NRRI 98-06

ORGANIZATIONAL TRANSFORMATION: ENSURING THE RELEVANCE OF PUBLIC UTILITY COMMISSIONS

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February 1998

This report was prepared by The National Regulatory Research Institute (NRRI) with funding provided by participating member commissions of the National Association of Regulatory Utility Commissioners (NARUC). The views and opinions expressed herein do not necessarily state or reflect the views, opinions, or policies of the NRRI, the NARUC, or NARUC member commissions.

EXECUTIVE SUMMARY

Public Utility Commission Change: Trends and Activities

At the 1995 NARUC/NRRI Commissioners Summit, state public utility commissioners expressed widespread agreement on the need for commission change and reached some consensus on new directions for the missions of commissions, strategies to help achieve the missions, and implementation steps to operationalize the strategies. Since the Summit, and among other change initiatives, commissions have recognized the need for large-scale change, developed a variety of approaches to change, created mechanisms for informing consumers about competitive markets, become more aware of the need to provide user-friendly service to consumers, become more active legislatively, reconsidered commission organization, and considered ways to change the old commission culture to be more accepting of competition and new regulatory methods.

Though utility commissions have focused much of their attention on the movement to more competitive markets, they will also be buffeted by other changes, including changes in national demographics, increasing diversity, a widening gap between "haves" and "have nots," increasing international competition among utilities, and continuing resource constraints. The net effect is that commissions must radically change or become irrelevant.

Deep Change or Irrelevance

As organizations attempt to make sense of their environments, particularly when those environments are changing radically, they make use of metaphors. Commissions have traditionally made use of the machine metaphor to describe themselves. Now commissions are more likely to describe themselves in terms more descriptive of living entities, a metaphor that recognizes the need for organizations to successfully interact with their environment.

Another way to visualize the change taking place at commissions is through the competing values model developed by Robert Quinn. His model details four organizational types that exist in conflict. He describes the open-systems model (in which organizations emphasize innovation and risk taking), the rational systems model (in which organizations emphasize competitiveness and logical direction), the internal process model (in which organizations emphasize stability and control), and the human relations model (in which organizations emphasize mutual dependence and harmony). Though every organization possesses elements of each, every organization weights its emphasis differently. In the past, commissions emphasized the characteristics of the internal control model; they valued stability, control, and predictable outputs. In the new environment, it may be appropriate for commissions to place greater emphasis on the open systems model and the human relations model (i.e., they may want to experiment with greater organizational flexibility and strengthen the cohesiveness of staff). This report presents techniques for moving commissions further toward each model.

All changes are not created equal. Some changes, like internal process changes, have little organizational impact and have fairly certain outcomes. Others, like commission transformation, have dramatic impact and more uncertainty regarding outcomes. For different types of change, the role of leaders also changes. Process changes require leaders to employ analytical skills; provide tangible hands-on guidance; and develop clear short-term vision. These types of changes have little impact on the leader. More dramatic changes, like commission transformation, require that leaders employ social and political skills, focus their efforts on communication of moral principles, take symbolic rather than concrete action, and develop long-term vision. These types of changes have a considerable impact on leaders, and leaders who are effective in creating large-scale change often must first undergo a personal transforming experience. Major changes also take place without clear understanding of the eventual outcome on the part of leaders and followers; leading in such uncertain times requires special techniques.

Commission Staff and the Change Process

Commissioners at the 1995 Summit also identified the need for commissions to shift their center of attention from economic regulation to facilitating the creation of markets. This requires more than a shift in external focus. It requires a shift in organizational culture — the set of pervasive beliefs about how organizations should operate — toward one that supports change. Reculturation will be difficult, particularly since the commission environment is still full of conflict and still requires the use of traditional regulatory methods (fully in the water sector and partially in energy and telecommunications sectors).

Some staff will adapt to change more quickly than others. Robert Quinn in his competing values model identified eight roles for people in organizations — two for each of the four organizational models listed earlier. Adapting his model to commission staffs, we can identify within the open systems model innovators and brokers; within the rational goal model, producers and soldiers; within the internal process model, monitors and conservers; and within the human relations model, motivators and facilitators. Each will react to change differently.

Similarly, Everett Rogers characterizes members of organizations by the way they react to innovation. He identifies innovators, early adopters, the early majority, the late majority, and laggards. Meshing the two models (Quinn and Rogers) suggests that commission leaders may need to first focus on innovators in their efforts at reculturation; these innovators may be the commissioners and senior staff. The early adopters, however, are likely to be the key force in changing commission values. Others will check with them before they adopt a new idea; they may also score high on Quinn's facilitator, motivator, broker, and producer roles. Targeting these key staff can prevent a “not invented here” syndrome which can frustrate change efforts.

Procedural and Structural Implications of Protecting Consumer Sovereignty

In order to create a consumer-driven model of the provision of utility service, commissions must establish workable competition so that consumers have a full and meaningful menu of choices and markets free from internal market failure due to overt coercion, undue influence, deception, incomplete information, and needlessly confusing information. It is naive to believe that competition is currently workable in all utility service markets, and even where it is potentially workable, it is naive to believe that such markets would not require ongoing oversight to make certain that exclusionary behavior, tying, monopolization, price fixing, and other anticompetitive behaviors did not occur.

There is no clean division between consumer protection, which addresses internal market failures, and antitrust protection, which addresses external or market structure failures. In accordance with the goal of the establishment of consumer sovereignty which maximizes consumer welfare, commissions already realize that their primary purpose is not the disposition of rate cases. As they continue to restructure processes and procedures, commissions will find that primary reliance on adjudicatory processes is not helpful in dealing with consumer complaints or in determining how to restructure previously monopoly markets to make them workably competitive. The use of consensus-building processes is probably a better approach. As the rate case function fades away, commission structures should change to focus more on utility performance, the conduct of market participants, and market structure.

Transforming the Public into Educated Ratepayers

Consumer education was another mission adopted by commissioners at the Summit. In the current environment, emphasis needs to be placed not only on educating consumers but on educating commissions about consumers. In order to fully impact consumers, commissions must address consumer knowledge, skills, beliefs, attitudes, and values. In addition, commissions will need to address these same characteristics as they apply to the commissions themselves.

Consumers might benefit from knowledge of the new regulatory environment, the carrier selection process, and the basics of service quality. Commissions might benefit from knowledge of the demographics and psychographics of the market segments that comprise their target audience. Consumers will need skills that allow them to make decisions, compare rates, and read necessary literature. Commissions will need skills in marketing, instructional design, and community education. Consumers must believe in the efficacy of commissions, and commissions must believe in market segmentation and the instructional design process. Consumer beliefs will be impacted by the family, social, religious, political, work and other communities in which they function. As a result, educational materials may need to be targeted toward these “influencers” rather than toward the targets themselves.

To respond favorably to commission education efforts, consumers will need to have a positive attitude toward the commission and its education efforts. Commissions, for their part, will need to communicate a positive attitude toward consumers. They can do so by adopting a “guest-relations” attitude. Finally, commissions may need to reshape consumer values and may need to value public input in a new way. They can do so, in part, by developing a customer-centered mindset in place of an organization-centered mindset.

Assessing Public Utility Commission Performance

As public utility commissions adapt to their new environments, they will also need to reconsider the measures by which they have been evaluated. In the past, the most commonly used measures of commission performance were the creation of balance between ratepayers and shareholders, the efficiency of commission operations (including the time spent on each case), and the avoidance of outright failure of the regulatory process (including scandal, consumer revolt, clear politicization, disconnection of service to the poor, and industrial flight). Increasingly, public agencies are being asked to provide outcome measures — measures of how they impact the citizenry.

Public utility commissions can begin the process of identifying outcome measures for the evaluation of their performance by asking, “What public interests are embedded in utility service?” That is, how is utility service different from other commodities purchased by the public, for which there is little governmental oversight? Those public interests associated with utility service are likely to include safety, universal service, and economic development.

As commissions consider outcome measures they must also take into account the role of competition in serving public interests, the likelihood of competition from other agencies, and the fact that other agencies may be better positioned to serve the public in some regards. Having created a clear vision of the public interest, commissions can begin the difficult process of creating outcome measures, designing programs that serve that interest, and ensuring that those programs are operated efficiently. Commissions will be well served if they seize the initiative to develop outcome measures, and as they do, they will likely discover that there are no clear national standards of performance and that their activities will increasingly be focused on activities once regarded as peripheral to the primary mission of commissions.

Funding Public Utility Commissions

What happens to commission budgets in large measure determines the capability to perform effectively. The obvious worry is that there may be a premature retrenchment of budgetary support for commissions incommensurate with actual policy needs. A review of state commission expenditures shows notable increases in commission expenditures from 1967 to 1997 in nominal and real dollars. When commission expenditures were compared to total state government expenditures, it was determined that the percentage of state budgets devoted to PUCs declined from 1967 to 1973, increased sharply to 1983 (probably related to the intensive and sustained demands on commissions caused by the energy crisis), declined notably to 1993, and flattened thereafter.

There are two broad approaches to funding commissions — through general taxpayer funds or through assessments on the jurisdictional utilities. There has been a progressive switch from the former to the latter, such that now only about a half-dozen commissions rely on general fund allocations.

Several developments could bode ill for commission funding. Legislators could act on the conventional and incorrect idea that regulation, as a substitute for competition, can be eliminated, since competition has largely arrived. Utility companies, in the context of relaxed regulation, may feel more free to publicly oppose commission budgets. Current merger, acquisition, and corporate reorganization movements could result in utilities structuring themselves to partially avoid being subject to commission assessments. Other state agencies with related authorities could move to compete with commissions for resources. The persistent disaffection of the public with government could hurt PUCs (and, of course, all agencies). PUCs may be able to counter these trends by persuading legislatures of the merit of their arguments, reexamining their reliance on utility assessments, using their authority to levy fees for special purposes more liberally, developing a payment system for nonjurisdictional utilities, and making more use of regional regulation as a way to leverage scarce commission resources.

High-Performance Public Service

In this ever-changing environment, commissions seek not only to survive but to deliver the best service possible — to become providers of high-performance public service. Often high-performance public organizations are identified by some of the things they do, like ensuring close contact with customers, tapping the commitment of workers, empowering leaders, providing mission clarity, and adjusting quickly to change.

High-performance public service providers can also be regarded as those who are able to merge the tangible aspects of organizational success (i.e., appropriate skills and capabilities) with the intangible aspects (e.g., shared vision, managerial courage, trust in one another, and sound moral values). Put more simply, high-performance public organizations align the values and needs of their members with their actions.

Commissions in the traditional environment were able to align tangible and intangible success factors and provide high-performance service. As their environments change, their skill mix may no longer be optimal, and, as they feel a perceived sense of irrelevance, their intangible attributes may also decline. In periods of change, distrust will abound, internal cohesion may be lost, and it will be more difficult to maintain organizational vision. Commissions are taking notable steps to arrest this potential slide by creating new visions, enhancing staff capabilities and skills, rethinking commission organization, involving staff in change efforts, and emphasizing communications internally and externally. With these efforts and commitment to change, state public utility commissions can continue to provide exemplary service to the public and ensure their continued relevance.

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FOREWORD

In July 1996 following the 1995 Commissioners Summit, the NRRI prepared a report on managing change at commissions titled *Transforming Public Utility Commissions in the New Regulatory Environment: Some Issues and Ideas for Managing Change*. That report was very well received by the NARUC clientele of the Institute and, according to many sources, provided excellent guidance to commissions embarking on change initiatives. We hope that this report will provide useful tools for commissions. It addresses the language of change, the role of leaders, organizational assessment, organizational culture, staff reactions to change, the role of commissions in promoting consumer sovereignty and preventing market failure, communicating with consumers, evaluating commission performance, funding commissions, and creating high-performance public service.

This report will also serve as a background document for the NARUC/NRRI Commissioners Summit, which will be held in Denver on April 20-21, 1998.

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February 1998

ACKNOWLEDGMENTS

The authors wish to express their thanks to Wendy Windle, who prepared the document figures, and Dr. Nancy Zearfoss and John Besselman, who compiled the data for the tables and figures in Chapter 7.

CHAPTER 1

PUBLIC UTILITY COMMISSION CHANGE: TRENDS AND ACTIVITIES

In April of 1995, the National Association of Regulatory Utility Commissioners (NARUC) and the National Regulatory Research Institute (NRRI) sponsored a summit conference of state public utility commissioners. The purpose of that summit was to examine and discuss the future of public utility regulation.

Commissioners at the Summit expressed widespread agreement on the need for change and, in the course of the two-day exchange, reached some consensus on new directions for the missions of commissions, strategies to help achieve the missions, and implementation steps to operationalize the strategies. Table 1-1 summarizes the broad areas of agreement.[1]

The Summit clearly has had an impact on the subsequent dialogue about commission change. Some of the developments in commission regulation since the Summit indicate that, at a minimum, the key findings of that conference were insightful. This chapter lays out a brief overview of several recent developments and presents the purpose of this report.

The Continued Movement Toward Large-Scale Change

The first step in organizational change is the recognition of the need for change. Since the Summit, most states have begun or have continued efforts to restructure in

[1] The National Regulatory Research Institute, *Missions, Strategies, and Implementation Steps for State Public Utility Commissions in the Year 2000: Proceedings of the NARUC/NRRI Commissioners Summit* (Columbus, OH: NRRI, 1995), 4-5.

Table 1-1

Outcomes of the 1995 NARUC/NRRI Commissioners Summit

Missions
• Core customer protection is a continuing need and, while competition should be actively encouraged, captive customers should not be injured in the transition.
• Social goals, like environmental considerations, are not diminished in importance, but likely would be more difficult to achieve in competitive market sectors.
• Attention to service quality will be of greater importance as competitive markets proliferate and financial regulation diminishes.
• A customer-driven environment should be fostered with all participants and by all procedures.
• A major educational role is a new requirement for PUCs to achieve necessary depth of understanding with state legislators, governors, sister state agencies, and consumers.

Table 1-1 — *continued*

Strategies
• A need for special attention to market analyses so as to truly identify competitive services, monopoly services, emerging competition, and anticompetitive behavior.
• Increasing use of alternative regulatory methods, alternative dispute resolution (ADR), and negotiated settlements, all directed to increased flexibility.
• A need for more outreach toward important players in the public sector — legislatures, governors' offices, economic development offices — as well as utilities themselves through workshops and collaboratives.
• A crucial need for an equitable solution to the stranded investment problem.
Implementation Steps
• Resource constraints on PUCs would be severe and may worsen, just as transitional tasks heighten and become more complex.
• The need for an advisory role for commission staff will be enhanced relative to its advocacy function.
• *Ex parte* rules in the new quasi-legislative environment of commission activity will be more difficult in application.
• The mix of skills within commission staffs requires change along with attitudes toward innovation.
• There is a need for considerably more multistate cooperation among/between commissions.

one way or another. An Iowa survey conducted in September of 1996, indicated that thirty-one state commissions had recently finished a reorganization, were in the process of reorganizing, or were contemplating reorganizing.[2] While those results might be regarded as indicative of considerable movement toward change, direct NRRI experience with many states indicates that the survey understated to some extent the actual degree and amount of commission change in process.

While California's change initiatives may lead the nation, many other states have undertaken formal efforts to reconsider the roles of commissions, the tools employed by state regulators, and the organizational arrangements of commissions. Task forces, working groups, and management retreats have proliferated with the purpose of creating appropriate change.[3] Though the evidence is anecdotal, it appears that recognition of the need for substantial change is growing among commission staffs.

Consumer Education

No area of commission change has been more pervasive than the movement toward educating consumers. Though the focus of this effort has largely been on creating mechanisms for informing consumers about competitive markets, it also has involved the development of information about consumer needs and preferences, the creation of two-way communications with consumers, a heightened awareness of the need to provide user-friendly service to consumers at all levels of the commission, with a particular emphasis on residential customers, and the recognition of the need for commissions to reposition themselves in the minds of the public.[4]

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[2] Iowa Utilities Board Restructuring Investigation Group, "Iowa Utilities Board Survey of State Commission Restructuring Efforts," *NRRI Quarterly Bulletin* 18, no. 2 (Summer 1997): 233-248.

[3] The NRRI has provided on-site assistance with commission change efforts in fourteen states and has provided telephone assistance or provided materials to others.

[4] The NRRI is in the process of creating a compendium of information about commission efforts to communicate with and educate the public. The compendium will be written by academic experts, commission staff, and NRRI staff.

In several states, the consumer affairs division has received additional resources and has been elevated in the commission table of organization. NARUC has established an Ad Hoc Committee on Consumer Affairs, and the two NARUC Staff Subcommittees relevant to consumer education (Consumer Affairs and Public Information) have received renewed attention. In at least two cases, commissions have encountered competition from state consumer advocate offices when they attempted to increase their consumer outreach.

As markets become more competitive and as utility companies and large users begin to fend for themselves more often, commissions have recognized that their primary mission may involve relatively more attention to residential consumers than it did in the past when "balance" between all interests was their goal. One example is the previously discussed trend toward educating the public, generally regarded as residential consumers.

Legislative Activism

Given the high stakes involved in a change in the regulatory regime for utilities, shareholders, and consumers, it is no surprise that commissions have perceived heightened interest in regulatory matters from their state legislatures. In several cases, state legislatures have become directly involved in crafting regulatory policy or organizing the commission itself.

In this context, state commissions have seen the need for and in some cases provided increased attention to creating and maintaining good relations with their legislatures. Though commissions were in the past generally reactive to federal and state legislative action, they have now recognized the need to be proactive and to play an integral part in the policymaking process in this rapidly changing environment.

Attention to Commission Organization

In addition to the increased focus on consumer affairs mentioned previously, commissions have also engaged in a reconsideration of other elements of commission organization. Issues that have been studied include the ongoing role of commission auditors and the organization of the commission by utility sector (gas, electricity, telecommunications, and water) or by discipline (engineering, accounting, economics, and law). Though local circumstances dictate the choice, there seems to be some trend toward more organization by sector.

Evolution of Commission Culture

Embedded in the other changes taking place at state commissions is a change that is more difficult to quantify — a subtle yet pervasive change in commission culture. Culture is the set of deep beliefs and assumptions that characterizes an organization.[5] For commissions, the culture traditionally included reliance on ratebase/rate-of-return regulation, an allegiance to the quasi-judicial process, and an “us-versus-them” orientation toward utilities. The movement toward more competitive markets has required that some of the fundamental assumptions be rethought. Though the commission culture will continue to evolve, changes have already occurred in commission attitudes regarding the relationship with consumers, the efficacy of competition, and the necessity for continuous change. These changes undoubtedly presage further modifications in commission organization and operations.

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[5] Peter M. Senge et al., *The Fifth Discipline Fieldbook: Strategies and Tools for Building a Learning Organization* (New York: Doubleday, 1994), 20.

The Purpose and Organization of This Report

The purpose of this report is to present a variety of methods and viewpoints intended to help commissions re-envision themselves and position themselves to be effective well into the future. A single, coherent model of the change process is not presented in this report. The hope is that every commission, no matter what the degree of local change, will find some ideas and methods here that are useful.

This report is organized around topics that commissions will address as they deal with the transformation process. Chapter 2 deals with three key areas of organizational change: the language that describes and facilitates change, organizational assessment, and the role of leaders in bringing about organizational change in highly uncertain environments. Chapter 3 describes commission efforts at reculturation of staff to adapt to a competitive environment. Chapter 4 describes a unified theory of public utility regulation that is centered on protecting consumer sovereignty so as to maximize consumer welfare and discusses how the theory can be used to guide the direction of commission transformation. Chapter 5 discusses how commissions can play a useful role in consumer education so as to transform passive ratepayers into able, willing, motivated, and informed consumers. Chapter 6 articulates a framework for the development of performance measures for commissions in the new environment. Chapter 7 deals with budgetary concerns and the implications for commissions. Lastly, Chapter 8 presents a framework for the creation of high-performance public service, the ultimate goal of commissions in this period of transformation.

CHAPTER 2

DEEP CHANGE OR IRRELEVANCE[6]

If we were to summarize in one word the external and internal environments of public utility commissions, the focus of commission activities, the movement of technological and social forces, and the initiatives of commission leaders, that word would be "change." Though the need for change has gained the attention of commissions and many have begun to take vigorous action, the magnitude of the required changes is only now being realized.

To date, state public utility commissions have focused much of their attention on the movement to more-competitive utility markets, certainly a major factor in determining their future mission. But market changes are only one factor of many that will significantly impact commissions. According to a KPMG Peat Marwick report, among other factors, public organizations in the future will face changes in demographics, increasing diversity, a widening gap between "haves" and "have nots," a growing distrust of government, a leadership gap, an unwillingness to add to the tax burden, a redefinition of employment, increasing international competition, rapid advances in technology, an increasing demand for value, continuing resource constraints, and resistance to change.[7]

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[6] Robert Quinn has written about the imperative for "deep change" in organizations. See Robert E. Quinn, *Deep Change: Discovering the Leader Within* (San Francisco, CA: Jossey-Bass Inc., 1996), 3.

[7] KPMG Peat Marwick, *Organizations Serving the Public: Transformation to the 21st Century*, (n.p., n.d.), 3-11.

In the face of these momentous changes, every public organization will need to radically transform itself, not only to serve the public well, but to survive. Maintenance of a steady state is not an option. The options are to choose radical organizational (and personal) change or to do nothing and perish under the accumulated weight of irrelevance.

This chapter addresses three areas that are key to organizational change — the use of language to describe change, organizational assessment, and the role of leaders in bringing about organizational change (particularly in highly uncertain environments).

The Generative Power of Language[8]

Following the work of Heisenberg,[9] scientists and even managers have gradually become much more sensitive to the clear link between perception and reality. It is now axiomatic that we shape reality by perception. Understanding that there are multiple interpretations of the real world, we select those interpretations that are the most useful for our particular purposes.[10] As we articulate our perceptions, we help create a reality that is meaningful to us.[11] The language we choose to describe our reality is, therefore, a part of the reality-creating process.

