

Beware of Experts on Utilities Commission

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Brod, Andrew (1997). Beware of Experts on Utilities Commission. *Greensboro News & Record*, October 19, 1997

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Article:

A recent article, "Utilities panel faulted for political makeup" (A1, Sept. 27), described the growing discontent in the Triad business community over what is seen as the overly political nature of the N. C. Utilities Commission.

According to the article, local business leaders are upset that appointments to the commission are made "for political reasons rather than for ... expertise in the complicated business of regulating electric and telephone monopolies."

The final straw seems to have been the commission's decision to change the Triad's area code for the second time in four years, while Fayetteville and Wilmington get to keep the 910 area code, at least for a little while. Of course, nobody in the Triad likes this turn of events. And the change reveals much about where political power resides in North Carolina, and more importantly where it does not.

Critics of the current system of regulation are indeed right in claiming that political appointments are often made for political reasons.

But before we institute dramatic changes in the commission's makeup, here's one thing to keep in mind: Appointing members for their expertise in the industries they're supposed to regulate is more likely to reduce the commission's effectiveness than enhance it.

The problem with the apparently sensible idea of wanting specific industrial expertise on the commission is what economists call "regulatory capture."

When a regulatory commission looks for the expertise needed to regulate a given industry, guess where it tends to find it? That's right, in the industry itself.

The experts may not work directly for regulated companies like Duke Power or BellSouth, instead working for companies that do consulting for, or provide services to, them.

Or maybe they worked for the regulated companies in the past. In any case, such people usually share the concerns and sensibilities of the regulated companies.

Studies have shown that over time, the inside influence of such experts tends to make the regulatory commission on which they serve quite sensitive to the needs of the regulated companies. Such sensitivity is usually not in the public interest. The regulatory commission has been "captured."

Numerous studies have found evidence of regulatory capture in the electricity industry. As a recent example, a study in the 1995 *International Journal of Social Economics* found that regulatory agencies are most likely to use their political power to regulate electricity prices when they're declining, not when they're rising.

A 1996 study in Logistics and Transportation Review showed that the Tennessee Public Service Commission, which regulates intrastate trucking in Tennessee, sharply limits the entry of new carriers in such a way as to protect incumbent carriers, which are featured prominently in its membership.

Regulatory capture has been detected in industries as disparate as railroads, life insurance and even theaters. A 1991 study in the Journal of Cultural Economics examined the regulation of theaters in 18 century London. The authors concluded that a 1737 law to suppress seditious plays actually served to restrict competition and protect the interests of three large theater companies.

The problems created by regulatory capture are often cited by political conservatives as evidence against regulation of any sort. That is not my purpose here.

Technological advances may mean there will come a time when we don't need to regulate local telephone service, but that time has not yet come. And the first round of electricity deregulation will address the generation of electricity, not its local distribution.

Therefore, for the time being, we need sound and strong regulation of these industries. Allowing the utilities commission to be captured by the industries it regulates is not the way to ensure this.

Of course, the intelligent lay people who serve on the commission, many of whom have general business experience, need the assistance of people with specific expertise. This is where the commission's staff analysts come in. But while staff members may be recruited from the regulated industries, staff members don't vote.

One complaint reported in the News & Record article does merit more consideration, however. Critics argue that the commission lacks representation from the Triad, allowing it to ignore Triad needs. Historically, this region has tended to vote its state legislators out of office more frequently than other parts of the state, which has led to less seniority and reduced political influence.

But the way to deal with this is through political channels, not by a change in the makeup of the N.C. Utilities Commission.

In other words, the best solution is to fight politics with politics.