporations dominate politics by controlling ideas, values, policies, laws and people's money. Look at the ease with which a handful of corporate leaders redefined the electricity crisis they caused, seized billions of the people's money for makeshift measures, and are screwing up energy policy into the next generation. How did they do this?

Among other things, the US Supreme Court has insulated these corporate managers from public authority. For example, in 1886, the Supremes gave corporations the 14th Amendment's "equal protection of the law" (*Santa Clara County v Southern Pacific Railroad Corporation*.) There was no public discussion, no legislative discussion, no legislative lawmaking. Chief Justice Waite simply said: "The court does not wish to hear argument on the question whether the . . . 14th Amendment to the Constitution . . . applies to these corporations. We are all of opinion that it does."

Over the next century, the Supremes gave corporations most of the Bill of Rights. In 1986, they threw in the last chunk of our 1st Amendment, revoking people's right to defend ourselves against corporate lies wrapped around our utility bills (*PG & E v Public Utilities Commission*). Despite public discussion and legislative lawmaking in California to the contrary, Justice Powell simply said: "For corporations as for individuals, the choice to speak includes within it the choice of what not to say. And we have held that speech does not lose its protection because of the corporate identity of the speaker."

Armed with these and other judicial gifts, energy corporations have crushed people's initiatives and referenda instructing public officials to map out solar and public energy transitions. They have diverted people from thinking rationally about governance and technologies. They have grown rich from pouring people's money down nuclear, fossil fuel and other infelicitous rat holes. Is it any wonder that all Californians do not enjoy community-controlled, efficient, affordable and reliable renewable energy? Or that communities which do not allow their electricity corporations to become their masters -- such as Sacramento -- are islands of calm in this sea of crisis?

Banking corporations, seed corporations, chemical corporations, telecommunications corporations, computer corporations, automobile corporations, tobacco corporations, information and entertainment corporations, timber corporations, oil corporations: they all do what Pacific Gas & Electric Corporation, Edison International Corporation and their subsidiary corporations have legally been doing. Agribusiness corporations write food policy law. Insurance corporations write sickness and health care law. Financial corporations write monetary policy law. Automobile corporations write transportation policy law. Together they write global corporate rights law (and call it free trade). Corporations' laws are enforced by police, courts and US marshals, and as we saw during the Seattle WTO meeting, by the US Army.

A few hundred giant corporations govern. They define the nation's needs, values, thoughts, choices and spending by superintending the people's debates, elections, lawmaking, jurisprudence and education. So just to generate accurate analyses and sane discussions, we must get corporations out of people's faces, off people's airwaves. Out of our legislatures, city halls, schools and guts. And far away from public policy negotiating tables.

The short-term deal to keep the lights on is about legislators and the governor enabling Pacific Gas & Electric and Edison International corporations to dig deeper into people's pockets to pay for terrible corporate decisions. Longer-term deals are about these corporations -- and financial giants like Goldman-Sachs, Citigroup, Credit Suisse, First Boston -- taking our socks while melting down the Sierras.

So for starters, Californians must amend the state's corporation laws to ban corporations from:

- exercising rights reserved to human beings, including freedom of speech and assembly, due process, equal protection of the laws;
- buying allegiance and silence by giving money to schools, museums, little leagues, scouting and other community groups;
- investing money in candidates, political parties, PACs, initiative or referendum campaigns, or influencing any public discussions or legislation;
- challenging the constitutionality of local and state laws;
- advertising anywhere about ideas, values, and public policy;
- denying freedom of speech and assembly to employees;
- owning other corporations.

By taking such action, Californians will force long overdue confrontations -- not over voluntary corporate codes of conduct, not over a little insulation in the attic, not over how many corporate cancers are acceptable. But over this fundamental principle of self-governance: "All political power is inherent in the people."

Of course, corporate operatives will claim that the US Constitution renders such lawmaking beyond the authority of the people. Their lawyers will tell federal judges to deny the people's will. Experts everywhere will proclaim that people have no right to touch corporate law.

But we will not solve the electricity or any other crisis without addressing our lack-of-democracy crisis. Ohioans who have documented their state's history of corporate usurpation know it. Labor Party members studying the corporate denial of workers' First Amendment rights know it. South Dakotans and Pennsylvanians who have banned corporate ownership of farms know it.

Californians getting the shaft should know it. So take the logical step: evoke the illegitimate authority of corporations to define the culture, govern the state and plunder the Earth -- even if the Supremes and George W. Bush, brandishing the rule of law, threaten to send in US marshals.

Grossman is co-director of the Program on Corporations, Law & Democracy (POCLAD). A former California resident, he lives now in New Hampshire, website: poclad.org. email: [people\[at\]poclad\[dot\]org](mailto:people@poclad.org).

Copyright © 2001 by Richard L. Grossman