Nowhere is this ability of language to generate reality clearer than in the ways we describe organizations. Because organizations are complex, we often seek

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[8] Peter M. Senge et al., *The Fifth Discipline Fieldbook: Strategies and Tools for Building a Learning Organization* (New York: Doubleday, 1994), 26-27.

[9] Werner Heisenberg's "Uncertainty Principle" states that in the realm of quantum physics Newtonian physics does not apply. At the subatomic level, we cannot know both the position and momentum of a particle with absolute certainty. The more we know about one, the less we can know about the other. His principle has been verified repeatedly. Gary Zukav, *The Dancing Wu Li Masters: An Overview of the New Physics* (New York: Bantam Books, 1980), 27.

[10] Ibid., *The Dancing Wu Li Master*.

[11] Senge et al., *The Fifth Discipline Fieldbook*, 27.

linguistic

shortcuts — metaphors — to describe them. When we fail to realize that the organizational metaphors we use are self-created renditions of reality, we lock ourselves into a single world view and risk becoming rigid in our thinking. When we realize that they are shortcuts and that other shortcuts exist as well, we open ourselves up to other interpretations of reality, new ways of looking at organizations, and new possibilities for action.[12] Used appropriately, metaphors simplify and clarify our understanding of organizations, allow us to make useful comparisons, and make what is intangible seem to be tangible.

As public utility commissions have begun to cope with new, external environments, they also have subtly begun to change the metaphors they use to describe themselves. (This process is sometimes referred to as *reframing*.) Though it might be argued that these changes in language are of little consequence, it can also be argued that they provide the portents of large-scale change that will result when change initiatives address the new, differently described regulatory reality.

The most common organizational metaphor, and the one previously regarded as most descriptive of public utility commissions, is that of the organization as a machine. That metaphor is the legacy of the industrial revolution, traditional business education, the military, and management theorists such as Frederick the Great, Max Weber, Henri Fayol, and Frederick Taylor. Modern factories can be regarded as machines that make machines, and in the service sector, organizations that are designed and operated like machines are called bureaucracies. Machine-organizations are rational, hierarchical, self-contained, stable, and concerned with efficiency. They also employ analytic methods to improve processes, value standardization, shift responsibility from employees to managers, expect regularized patterns of information flow, and work best in stable environments.[13]

In the past, commissions aptly fit the machine metaphor. Their operating

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[12] Ibid.

[13] Gareth Morgan, *Images of Organizations* (Thousand Oaks, CA: SAGE Publications, 1996), 13-31.

environment was stable, having changed little in over 100 years. Procedures and processes were well-honed and able to be duplicated though the facts of each case might vary. Fairly formal, hierarchical, and rigid organizational structures, encouraged by *ex parte* and open-meeting requirements, were developed. Rational analysis was highly regarded, and efficiency was pursued through improvement of process. Lastly, commission processes were self-contained in that the *modus operandi* of commissions was to convert external conflict (usually over rates or rates of return) into a bounded, self-contained decisionmaking process.

There are, of course, other metaphors that can be used to describe commissions, and as commissions have begun to reconsider their missions in new regulatory environments, they have begun to examine them. Table 2-1 lists a number of organizational metaphors, the attributes of organizations under those metaphors, and attributes of commissions that support the metaphor.

Organizational metaphors also impact the manner in which managers approach change. Just as the means used to change a machine differ from the means used to change a living organism, the tools managers employ to change organizations should differ dependent upon their characterization of the organization. Table 2-2 matches the metaphors described above with management tools appropriate to changing those organizations they describe.

These metaphors have obvious limitations. They simplify a complex reality, and no organization fits a single metaphor perfectly. In fact, it is more accurate to describe each organization as a combination. In the use of the language, we are told that it is inappropriate to mix metaphors. In organizational evaluation, however, mixing metaphors may provide powerful insights to organizational performance and change.

As commissions have begun to adapt to the new regulatory environment and climate, it appears that their perceptions of themselves have begun to shift. Embedded in the discussions of consumer education, interaction with other agencies (often viewed as competition with other agencies), and greater collaboration with stakeholders are

Table 2-1

Organizational Metaphors

Metaphor*	Organizational Attributes*	Commission Attributes**
Machine	Standardized output, stable, concerned with efficiency, responsibility shifts to managers	Clear structure and hierarchy, emphasis on rational analysis, self-contained
Living Organism	Emphasis on the relation of the organization to its environment and its evolution	Importance of environmental links, adaptive nature, use of teams
Human Brain	Focus on gathering and using information, promotion of learning	Primacy of decisionmaking as the commission's role, information exchange with utilities and stakeholders
Family	Mini-societies with patterns of beliefs, norms, rituals; leadership through value shaping	Unique commission value systems, complex patterns of communication, informal sources of authority
Political System	Emphasis on pursuit and defense of interests, resolution of conflict based on colliding interests	Attempt to find balance between competing interests, attention to stakeholder interests
Symphony Orchestra	Loose confederation of skilled professionals, management focus on coordination, co-creation of output	Wide array of competent professionals converge to create output, use of multidisciplinary teams
Carnival	Wide variety of activities within one organization, each activity evaluated on its own merit, little coordination between activities	Wide array of partially unrelated activities, the need in the new environment to take new initiatives
Constant Flux	Internal complexity, nonlinear systems with unpredictable outcomes, instability caused by feedback delays	Uncertainty of current environment, dynamic internal tension in quest for balance of interests, complexity of roles and missions

* Adapted from Morgan, *Images of Organizations*; and Tom Peters, *Liberation Management* (New York: Random House, 1992).

** Author's construct.

Table 2-2

Tools for Change

Organizational Metaphor	Tools for Change
Machine	Employ process improvements, identify new tasks, design new processes, establish clear goals, measure efficiency
Living Organism	Identify the organism's fit with the environment, collaborate with other organizations, create flexible project-oriented modes of operation, measure the satisfaction of external stakeholders
Human Brain	Design the organization around information flow, employ consistent vision, ensure diversity of viewpoints, use self-organizing workgroups
Family	Assess and understand the existing culture; create change by influencing values, beliefs, language, and organizational rituals
Political System	Craft change initiatives that meet dominant interests, understand the impact of various sources of power on the change initiative
Symphony Orchestra	Recruit and motivate professionals, send clear signals from the "conductor," create incentives for enhancement of individual skills and team play
Carnival	Assess environment regarding the need for new functions, create success and failure criteria for each activity, provide solid infrastructure support, create incentives for innovation and entrepreneurial activity
Constant Flux	Use small changes to create large effects (doable, high-leverage initiatives), employ continuous, incremental change, expect unpredictable outcomes, reconsider old notions of control

Source: Adapted by the author from Morgan, *Images of Organizations*; and Peters, *Liberation Management*.

not-so-subtle changes from a mechanistic perception of commissions to one with more emphasis on the organizational ecology of commissions — put more simply, a shift from the machine metaphor to the living organism metaphor.

With that shift in perception, commissions have become engaged in the process of creating their new reality. As that reality emerges, other metaphors may become more prominent, and from those new characterizations of reality will undoubtedly come the greatest changes in commission organization, operations, and missions.

Assessment of the Direction for Organizational Change

As indicated in the previous section, managers often seek analytic tools that allow the complexity of organizational life to be simplified and visualized. Robert Quinn of the University of Michigan has developed one typology that may hold great promise for the analysis of public utility commissions as they undergo change. His model focuses on the inherent contradictions of organizational life and is referred to as the "competing values" model.[14]

Quinn identifies four ways of categorizing organizations and arrays them in a two-by-two grid, which is illustrated in Figure 2-1. In the upper right-hand quadrant (I) is the *open systems* approach. Organizations in this quadrant are oriented toward risk-taking, excitement, and innovation. Success is measured by being on the leading edge.[15] An interdisciplinary team working on industry restructuring would help pull the commission in the direction of quadrant I.

In the lower right-hand quadrant (II) is the *rational goal* approach. These organizations tend to be achievement oriented, emphasize logical direction, and are

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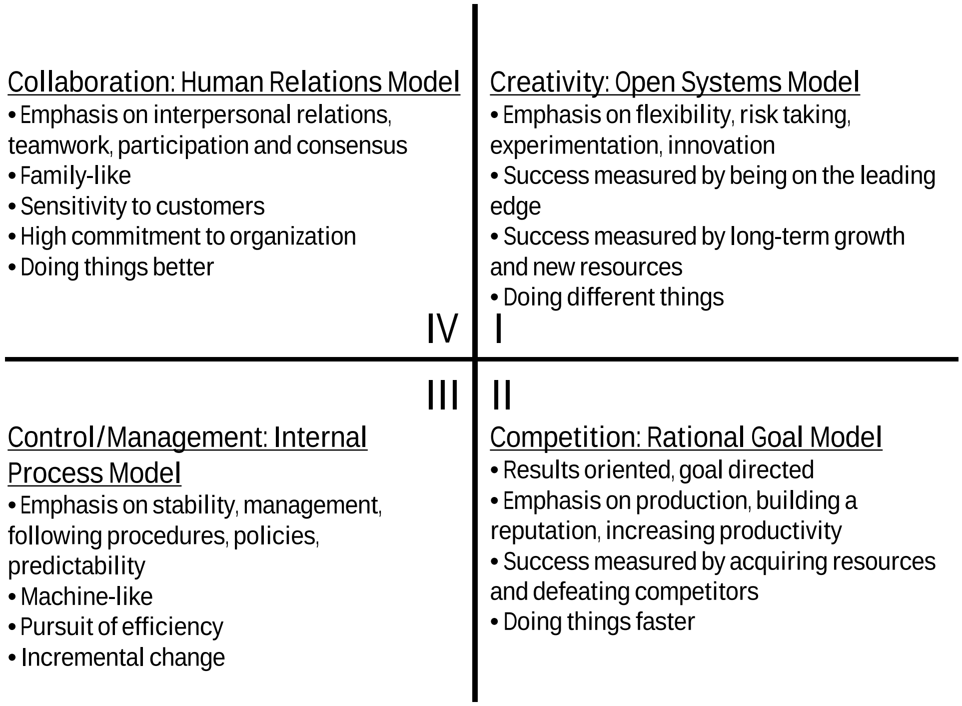
[14] Robert E. Quinn, *Beyond Rational Management: Mastering the Paradoxes and Competing Demands of High Performance* (San Francisco, CA: Jossey-Bass Publishers, 1989).

[15] Ibid., 36.

Figure 2-1

Public Organization Profile



Source: Adapted from Robert E. Quinn and Jeff DeGraff, "Leading Change: Creating Transformational Competencies," Presentation Materials, University of Michigan Business School, November 1997.

competitive. Success is measured by acquiring resources and defeating competitors.[16] As commissions confront their new environments and adapt to new market and consumer needs, they move toward quadrant II.

In the lower left-hand quadrant (III) is the *internal process* approach. This organization is control-oriented and mechanistic. Organizations in this quadrant are hierarchical and value security and perpetuation of the status quo.[17] Some portions of

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[16] Ibid.

[17] Ibid., 37.

every organization are better suited to quadrant III than others. For example, commission administrative operations probably fall mostly within quadrant III.

The upper left-hand quadrant (IV) is the *human relations* model or the consensual or team approach. Organizations here emphasize mutual dependence and focus on feelings. They tend to value harmony and consideration of all individuals.[18] Commissions typically tend to have strong internal cohesiveness, a trait which pulls them toward quadrant IV.

These quadrants represent attributes of organizations though no organization can be fully contained in any one quadrant. For example, every organization has functions or offices that are more hierarchical than others, and over time, an organization may move from one quadrant to another. As a matter of fact, there is a tendency for most organizations to naturally drift toward quadrant III. That is not to imply that the control/management quadrant is inappropriate. The attributes contained within that quadrant are necessary for every organization, even the most innovative. What is to be avoided is excessive reliance on control and management at the expense of appropriate levels of innovation and flexibility.

Because every organization contains elements of each quadrant, a quadrangle-shaped map can be drawn for an organization by assigning a score (1 to 5 in our example) for each quadrant depending on how well it describes the organization. Figure 2-2 shows two descriptive quadrangles created by fifteen staff members of one state commission. They first described the commission "as it exists today" (the quadrangle described by the solid lines) and then were asked to describe the commission as they thought it "should be in order to cope with its new environment" (the dotted lines). Though some care needs to be taken with the results, given the

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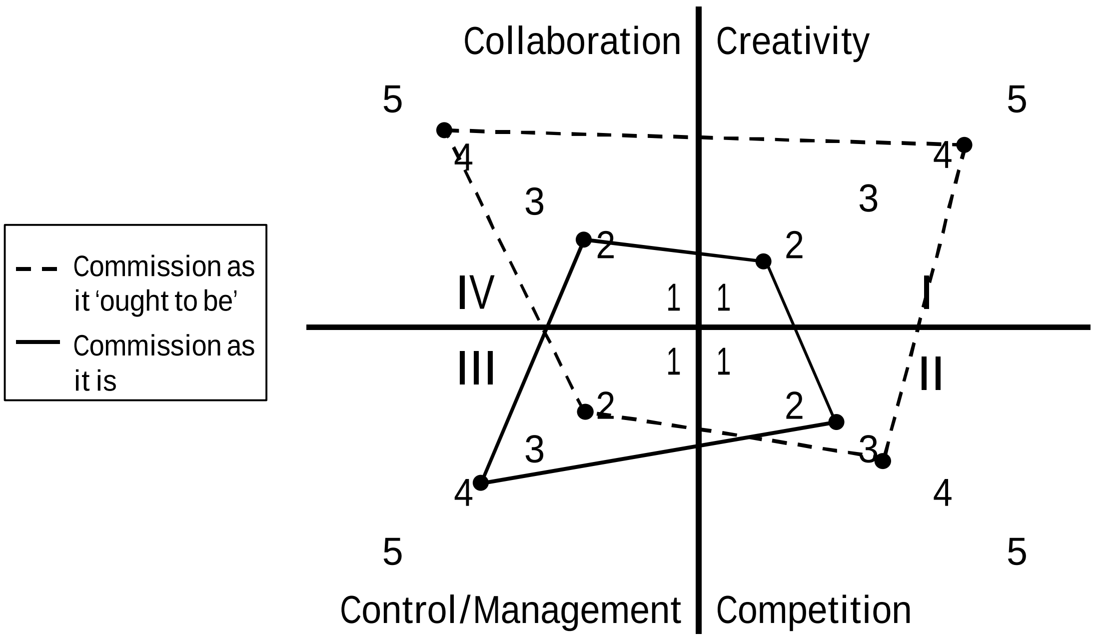
[18] Ibid.

Figure 2-2

Commission Organization Profiles



relatively small number of self-selected staff who were involved, the results obtained are interesting and perhaps descriptive of many commissions.

The quadrangle describing the commission as it is exhibits the typical kite-shaped form expected of government agencies. The score in the control/management quadrant (III) is high. The score in quadrant I (creativity) is low, indicating low flexibility and little innovation. The score in quadrants II (competition) and IV (collaboration) are slightly higher than the quadrant I score, with the quadrant II score exceeding the quadrant IV score slightly. The relatively strong quadrant II score may indicate the feeling that the commission is beginning to respond to its external environment.

The quadrangle describing the commission as it should be is quite different. Participants in the exercise clearly indicated the belief that the commission is too strongly oriented toward control and that it needs to develop greater flexibility and tolerance of innovation. They also suggested some need for it to become more outwardly focused and competitive, as indicated by a slightly higher score in quadrant II. But most dramatically, participants suggested that the commission needs to become far more collaborative. This result may not be surprising given the fact that it is common for staff to want to be included in change initiatives, particularly if the change has a high likelihood of impacting them directly. The same staff who participated in the exercise expressed strong confidence in the competence of their colleagues. As a result, the score in quadrant IV may also reflect the belief on the part of participants that the commission has the best chance of making effective change if the talents of all staff are drawn upon.

If commissions are to move themselves within this framework, specific tools for change may be more appropriate than others. Table 2-3 identifies specific tools that might be used to move the commission farther into each quadrant.

This framework can also be used as a self-assessment for leaders. Having established a clear vision of personal preferences or traits using the framework, commission managers can evaluate their own performance and determine whether their normal mode of performance is a hindrance or an aid to moving the commission in the desired direction.

The Role of Change Leaders

All changes are not created equal. A change in the procedure for handling travel reimbursement requests does not have the same effect on the commission as the deregulation of electric or telecommunications markets. Figure 2-3 identifies two variables that significantly impact the nature of change — the extent or pervasiveness of the change and the uncertainty of the outcome.

Simple process improvements lie near the intersection of the axes. Process improvements have only a minor impact on the organization as a whole and their

Table 2-3

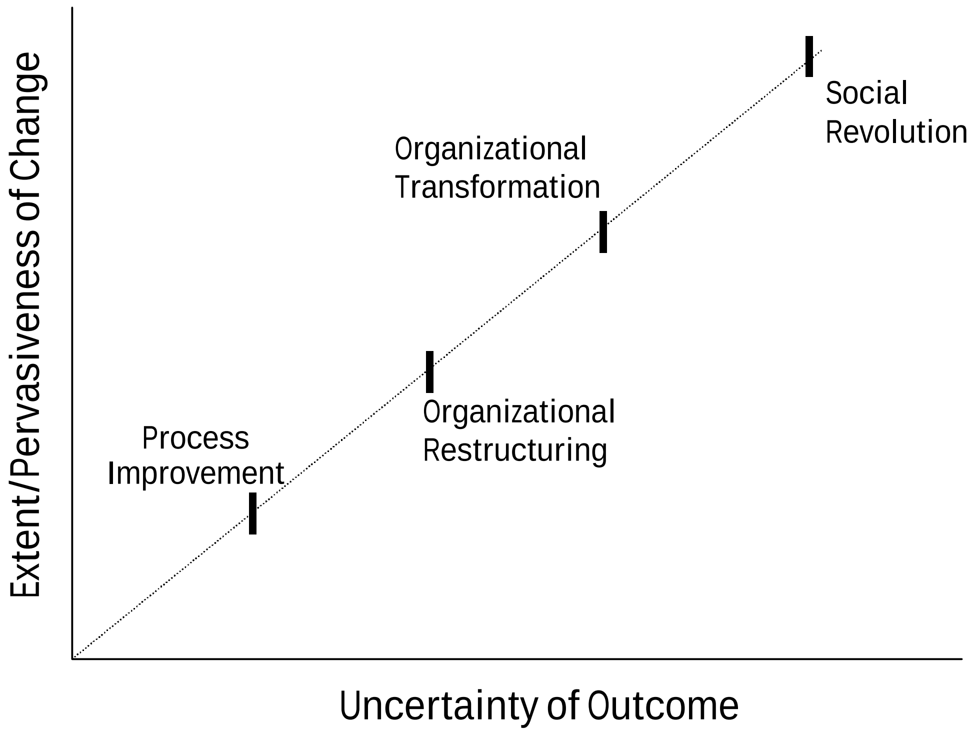
The Competing Values Model: Tools for Change

Quadrant	Tools for Moving Farther Into the Quadrant
Quadrant I: Creativity	• Provide incentives for initiative • Focus attention on recruitment and retention of key staff • Remove hierarchy where appropriate • Provide time, money, and information to creators • Use prototypes, pilot tests, experiments • Embrace failure as a learning experience
Quadrant II: Competition	• Identify and examine potential competitors • Identify the competitive niche • Establish aggressive performance targets • Continually monitor markets and customers • Measure continually • Reward those who achieve/beat targets • Stay close to customers
Quadrant III: Control/Management	• Identify clear organizational hierarchy and design • Insist on adherence to regularized processes and patterns of communication • Focus on process improvements as a change mechanism • Provide rewards for process improvements
Quadrant IV: Collaboration	• Involve staff in teams and workgroups • Widen decisionmaking circles • Increase organizational communications (e.g., use newsletters to provide information about change initiatives) • Create rewards for team participation • Focus attention on improving morale • Create joint ventures with customers and competitors • Make information ubiquitous

Source: Author's construct.

Figure 2-3

Dimensions of Change



Source: Author's construct.

outcome is fairly certain, though even small changes can have unknowable ripple impacts on the rest of the organization. The impact on the commission of organizational restructuring (e.g., moving from a commission organization based on professional discipline to one based on utility sector) is greater, and the uncertainty of the outcome of the change is substantially higher. The full-scale transformation of commission missions and roles, with its attendant changes in organization and processes, is even farther out on the scale, and social revolution, of the type engineered by Dr. Martin Luther King and Gandhi, is at the far end of the scale.

Figure 2-4 summarizes other differences between small and large changes. Of particular note is the role of the leader. In simple changes (if there are such things), the leader must be directly involved, often as the best technical expert. As the extent of the change increases, the role of the leader is less first-hand, less direct, but no less important. The leader is no longer the local expert and must rely on the abilities of others. In the middle of the change spectrum (Figure 2-3), the leader relies on his or her skills in management, delegation, coaching, and team building. At the far end of the spectrum, the role of the leader becomes largely symbolic, which is not to imply that it is not vitally important. The leader in this case sends important signals to the members of the organization, often through symbolic statements or actions rather than specific directives. This leader also relies on the communication of general or moral principles (e.g., the cases of Dr. King and Gandhi) rather than the provision of specific, work-related guidance.

