

A similar process appears to be under way in California. The electric utilities here were among the chief architects of deregulation. One of the key provisions in the California scheme was that, in exchange for utility recovery of billions of dollars in stranded costs through rate-payer financed bonds, there would be a multi-year rate freeze. The utilities assured legislators and the public that deregulation would bring lower rates after the freeze ended. Now, the utilities are floating the notion that they need to recover from rate-payers several billions of dollars in “unforeseen costs” for fuel increases that are accruing during the freeze. Apparently because these costs would be tracked in balancing accounts and assessed after the rate freeze ends, the utilities do not feel this violates the legislative compact.

Free markets are a two-edged sword; by their very nature they involve risk, as well as reward. There are winners and losers when there is competition. The power companies must be required to live with the consequences of normal market fluctuations and their own business miscalculations if they are going to insist on receiving the benefits of deregulation. They must not be allowed to always keep any gains, but pass losses through to ratepayers. Their persistent attempts to avoid the downside of a free-market philosophy exposes the hollowness of their competitive rhetoric.

Where have these policies and platitudes led us? There is an energy crisis spreading across the nation and the globe. Like a shadow of darkness in its wake, power blackouts, skyrocketing prices, business closures, and layoffs have appeared like plagues. Only decisive leadership will cause the blight to pass over us and spare our citizens the chaos befalling those who are currently shuddering under its influence.

We must prevent the specter of unrestrained greed from descending on consumers. Instead, we must restore and strengthen those principles which have produced reliable and affordable electric power for many generations, and that spread the benefits of energy to all classes, not just those in the boardroom.

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## Interview: Ted Anderson

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# ‘You Can’t Rely on Private Industry’

*Ted Anderson, of Billings, Montana, is a longtime observer of the state’s energy industry. He was interviewed on Oct. 9 by Anita Gallagher.*

**EIR:** What’s the situation in Montana with regard to energy deregulation?

**Anderson:** Well, deregulation was passed by our state legislature in 1999, and will be fully implemented by the year 2002. The major supplier of power in the state of Montana was Montana Power, which, shortly after getting the legislature to deregulate, sold their generation to Pennsylvania Power & Light, and then subsequently sold their transmission and distribution to Northwestern Public Service—which was just recently sold—and it will probably take effect in January 2001. Deregulation takes effect in 2002.

**EIR:** What kinds of energy does Montana use?

**Anderson:** There are two, primarily: hydroelectric and fossil, which is coal production.

**EIR:** Have people seen an increase in the cost of their energy yet?

**Anderson:** Oh, yes. Electricity has gone up, and natural gas has gone up—from the standpoint of home heating. Both of those have gone up, but the price hasn’t gone up to the point where the public has really questioned it yet, because they haven’t seen the full impact—we haven’t had a bad Winter yet. And if we have a bad Winter, and the bills start coming in, you’ll see a major complaint, especially from the poor, and the population living at the poverty level.

**EIR:** Our publication exposed what a bonanza deregulation has been for the backers of George W. Bush and Al Gore, and also wrote about the history of President Franklin Roosevelt’s imposition of regulation [See “Deregulation Strikes: Buying Energy from Bush,” *EIR Feature*, Aug. 18, 2000.] Did you find that a useful set of articles?

**Anderson:** That was very well-written; it gave a complete history of the whole process, and the reasons for it, and in the time I’ve been looking at the energy issue, it was the best article that put the whole thing together—from the beginning to the end, and the complete reasons for it.

**EIR:** Do you think that action will be taken to reverse deregulation, or to study it further before it goes into effect?

**Anderson:** Not in Montana. If it is going to be reversed, it has got to be by an upswell of the people. And the way our legislature is right now—they meet every two years, unless there is an emergency session, and the governor has to call that. I don’t see that happening, not unless energy prices go so high, like they did in California this last year. It may be a done deal here in Montana in 2002, because there is that time lag between when it was implemented—the sales of the distribution, the transmission, and the generation facilities.

