The Next Stage of Regulation

In the early 1900s there was a significant growth in anti-business political sentiment. The era became a period of "reform" for certain segments of the economy. However, early on the regulated industries took over the actual reform process. The electric companies of the day used reform as a smoke screen for their own efforts to handicap competitors and guarantee returns on their poor investments. Generating technology was improving rapidly, and incumbent companies often saw new competitors utilizing technological innovations that made their own older generating plants obsolete. The actual legislation for state level regulation was written by the utilities themselves. Utility personnel made up the first regulatory staffs, and retired generals were frequent appointments to the regulatory boards. The utilities were successful in their campaign for regulation, and competition in the power business was soon stamped out.

State regulation was also used by the investor-owned utilities as the rationale to counter the drive toward municipal takeover of their systems. Politicians received contributions and indulged in anti-business rhetoric while actually doing the utilities' bidding. Regulatory capture was complete, and the utility industry was fat and happy for decades. With exclusive franchise territories, tame regulators and no competition, the utilities extracted what economists call monopoly rents. Innovation was stifled, and arrogant customer service became the accepted norm. The power industry with politically oriented management proved to be particularly inept at building nuclear power plants. Under all the regulatory distortions there were still the fundamental market incentives of profit and loss that shaped the industry and led to gaming the system.

The winds of change in other areas of the economy brought challenges to the utility industry. Airline, trucking and telecommunication deregulation were seen as resounding successes and beneficial to customers. The power industry acted like it was begrudgingly going along with the proposed reforms. Federal regulators partially freed up the wholesale market and created consumer benefits. On the state level the utilities themselves helped write the rules for retail competition. Real markets develop naturally in the absence of government intervention. The politician/utility designed market for retail utility service largely failed. Somehow, the market instead of the political system took the blame. The utilities were, of course, delighted with the failure of the misnamed "deregulation" and assumed it was back to business as usual. It was not to be.

Having fended off the forces of market-based reform, the utilities find themselves now under attack by the big government camp. With mandated levels of renewable purchases, regulatory-directed efficiency programs and restricted carbon emissions, regulators are becoming the senior partners in the operation of the monopoly-regulatory system. All of these non-market programs move the utility business further from customer-driven sensible business conditions and grant more discretion to politicians. There is even talk of "decoupling" profits from sales, which will make profit levels strictly a political decision. Those who have lived by the regulatory sword are destined to die by the regulatory sword. The regulators are now capturing the regulated power industry. Prices will go up, and service quality will go down as the utilities become more like the Post Office and the Department of Motor Vehicles.

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