Robert Quinn, the developer of the competing values model discussed in the previous section, has also studied the role of leaders in creating change and has developed the “power attractive model” of leadership. Rather than coercing people to change, providing them enough information to induce them to change, or using participation in the change process as a means of education, leaders operating under the power attractive model of change adopt personal behaviors as a model for the behavior of others. The first change, therefore, is in the leader himself or herself, based upon an assessment of gaps between personal values and personal behavior. By operating under these internally constructed norms rather than externally imposed standards, the leader is better able to see and inspire new patterns of thought and action in subordinates, who are attracted to the leader without the standard means of compulsion.[19]

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[19] Robert E. Quinn, Matthew V. Brown, and Gretchen M. Spreitzer, “The Power-Attractive Model: A Fourth General Strategy for Effecting Change in Human Systems,” May 1997 (unpublished, though an earlier version was presented at the 1997 meetings of the National Academy of Management).

Figure 2-4

Implications for Leaders

	Process Improvement		Social Revolution
Required skills	Technical/Analytical	→	Political/Social
Risk	Low	→	High
Impact on Organization	Incremental Improvement	→	Revolutionary
Outcome	Clear	→	Unknown
Focus of effort	Application of technical skills/task organization	→	Reliance on moral principles
Leader role	Tangible/hands-on	→	Symbolic
Required vision	Clear/short term	→	Long term
Impact on Leader	Low	→	Very high possibly including death

Source: Author's construct.

Leaders who have undergone this transformation lead "from a different place," which requires that they:

> . . .become a microcosm of the shift in their organizations. From resigning themselves to the limits of their power to make things happen (and to the implausibility of expecting middle managers to help), they move toward the possibility of genuinely distributed intelligence; from taking on an identity as the person in charge, they become clearinghouses for the different ways an enrolled organization handles its responsibilities; from avoiding straight talk, they develop the ability to handle and even encourage conflict; from assuming that they must provide a detailed road

map for the journey, they begin to accept learning as a form of inquiry in action.[20]

Though some might argue that the power-attractive model holds more relevance for societal change than public utility commission transformation, the model holds important lessons for commission leaders. The model clearly indicates that change begins at the top of the organization and that modeling behaviors related to change is an important function of leaders. It also emphasizes the importance of creating new norms of commission behavior, norms based on values rather than historic functions. Lastly, the power-attractive model presumes that the best leaders are those who have undergone personal self-evaluation and a personal transformative experience. That transformative experience allows change leaders to merge every aspect of themselves with the change they lead at the commission.

A statement often heard at public utility commissions in the current environment is that change cannot be initiated because the outcome of the deregulation process is uncertain. It is a given, of course, that the outcome is uncertain, but commissions do not have the luxury of waiting for the environment to become stable before acting to create change. First, the environment may never become stable; it may evolve for decades into forms that are as yet unimagined. Second, if commissions delay, consumers and the commissions themselves may lose important advantages.

In fact, change always implies uncertainty about outcomes, and leading change in an environment of extreme uncertainty presents unique challenges. In the dark (speaking figuratively), where leaders and followers cannot know with certainty where they are or what obstacles they face, several management techniques may help the commission chart its direction:

- Allow leadership to shift with issues and circumstances. The best leader today may not be the best leader tomorrow when circumstances may have suddenly changed.

[20] Richard Pascale, Mark Millemann, and Linda Gioja, “Changing the Way We Change,” *Harvard Business Review* (November-December 1997), 135.

- Communicate carefully and constantly. In an uncertain environment, commission staff will develop their own perceptions of circumstances and the need for and direction of action. Only constant communication can keep everyone on the “same page.”

- Loosen controls. The natural response may be to tighten controls as a reaction to uncertainty. The better response is to loosen controls to allow experimentation and innovation that may point the way to success.

- Make use of landmarks. In uncertain territory where the old landmarks no longer exist, it may be necessary to create new landmarks. Scenario planning is one tool that allows the commission to forecast potential events and to plan appropriate course adjustments should they occur.

- Lead by asking questions. In traditional environments, leaders usually know the answers. In extreme uncertainty, the answers may be unknowable. Commission leaders can, however, focus staff energy by asking the right questions. The conversion to asking questions instead of providing answers may be difficult for commission leaders, who are used to being the recognized expert, and for staff, who are used to looking to leaders for answers.

- Create vision but be cautious of the vision. Organizations do better in times of change if leaders communicate a clear vision. In times of high uncertainty, like the present, leaders need to ensure that their vision is general enough to withstand changes in circumstances.

Though managing in the dark may not be a completely accurate metaphor for commissions, their environment is certainly characterized by high levels of uncertainty about the future and about what is expected of them. For some commission managers the future will be frustrating and, perhaps, overwhelming. For others who can apply the right mix of skills and move their commissions to new levels of public service, it will be challenging, exciting, and rewarding.

CHAPTER 3

COMMISSION STAFF AND THE CHANGE PROCESS

State regulatory commissions attempting to remain relevant as the world of traditional public utilities shrinks and blurs are reaching towards a more flexible, innovative, organic *modus vivendi*. All commissions are adjusting to changing times; many have begun not only to make changes but become more adaptive generally. They seek to become "learning organizations," continually expanding their capacity to create their own future.[21] A learning organization relies on individuals at all levels to take initiative and work collaboratively. The applicable metaphor is the brain, which must constantly process, assess, and act on new information. (See Chapter 2 for discussion of organizational metaphors.)

The commissioners participating in the 1995 NARUC/NRRI summit meeting recognized that the next few years would require changes in staff skills in order to make the commissions more proactive, flexible, and effective.[22] They identified areas where more resources would be needed, such as service quality monitoring and public information. They suggested the changing mix of tasks would call for increased staff capabilities in alternative dispute resolution, collaborative processes and new forms of information processing, among others.

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[21] Peter Senge, *The Fifth Discipline* (New York: Doubleday, 1990), 14. See the discussion of systems thinking, "the fifth discipline," in David W. Wirick, Robert E. Burns, Vivian Witkind Davis, and Douglas N. Jones, *Transforming Public Utility Commissions in the New Regulatory Environment: Some Issues and Ideas for Managing Change* (Columbus, OH: The National Regulatory Research Institute, 1996), 29.

[22] The National Regulatory Research Institute, *Missions, Strategies, and Implementation Steps for State Public Utility Commissions in the Year 2000: Proceedings of the NARUC/NRRI Commissioners Summit* (Columbus, OH: NRRI, 1995); see also Wirick et al., *Transforming Public Utility Commissions*, 69, for discussion of the skill mix of accountants, economists, engineers, and attorneys.

The commissioners not only called for changes in what staff works on and how, but for “an internal process of reculturation toward competition.”[23] In part this means that staff should shift their center of attention from economic regulation of monopolies to facilitating markets. In the three years since the first commissioners’ summit, commissions have made progress towards this reculturation, particularly for telecommunications regulation. The Telecommunications Act of 1996 intensified the efforts that many commissions had already undertaken to bring competition to local telephone service. In the electric utility industry, an even more consuming commission responsibility than telecommunications, an orientation towards competition is beginning to take the place of ratebase/rate-of-return regulation. In the natural gas industry, Federal Energy Regulatory Commission Orders 436 and 636 created nondiscriminatory open-access gas transportation that allows local gas distribution companies and many end users to purchase their gas on the spot market or through bilateral contracts at the wellhead. In response, some state commissions are encouraging competition by unbundling local gas service and by allowing local access to gas markets for residential customers.

Reculturation requires more than a shift in external focus. Culture is an aspect of social systems, such as families, tribes, and government agencies, because every formal organization is shadowed by an informal one based on personal relationships. Organizational culture is “a pattern of shared meaning” that is not always directly observable.[24] Some scholars argue that management of the organization’s culture is a prerequisite to “learning organization” initiatives and similar efforts to improve organizational effectiveness.

From this perspective, the fundamental commission innovation — the one that supports all others — is establishment of a culture that fosters change rather than mechanistic routines. The relatively simple shift to an interest in competition over traditional ratebase/rate-of-return regulation is insufficient. If commissions were tribes,

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[23] Ibid., *Commissioner’s Summit*, 30.

[24] Hal G. Rainey, “Building an Effective Organizational Culture,” in *Handbook of Public Administration,* James L. Perry, ed. (San Francisco, CA: Jossey-Bass, 1996), 153.

they would be moving from ancestor worship to the youth-centered culture of the American dream. The old culture is one of routines, constancy and looking inward. The new one values flexibility, innovation, and an external focus. In terms of Robert Quinn's typology of leadership and management, the old culture values the internal process model and the new one the open systems model (see Chapter 2).[25]

It is hard to imagine doing anything more difficult than making pervasive, far-reaching changes like altering a commission's values especially when commissions are under terrific pressure to perform immediately within existing constraints. Acculturation is a slow process. Waiting for a new culture to take hold before acting would result in rapid relegation to the ancestral graveyard. Nor is culture likely to be quite the "be all and end all" that scholars pursuing the metaphor want to claim. Nonetheless, movement from a culture suited to a machine-like organization to one appropriate to an open system is an important component of commission change.

Within every commission there are likely to be staff who embody the kind of culture the commissioners at the 1995 Summit wanted to encourage. As with any innovation, acculturation is a diffusion process where some people can be expected to absorb the appropriate set of ideas immediately (or already have), some will come along when they see the first group trying it, and some will either do so after everybody else or never adopt the idea at all. In this chapter we first present the concept of organizational culture and how it applies to commissions. Then we discuss identification of the values now held by staff, using Robert Quinn's competing values model. Staff who already have an affinity for change and sensitivity to the environmental demands on the commission can help to imbue other staff at the commission with those values, acting as missionaries of the new culture.

Organizational Culture

[25] Robert E. Quinn, *Beyond Rational Management: Mastering the Paradoxes and Competing Demands of High Performance* (San Francisco, CA: Jossey-Bass Inc., 1989).

Hal Rainey lists artifacts, basic values, and even more basic assumptions as the components of organizational culture.[26] Only the artifacts are directly observable. These are idiosyncratic creations such as design of work processes or the organization's typical symbols and ceremonies. The cultural cynosure of commissions is an adjudicatory process, and commission ceremonies center around public hearings. One symbol is the different colored badges worn at NARUC meetings (blue for commissioners, red for staff, and green for industry), which communicate both a distinction between the regulated and the regulators and variations in rank within the commissions. The badges are one expression of the differing social status within the regulatory tribe.

At a deeper, less observable level, culture includes beliefs about how things ought to be and how one ought to respond and behave in general. The scales of justice on the NARUC seal symbolize perhaps the most basic value of regulation — fairness. Fairness as conceptualized by regulatory commissions has always meant finding a public interest that resides somewhere between what the regulated industry wants from the commission and what consumers want. Often the conflict is resolved by "splitting the difference" through a ratemaking process that explores the basis for the demands on each side.

At the deepest level, organizational culture is composed of pervasive assumptions about how the organization should operate. These include beliefs about the nature of reality and truth, the basis for decisions, time and space, and human nature.[27] The traditional notion that a commission is independent from state legislative and executive branches is a basic assumption about the commissions' relationship to their environment. Independence implies a degree of insulation from the political fray. Ratepayers and utilities are "at war" and commissions are "peacemakers." Decisions are traditionally made case-by-case on the narrowest possible grounds, using rational argument based on highly routinized types of facts, figures, and formulas.

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[26] Rainey, "Building an Effective Organizational Culture," 152-153.

[27] Ibid., 153-154.

The temporal cycles of regulation used to be measured in years. Rate cases, like court cases, are a deliberative process. Limits on the length of the cycle began to be imposed as early as the late 1970s. Today time horizons are not only shorter but frequently less predictable than before and less under commission control.

The range of commission spatial assumptions is more local than global. U.S. state regulators are likely to be Americentric. Most staff people do not have the time or inclination to be aware of alternative regulatory systems in other countries. In telecommunications in particular, some staff may lack understanding of how multifaceted and multinational the industry has become. Similarly, some electric utilities are using the foreign-utilities company PUHCA exemption, enacted as part of the Energy Policy Act of 1992, as a means to diversify overseas. Commissions are likely to see only one part — regulated domestic telephone or electric companies — of a global explosion of energy, communications, and information technologies and applications.

Beliefs about human nature and human activity vary among commissioners partly by political affiliation and the accompanying orientation towards government. Among staff there may be less variation and more inclination to take a jaundiced view of the effectiveness of the social contract between utilities and ratepayers. They may see utilities as powerful local Goliaths rather than global competitors. They may see no way to be accountable to the public except through exquisitely detailed procedure. They may have internalized a belief that it is more appropriate for government to be reactive than proactive — to do a lot of rowing and not much steering.[28]

Techniques exist for in-depth diagnoses of organizational culture,[29] but no further exposition is needed as evidence that existing commission culture is different from the one that commissioners at the Summit were espousing. The artifacts and beliefs that today give commissions shared meaning do not paint a portrait of initiative or cooperation. For commissions which have not undergone reculturation, this is a

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[28] David Osborne and Ted Gaebler, *Reinventing Government* (New York: Plume, 1992), Chapter 1.

[29] Rainey, "Building an Effective Organizational Culture,"157.

compartmentalized world of parties and judges. These are organizations geared for civilized forms of combat, and adjudicated settlements. The NARUC symbol does not show a regulator, a businessman, and a ratepayer clasping hands. Can you imagine a NARUC convention where all badges are blue? Commissions are a long way from reculturation to an open systems model.

Barriers to Changing Commission Culture

The difficulties facing commissions in changing organizational culture are perhaps different in degree but not in kind from private sector organizations or other government agencies. U.S. corporations have gone through a difficult period of change. The current movement towards organizational transformation began in the private sector in the 1980s and 1990s as U.S. firms recognized that they had to become more efficient, flexible, and consumer-oriented to compete in increasingly competitive international markets.[30]

Changing organizational culture may be a prerequisite to organizational excellence and building a learning organization, but public managers can feel they have little influence on the culture.[31] Government agencies have in general been considered far less willing and able to try new policies, practices, and technologies.[32] Heavy chains of accountability and rules, and the absence of a profit motive have made them slow on their feet. Agency heads are replaced frequently. Staff who are resistant to change may be those who are best protected by civil service and can safely ignore the “short timers” until they go away. Commissions, with their highly judicialized processes, may be even more resistant to change than other types of public

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[30] R. M. Kanter, *The Change Masters: Innovation for Productivity in the American Corporation* (New York: Simon and Schuster, 1983).

[31] Rainey, “Building an Effective Organizational Culture,” 151.

[32] See for example, Francis E. Rourke, *Bureaucracy, Politics and Public Policy* (Boston: Little Brown and Company, 1976).

organizations. *Ex parte* requirements, for example, inhibit commissioners attempting to communicate and reinforce a culture of change.

One factor preventing commission change may be that despite recognition that old ways are no longer always appropriate, the environment still is full of conflict and still requires use of traditional regulatory methods. During the transition to competition, however long that lasts, the commission tradition of quasi-judicial proceedings remains an asset. In the short run the ability to move towards different processes is limited. For example, under section 252 of the Telecommunications Act of 1996 the door was open to conduct either mediations or arbitrations to assure that incumbents and new entrants into the telecommunications market would reach agreement on terms of interconnection. Instead, the process has gravitated to a highly legalistic one, both sides assuring that every dotted "i" and crossed "t" of due process is in place in anticipation of court battles. Few mediations have been conducted (at least not by the commissions) and the arbitrations are disputed proceedings. This is not the commissions' fault. The incumbent local exchange carriers and competitive local exchange carriers are in fact adversaries not willing to give ground. In such a situation less formal means of conflict resolution yield to more structured ones.

Identifying Internal Change Agents

One logical step towards bringing staff into the change process is for commissioners and senior management to look for employees who already embody the desired culture. Department heads and other supervisors who have already been exposed to the need for more flexibility and external focus can have an influence on the people who work for them. Commissioners and their leading staff needed "people sense" to reach the positions they have attained. In addition to staff who can encourage the change process by virtue of position (for example, department heads), it would be helpful to identify people who might have been overlooked, yet could become active supporters of the change process. To do so it would be advantageous to supplement "gut feeling" with a somewhat more rigorous approach.

Robert Quinn developed his typology of competing values, presented elsewhere in this report, to support prescriptions for effective leadership and management. With some adjustments the model may be applied to followers and staff as well, the people in the traditional, hierarchical organization who have been treated as passive participants in "rational management" processes (see Table 3-1). Quinn identifies eight different roles that people tend to take on in an organization, two for each of his four models (open systems, rational goal, internal process, and human relations). (See Figure 2-1 for a depiction of the four models.) When adopting one of the roles, a person can be expected to emphasize specific core values and evidence characteristics associated with the roles and values. The roles, values, and characteristics are expressed in what people say and what they do — their behaviors, statements, arguments, and ideas. Among the significant areas where they are likely to differ are how they feel about uncertainty, their strategies for dealing with it, and the nature of their primary complaints about the commission.

In a recent exercise with staff of one commission (referred to in Chapter 2), the NRRI asked staff (in the absence of commissioners) to talk about the opportunities,

Table 3-1

Commission Staff Roles

Model	Role	Emphasis	Characteristics	Rhetoric
I. Open Systems	Innovator	Change	Creative, optimistic	Calls for change, adaptation, meeting challenges
	Broker	Growth	Resource maintenance or acquisition, expansion	Sensitivity to external forces, like state legislature, other commissions, and federal government
II. Rational Goal	Producer	Accomplishments	Focus on impact, tasks; rational persuasion as route to decisions	Calls for productivity, achieving goals; appeals to reason
	Soldier	Structure	Wants clear goals, decisiveness; formal expectations	Appeals to roles, powers of superiors; calls for decisions, setting goals
III. Internal Process	Monitor	Expertise	Information, communication, measurement	Emphasizes professionalism, staff skills
	Conserver	Tradition	Maintenance of status quo; dependability, reliability	Mention of and calls for stability, control, continuity; appeals to tradition
IV. Human Relations	Motivator	Mutual dependence	Caring, understanding, tolerance, informal expectations	General support for individuals and groups in the commission; calls for cooperative effort
	Facilitator	Teamwork	Discussion, openness; involvement as route to decisions	Cooperation and process oriented in a specific group

Source: Adapted to apply to commission staff roles from Quinn, *Beyond Rational Management*.

threats, strengths, and weaknesses of their commissions. The focus groups were one facet of an overall change effort at that commission. It proved possible to categorize many of the remarks made by staff according to the Quinn typology of competing values. This is not a prescription for pigeonholing staff people. Recall that the competing values typology calls for leaders to take on all the roles, and staff are likely to do the same to various degrees. But the appropriate balance in roles depends on current demands. For today's commissions, it appears there is too much emphasis on internal process and not enough on open systems.

The staff member operating in the open systems quadrant can take on the role of innovator and/or broker to varying degrees. Asked to draw quadrangles of the sort shown in Figure 2-2 to depict where the commission is today and where it ought to be, innovators are likely to show large differences. They are energized by the idea of change and see it as an opportunity rather than a threat. They are not satisfied with doing the same things more efficiently or effectively but want to do entirely new things, without necessarily being sure what they are. In the current commission environment, the innovator embraces the idea of competition in the utility industries and ideas that will help to make that work. Despite the risks and uncertainty necessarily associated with a time of transition, the innovator is likely to say, "These are great times." They may complain that change is not happening fast enough and that existing laws, rules, and contracts block commission progress.

Commissioners and senior staff are likely to deal with legislators and other groups in the commission's environment more than line staff and quite naturally take on the role of brokers — looking towards acquiring or maintaining commission resources, and if possible even expanding some areas, such as consumer protection. Staff who are concerned with maintenance and growth are, more than other staff, sensitive to the political scene in their states and to the federal government, and likely to see the turbulence of their environments not merely as threats but as opportunities. They are concerned about the survival of the commission, not only for their own sake, but because of the role that commissions play in society. Like innovators they relish a bit of risk. They may be concerned that commissioners and senior managers are not doing enough to work with the state legislature to educate them on the continuing need for protection of consumers even in an age of competitive utility services. In their brokering roles, staff might comment on how outside groups or agencies can “push us around” and make suggestions on how to avoid that.

The staff person who espouses the rational goal model aims at both accomplishments and structure. In Quinn’s typology for leaders and managers, the rational goal quadrant contains producers and directors, with the producers emphasizing making products that can compete in the relevant market and the directors providing the correct hierarchical structure to do so. Staff is not in a position to direct organizational processes, but some staff more than others like to have clear direction. These might be called the good “soldiers” at the commission. Their particular frustration with management and commissioners is likely to be a lack of decisiveness. As a producer, the staffer aims at making sure the commission has products that are perceived as valuable by the outside world and make the commission competitive with possible rival agencies or interests. Such a staffer might comment that the changing environment gives a good excuse to streamline the commission and make it more efficient. This staffer sees the commission as having a lot to do and looks forward to doing it. He or she wants goals that are clear and an emphasis on achieving those goals. This staff member is more uncomfortable with uncertainty than the one emphasizing the value of the open systems model, although less threatened by it than the conserver.

Staff members who put themselves in the internal process quadrant of Quinn’s model are characterized as conservers or monitors. Both monitors and conservers are focused on internal processes rather than external relations. A conserver emphasizes the value of tradition and routines. This staffer is not convinced that the time has come to let go of ratebase/rate-of-return regulation and its accompanying machinery. In fact they may more or less openly view competition as a big mistake or attempt to ignore it entirely.

In the role of monitor, a staff person values the machine metaphor. She may complain that management does not follow procedures or tends to go out of channels.

A monitor likes predictability and is very worried about change. This staffer participates in the change process, if at all, in order to see what's going on, but finds the current environment stressful. In a pinch, such a staffer may rely on civil service and administrative procedures for protection from change.

The roles identified by Quinn for the human relations model are "mentor" and "facilitator." Nonsupervisory staff do not have much opportunity to train others, one aspect of the mentoring role as defined by Quinn. But all staff can help motivate each other and recognize the general importance of the individual in the organization. The Quinn role in our typology has been changed to "motivator" from "mentor" to reflect the difference in the range of this human relations role that staff can address compared to management. The motivator holds mutual dependence as an important value and expresses it in caring, understanding, and general cooperation. In word and action the motivator expresses a general commitment to cooperative effort and trust. Motivators are uncomfortable with divisional boundaries and find them more of a hindrance than a help in getting commission work done. Asked to name a commission strength, they are likely to say, "We have great staff." They tend to have an internal focus, but value equity both in internal commission matters and as a goal integral to the commission's mission. Asked to name the commission's greatest weakness, they may focus on low morale.

