

LEGISLATURE MOVES QUICKLY TO APPROVE PROTECTION FOR ELECTRIC RATES

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BOISE -- The Legislature on Friday quickly closed a legal loophole identified in a federal appeals court ruling that left Idaho without regulatory authority over jurisdictional disputes between electric utilities.

Lawmakers meeting in their first special session since 1992 aimed to short-circuit a judicially deregulated marketplace that House Speaker Bruce Newcomb said could strip "the only competitive edge we have in this state" -- cheap electricity.

The House voted 70-0 and the Senate 30-2 on the bill that was the only business of the special session called by Gov. Dirk Kempthorne on Thursday. Its work was complete by early afternoon.

"This legislation provides temporary protection to the consumers of Idaho," Kempthorne said in signing the bill into law.

Hours earlier, the J.R. Simplot Co. filed suit in 4th District Court in a bid to take advantage of a section of the law at least temporarily eliminated by Friday's action. It allowed any "aggrieved electric consumer" to seek relief in court for service they consider inadequate or rates they consider unreasonable.

Simplot sued the city of Heyburn, which has a municipal utility that serves the company's potato processing plant in that rural south-central Idaho community, for the right to seek out another electricity supplier.

David Hawk, director of energy for Simplot, said the suit was based on the contention that Heyburn's rates were unreasonable and not based on the actual cost of providing the service. "Electricity shouldn't be used to subsidize city services," said Hawk.

Roy Eiguren, the Boise attorney for the Idaho Consumer Owned Utilities Association, said Simplot is such a major customer that losing it might force Heyburn to make up the revenue by raising rates for other consumers on the system.

Eiguren said cherry picking of such big consumers, at the expense of other ratepayers, is exactly the kind of piracy that Idaho's decades-old Electric Supplier Stabilization Act was designed to prevent.

But a three-judge panel of the 9th U.S. Circuit Court of Appeals invalidated the state law on Oct. 3, ruling that it gave utilities sweeping power to surrender customers, acquire new ones and swap territories without any regulator determining if the action was in the public interest. Without stricter state supervision, the court ruled, the immunity offered by Idaho's law violated federal antitrust statutes.

Legislative leaders, supported by the consumer-owned utilities that have been fighting any degree of Idaho Public Utilities Commission oversight for 50 years, argued that it was simply a moratorium maintaining the regulatory status quo until the issue can be more fully considered.

The full appellate court is reviewing the three-judge decision and could weigh in at any time.