**EIR:** Could you go through the phases of what happened from the time it was enacted until 2002?

**Anderson:** Well, Montana Power came to the legislature and gave them a proposal to deregulate the electric utility industry in the state, and in doing so, they started donating money to

all of the candidates, or all of the legislature — the maximum amount to both parties, the Republicans and Democrats — and pushed through this legislation. It was voted on, passed, and within a few months from when it was passed, Montana Power then decided to sell its generation portion of it. They put that up for sale, and Pennsylvania Power & Light bought it, and then a few months later, they decided to sell their transmission and distribution aspects of it, and going over the bids, they decided to sell it to Northwestern Public Service, for about \$1.1 billion. Once that takes effect, which will probably be next year, after it has been approved by the Feds and the state, then you get two middlemen, basically doing what what one company did, and each of them will tack on their price increases, and then the public, in 2002, will suffer the consequences.

**EIR:** Would it surprise you to learn that the last new refinery in the United States was built in 1971?

**Anderson:** It doesn't surprise me, and I think the reason why one hasn't been built is because of the environmental regulations, and the ignorance on the part of the American public, taking for granted that their electricity, heating oil, natural gas, and fuel, are cheap. We have been so reliant on foreign crude, and foreign importation, we have become lax, and we've not educated ourselves.

**EIR:** What do you think should be done to ensure available and affordable energy this Winter in Montana?

**Anderson:** I think the government has to get in and regulate it. I think that it has to come from the Federal level. You can't rely on private industry to do it; they're out to make a profit, at whatever the cost — they're going to make a profit. It has to come from the Federal regulatory end of it.

**EIR:** Have there been layoffs in Montana as a result of the energy situation?

**Anderson:** Yes, this last Summer, some of the companies, early on, after the industry was allowed to go out and make contracts with the energy suppliers, had gone out and made commitments with other companies, thinking they could purchase power cheaper over a longer period of time. This Summer, when the prices went up, several of those companies were forced to lay off their employees because the price of power was too high. The contracts that they had entered into turned out not to really be a good deal, but have escalator clauses in them, that caused them to lay off people. Primarily, there was one in a copper-mining company in Butte, and I think some of the aluminum smelters, and in the timber industry also, in a lumber mill, I believe. But that has already started this Summer. Then, recently, 12 companies that had opted to go out and find separate power contracts, now want to get back in with Montana Power's power structure, having seen that it has been a failure when they have gone out and purchased power on their own.

## DNA Testing Shakes Up U.S. Justice System

by Marianna Wertz

Two decisions with respect to post-conviction DNA testing in recent weeks — one by Virginia Gov. James Gilmore and the other by U.S. District Judge Albert V. Bryan, Jr. — have blown some holes in the Confederate-style control over the U.S. justice system; and the fitting irony is that the two decision-makers are among the leading flunkys of that system.

The power of DNA testing, that it can irrefutably prove either the innocence or guilt of the accused, has forced Gilmore — reportedly the top candidate for Attorney General in a George W. Bush administration and a staunch advocate of “tough-love” criminal justice in the former capital of the Confederacy — to grant Virginia's first pardon to a death-row inmate. It also forced Bryan — the man who railroaded Lyndon LaRouche and six associates into prison on trumped-up charges in 1988-89, and who presides over the Alexandria, Virginia “rocket docket” — to issue a ground-breaking decision, ruling that inmates who claim that they were wrongfully convicted, have a right to go into Federal court and request DNA testing, even if the state-mandated time limit for their appeals has run out.

### Gilmore Faced ‘Utter Humiliation’

On Oct. 2, Governor Gilmore, faced with the prospect of “utter humiliation,” as attorney Gerald Zerkin says in the interview published below, granted an “absolute pardon” to former death-row inmate Earl Washington, a 40-year-old African-American with an IQ in the range of 69 (comparable to a child around 10.3 years of age), who has spent the last 17 years in a Virginia prison, ten of those on Death Row, for a rape and murder he didn't commit. As often happens under intense pressure, Washington had “confessed” to the crime in order to please his police captors, but, when he finally got competent legal help (as the interview with Zerkin indicates), the DNA evidence cleared him of guilt. Washington is the 88th person to be released from Death row because of innocence, since the United States reinstated capital punishment in 1976.

However, because Gilmore is who he is, Washington is still in prison, awaiting a decision by the parole board to free him, or till he “maxes out” his prior conviction next February. Gilmore not only didn't free Washington, after pardoning him, he refused even to admit publicly that Washington was