Facilitators thrive on teamwork. They want to be involved in problem solving and, when a job needs to be done, emphasize group effort. In situations that seem risky and uncertain they look to their peers for support and solutions. In a group setting, a person comfortable in the facilitative role will support other members, attempt to reduce conflict, and emphasize the importance of the process as a means to reach objectives. They are likely to complain about interdepartmental barriers. They call for more communications on all levels and ending internal commission territorialism.

Staff Roles in Adoption of a Culture of Change

Adoption of innovation, whether it is a product, a process, or an idea, is a sequence of diffusion within a social system where some people introduce and encourage change and others follow.[33] A state regulatory commission is one such social system and new ideas, such as the essentiality of change to the commission's basic assumptions and beliefs, are likely to follow a path similar to that of other organizations. In the theory of innovation pioneered by Everett Rogers, change agents, usually outsiders to the social system, introduce innovations. Members of the system will adopt in an order determined by their propensity to do so and their formal and informal position in the organization.[34] Only when a leading group of adopters have taken the innovation to heart will the majority of the members of the social system sign on. Some members will come very late or not at all to the innovation.

Figure 3-1 shows Rogers' categorization of innovativeness, as measured by the time at which an individual adopts an innovation. Innovators are characterized by a willingness to take risks, perhaps sometimes to a fault. They are not likely to be well integrated into the social system or organization, since they are more cosmopolitan than local in their interests. Early adopters, however, are well integrated into their social systems and are opinion leaders, the ones to check with before less venturesome people adopt the innovation. Change agents should seek out the early adopters in the social system because they are the ones who can speed diffusion. The majority, whether early or late adopters, are not likely to hold leadership positions and will be deliberative and even skeptical in their approach to innovation. They will need peer pressure to be persuaded of the need for the innovation. "Laggards" (a pejorative term reflecting the pro-innovator bias of researchers in this area) are the last to adopt innovation but have the least influence on overall opinions.

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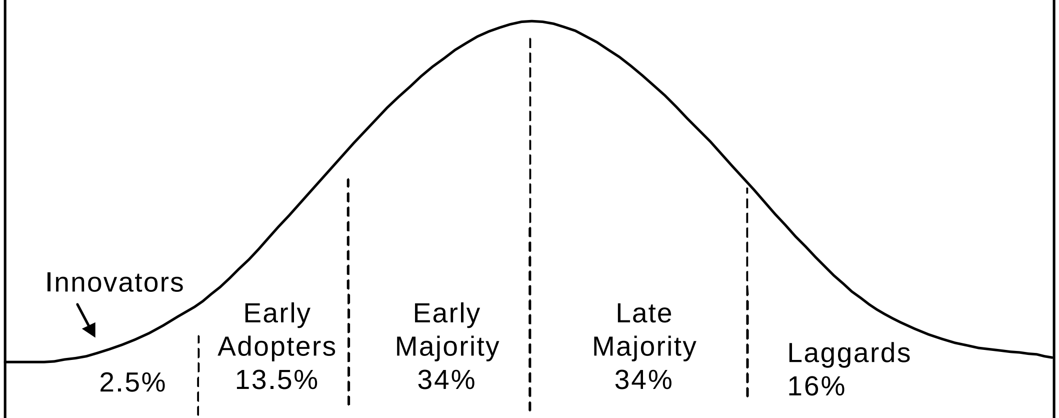
[33] Everett M. Rogers, *Communication of Innovations* (New York: Free Press, 1971), 183 ff.

[34] Ibid.

Figure 3-1
Adopter Categorization on the Basis of Innovativeness



The innovativeness dimension, as measured by the time at which an individual adopts an innovation or innovations, is continuous.

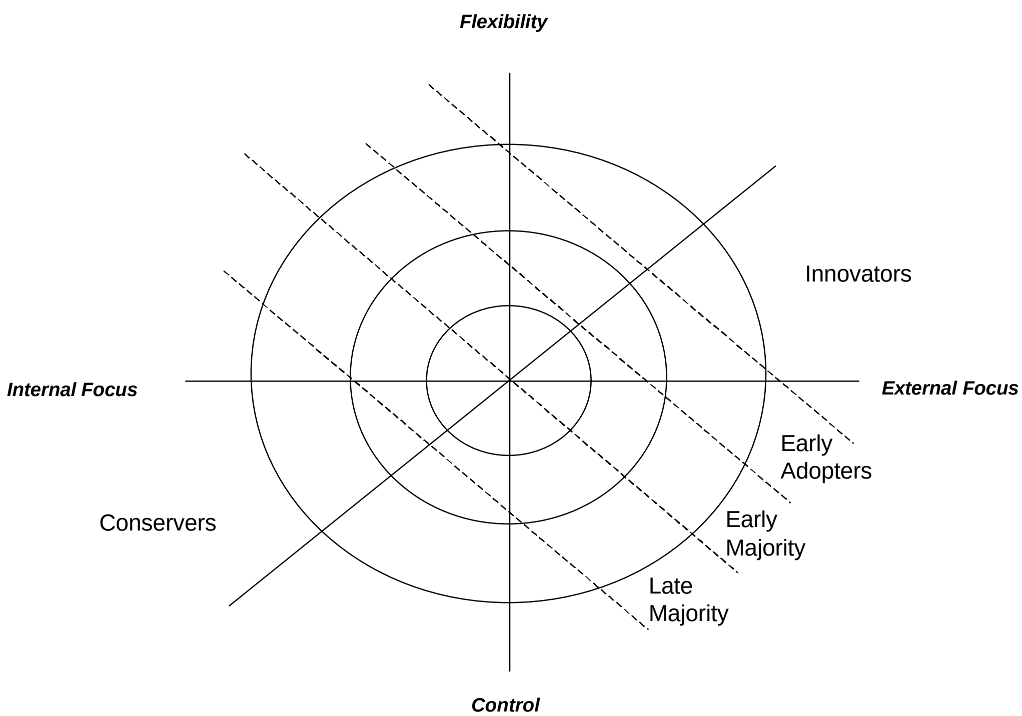
Source: Rogers, *Communication of Innovation,* 182.

It is easy to see that the ideal types distinguished by Rogers have points of correspondence with Quinn's typology of competing values and roles. In fact, the Rogers categories add a temporal dimension to Quinn's innovator/conserver continuum. The innovators in quadrant one of Quinn's typology are likely to be similar to the innovators who adopt ideas first in Rogers' typology. The conservers in Quinn's typology are likely to be laggards in Rogers'. Figure 3-2 overlays the Rogers typology of adopter categories on the Quinn typology of competing values to show an idealized hypothetical order in which change might be adopted.

Meshing the two models that staff as well as leadership can be expected to assume and the temporal order of adoption of new products, processes, or ideas

Figure 3-2

Innovator/Conserver Roles and Innovativeness



Source: Author's construct.

suggest

s an overall approach to inducing and internalizing cultural change in commissions.

The change agents themselves are the first focus of an effort at reculturation. Commissions and senior staff are already likely to consider innovation and change as part of their jobs. Overall, those who have attained positions of responsibility at commissions are better prepared by education, experience and personality than many staff. Nonetheless, commissioners and top staff fulfill many roles and only one focuses directly on internal change. And commissions and senior staff are feeling their way themselves. Before an effort at reculturation is well underway they will want to examine their own assumptions and beliefs that help to define commission culture. If they are to be change agents, they need to have adopted aspects of the preferred culture themselves, to the extent that the outlines of a new culture can be grasped before it evolves. If an influential group at the top of the commission hierarchy has not already personally mastered the notion of change, and is merely espousing reculturation as a way of making staff more efficient, the effort is not likely to succeed.

The innovators at a commission, as in other organizations, may be the earliest and most enthusiastic to adopt change, but as noted by both Quinn and Rogers, may also be too far out in front of their peers. In any case, commissions have historic responsibilities that have been well served by time-tested processes. It would be foolish to throw ratebase/rate-of-return regulation out the window for an amorphous, unanchored vision of the future, a prospect that might appeal to pure innovators.

Early adopters rather than innovators are likely to be the key force in initiating cultural change at commissions. In Rogers' model, these are the people to check with before others will use a new idea. In Quinn's model, these are people who score high on facilitator, motivator, broker, and producer roles as well as the innovator role, and see opportunities for the commission to move forward on all those fronts.

For the purpose of developing a culture suited to the commissions' new environment, the change agents in the commission should identify and reach out to potential early adopters. They should look for these staff not only on the basis of formal position, but for their role as opinion leaders in the informal organization. Staff who profess values of motivator and facilitator as well as innovator are particularly likely to be opinion leaders and participate eagerly in the change process. These are people who can embrace change and transmit their enthusiasm to others. The broker and producer roles must also be well represented in the early process as a counterweight to the "touchy feely," human relations people who may otherwise take the team itself as the objective rather than the commission's competitive edge. Together change agents and early adopters can begin to evaluate the existing culture and build a vision of something different. Table 3-2 lists some dimensions of organizational culture that

Table 3-2

Dimensions of Organization Culture

***Member identity**: the degree to which individuals identify with the organization as a whole rather than with some subgroup or specialization.*
***Group emphasis**:* the degree to which work is organized around groups rather than individuals.
***People focus**:* the extent to which management considers the effects its decisions have on people in the organization.
***Unit integration**:* the amount of encouragement of coordinated, interdependent activity among units.
***Control**:* the degree to which rules and supervision are used to control employees.
***Risk tolerance**:* the encouragement of risk and innovation.
***Reward criteria**:* the extent to which rewards are based on performance rather than seniority or favoritism.
***Conflict tolerance**:* the degree to which the open airing of conflict is encouraged.
***Means-ends orientation**:* the extent of managerial focus on outcomes and results rather than processes.
***Open-system focus**:* the amount of monitoring of external developments.

Source: Rainey, "Building an Effective Organizational Culture," 154-155, citing G. Hofstede et al., "Measuring Organizational Cultures: A Qualitative and Quantitative Study Across Twenty Cases," *Administrative Science Quarterly* 35 (1990): 286-316.

change agents and early adopters could consider in evaluating the existing commission culture and deciding where changes are called for. What of the old culture must be held onto? Are there differences within the organization — bureaus or divisions where the new culture already dominates? Perhaps some of the values and knowledge of these subcultures can be tapped to forge a new organization-wide culture.

Targeting early adopters to help begin the change process can prevent a “not invented here” syndrome — where innovation is imposed from outside or above.[35] Unless participants believe that they themselves have invented change, it will not stick. Ordinarily the process of organizational change involves a good deal of borrowing from other similar organizations and patching the result into something that is truly the organization’s own. If the change is as fundamental as the beliefs and traditions that provide context for other commission action, it is essential that reinvention start at home.

Using management approaches based on teamwork and other staples of the learning organization, others, including the small group of innovators, the large majority, and eventually even some of the truly retentive conservers, may be drawn into the change process. New ideas about culture are only one part of that process. Particularly for the soldiers and conservers, reculturation needs to be coordinated with the other activities of the commission. Strategic planning, the organization’s technology, structure, systems, and procedures should all be reconsidered from the point of view of how they affect culture and vice versa. New mission statements, for example, will be easy for innovators and early adopters to understand and absorb, particularly insofar as they are involved in drafting them. They are of special importance in communicating organizational philosophy to later adopters and staff who prefer direction and routines. Especially for staffers who value internal process new cultural underpinnings should be built into monitoring and control mechanisms, and rewards and punishments.

[35] Vivian Witkind Davis, “Not Invented Here: Adaptation and Reinvention in Utility Regulation,” unpublished paper presented at the Annual Research Conference of the Association for Public Policy and Management, Bethesda, Maryland, October 1991.

Conclusion

State regulatory commissions inundated with pressing policy concerns may question whether they have the time to dally with cultural change, a complex, time-consuming effort with undetermined impact on commission productivity and viability. But attention to underlying cultural constraints and forces is worth some effort within an overall change initiative. A transformational process that recognizes the existing beliefs, assumptions, and ceremonial trappings of 100 years of commission regulation, coupled with an understanding of existing staff values, can smooth the path from a placid, insular tribal existence to one of flux and healthy turmoil.

CHAPTER 4

PROCEDURAL AND STRUCTURAL IMPLICATIONS OF PROTECTING CONSUMER SOVEREIGNTY: A UNIFIED MISSION OF ANTITRUST AND CONSUMER PROTECTION

It seems clear that state utility commissions need to undergo a metamorphosis. But a metamorphosis to what? Our objective here is to suggest a potential worthy unified mission for state utility commissions that is consistent with the findings of the 1995 Commissioners' Summit and at least to scratch the surface as to the procedural and structural implications of such a mission. Such a mission can guide the direction of a transformation process.

At the previous Summit, the commissioners agreed, among other things, that a *customer-driven* environment should be fostered with all participants and by all procedures. They recognized that there is a need for special attention to market analyses so that we can identify (workably) competitive services, monopoly services, emerging competition, and anticompetitive behavior. They expressed concern that core customer protection is a continuing need and that, while competition should be actively encouraged, captive customers should not be injured in the transition. They identified that special attention would need to be paid to service quality as we rely more on competitive markets and less on economic regulation; and, social goals, such as environmental considerations, while not diminished in importance, would likely be more difficult to achieve in competitive markets.

The commissioners also recognized that the commissions will need to transform themselves in response to these and other changes. In particular, the mix of skills within commission staffs would need to change along with attitudes toward change.

The advisory role of the commission staff would need to be enhanced relative to its advocacy function. Because the role of the commission would de-emphasize advocacy and would be more quasi-legislative, commission procedures should follow with a greater use of consensus-building procedures, including alternative dispute resolution adapted for the administrative process.[36]

The items identified by the commissioners at the Summit have a common theme. The Summit commissioners' desire that, to the extent feasible and to the extent practicable, we move toward consumer-driven provision of utility services so that consumer choice drives the market for utility services. Customer choice requires two things to maximize consumer welfare.[37] First, there must be at least workable competition so that customers have a full and meaningful menu of choices. Second, for customer choice to maximize consumer welfare, markets need to be free from internal market failure resulting from (1) overt coercion, (2) undue influence, (3) deception, (4) incomplete information, or (5) needlessly confusing information.

The Summit commissioners recognized that many utility services are no longer pure monopoly services. To an increasing extent, many utility services are becoming more competitive. Yet, the competition that we can expect in utility services is less than perfect. While some services are becoming more competitive, even workably competitive, other services continue to have monopoly aspects. For example, pure electric distribution and transmission line services (as opposed to billing, metering, and other services that might be subject to competition if unbundled) continue to show economies of scale. Owners of these monopoly services or services that are less than workably competitive might try to leverage their market power from one market into

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[36] The National Regulatory Research Institute, *Missions, Strategies, and Implementation Steps for State Public Utility Commissions in the Year 2000: Proceedings of the NARUC/NRRI Commissioners Summit* (Columbus, OH: NRRI, 1995), 4-5.

[37] The theme in this chapter is adapted from one developed in Averitt and Lande, "Consumer Sovereignty: A Unified Theory of Antitrust and Consumer Protection Law," 65 *Antitrust L.J.* 713 (1997). The author of this chapter acknowledges borrowing heavily from the ideas presented in this article. The author also liberally borrows from ideas presented in Suedeen Kelly and Robert E. Burns, "The Antitrust State Action Doctrine and Its Potential Role in Assuring Consumer Protection in a More Competitive Utility Environment," *NRRI Quarterly Bulletin* 16, no.3 (1996): 395-411.

another. Alternatively, they might attempt to limit consumer options to affiliated producers. In any of these situations, consumers, particularly core customers, who by definition have limited options, will not only find their service options limited, but will find that they are paying too high a price for the services that they receive. Even if they do not engage in predatory pricing by pricing below out-of-pocket costs, utilities will naturally be tempted to shift the recovery of the cost of capital from customers receiving competitive services to core customers who are not.

This is in no way an effort to create a comprehensive listing of the types of mischief or exclusionary behavior that can be perpetrated by those with monopoly power or with sufficient market power, given the relatively high entry barriers in many segments of the utility industry.[38] It would be naive to believe that competition is workable in all utility service markets, and even where it is potentially workable, it would be naive to believe that such markets would not require ongoing oversight to make certain that exclusionary behavior, tying, monopolization, price fixing, or other anticompetitive activities did not occur.

Without ongoing regulatory oversight, utility entities with market power *would* eliminate service options by driving otherwise economically efficient competitors out of the competitive market. This would be achieved in part by shifting costs to core customers. When costs are shifted to core customers they obviously suffer; they pay a supracompetitive price for services and their own overall consumer welfare falls. As a result, one part of the mission of a state commission is to oversee the development of competitive utility service markets so that the supply of consumer options is not limited externally by those with market power, thereby enhancing consumer welfare.

State commission oversight of market structure and utility behavior using antitrust laws as a touchstone is just one part of what is necessary for customers to be able to exercise consumer sovereignty in a manner that maximizes consumer welfare. What is also necessary is that consumers need to be free from internal market failures,

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[38] For a more comprehensive listing, see James E. Meeks, *Antitrust Concerns in the Modern Public Utility Environment* (Columbus, OH: The National Regulatory Research Institute, 1996).

that is, failures caused by consumer inability to make good choices. As noted above, these internal market failures include (1) overt coercion, (2) undue influence, (3) deception, (4) incomplete information, and (5) confusing information. These types of internal market failures are typically addressed by consumer protection laws. Indeed, consumer protection is best thought of as a technique for making certain that customer choice among the options provided by the market is not unreasonably interfered with by the actions or omissions of one or more firms.

Overt coercion and undue influence are normally rare cases in most product or service markets. Yet, in the provision of utility services, we have seen coercion and undue influence involved in “telephone slamming” cases, where the customer either is switched to another provider without the customer’s consent or the customer is mislead or unduly influenced into switching providers. The worry is that similar things will happen in the wake of electric restructuring.

Most of the consumer protection abuses in competitive utility service markets are likely to relate to deception and/or incomplete or confusing information. Deception is the use of false or misleading information. Incomplete information results when the supplier withholds information that would be necessary for a customer to make a rational decision, while confusing information refers to the supplier’s presentation in an unnecessarily confusing fashion of information needed by the customer to make a rational choice. Information about utility services will be particularly difficult for consumers to obtain. The Retail Electric Pilot Experiment in New Hampshire and similar pilot studies in other states tended to show that retail customers needed and valued the ability to do side-by-side comparison shopping so that they would know about the nonprice aspects of the various service options. Customers are not driven by price alone. Indeed, the quality of service is a paramount concern to many customers and there is a need to have a neutral source of information about service quality, such as a state agency, that cannot only compile but verify the quality of service of various providers.[39] Other nonprice information needs to also be compiled, verified, and made available to customers in an understandable format.[40]

Consumer protection problems can be compounded by the market power that some incumbent utilities possess in the market. A utility that has a monopoly or extensive market power in its core market might be more willing to engage in a deceptive trade practice. It might also be more willing to engage in such a practice in a competitive market; if it suffered any adverse effects, it could always fall back on and shift costs to its core market. Also, the use of false and misleading, incomplete, or confusing information could allow an incumbent utility with market power to prolong its advantage. Such consumer protection problems, because they are compounded by the market power of the incumbent, can also lead to or perpetuate external (that is structural) market problems.

Conversely, horizontal contractual arrangements, many of which could violate antitrust laws,[41] often raise consumer protection problems by unreasonably interfering with the exercise of consumer choice. Typically, a horizontal arrangement in some way restricts customer choice by limiting customer options or by limiting the information that would be necessary for customers to make informed and rational choices. Illegal tying is another antitrust violation that restricts the ability of customers to choose. Tying involves a firm with market power in one market leveraging that market power into another market. Tying requires a customer to buy two products from one firm where

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[39] For a comprehensive discussion of telephone quality of service issues, see Vivian Witkind Davis et al., *Telecommunications Service Quality* (Columbus, OH: The National Regulatory Research Institute, 1996). Quality of service issues by no means exist solely in the telecommunications sector. They also exist in the water sector. We can also expect similar issues to arise in electricity and gas as these services become more competitive.

[40] See David W. Wirick et al., *Information Risk in Emerging Utility Markets: The Role of Commission-Sponsored Audits* (Columbus, OH: The National Regulatory Research Institute, 1996) for a discussion of the potential commission role in verifying information in more competitive utility service markets.

[41] There is a limited exception when the horizontal arrangement is necessary to make a competitive market workable. See Broadcast Music, Inc. v. Columbia Broadcast Sys., Inc., 441 U.S. 1 (1979). Independent transmission system operators might fit under this exception.

they might otherwise have chosen to buy one. In an unbundled world of wholesale electricity, tying might require a wholesale customer either to buy or pay for generation service when all the customer desired was transmission service.[42] Indeed, one way of viewing tying is that it eliminates customer choice where it otherwise would have existed.

Our point here is that there is no clean division between consumer protection, which addresses internal market failures, and antitrust protection, which addresses external or market structure failures. One can lead directly to another, or they can tend to reenforce one another. Our ultimate goal is to have a consumer-driven environment where, when it is feasible and practicable, customers can make rational choices about their utility services from as complete a menu of service options as the market can support. By achieving this goal, we will have consumer sovereignty which maximizes consumer welfare. What role will commissions play in achieving this goal and how will commissions transform themselves in accordance with this new mission?

