Ken Lay's Alive!

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Don't check the casket. I know he's back. When I saw those lights flickering out at La Guardia Airport yesterday and heard the eerie shrieks and moans in the dark, broiling subway tunnels, I just knew it: Ken Lay's alive! We can see his spirit in every flickering lightbulb from Kansas to Queens as we head into America's annual Blackout season.

It wasn't always so. For decades, America had nearly the best, most reliable electricity system on the planet and, though we grumbled, electricity bills were among the planet's lowest. It was all thanks to Franklin Roosevelt and the Public Utility Holding Company Act which allowed for tough regulation of the power monopolies. They were told what they could charge, the maximum profit they could take and — what I think about when the lights dim — exactly how much they had to invest to keep the juice flowing.

But then, in 1992, a Texas oil man, George H.W. Bush, ordered to evacuate the White House by two-thirds of the US electorate, gave his Houston crony, Ken Lay, a billion-dollar good-bye kiss: Bush's signature authorizing deregulation of electricity.

But Lay's operation didn't pick up the really big bucks until after December 21, 1994, when the Enron chief wrote to the incoming governor of Texas, George W. Bush, asking the Governor-elect to grant him a special wish for Christmas:

"The Public Utility Commission appointment is an extremely critical one. We believe Pat Wood is best qualifiedâ€¦. Linda joins me in wishing you and Laura and the whole family a joyous holiday. – Sincerely, Ken."

And Georgie-Boy granted Kenny-Boy's wish, appointing Wood and thereby giving Texans an electricity regulator who stumped for Ken Lay's right to earn unlimited profits without any obligation to keep the lights on. Thus, by 1995, electricity deregulation had a foothold in the Lone Star state that would spread nationwide like Dutch Elm Disease.

But, unsatisfied with excessive profits, Lay and his team went for unconscionable profits, flickering the lights in California in the winter of 2000. "Let poor Aunt Millie â€¦ use candles," said one of Lay's minions as he deliberately schemed to engineer black-outs. When the public reacted with anger, Bill Clinton, by a December 2000 executive order, ended Enron's right to trade power. Lay's response was, that month, through a lobbyist, to tell President-elect Bush to promote Lay's puppet regulator, Wood, to the Federal Energy Regulatory Commission. Kenny-Boy wished it, and again, Georgie-Boy granted it.

Lay's hand-picked federal regulator Wood then kept the game going until, on August 14, 2003, the entire northeast, from Ohio to New York, went dark. Wood had to take the blame and resigned. Bush replaced him with Joe Kelliher, a regulator nominated by — no points for guessing — Ken Lay.

In the old, pre-Ken days of regulation, my fellow economists used to complain about something called the Averch-Johnson Effect. The A-J Effect was the result of regulations which gave companies incentives to gold plate the electricity system, making it way TOO reliable. Too much cash was spent on keeping the lights on.

Well, gone are the days of the A-J effect. The gold-plating is gone — but not the gold. Under regulation, power sellers were limited by law to a profit of about 9%, what the law called a just and reasonable return. Now, the profits can be — and are — unreasonable, unjust and just out of sight.

For example, one company, Entergy, owns a nuclear plant in New York called, Indian Point. They get to charge for nuclear power as if it were produced by oil — that is, they charge New York City residents at a price effectively set by OPEC, prices boosted by the war in Iraq. Not surprisingly, Entergy today reported a record rake-in of profits from their nuclear business. No 9% limit for these good old boys. On top of that, the power company is relieved of all obligations to keep the lights on in New York City.

And in New Orleans. The same company supplies all of the electricity in the City that Care Forgot. Under deregulation, they hadn't gold-plated the system; they hadn't even water-proofed it. Last year, when the levees burst and the city flooded, Entergy simply turned off the lights and declared their New Orleans subsidiary bankrupt. Leaving New Orleans in the dark was a profitable decision. The company reported a 23% leap in earnings for the third quarter of 2005, the period including Hurricane Katrina, a profit boost they attributed to "the weather." Hey, are these guys droll, or what?

This year, Entergy's profits have stayed up in the clouds, no doubt helped by the cash the company saved by not bothering to restore electricity to a large number of their customers in New Orleans –who remain in the dark even today.

By now, you've got to ask: after the profiteering from Katrina, after the California power scandal of 2000, after the Great Black-out of 2003, even after the hand-cuffing of Ken Lay, why are we still under a deregulation regime that Ken Lay seems to rule from the grave? Why is it that we're still at the mercy of power vampires?

The answer, in part, is that the bloodsucking is a bi-partisan feast. Entergy, the New Orleans nuclear company, is well defended in the US Senate by their former lawyer, Hillary Rodham, who now protects them under her new alias, Senator Clinton.

Ken Lay's gone, but the ghost of Ken Lay — the marauding ghoul called deregulation — stays to haunt us.

For more on Ken Lay, Entergy, New Orleans and the politics of power, read Greg Palast's just-released New York Times bestseller, "ARMED MADHOUSE: Who's Afraid of Osama Wolf?, China Floats Bush Sinks, the Scheme to Steal '08, No Child's Behind Left and other Dispatches from the Front Lines of the Class War." (Penguin Dutton 2006.)

Palast is also co-author of a treatise on the power industry, "Regulation and Democracy" with Jerrold Oppenheim and Theo MacGregor (United Nations ILO 2000/Pluto UK 2002).

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