First, commissions already realize that their primary purpose is no longer the disposition of rate cases. As such, state commissions should no longer set themselves up structurally to provide support to rate cases. Although it seems likely that many state commissions will initially promulgate codes of conduct for affiliates of the utility, consumer protection issues will arise from the conduct of nonaffiliates as well as affiliated marketers and brokers. State commissions need to set up processes and procedures and organize internally so as to be able to process consumer protection complaints and to monitor utility service markets and react to changing market conditions.

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[42] See Cajun Electric Coop v. FERC, 28 F.3d 173 (D.C. Cir. 1994). We specifically set aside equitable issues of whether it is legal under the antitrust laws to require payments for generation provided for under existing wholesale generation contracts. The FERC addressed those issues in FERC Order 888, effectively requiring full recovery of wholesale stranded costs that would have been recovered under the existing wholesale generation contract less mitigation. The issue of whether and to what degree and by what method retail stranded costs are recoverable is specifically reserved under FERC Order 888 for state commissions or legislatures to explicitly address.

For the most part, state commissions will find that *primary* reliance on adjudicatory processes is not helpful in dealing with consumer complaints. Individual consumer complaints are better handled through the use of a knowledgeable mediator. Consumers might not be willing to face a utility in an adversarial process. The cost of hiring an attorney would be prohibitive for most consumers, and for those who choose to represent themselves, the advocacy process would tend to disadvantage them. Indeed, the use of mediation or arbitration as an alternative dispute resolution process as a first resort is well established as a more desirable alternative to an advocacy process. With mediation and/or mediation-arbitration, there is a better chance that the complainant will end the process with greater satisfaction in the result and hence in the agency.

Resolving individual consumer complaints is only the first step in the process of what commissions can expect to do to protect consumer sovereignty. The individual consumer complaints need to be monitored and patterns need to be identified. Codes of conduct, while useful, are unlikely to substitute for commission experience. When there is a pattern of coercion or undue influence or where there is information that is deceptive because it is false or misleading, the commission needs to be structured so as to detect the pattern. It then needs to act quickly so that internal market imperfections are corrected. Typically, this can be done first by establishing standards through commission guidelines followed by a rulemaking process. When utilities violate established rules, the commission needs to have enforcement mechanisms available that can range from consent letters and decrees to civil and/or criminal penalties.[43]

Commissions will need to address external market imperfections as well. Traditionally, external market imperfections have been addressed through the use of antitrust laws. However, in the case of public utilities, where we are moving from

[43] In this area and others dealing with consumer information, it might be useful to also enquire to the Federal Trade Commission for its rulemakings and to either state attorneys general or state protection agencies for any orders or rules that might already be in place under their auspices.

vertically-integrated monopolies to what we hope are workably competitive markets, use of the adjudicatory procedures used in antitrust enforcement are inappropriate. Commissions are not so much determining whether there has been criminal activity or whether civil penalties apply as is the typical case in antitrust law; rather, they are engaged in an industry restructuring process that is for the public good. They are trying to determine, using the best available prospective economic and financial data, how to restructure previously monopolistic markets so as to make them workably competitive. Adjudicatory procedures are best adapted toward the finding of historical facts and for zero-sum conflicts.

Typically, rate cases were well-adapted for the use of adjudicatory procedures because of the widespread use of historic test years or projected test years that are little more than historic test years adjusted for inflation, with known and knowable adjustments taken into account. When examining prospective economic and financial data, it is better to use nonadversarial processes. Indeed, the use of consensus-building processes that are adapted for administrative procedures is probably a better approach and is more likely to yield the type of coherent and thorough policy analysis that commissioners can rely on in the context of industry restructuring issues or industry conduct issues.[44]

Pursuing a mission of protecting consumer sovereignty also has implications for commission structure and organization. Currently, most state commissions are structured to process rate cases and to handle consumer complaints. As the rate case function tends to fade away, being replaced by various forms of price cap, incentive, and performance-based regulation, commission structures should also change toward those that focus more on utility performance, market participants' (both utility and nonutility) market conduct, and market structure. Beyond the consumer complaint division, which might need to be expanded, commissions might find it useful to organize

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[44] For a comprehensive discussion of consensus-building procedures that are adapted for an administrative process in the context of public utilities, see Robert E. Burns, *Innovative Procedures for Proactive Regulation* (Columbus, OH: The National Regulatory Research Institute, 1988).

themselves around utility performance, market conduct, and market structure issues. For example, a utility performance division could assess and verify utility performance and could periodically design performance benchmarks and incentive provisions for different utilities. A market conduct division could examine the consumer complaints handled by the consumer complaint division for patterns of market misconduct. They could, as a result, draft market conduct rules that apply to all market participants. These market conduct rules could be written in such a fashion as to eliminate schemes, scams, and efforts to defraud the consumer.

Market structure issues vary by utility sector (electric, gas, telecommunications, and water). For each utility sector, it might be helpful to have a designated group of staff, composed of economists, financial analysts, attorneys, and others, providing ongoing analysis. For example, it would be useful to know if vertical integration within a utility sector is justified on the basis of minimizing transaction costs or whether it simply forecloses competition.

State commission staffs can also continue to expect to face issues centered around utility mergers and acquisitions, which we suggest would be most usefully addressed by those staff focused on market structure. The focus of the market structure staff would be on whether the merger or acquisition would result in a market structure that would eliminate potential competitors and hence limit the potential menu of consumer choices. Where real or potential competitors are acquired or merged with existing firms, particularly existing firms that dominate the market, it is likely that a merger or acquisition will result in a more limited menu of services to the customer. Where a merger eliminates substitutes, the merger also limits the customers' menu of services. In either of those cases, many, if not most, of the mergers should not be approved.

However, in those rare cases where the merger is between two nondominant firms and the merger would ensure the survival of a marginal firm that might otherwise fail, then the merger might even enhance the menu of service options available to customers in the long run, thus enhancing consumer sovereignty. The menu of customer choices is also enhanced where a merger results in the convergence of utility services that does not limit existing utility services or their substitutes, but instead creates new services that were not otherwise available. Such mergers should be approved.[45] In cases where mergers are approved, commission staff would monitor consumer complaints, assess utility performance, and assess market conduct to make certain that the new entity resulting from the merged companies does indeed operate to increase rather than decrease consumer welfare.

Thus, the four proposed divisions — consumer complaints, utility performance, market conduct, and market structure (by utility sector) — would not operate separately from one another. Rather commission staff from the various divisions could work together toward a common goal: maximizing consumer welfare by protecting meaningful consumer sovereignty. Assuring that consumers are provided with a menu of choices and the ability to make informed, meaningful choices would become the primary mission of the commission.

[45] For a more thorough discussion of state commission merger and acquisition policies see the following NRRI reports: Robert J. Graniere and Robert E. Burns, *Mergers and Acquisitions: Guidelines for Consideration by State Public Utility Commissions* (Columbus, OH: The National Regulatory Research Institute, 1996); and Edwin A. Rosenberg, *Telecommunications Mergers and Acquisitions: Key Policy Issues for State Regulators* (Columbus, OH: The National Regulatory Research Institute, 1997). Also, on utility convergence issues, see Robert E. Burns, *Exempt Telecommunications Companies and Some State Commission Regulatory Implications of Electric and Telephone Convergence* (Columbus, OH: The National Regulatory Research Institute, 1997).

CHAPTER 5

TRANSFORMING THE PUBLIC INTO EDUCATED RATEPAYERS

At the 1995 NARUC/NRRI Commissioners Summit it was agreed that consumer education was an important mission. However, commissions are increasingly finding that developing the necessary depth of understanding with state legislators, governors, sister state agencies, and consumers is a daunting task. The existing structure of their consumer affairs departments is not configured to make implementation easy. The task is further complicated by the fact that many commissions have been handed this challenge and have not been provided any additional resources or training.

Furthermore, unlike private sector advertisers, who often have the luxury of gearing their campaigns to carefully selected target audiences, consumer educators at commissions do not have the luxury of handpicking their target audiences or rejecting market segments that are too difficult to educate.

Commonly, consumer education is thought of as the final point on a continuum of change. As indicated by Figure 5-1, consumer education is viewed not as a change agent, but as a vehicle for explaining change to the public. Moreover, in the past the choice of a consumer education vehicle was often determined, not by the results of market research, a consumer education strategic plan, or the needs of the target audience, but by the available resources and the existing skills of the consumer affairs department.

Gone are the days when commissions could design consumer education campaigns around existing resources and skills. Today, if commissions are to achieve a smooth transition to competition and favorably position themselves with consumers,

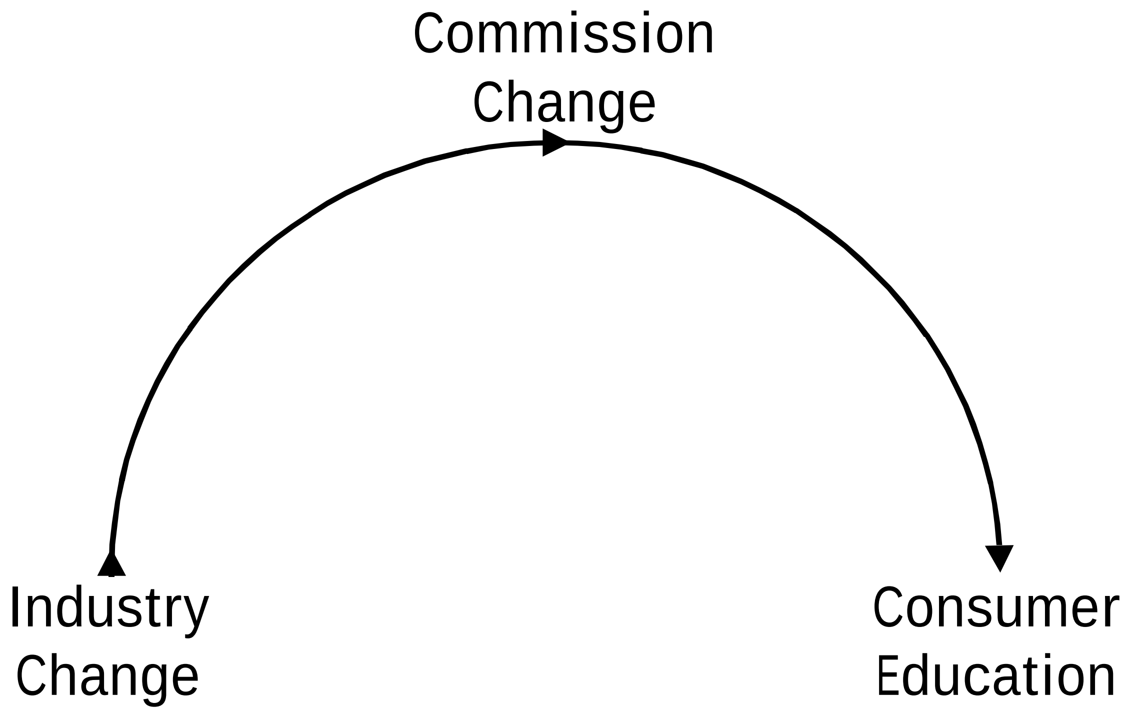

Figure 5-1. Traditional Continuum of Change.

they must first expand their definition of consumer education to include not only the dissemination of educational materials to the public but also to include the acquisition, analysis, and synthesis of information about consumers. As indicated by Figure 5-2, emphasis must be placed not only on educating consumers but also on educating commissions about consumers.

This chapter discusses the characteristics of consumers and commissions that must evolve in order to transform the public into able, willing, motivated, and informed ratepayers and in the process assist commissions in developing, maintaining, and disseminating the knowledge vital to consumers. Specifically, this chapter discusses

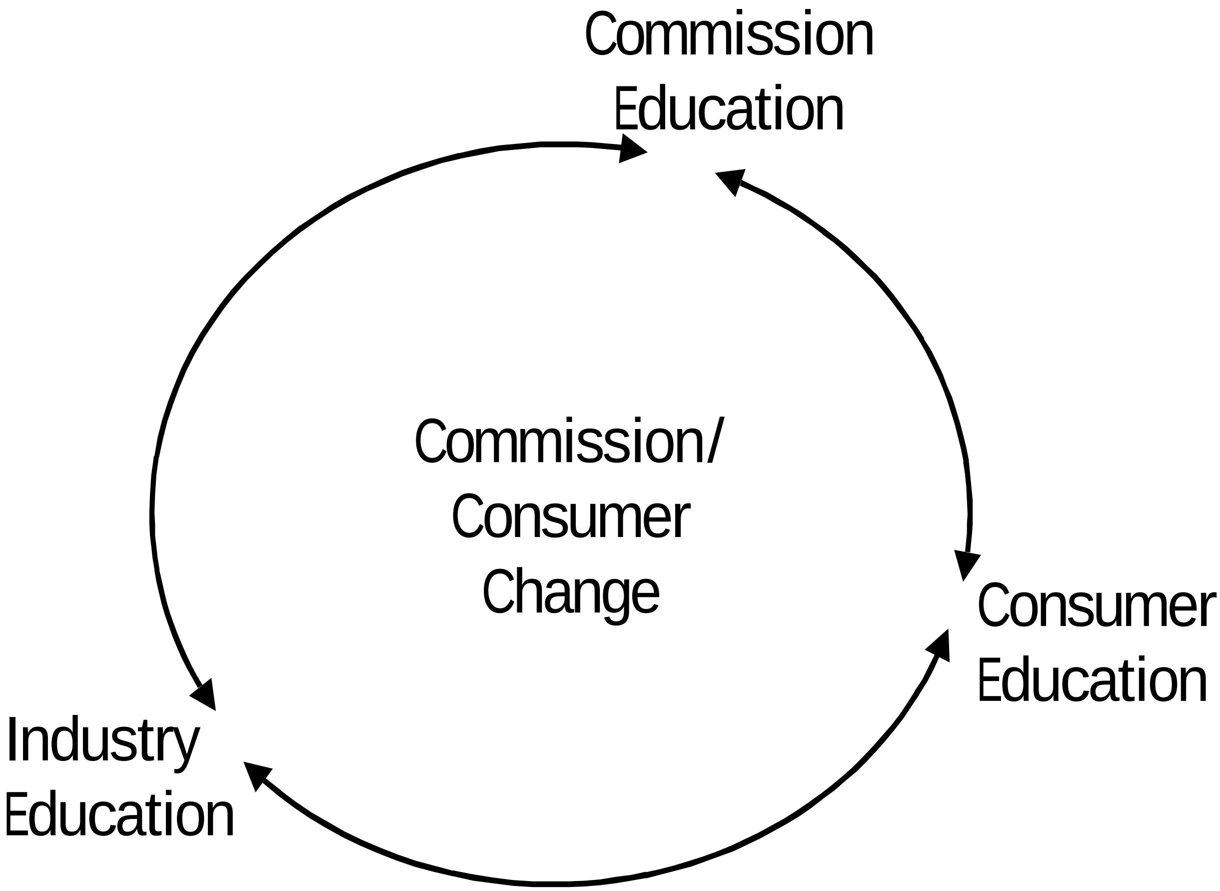

Figure 5-2. Ideal Continuum of Commission Change.

how changes in the knowledge, skills, beliefs, attitudes, and values of consumers and commissions can maximize the effectiveness of consumer education programs.

Changes in Consumer and Commission Attributes

Table 5-1 presents an overview of the characteristics of consumers and commissions. The table provides a comparison of how both consumers and

Table 5-1

Changes in Consumer and Commission Attributes

	Type of Target Audience	
Characteristics	**Consumers**	**Commission**
Knowledge — data endowed with relevance and purpose, includes reflection, synthesis, and context	Knowledge of regulatory arena, individual service carriers, standards of service quality, complaint process	Knowledge of market segments, consumer needs, consumer perceptions of the commission
Skills — abilities to successfully implement tasks	Skill to select a carrier, compare rates (i.e., hourly rates), make decisions	Skills include needs assessment, market segmentation, instructional design, management of outside contractors, consumer behavior, adult and community education, inter- and intra-organizational team building, strategic planning, marketing communications, program evaluation, and training
Beliefs — refer to statements that the target audience holds as facts	Public will need to believe that the commission is an ethical protective agency	Commission will need to believe that consumer education is a vital component of the transition to competition and a vital tool for modifying the public's perception of the commission; consumer education programs will need to reflect the belief that not all residential ratepayers are the same, that factors other than consumer ignorance and lack of motivation can inhibit the success of consumer education, and that different marketing communications strategies are necessary to reach different market segments
Attitudes — represents a person's general feeling of favorableness or unfavorableness toward a stimulus object	Public will need to have a favorable attitude toward the commission and the commission's consumer education materials	Commission will need to have a favorable attitude toward the public
Values — refers to what is important to the target audience	Public will need to value the ability to select carriers, saving money versus the loss of time spent to choose a carrier, and low rates versus promotional items	Commission will need to value feedback from the public and adopt a costumer-centered mindset

Source: Author's construct derived from the consumer behavior theories of Edward W. Maibach and David Cotton, "Moving People to Behavior Change," in *Designing Health Messages: Approaches From Communication Theory and Public Health Practice*, Edward W. Maibach and

Roxanne Louiselle Parrott, eds. (London: Sage Publications, 1995). 43; and Martin Fishbein and Icek Ajzen, *Belief, Attitude, Intention*, *and Behavior* (Reading, MA: Addison-Wesley Publishing Company, 1975).

commissions must evolve with regard to the characteristics of knowledge, skills, beliefs, attitudes, and values. Each attribute is discussed in turn.

Knowledge

Consumers

Types of knowledge that ratepayers might find beneficial, especially in the early stages of electric industry restructuring might include:

- Knowledge of the new regulatory environment;[46]
- Knowledge of the carrier selection process, including knowledge of which carriers are available to choose from, how to determine which carriers are available, details of the application process, and answers to questions such as: What do I do if I have questions? Can I change back? What do I do if I have problems?
- Knowledge of the basic standards of service quality; and
- Knowledge of the complaint process.

Because states are dealing with different aspects of restructuring, and because states are progressing at varying speeds, it will be important for each commission to conduct needs assessments to determine the areas where the public needs increased knowledge.

The Commission

Commissions need to have information regarding the demographics and psychographics of the market segments that comprise their target audiences.[47] Often

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[46] As an example, in one state it was reported that people thought electric industry restructuring meant replacing the poles and wires. Conversation at the meeting of the Consumer Affairs Committee, NARUC Summer Meetings, San Francisco, California, July 1997.

[47] For a discussion of demographics and psychographics see Francine Sevel, "Commissions as Information Organizations: Meeting the Information Needs of an Electronic Society," *NRRI Quarterly Bulletin* 18, no.1 (1997): 77-90.

demographic and psychographic information can be obtained from state agencies and social service agencies already providing services to the target market. Relevant demographic and psychographic information about the elderly often can be obtained from agencies such as the state department on aging, religious organizations providing services to the elderly, county organizations providing services to the elderly, disease prevention associations such as the American Heart Association, and local hospitals.

Properly designed needs assessment surveys can provide valuable information regarding consumer education needs. Through the use of these needs assessment surveys and focus groups, commissions can identify their audience's knowledge needs, as well as other factors that motivate and impede them from making good consumer choices.

Skills

Consumers

The term "skills" refers to the ability to successfully perform a predetermined task. A commission educator designing a brochure on choosing an energy provider might contemplate what skills the audience needs in order to make a successful choice.[48]

Examples of necessary skills might include the following:

- Decisionmaking skills — the ability to weigh all variables and make an appropriate decision
- Ability to compare rates
- Basic literacy skills

[48] As an example, a recent article in *US News* indicated that over one-third of all welfare recipients test at the "least proficient" literacy level (see Elsie Ackerman, "Should Welfare Moms Take Care of Other People's Kids?" *US News*, November 3, 1997). The article pointed out that these persons could not read a street map or calculate the total cost of a purchase from an order form. This implies that they could not make a sound decision regarding a utility carrier.

Through the use of focus group interviews with various target markets, a commission educator could field test an instructional product to determine if the target audience had the necessary skills to make a successful carrier choice after reading the brochure. If for example, results of the field test indicated that a large portion of the target market lacked the math skills to perform rate comparisons, this might indicate that this type of consumer education would be more successful if the rate comparisons were precalculated. To maximize resources commissions might consider teaming up with organizations already providing advocacy services to the target market.

The Commission

Table 5-2 displays three categories of consumer education skills: marketing skills, instructional design skills, and community education skills.[49] In many instances it will not be necessary for the staff of the consumer affairs department to have all of the skills listed. As an example, a member of the energy division's planning staff, might be able to advise the consumer affairs department on long-range planning. Staff can also obtain continuing education from professional organizations, or consultants can be hired either to perform the tasks associated with the skill or to train the staff.

Beliefs

Beliefs refer to statements that the audience holds as facts. A core element in many of the models regarding consumer behavior is the proposition that individuals act on the basis of beliefs.[50] Three important sets of beliefs are discussed here — beliefs

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[49] The skills are separated into these categories for the purposes of typology; it is not implied that skills needed for curriculum development and planning are not also needed for community education.

[50] A.R. Andreasen, *Marketing Social Change* (San Francisco, CA: Jossey-Bass Publishers, 1995), 151.

Table 5-2

Consumer Education Skills

Marketing[51]	Instructional Design	Community Education
•Needs assessment •Market segmentation •Strategic planning •Consumer behavior •Program evaluation	•Curriculum development and planning •Writing and editing •Graphic design and photography •Product evaluation •Budgeting •Website development •Management of outside contractors	•Inter- and intra-organizational team building •Media relations •Legislative relations •Event planning •Program management

Source: Author's construct.

about the positive and negative consequences of the behavior; beliefs about what others expect; and beliefs about the ability to carry out the action.[52]

Positive and Negative Consequences of Beliefs

Consumers

Consumers who believe that negative consequences would occur if they switched from their present energy carrier to a carrier who previously did not operate in their area would probably be reluctant to do so. By contrast, consumers who believe that positive consequences (such as lower rates) would occur by switching to another carrier will probably be motivated to make the switch.

[51] This model assumes the following definition of marketing: marketing is a process of identifying and meeting the needs of the public.

[52] Ibid.

Perhaps the most important belief that the entire consumer education effort will hinge upon is the belief in the efficacy of public utility commissions. If consumers believe that public utility commissions are ethical protective agencies, then they may believe in the integrity of the consumer education programs. If they do not believe in the commissions, then they will probably be skeptical of these programs. For this reason commissions should make every effort to ensure the accuracy of the information they present. If the public suspects that the commission is not accurately presenting information or is withholding information, they could withdraw their support.

The Commission

Knowledge of marketing and consumer behavior tell us that perhaps the most important belief that commissions must embrace in order to make consumer education successful is the belief that market segmentation is an important component of the consumer education process.[53] If consumer affairs departments believe that market segmentation will produce positive consequences, they will be motivated to invest the necessary resources. However, if they believe that negative consequences will result from market segmentation — "we'll spend a lot of time and money and it won't make any difference" — they will not.

It may be tempting for smaller consumer affairs departments, lacking resources for consumer education, to believe that market segmentation is not a necessary step. Smaller consumer affairs departments may need to explore ways to maximize resources. Options could include teaming up with other community organizations providing services to target audiences and using college students as interns.

It is also advantageous for commissions to believe that positive consequences will result from the use of the instructional design process — a systematic decisionmaking process that allows educators to identify the key elements of the

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[53] Market segmentation is a process in which the target market is divided (segmented) into subsets based on factors such as demographics and psychographics. The marketer then treats each of these subsets differently with regard to the strategies used to influence behavior.

learning process and to make decisions about what will be the most effective way to plan and implement the learning experiences.[54] For various reasons, many commissions will be tempted to skip this step and choose consumer education products based on the experiences of other states. Although the experiences of other states can provide a rich source of information, it is important to not choose an educational product solely on the experiences of another state.

Impact of Significant Others on Beliefs

Consumers

Consumers do not make decisions in a vacuum — members of family, social, religious, political, and work communities can have tremendous influence on their beliefs and consequently on their behaviors. In many cases, it will be necessary to target not the consumer or the decisionmaker but the decision-influencer. As an example, many elected officials rely on their executive staff to brief them about important issues and thus base their beliefs on the information obtained through these gatekeepers. Here, consumer educators attempting to educate or influence elected officials would be wise to target their efforts at influencing the appropriate gatekeepers.

Consumers' beliefs will, of course, be influenced by the beliefs of the family, social, religious, political, work, and other communities in which they function. Many marketers have already realized this concept. Advertisements for senior citizen services are often targeted not toward senior citizens but to their adult children. In California, the commission has identified high school students of immigrant families as decision influencers and is targeting its educational materials to them.

The Commission

The commission staffs' beliefs about consumer education will be influenced by many people:

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[54] Gary J. Dean, *Designing Instruction for Adult Learners* (Malaber, FL: Krieger Publishing Company, 1994), 2.

- Commission management and Commissioners
- Other staff members
- Legislatures
- Media
- Advocacy groups, and
- Utilities

In order for consumer education to be successful, it will be necessary that management promote the belief that consumer education is an important component of the transition to competition and a vital tool for “repositioning” the commission in the public mind. If staff are negatively influenced by the beliefs of naysayers, there is the potential danger that they will adopt a “why bother” attitudes which, of course, will be reflected in the quality of the consumer education efforts. Commission support should entail not only verbal support, but the necessary human and monetary resources to successfully execute the consumer education mandate.

Beliefs in Self-Efficacy

Consumers

According to Alan R. Andreasen, noted marketing author,

> For an individual to move from concluding that a behavior is a good idea — either because it is personally rewarding or because social pressures make the idea imperative — to actually taking an action, he or she must hold. . .the belief that the behavior can actually be accomplished.[55]

Consumers may need assistance from the commission to make good decisions regarding carrier selection. This could be accomplished through consumer education aimed at teaching good decisionmaking skills and instilling in consumers the confidence

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[55] Andreasen, *Marketing Social Change*, 161.

necessary to make those decisions. Training classes and other adult education processes also could be used.

The Commission

Through professional development, commissions can assist staff to successfully perform the skills necessary to make consumer education successful. Commission managers will want to acknowledge and reward employees for their new competencies. This might include position upgrades and salary compensation, and flex time to attend meetings of appropriate professional organizations.

Attitudes

Consumers

In the mid-1980s, the health care professionals began to take a very proactive role in influencing the health behaviors of the public. "Although the ultimate goal of campaigns might be behavioral change, messages also [focused] on changing attitudes."[56] For example, a campaign to prevent drunk driving might use messages to facilitate a positive attitude toward a designated driver. According to Fishbein and Ajzen:

> An attitude represents a person's general feeling of favorableness or unfavorableness towards some stimulus object. As a person forms beliefs about an object, [s/he] automatically and simultaneously acquires an attitude toward that object. Each belief links the object to some attribute; the person's attitude toward the object is a function of [his/her] evaluations of these attributes.[57]

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[56] Jennifer L. Monahan, "Thinking Positively: Using Positive Affect When Designing Health Messages," in *Designing Health Messages: Approaches From Communication Theory and Public Health Practice*, 89.

[57] Fishbein and Ajzen, *Belief, Attitude, Intention, and Behavior*, 216.

In order for industry restructuring to be successful it will be necessary that consumers have a favorable attitude toward their commission and the commission's consumer education materials. If consumers do not have a favorable attitude toward a commission, they will not view the commission's consumer education materials as credible and useful, and thus, the consumer education endeavor will fail.

Examples of *negative* consumer attitudes could include the following:

- Consumer education materials are useless.
- The public utility commission is not a credible, unbiased source of consumer education.

Examples of *positive* consumer attitudes might include the following:

- Consumer education materials are helpful.
- The public utility commission is a credible objective source of consumer education.

There is strong evidence from communications research that positive effects within messages can lead to positive feelings within the person, that in turn, make the person easier to persuade.[58] Through focus group interviews or phone surveys, a commission can determine the attitudes that the public holds toward specific attributes of industry restructuring or the public utility commission itself. If research indicated the presence of negative attitudes, consumer education would need to focus on changing consumer attitudes by creating positive feelings toward the commission and the appropriate industry restructuring attributes.

The Commission

Commissions will need to display a positive attitude toward consumers. It also will be important that commissions adopt a "guest-relations" attitude — a term borrowed from the hotel industry. Basically, a guest relations program is a management-driven

[58] Monahan, "Thinking Positively," 2.

endeavor in which staff makes a concerted effort to be friendly, helpful, and courteous to customers.

Commissions can communicate a guest or “consumer” relations attitude in the following ways:

- Answer consumer lines promptly.
- Have adequate phone lines so that consumers do not get a busy signal.
- Avoid placing consumers on hold.
- Have patient and friendly representatives.
- Have phone representatives who are bilingual/multilingual.
- Avoid making promises that are not kept — e.g., failing to send out requested materials.
- Have representatives personally speak to consumers — as opposed to automated recordings.
- Make follow-up contacts to ensure that consumers received requested information and complaints were satisfactorily resolved.[59]
- Avoid phone transfers of consumers from one department to another.
- Have staff members who are able and willing to assist consumers solve their problems and who can provide accurate information.

Values

Consumers

Consumer researchers have learned that there is a strong correlation between a person’s values and the attributes they seek from a product or service. Companies often spend considerable time meeting with focus groups to determine the attributes of products or services they value before beginning production. Long distance phone carriers have found that people value “promotional items” such as free long distance

[59] As an example, the Ohio Public Utilities Commission sends follow-up postcards to determine if complaints were satisfactorily resolved.

calls or cash, and that consumers will select a carrier based on these items as opposed to lower rates or other service quality factors.

In many cases, in order for consumer education to be effective, it will need to influence, perhaps even change consumer values. Focus groups and other survey research will help commissions identify the attributes that consumers value about service providers, and education will help to “reshape” consumer values. For instance, through consumer education, consumers who values promotional items, could be educated to value the long-term savings associated with lower rates rather than promotional items.

In other instances, busy consumers may avoid the perceived hassles of choosing a carrier because they view it as too time-consuming. In this case, consumer education can help consumers value the rewards of investing a small amount of time to select a utility carrier. A slogan might say “save two hundred dollars in fifteen minutes.”

The Commission

In order to make consumer education successful, commissions will need to value public input in a new way. In the past, commissions took information from the external environment and used it to set rates and develop quality-of-service standards. Now they will need to place increasing emphasis on consumer feedback both in developing and evaluating their consumer education programs and in fulfilling their consumer protection mandate. As part of its consumer education function, the California Public Utilities Commission is collecting consumer feedback which will be used for future consumer education planning, rulemaking, and utility enforcement.

Perhaps the best way to change commission use of public input is to adopt a customer-centered mindset or, in this case, a “consumer-centered mindset.” Andreasen discusses the differences between an organization-centered mindset and a customer-centered mindset and warns of the dangers of social change programs adopting an organization-centered mindset.[60] Unlike the organization-centered marketer who keeps track of how the organization is doing, the customer-centered marketer keeps track of how the customer is doing. The customer-centered mindset places customers and their objectives (perceptions, wants, and attitudes) first. This mindset acknowledges that an effective transition to the new regulatory environment must encompass customer satisfaction, as defined by the customer. If a particular program did not successfully educate consumers, the customer-centered marketer would acknowledge that the fault lies not with the consumer but with the consumer education program, and the program would be adjusted accordingly.

As indicated in Table 5-3, Andreasen lists seven characteristics of organization- and customer-centered mindsets. Based on this information, the author has delineated how a customer-centered mindset would apply to public utility commissions.

Conclusion

Consumer education is not a one-time product but a process in which both consumers and commissions evolve in response to the marketplace and each other. Commissions will need to thoroughly understand the needs of consumers and develop both consumer education products and services, as well as protective policies and legislation that proactively meet the needs of consumers. This will help reposition commissions in the eyes of the myriad audiences loosely defined as the “public” and help redefine the role of the public utility commission within a changing environment.

[60] Andreasen, *Marketing Social Change*, 37-67.

Table 5-3

Characteristics of Organization-Centered and Customer-Centered Mindsets and Application of a Customer-Centered Mindset to Commissions

	Organization-Centered Mindset	Customer-Centered Mindset	Application of a Customer-Centered Mindset to Commissions *
Mission	Organization's mission is seen as inherently good	Organization's mission is seen as bringing about behavior change by meeting the target market's needs and wants	Organization's mission would view consumer education as a critical component of an effective transition to a new regulatory environment
The Customer	Customers are the problem	Customer is seen as someone with unique perceptions, needs, and wants to which the marketer must adapt	Consumer is seen as someone with unique characteristics and needs, and it is the responsibility of the commission to adapt consumer education to the needs of the consumers
Marketing	Marketing is seen as communications	Marketing is seen as more than communications	Marketing is seen as a vehicle for identifying and meeting consumer needs
Market Research	Marketing research has a limited role	Market research is vital	Market research is a vital component of consumer education
Customer Groupings	Customers are treated as a mass	Customers are grouped in segments	Customers are grouped in segments by demographics and psychographics
Competition	Competition is ignored	Competition is seen to be everywhere and never ending	Utility-sponsored consumer education programs are seen as a powerful force
Staffing	Staffers are drawn from those with product or communications skills	Marketers are chosen for their knowledge of consumers	Staff members are chosen for their knowledge of consumer education and consumer behavior

* Author's construct based on Andreasen, *Marketing Social Change*.

Source: Andreasen, *Marketing Social Change*.

CHAPTER 6

ASSESSING PUBLIC UTILITY COMMISSION PERFORMANCE IN THE NEW REGULATORY ENVIRONMENT

As state public utility commissions restructure and assume new roles in response to changing regulatory requirements and methods, legislators and budget officers will need new measures of commission performance. As commissions craft these new benchmarks, they might well consider the development of outcome measures instead of more traditional types. According to a publication of the Ford Foundation:

> It is one thing to hold a police department responsible for expending its procurement budget (an input) without fraud or waste, for making a certain quota of arrests (outputs), and for achieving these objectives in conformity with prescribed procedures (process compliance). It is quite another to ask whether the department has made the city a safer place (the outcome people really care about), whether its achievement has been as good as citizens have a right to expect, and whether it is making good progress from year to year.
>
> Most accountability mechanisms in government focus on inputs, outputs, and process compliance, which are typically much easier to monitor than genuinely important outcomes. Increasingly, however, citizens and overseers want outcome answers. That is, they want to know whether public programs are accomplishing objectives that citizens value, whether they are doing so cost-effectively, and whether they are improving over time.[61]

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[61] Alan Altshuler and William Parent, "Breaking Old Rules: Four Themes for the 21st Century," *Innovations in American Government* (Washington, D.C.: The Ford Foundation, 1997), 12.

At least two states, Florida and California, have begun to design outcome measures for assessing commission performance. The Florida Public Service Commission is being required to do performance-based budgeting and identify new performance measures for its 2000-2001 budget cycle.[62] Several of the measures developed by the Florida PSC are cited later in this chapter. The staff of the California Public Utilities Commission has also embarked on an initiative to identify outcome indicators for commission performance, in part using the framework described later in this chapter. More information about the results of the California PUC initiative will be made available at a later date. In addition, in 1993 the Congress of the United States passed the Government Performance and Results Act (GPRA), which required federal agencies to identify program goals and to report on their results. To assess agency performance, it also required that agencies develop performance measures that assess progress in achieving goals or intended program outcomes.[63]

Even if performance assessment is not immediately required of commissions by budget officers or legislators, the creation of new outcome measures by the public utility commissions themselves may be the next logical step in their repositioning in the new environment. If credible performance measures that indicate a tangible, positive impact on the citizenry can be developed, commissions might help transform their image from that of agencies only expert in ratebase/rate-of-return regulation to that of agencies able to respond to public needs in the provision of utility service.

Lastly, by developing performance measures that clearly indicate that the public interest is being served, commissions might also answer the concerns of those legislators who have become convinced that commissions have little function in a competitive or partly-competitive utility marketplace. Commissions might find unique niches in the new environment among the other state agencies that may have some

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[62] Telephone conversation with Florida Public Service Commission Executive Director William Talbott, October 23, 1997.

[63] General Accounting Office, *Managing for Results: Analytic Challenges in Managing Performance*, GAO/HEHS/GGD-97-138 (Washington, D.C.: General Accounting Office, 1997), 1-2.

stake in utility service provision. Especially in tight financial times, the competition for resources between commissions and those other agencies will be brisk and, if they are to compete successfully, commissions will need to prove not only that they serve a useful function but that they are the best agency to perform the function.

This chapter will evaluate the traditional performance measures applied to commissions and identify the shortcomings of those measures in a new environment. It will also identify a framework with which commissions might develop new performance measures appropriate to the current and evolving circumstances of their states. The development of these measures will be a difficult task, requiring commissions to answer fundamental questions about their impact on the citizenry and even their continuance.

When it comes to the assessment of commission performance, one size does not fit all, and it is unlikely that standards developed by one state can be imported into another without substantial modification. Despite the difficulty of the exercise and the substantial differences among states, the application of the simple framework identified in this chapter should give commissions a clearer assessment of their own unique roles and give policymakers a better idea of their continued value.

Traditional Commission Performance Indicators

Though it has always been difficult to find clear and compelling measures with which to evaluate commission performance (or any government agency, for that matter), commissions traditionally have been evaluated using some combination of the following three performance indicators:

- Attainment of a satisfactory balance between competing interests;
- Efficiency of the regulatory process;
- Avoidance of overt regulatory failure or breakdown.

Of course, commissions need not seek new performance indicators unless the existing performance indicators have outlived their usefulness. Unfortunately, for those states and utility sectors where competition is increasingly the rule, these measures seem to have lost much of their relevance.

A satisfactory balance between competing interests has been the most often cited measure of the effectiveness of commissions. If no stakeholder interest, be it ratepayers or shareholders, was too well off or left in circumstances that were too dire, the regulatory process was regarded as acceptably effective. Though the number of commission orders overturned on appeal and the number of elected commissioners voted out of office might have provided some partial measure of the ability of commissions to define an appropriate balance between interests, there were few clear and objective standards that could be applied.

Some argue that one measure of external validation could be obtained by comparing utility rates in other, perhaps neighboring, states or by evaluating utility financial health by comparing utility bond ratings or by evaluating the utility's market-to-book ratio.[64] However, commissions, quite appropriately, have been unwilling to allow financial analysts and financial markets to dictate how utilities should be regulated. Because regulators face different historic costs and different management actions that may be more or less sound (read prudent), the definition of what is a "reasonable" return certainly has varied both across jurisdictions and between utilities. As a result, a standardized measure of "balance" has remained elusive.

Creating balance requires that commissions have the ability to shift resources from one competing interest to another. Those mechanisms for shifting resources have

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[64] A debate over the merits of using market-to-book ratios has occurred in the NRRI *Quarterly Bulletin*. See Joy Nicdao-Cuyagan, "Market-to-Book Ratio Myths in Utility Cost of Equity Estimation," 17, no. 3 (Fall 1996), 387-394; Kenneth R. Meyer, "The Regulatory Compact and the Market-to-Book Ratio Deserves the Immediate Attention of Regulators," 18, no. 1 (Spring 1997), 107-122; Stephen G. Hill, "Comments Regarding 'Market-to-Book Ratio Myths in Utility Cost of Equity Regulation,'" 18, no.1 (Spring 1997), 123-125; and Joy Nicdao-Cuyagan, "A Reply to Comments on 'Market-to-Book Ratio Myths in Utility Cost of Equity Regulation,'" 18, no. 3 (Fall 1997), 401-405. Additional articles appear in the Winter 1997-98 *Quarterly Bulletin*.

been the basis of ratebase/rate-of-return regulation, but in more competitive markets, those mechanisms may no longer exist. Therefore, creating an acceptable balance between interests may simply be impossible for regulatory commissions either presently or in the near future.

In addition, if utilities operate in a competitive marketplace, attending to the interests of shareholders will no longer be a part of commission missions. Further, if the big users can also take care of themselves in the more-competitive marketplace, only *residential* ratepayers may require commission protection. As a result, commissions may no longer ensure a balance between interests, thereby further obviating the creation of balance as a valid measure of commission performance.

If effectiveness could not be measured well, policymakers employed mechanisms to assess the efficiency of commissions. Given that no acceptable nationwide measures exist to compare the relative efficiency of commissions,[65] policymakers simply sought to make commissions more efficient than they had been. By reducing budgets, while leaving the workload of commissions the same, legislators were able to force increased efficiency. In other cases, legislators imposed time limits for commission processing of cases as a means of forcing commissions to invent efficiency-enhancing processes. It can be argued that those increases in efficiency have had a deleterious effect on effectiveness given that fast decisions are not often the best ones. In any event, attempts to measure overall commission efficiency have not yielded clear, unambiguous results.

Though there are few, if any, useful measures for evaluating the overall efficiency of commissions, many of them have created an array of measures of internal efficiency. These measures, which address specific activities, are being effectively employed to assist managers ensure the best allocation of commission resources.[66]

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[65] Measures of efficiency that are sometimes discussed include the number of staff per jurisdictional utility or the amount of time it takes a commission to process a case.

[66] The California Public Utilities Commission and the Ohio Public Utilities Commission, for example, have made extensive use of internal efficiency measures. See *The California Public Utilities Commission 1997 Business Plan,* dated January 23, 1997; and *The Ohio Public Utilities Commission, Administration Division Quarterly Report*, dated October 21, 1997.

Lastly, in some cases policymakers lacking other overall performance measures were satisfied with the performance of commissions if no overt breakdown (e.g., scandal, consumer revolt, industrial flight, clear politicization, disconnection of service to the poor) occurred. In the past, legislators have periodically perceived a breakdown of one sort or another and intervened.

Because of the lack of national standards, all of the traditional measures of commission performance have been flawed and are more art than science. In the current transitional environment, which is too often characterized by legislative suspicion regarding the existence of a legitimate role for commissions, commissions themselves might be well served by leading the way toward the development of new performance measures, measures that clearly link the role of the commission to the betterment of citizens.

New Directions for Assessing Commission Performance

The creation of a framework for the development of performance measures must begin with two pillars of performance evaluation — efficiency and effectiveness.[67] Efficiency is defined traditionally as an acceptable ratio of useful outputs for a given level of input. Effectiveness, which is generally defined as the ability of a process or program to achieve a desired result, is defined here specifically as the ability of the commission to serve the public interest.

Public interests are those interests which accrue to the benefit of the entire community. They can possibly best be envisioned as being in opposition to private interests, which accrue only to the party consuming a good or receiving a service. The purchase and consumption of most goods serve largely private interests. On the other hand, for example, the benefits of national defense accrue to all residents of the nation.

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[67] Of course, equity is another often-cited measure of performance evaluation, particularly for commissions. Measures of equity will be even more difficult to identify in the new environment than effectiveness and efficiency. Thus, it is not treated in this report.

Secondarily, a public interest can be said to have been created if private interests can be served only by collective action. For example, the benefits of purchasing safe, nonbacterially infected hamburger may be primarily private. But it would be inefficient (or impossible) for each consumer to invest the time and money in inspection of meat-processing facilities. As a result, it can be argued that there is a public interest in the delivery of safe hamburger. Similarly, we have determined in this society that the entire community is bettered if all persons are vaccinated against certain diseases. In this case, there is both a private interest (i.e., I am personally better off if I am vaccinated) and a public interest (i.e., society avoids the costs of medical care for those who might otherwise have become ill).

A Public Interest in Utility Service

Question #1 in the performance assessment framework (see Figure 6-1) attempts to identify the public interest in utility service. It asks the simple question: Is there a public interest embedded in the provision of utility service? Alternatively, one might ask: Why is the provision of this commodity (electric, gas, telecommunications, and water service) different than most other commodities sold to and purchased by citizens? There is, for example, no, or virtually no, public interest in the sale of athletic shoes. Government agencies do not envision corrective action if athletic shoes are not accessible to every citizen because of price, we do not ascribe minimum quality standards for athletic shoes, and we do not seem to particularly care if athletic shoe manufacturers make exorbitant returns on their investment.[68] Why is the provision of utility service different? Simply put, if there are no identifiable public interests (or private interests that can only be served by collective action) embedded in utility service, there is no purpose for government regulation of service providers, and the provision of utility service should be left to the interplay between consumers and markets.

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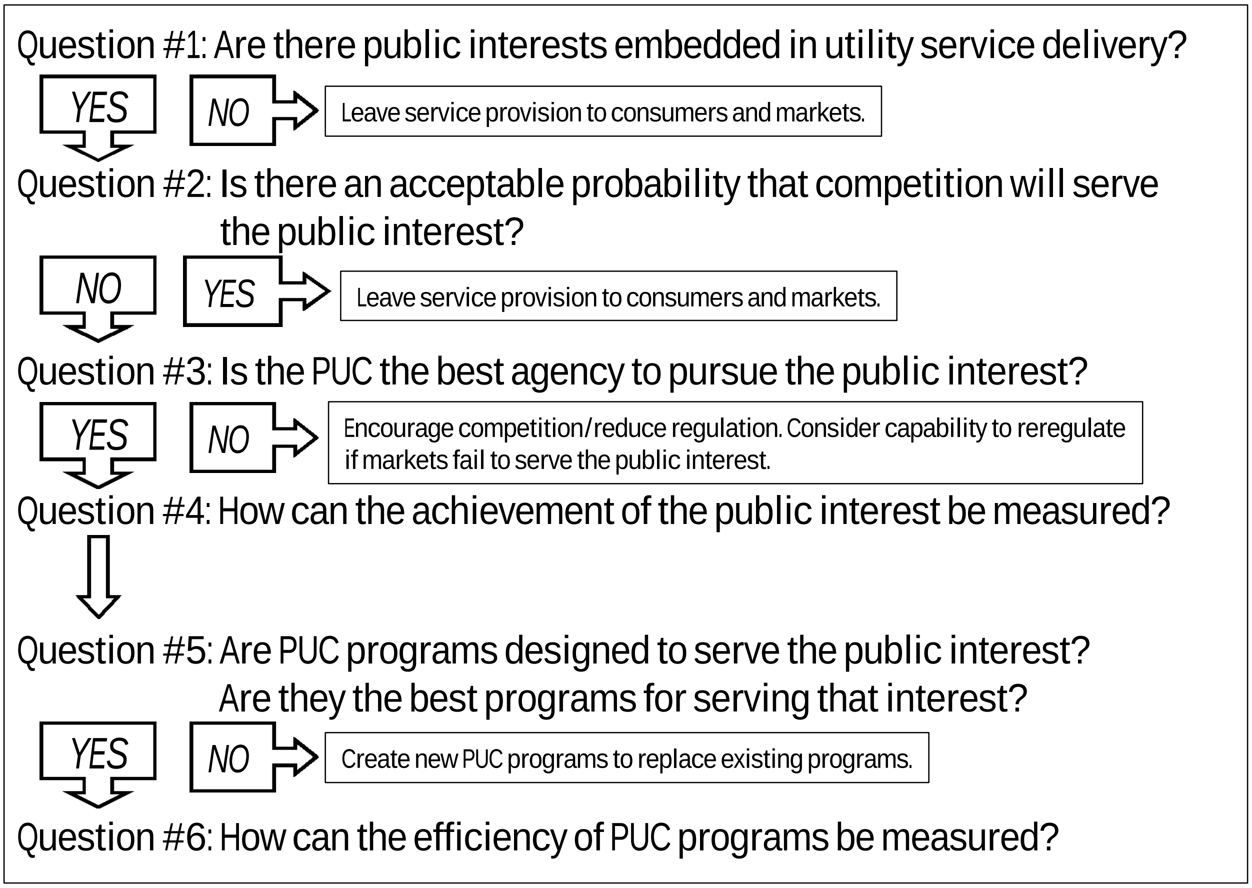
[68] We have, of course, determined that the public interest is impacted if manufacturers violate antitrust laws or employ child labor in the course of doing business.

Figure 6-1
Evaluating State Public Utility Commission Performance in More-Competitive Utility Markets



Source: Author's construct.

It is, of course, generally accepted that there are some clear public interests embedded in the provision of utility service, though the range of those interests might be more narrow than commonly thought. Those public interests seem to include:

- *Universal service*. Because some utility service is necessary to sustain life, we are, as a society, better off if every citizen has access to some level of utility service.

- *Safety*. Some utility services (gas and electricity) are inherently dangerous. Individually and as a society, we are better off if government ensures the safe delivery of those services. In addition, the definition of safety might be extended to include consumer protection, that is, safety from crimes such as fraud that might attend utility service delivery in competitive markets.

- *Economic development*. Economic development is the public interest that has most directly induced the movement toward competition through the specter of large users leaving specific jurisdictions, which would have caused significant damage to local economies. Though some free-market advocates might attribute economic decline of particular cities or states to the appropriate functioning of markets and might, therefore, take a hands-off position, most policymakers would argue for intervention. As a result, it is generally believed that the public interest in economic development is served by the prevention of business flight, the application of adequate technology (including the elimination of stranded, poorly served pockets of consumers), protection of specific economic entities (which could include protection of individual utility service providers to prevent adverse impacts on the local economy should the provider fail), and adequate service reliability.

Some would argue that service reliability is a public interest in its own right. In this analysis, however, it is regarded as subordinate to other public interests, primarily economic development and secondarily, universal service. It must be noted, however, that the network nature of electric, gas, telecommunications, and water utility services reinforce the public interest in service reliability. If the utility network is not operated in a coordinated fashion, service reliability can fall, in turn harming economic development and universal service.

Also missing from this list of public interests, is reasonably priced utility service. Again, it can be argued that there are private interests but no public interest in affordable utility service per se. There are many essential commodities (automobiles for instance) the reasonable pricing of which the government does not attempt to ensure. If there is a public interest in affordable utility service, it is subordinate to the public interests in universal service or economic development. Whether public action is necessary to ensure the meeting of private interests in affordable utility service is an issue of some debate, mostly hinging on the arguer's faith or lack thereof in the efficacy of competition in utility service delivery.

The prevention of monopoly abuse, the traditional *raison d'etre* of commission existence, is an issue of some public interest. For other commodities and services, the government applies antitrust standards and presumably will continue to enforce those standards on utility service providers after the advent of competition. But absent the other public interests in the provision of utility service, it is inappropriate that utility service providers be subject to any more rigorous antitrust regulation than that provided by state attorneys general to other commodities or services.[69]

The Efficacy of Markets in Utility Service Provision

Even when there is a public interest embedded in the delivery of a commodity, markets are sometimes allowed to provide those commodities. For example, private firms subject only to health and safety regulation by the Food and Drug Administration provide for the production and delivery of prescription pharmaceuticals, a commodity which has substantial public interest embedded within it.

That brings us to the second question in our framework: Is there an acceptable probability that competition will serve the public interest? Where it is believed that markets can serve the public interest better than regulation, commissions should actively encourage competition. In fact, many commissions are deeply immersed in finding ways to promote competition.

[69] Unless, of course, utility service providers possess market power in one or more markets after they have been fully deregulated. In such a situation, more rigorous antitrust enforcement by state attorneys general or by state commissions themselves is necessary to prevent price discrimination with the shifting of costs from customers with choice to those without, and to prevent leveraging of market power from one market to another.

Prevention of monopoly abuse and provision of service at affordable rates are particularly vulnerable to the argument that competition will better serve those interests than regulation. Some might argue that even safety will become a criteria by which consumers will judge utility service providers, and that safe service delivery, therefore, will be provided by competitive markets.

The determination of the “acceptable probability that competition will serve the public interest” will, of course, vary by jurisdiction and, perhaps even more importantly, vary over time. Policymakers in a high-cost electricity state may regard the probability as being very high that competition will be an improvement over regulation. Those in a low-cost state may disagree. In either state, that probability will vary over time, increasing if competitive ventures prove successful; decreasing if, for example, service quality under competition declines to unacceptable levels. While regulators may play a part in the decisionmaking process, these assessments of the relative viability of competition will typically be made by elected officials outside the commission.

Even in those jurisdictions that favorably regard the viability of competition, it is likely that policymakers will regard some public interests as being better served by competition than others. Though pricing might be left to competitive markets, safety and economic development might still be regarded as interests that require government oversight. These remaining public interests will become the focus of state regulatory commissions in more-competitive markets.

Competition with Other Agencies

Even if it is concluded in a jurisdiction that some public interests still require public oversight, there is no guarantee that the oversight will be located in the state public utility commission. As a result, the third question in the framework is: Is the public utility commission the best agency to serve the specific public interest?

As commissions restructure themselves, identify public interests to serve, and in some cases, engage in new activities, they will discover that they are in competition with other state agencies that believe they are better suited to perform specific services than the commission. For example, in at least two states, when commissions decided to enhance their public education role, they were challenged by the office of the consumer advocate, which believed that its mission included consumer education and that it was better positioned to interact with consumers.

The decision to house functions in a state public utility commission or give them to other state agencies often will be based on intangible, subjective criteria. Therefore, in this transitional period, commissions should attempt to ensure that they are regarded by legislators as technically competent, flexible, and responsive.

As commissions increasingly interact with other state agencies, there are alternatives to direct competition for resources. Commissions may want to consider developing partnerships with other state agencies and sharing functions so that both agencies can employ their unique skills. Developing these partnerships in advance of legislative action may be prudent.

Indicators of Impact

If there are public interests that pass the tests implied in the first three questions of the framework, the commission is then prepared to identify ways in which the achievement of the public interest can be measured. For example, if safety is a public interest embedded in utility service, how can the commission measure the relative safety of citizens? No matter what measures are applied, they should assess direct impact on the public. In the Florida Performance Measurement system referenced earlier, these types of measures are defined as “Outcome Measures.” According to Steven Tribble, the Florida PSC’s Director of Administration,

> Outcome measures focus on the program results and are supposed to reflect the degree to which the desired program results have been achieved. Obviously, this is considerably more difficult than counting

cases or companies. It is especially difficult in a regulatory environment where the agency's actions are, in many cases, only one factor among several that determine the program results.[70]

Table 6-1 lists three public interests and some measures that might be used to assess the commission's impact on them.[71]

Table 6-1

Potential Commission Performance Measures

Public Interests		
Safety	**Economic Development**	**Universal Service**
Electric and gas injuries and fatalities per million in state population (Florida)	Utility bill increases for average residential usage compared to inflation (Florida)	Utility service penetration rates
Service/Safety recommendations implemented after first citation (Florida)	Average utility bill as a percentage of average household income (Florida)	Service shutoffs per year
	Annual number of companies entering and exiting the market by service type, communications only (Florida)	Consumers reached through outreach programs (Florida)

Source: Author's construct.

[70] Steven Tribble, Memo to Division Directors, Florida Public Service Commission, October 2, 1997.

[71] Those performance measures identified in parentheses as "Florida" are taken from ibid., Attachment A, pages 3-4, 6. They have been assigned to the public interest categories by the author. Not all of the measures identified by the Florida Commission staff are listed.

As Steven Tribble indicates, developing these outcome measures will be a challenge for state commissions. Enterprise Technology Services, a division of Merrill Lynch, identified a three-step process for the development of meaningful, customer-centered performance measures that might be useful for commissions that undertake this task:

- *Awareness: Overcoming Denial*. Challenges in this step involve developing meaningful measures, moving from the "silo" mentality and convincing staff that existing measures are inadequate, defining client focus, and understanding the mission.

- *Implementation: Making it Work*. Challenges here include identifying the difference between "good" measures that really focus on clients and "bad" measures that appear to but do not, establishing a methodology for problem solving, developing a continuous improvement process, and using goal formation and policy development.

- *Acceptance: Addressing Everyone's Needs*. The challenge here is to obtain buy-in by the various players and eliminate cynicism.[72]

Since the passage of the federal GPRA in 1993, effected agencies have identified a number of difficulties in identifying appropriate outcome measures. The difficulties include getting beyond program outputs and developing outcome measures, specifying quantifiable and readily measurable indicators, developing alternative or interim measures, estimating a reasonable level for expected performance, developing qualitative measures, and collecting data.[73] Another problem common to the measurement of the impact of commission actions is that such action will be only one of the variables that impact the achievement of performance. Isolating the impact of variables controlled by the commission from external variables will be difficult. In order

[72] "Measure for Measure," *News for a Change* (Cincinnati, OH: Association for Quality and Participation, November 1997): 8.

[73] General Accounting Office, *Managing for Results*, 14, 25.

to separate the impact of federal programs from the impact of external factors, federal agencies subject to the GPRA, have (1) specified as outcomes only those variables that the program can affect, (2) used control groups, (3) used customer satisfaction measures, (4) expanded data collection to include potential outcome variables, (5) monitored the economy at the local level, (6) analyzed time-series data, (7) analyzed local-level effects that are more clearly understood, and (8) involved stakeholders.[74]

Even the best performance measures will evolve over time as existing public interests change and new interests are revealed. To prevent slavish attention to outdated performance measures, measures should be at least periodically evaluated and information about consumers examined to identify potential new directions. With experience, better measures are likely to be developed. When they are, inferior measures should be abandoned.

Identification of the Best Programs

Not only should performance measures be oriented toward the achievement of specific public interests, but commission programs should be designed to address those interests as well.

Government programs tend to suffer from two counterproductive tendencies. First, they tend to focus on the solution to problems rather than the pursuit of the public interest. As a familiar example, commission regulation in traditional markets was often cited as a solution to a problem (i.e., the protection of consumers from monopoly abuse). The underlying public interest was buried under the problem, and alternative methods of achieving the public interest were not often considered. Second, public programs often continue long after other means are available with which to address underlying public interests. In order to be effective, commission programs should

[74] Ibid., 27.

establish a clear connection with their public interest objective and should be reevaluated periodically to ensure that the public interest is still being served and that other, better methods cannot be identified.

Educating the public is an activity that is currently receiving considerable attention from commissions. But is educating the public an activity that supports a clear public interest? Obviously, the public has no interest in education per se (i.e., education is not an end in itself.) Educating consumers may, however, be a tool that increases the probability that competition will be an effective substitute for regulation. Put another way, without extensive consumer education the answer to question #2 in our framework (Is there an acceptable probability that competition will serve the public interest?) is more likely to be "no."

As a result, the most interesting question is not whether consumer education is appropriate now but rather, how long should consumer education be continued. Irrespective of the fate of explicit, externally-focused consumer education programs, commissions will always be involved in educating themselves about the public, designing programs and services that meet the needs of the public, and effectively using the information gleaned from the public.

Program Efficiency

Once it has been determined that "the best" programs are in place to serve the public interest, the efficiency of those programs can be addressed. As indicated earlier, commissions have considerable experience and expertise in evaluating program efficiency. Because of the vast literature on improving program efficiency, we will not address it further here.

Conclusion

From this simple analysis and framework several conclusions can be drawn:

- Given the lack of usefulness of traditional measures of commission performance in more-competitive utility markets, public utility commissions will be well-served if they seize the initiative to develop new standards. The alternative is to wait until others develop measures for them, an exercise not likely to result in favorable outcomes for the public or for commissions.

- Given the variability of state circumstances, it is as unlikely in the future as it has been in the past, that clear, national standards of commission performance can be developed.

- Even more than in the past, commissions may find their activities increasingly drawn toward the performance of functions formerly regarded as peripheral to the primary mission of the commission. Economic development or consumer education may assume center stage.

We believe that there are public interests embedded in utility service; protecting those public interests will require considerable reevaluation of commission missions, programs, and existing performance standards. The result of such a review is likely to be not only the identification of performance measures but a fresh vision of the role of commission regulation in the new environment.

CHAPTER 7

FUNDING PUBLIC UTILITY COMMISSIONS: PAST, PRESENT, AND UNCERTAIN FUTURE

Introduction

As with all governmental agencies, what happens to budgets at public utility commissions (PUCs) determines in large measure their capacity to perform effectively. In our earlier report on transforming PUCs in the new regulatory environment, the point was made that the ability of commissions to "get from here to there" with regard to encouraging and inducing competition, while at the same time continuing to safeguard utility consumers who do not face markets that are workably competitive, will be constrained or aided depending on what level of budgetary resources is made available to commissions over the next several years.[75] The obvious worry is that there may be (for various reasons) a premature retrenchment of budgetary support incommensurate with actual policy needs.

In that prior study we posed three possible scenarios as to commission staffing levels over the coming nine years.[76] One was a straight-line decline as legislatures cut commission budgets according to their perception of the reduced need for regulatory commission oversight. The second was depicted as an early decline in staffing but with a stabilizing (or even partial reversal) of the trend several years out when revealed

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[75] David W. Wirick et al., *Transforming Public Utility Commissions in the New Regulatory Environment: Some Issues and Ideas for Managing Change* (Columbus, OH: The National Regulatory Research Institute, July 1996), 66-67.

[76] Ibid., 64-67.

deficiencies in market reliance and/or persistent obstacles to effective protection of consumers require renewed intervention. The third scenario (portrayed as the "correct one") recognizes that the transition from continuous oversight to substantial reliance on competition is an extremely difficult (and perilous) task requiring high-order management skills and attention. Accordingly, this last view translates into staffing levels that initially are not diminished and may even be increased temporarily, ultimately dropping to a lower level than originally, when customer protection is assured and some new equilibrium is reached. While PUCs have other expenditures besides staff and some reconfiguration of commissions and commission operations could lessen the connection further, staffing levels and budgets are closely related and will be used nearly synonymously here.

This chapter has two following sections. In the next section we trace the direction of state spending on public utility commissions by taking a thirty-year look at budgets for twenty-four states, and suggest the likely explanations for changes in direction. In the last section we discuss some of the current developments in the regulatory environment that will bear on funding of PUCs and their implications for commission operations. Some broad commentary on possible funding futures are also offered.

Facts and Figures — Some Interpretation

State Expenditure Patterns

To get a general sense of trends in expenditures for state public utility commissions, data were gathered from about half the PUCs for selected years from 1967 to 1997. Since individual numbers were not as important for our purposes as trends and magnitudes of change, it is assumed that the PUCs reported on are reasonably representative of the universe of fifty-one state PUCs (including the District of Columbia).[77] Also, it is assumed that there were no huge savings in aggregate expenditures in the years in between the "snapshot" years selected for reporting.

Table 7-1 displays expenditure data for twenty-four state commissions for the period mentioned. Of note are the facts that expenditures increased by eleven times on average in nominal dollars ($1.52m in 1967 to $17.5m in 1997-1998) and by almost two and one-half times in real terms ($1.52m to $3.66m). Figure 7-1 accompanying the table displays these data in a line graph.

In order to compare state commission expenditures with state government expenditures in general, Table 7-2 was constructed for the same states. Here we find that the states' total expenditures increased almost thirteen times on average for the period, which in real terms translated into a tripling of expenditures. This was at a time when the GNP had increased by nearly ten times. Figure 7-2 shows these state data in graphic form.

Table 7-3 takes the dollar amounts in the prior two tables and indicates the percent of total state expenditures that commission expenditures make up for each state and for each of the five years. The general pattern is that the percent devoted to PUCs declined from 1967 to 1973, increased sharply to 1983, declined notably to 1993, and flattened out thereafter. Figure 7-3 portrays these results. Comparing the two sets of expenditures — state government as a whole and PUCs as part of that whole — one can say that the latter increased slightly less rapidly than the former (thirteen times vs. eleven times, respectively).

Referring to Figure 7-1 it seems fair to say that a major explanation of the runup in commission expenditures beginning in 1973 was the intensive and sustained demands placed on commission regulation with the advent of the energy crisis. While PUCs have been faulted by critics for not flexibly accommodating this surge of activity

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[77] While this assumption could be incorrect, it would seem to be unlikely that the outcome would be markedly different, given the sample size and the diversity of states geographically and in size.

Table 7-1
State Commission Expenditures,* Selected Years, Selected States

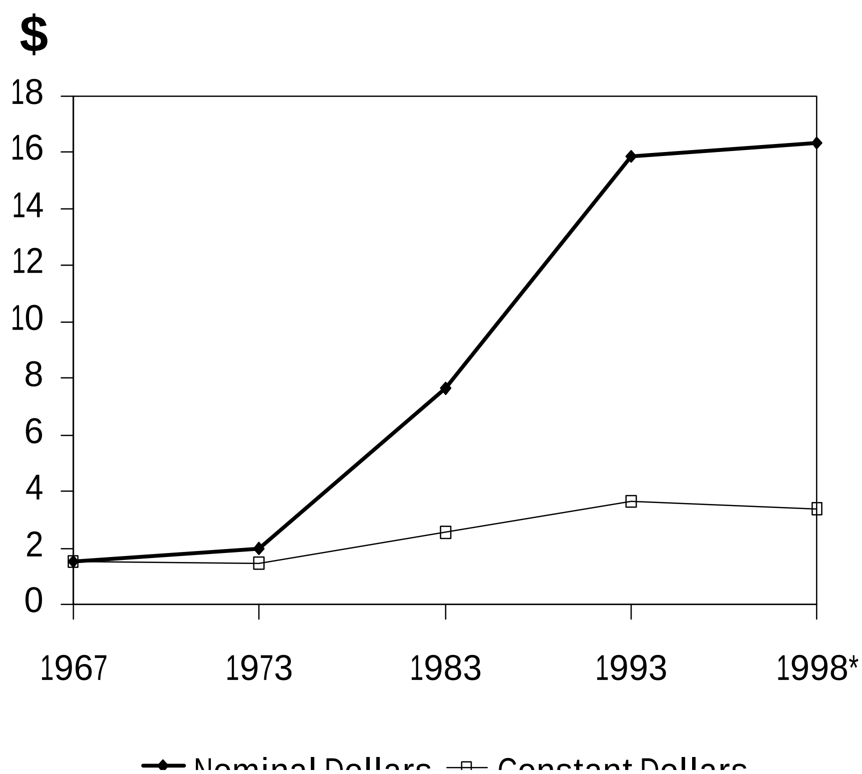
State	1967	1973	1983	1993	1997-1998
Alabama	$ 342,874	$ 610,000	$ 4,825,000	$ 8,307,900	$ 11,350,000
Alaska	106,000	451,000	3,308,000	3,448,800	3,992,700
Arizona	774,095	1,156,000	4,797,000	6,000,600	4,925,200
Arkansas	242,372	438,000	3,500,000	6,439,000	7,576,000
California	10,227,915	13,345,000	36,825,000	80,486,000	78,239,000
Colorado	540,486	1,334,000	3,825,000	6,100,700	5,718,600
Florida	1,351,530	2,881,000	8,864,000	21,341,500	24,319,381
Georgia	454,597	767,000	3,773,000	9,564,600	8,482,241
Hawaii	259,345	581,000	635,000	1,960,900	5,784,146
Idaho	207,927	337,000	2,678,000	3,086,000	3,952,500
Illinois	5,080,234	2,613,000	13,727,000	23,461,700	32,286,700
Iowa	354,294	535,000	666,000	4,575,000	5,644,482
Minnesota	3,800,632	818,000	1,353,500	2,653,300	3,200,000
New Mexico	196,513	232,000	2,576,200	3,450,000	3,299,000
North Carolina	543,622	1,008,000	5,085,000	7,253,200	4,834,858
Ohio	1,204,023	3,100,000	11,512,000	37,193,000	44,187,000
Oregon	1,960,946	3,152,000	12,533,000	36,822,000	13,438,131
Pennsylvania	2,828,255	4,389,000	21,818,000	34,757,500	38,042,000
Tennessee	375,676	1,742,000	4,610,000	14,394,700	4,250,000
Utah	146,850	398,000	3,161,000	6,195,700	9,178,100
Virginia	3,076,810	3,285,000	18,710,000	41,967,900	52,626,785
West Virginia	825,037	1,487,000	7,289,000	8,342,200	11,504,000
Wisconsin	1,419,969	1,818,000	5,487,000	10,710,400	12,810,400
Wyoming	184,000	451,000	2,001,000	1,780,400	2,497,309
Average in Nominal Dollars	$ 1,521,000	$ 1,955,333	$ 7,648,279	$ 15,845,542	$ 16,339,106
Average in Constant Dollars	$ 1,521,000	$ 1,473,136	$ 2,559,675	$ 3,654,131	$ 3,394,212

* Note: Data not verified and may reflect certain changes in jurisdiction over the period (like transportation regulatory authority) and structural changes (like splitting off "public staff" or staff advocates). Also, some data in the 1997-1998 column are budgeted amounts and not expenditures.

Source: Selected annual issues of *Utility Regulatory Policy in the United States and Canada*, National Association of Regulatory Utility Commissioners, Washington, D.C., state tables.

Figure 7-1

Average State Commission Expenditures for Twenty-Four Commissions, Constant vs. Nominal Dollars (in millions)



*** Some of the data for this point is comprised of budgeted amounts, not expenditures.**

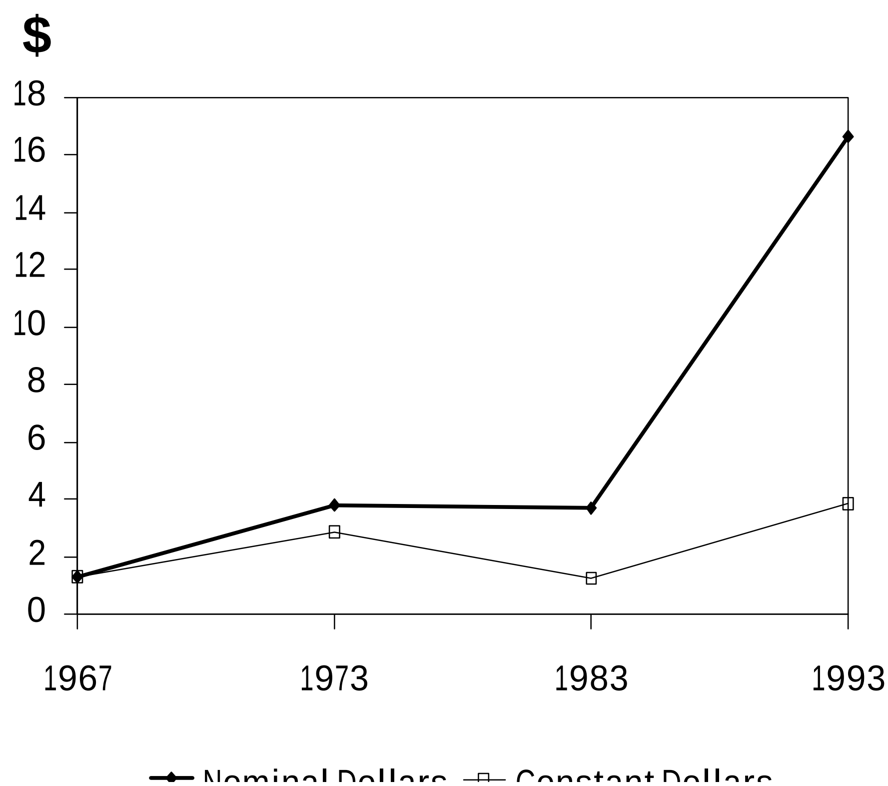
Source: Table 7-1.

Table 7-2
Total Expenditures, Selected Years, for Twenty-Four States
(in billions of dollars)

State	1967	1973	1983	1993
Alabama	1.007	2.254	1.849	10.242
Alaska	.272	.784	3.827	5.423
Arizona	1.007	1.685	1.693	9.783
Arkansas	.509	1.118	1.091	5.915
California	7.792	21.082	21.020	104.567
Colorado	.643	2.065	1.631	8.673
Florida	1.363	5.292	5.160	30.103
Georgia	1.140	3.574	3.686	15.308
Hawaii	.407	1.091	1.490	5.606
Idaho	.226	.569	.452	2.776
Illinois	2.456	9.813	8.688	28.133
Iowa	.809	2.136	1.921	7.766
Minnesota	1.090	3.763	3.729	14.295
New Mexico	.435	.878	1.327	5.599
North Carolina	1.279	3.260	3.498	16.916
Ohio	2.512	7.497	7.206	31.665
Oregon	.770	2.116	1.449	9.013
Pennsylvania	3.194	9.700	7.434	34.359
Tennessee	.957	2.633	1.856	11.028
Utah	.398	.914	1.006	4.834
Virginia	1.202	3.432	3.225	14.721
West Virginia	.614	1.334	1.323	5.943
Wisconsin	1.429	4.061	3.791	14.621
Wyoming	.171	.383	.467	1.887
Average in Nominal Dollars	$ 1,320,083,333	$ 3,809,750,000	$ 3,700,791,667	$ 16,632,333,333
Average in Constant Dollars	$ 1,320,083,333	$ 2,870,241,516	$ 1,239,802,440	$ 3,835,572,715

Source: Selected years of *Statistical Abstract of the United States,* U.S. Department of Commerce, Bureau of the Census, Washington, D.C.

Figure 7-2
Total State Expenditures for Twenty-Four States, Constant vs. Nominal Dollars Selected Years, 1967 to 1993 (in millions)



Source: Table 7-2.

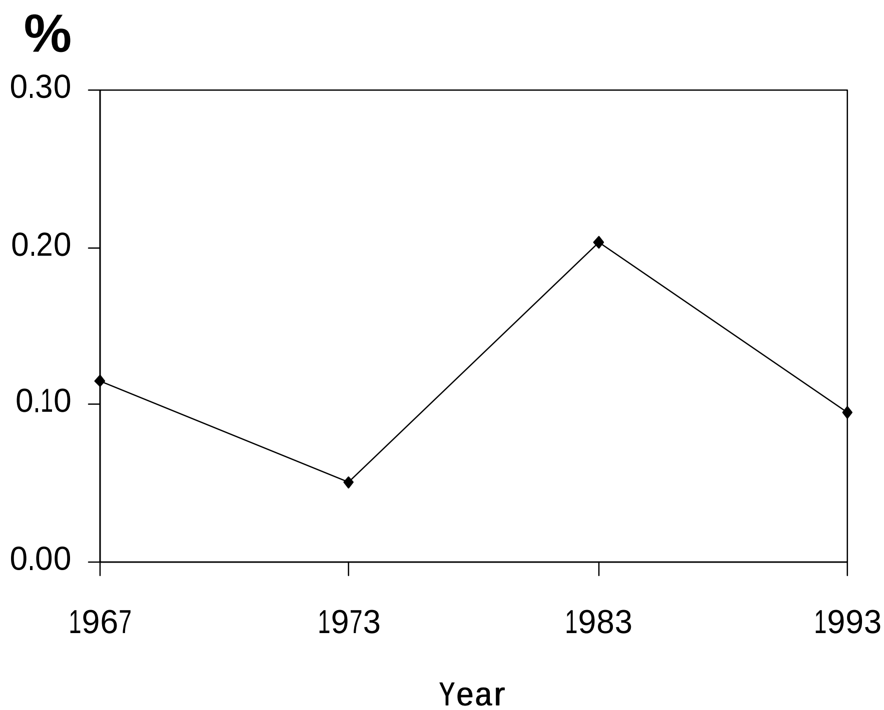
Table 7-3
Commission Expenditures as Percentage of Total State Expenditures, Selected Years for Twenty-Four States

State	1967	1973	1983	1993
Alabama	0.03%	0.03%	0.26%	0.08%
Alaska	0.04%	0.06%	0.09%	0.06%
Arizona	0.08%	0.07%	0.28%	0.06%
Arkansas	0.05%	0.04%	0.32%	0.11%
California	0.13%	0.06%	0.18%	0.08%
Colorado	0.08%	0.06%	0.23%	0.07%
Florida	0.10%	0.05%	0.17%	0.07%
Georgia	0.04%	0.02%	0.10%	0.06%
Hawaii	0.06%	0.05%	0.04%	0.03%
Idaho	0.09%	0.06%	0.59%	0.11%
Illinois	0.21%	0.03%	0.16%	0.08%
Iowa	0.04%	0.03%	0.03%	0.06%
Minnesota	0.35%	0.02%	0.04%	0.02%
New Mexico	0.05%	0.03%	0.19%	0.06%
North Carolina	0.04%	0.03%	0.15%	0.04%
Ohio	0.05%	0.04%	0.16%	0.12%
Oregon	0.25%	0.15%	0.86%	0.41%
Pennsylvania	0.09%	0.05%	0.29%	0.10%
Tennessee	0.04%	0.07%	0.06%	0.13%
Utah	0.04%	0.04%	0.31%	0.13%
Virginia	0.26%	0.10%	0.58%	0.29%
West Virginia	0.13%	0.11%	0.55%	0.14%
Wisconsin	0.10%	0.04%	0.14%	0.07%
Wyoming	0.11%	0.12%	0.43%	0.09%
Composite	0.115%	0.051%	0.203%	0.095%

Source: Calculations from Tables 7-1 and 7-2.

Figure 7-3

Commission Expenditures as a Percentage of Total State Expenditures for Twenty-Four States



Source: Table 7-3.

and in fact, being overwhelmed by it, a contrary conclusion[78] is that state commission regulation responded quite effectively as the amount of new resources deployed in that task (and indicated in Figure 7-1) attests. For a decade-and-a-half, commissions involved themselves with various new and renewed activities — myriad hearings, PURPA implementation, DSM, IRP, AACs, interim rate relief, CWIP, income maintenance schemes, and prudence reviews to name a few.[79] Later in the same period, the breakup of the Bell System and the deregulation of natural gas greatly added to commission agendas. The continued rise in the expenditure line into the 1990s is at least partly explained by (1) the elaboration of social goals that had become the purview of public utility commissions; (2) the necessary implementation of various FCC, FERC, and SEC rulings and legislative actions; and (3) the emergence of restructuring initiatives for the electric industry. All this required a notable increase in staff resources. Accordingly, total commission staff employment (i.e., for all fifty-one PUCs) went from 5,600 in 1961 to 10,100 by 1995.[80] During the same period, however, the FCC staff grew only from 1,567 to 1,827 and the FERC from 1,207 to 1,472 staff members.

To get as current an indication as possible as to the direction of commission expenditures, the twenty-four states were surveyed to see if the 1996-1997 budgets were more or less the same as the prior year's budgets. The answer is that thirteen commissions experienced increases, seven decreases, and four were substantially the same.[81] Said another way, only about half went up. Some reasoned speculation about

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[78] In support of this view see, for example, Douglas N. Jones, "What's Right with Utility Regulation," *Public Utilities Fortnightly* (March 6, 1986).

[79] Kenneth W. Costello and Douglas N. Jones, "Lessons Learned in State Utility Regulation," Chapter 4 in *Reinventing Electric Utility Regulation*, G.B. Enholm and J. Robert Malko, eds. (Vienna, VA: Public Utilities Reports, Inc., 1995), 70-82.

[80] Appropriate yearbook issues of *Profiles of Regulatory Agencies of the United States and Canada* (Washington, D.C.: National Association of Regulatory Utility Commissioners).

[81] Responses to a December 1997 e-mail inquiry of the twenty-four commission Executive Directors (or their counterparts).

the future course of commission funding and its implications is the subject of the next section, “Funding Prospects and Perils.”

Sources of Commission Funds

Basically, there are two broad approaches to funding commissions — through general taxpayer monies or through various assessments on the jurisdictional utilities under a user-fee concept. As we shall see, there has been a progressive switch from the former method to the latter such that now only about a half-dozen commissions depend on general fund allocations. State law sets the rules for utility assessments and, of course, there is variation state-to-state. However, they typically provide authority to assess utility companies for (a) the cost of special investigations, (b) the cost of specific proceedings, and (c) the cost of general regulatory functions.[82] They also typically involve a reimbursement to the state treasury after the commission has expended its appropriated monies. The basis for each utility’s levy is its proportionate share of all intrastate gross operating revenues generated by the utility sector.

To illustrate the pattern of change in sources of commission funding over time attention is drawn first to Figure 7-4. Average support from general taxpayer funds (as a percent of total commission funds) is seen to have trended downward from 50 percent in 1948 to about 15 percent by 1993. Concomitant with this development, the percent of PUC support from levies on utilities for *general* regulatory purposes increased (irregularly) from 45 percent to 80 percent as depicted in Figure 7-5. The picture is completed when Figure 7-6 is examined, indicating that fees assessed for *specific* investigatory proceedings rose from 5 percent of the total for all the commissions in 1948 to 22 percent in 1967, returning to 5 percent in 1993.

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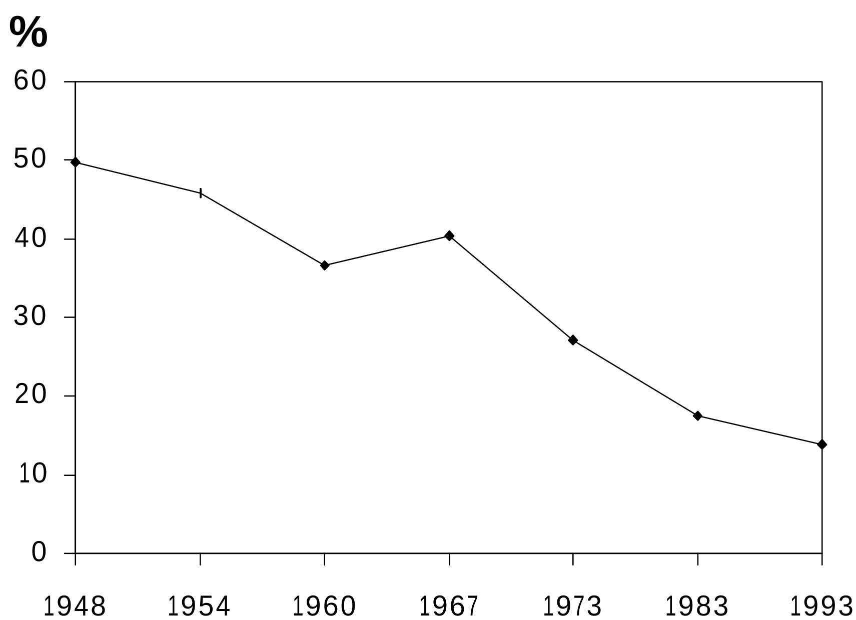
[82] For a concise description of these authorities see *State Public Utility Commission Operations and Management: A Manual Prepared by the NARUC Staff Subcommittee of Executive Directors*, David W. Wirick, ed. (Columbus, OH: The National Regulatory Research Institute, October 1992), 15-16.

Figure 7-4

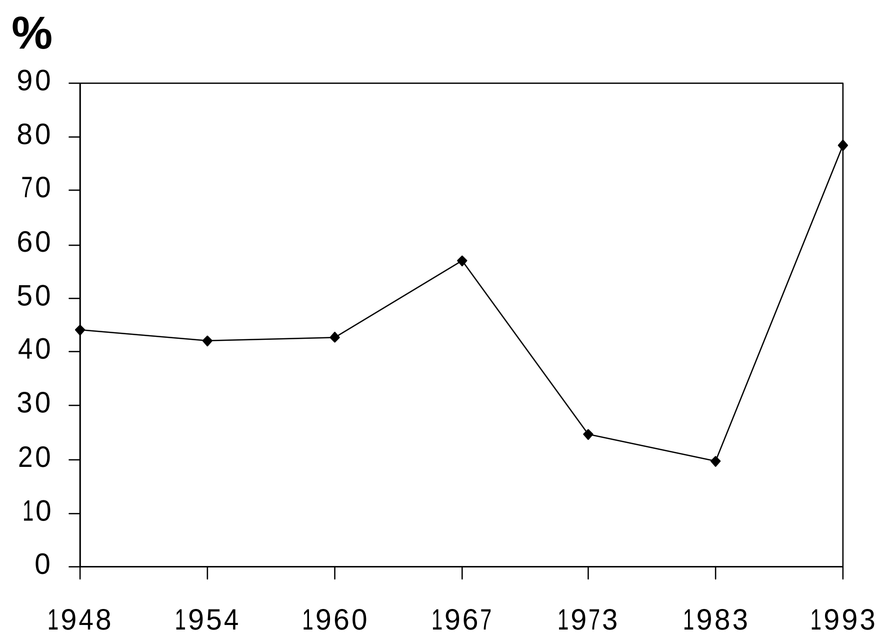
Average Support from General Funds as a Percent of Total Funds (all fifty states)



Source: Selected years of *Utility Regulatory Policy in the United States and Canada*, state tables.

Figure 7-5

Average Total Support Derived for General Regulation Purposes from Taxes Levied on Utilities (all fifty states)



Source: Selected years of *Utility Regulatory Policy in the United States and Canada*, state tables.

Figure 7-6

Percent Support Derived from Fees for Specific Transactions/Investigations (all fifty states)

Source: Selected years of *Utility Regulatory Policy in the United Stat*

***es and Canad a*, state tables.**

The explanations for these changes in sources of funding for PUCs are probably several. The first is the preference of legislatures to fund an agency "off budget" wherever possible in order to lessen explicit taxation of the general public. A second is that when a utility is a regulated monopoly provider it is an easy target for assessment because resistance is generally low when all taxes and fees are recoverable from ratepayers as a business cost. A third is that there is some credence to the public finance theory that argues for the user of a service to pay the cost of that service, in this case systematic, continuous regulatory oversight including dispute resolution of various kinds.

Funding Prospects and Perils

What, if anything, does the above sketch of facts and figures foretell for the future of commission funding? It appears that at the macro level there has been no dramatic retrenchment in expenditure levels afforded commissions, though the fact that only half experienced increases in the last year could presage bad times. The U.S. economy is very strong, as are financial conditions in most states. There is, however, ample evidence that in a number of instances commission authority has recently been narrowed and lessened, and there is anecdotal evidence of widespread uncertainty at PUCs with respect to staffing levels, mission changes, skill requirements, configuration, and operations.[83] Moreover, there are a number of potential developments on the horizon that could bode ill for commission funding and hence the ability to "do the job."

One of these is the likelihood that legislators, either on their own or at the urging of utilities, will act on the conventional (and incorrect) slogan that commission regulation is only a substitute for competition and since the latter has largely arrived,

[83] Partly for these reasons the NARUC and the NRRI have scheduled a two-day summit conference for commissioners only in April 1998 on the subject "Ensuring the Relevance of Commissions at 2003."

the former can largely be dispensed with. In North Dakota, for example, this reportedly was argued.

A second is that utility companies in the context of relaxed regulation may feel more free to publicly oppose commission budget proposals with arguments cast either as reducing unnecessary government spending or as prudent cost consciousness on their part in the face of competition. Historically, utilities were very careful to not overtly criticize PUC budget requests and sometimes even argued in support of reinstating agency monies when cutbacks were in the offing. All this may change as utilities get more assertive in dealing with — or around — commissions.

A third is that the current merger/acquisition/corporate reorganization movement could conceivably result in utilities arranging themselves to partially avoid subjecting their activities to levies for commission support.

Fourth, sister state agencies like the consumer advocates' office or the attorneys general office that view themselves in a consumer protection role could move to compete for additional resources as against the commission. Ohio provides an example of this.

Finally, the persistent and pervasive disaffection of the public with government's perceived inability to be efficient and efficacious continues to hurt PUCs along with other agencies and weakens important support for their activities.

Enumerating the above five points is not to suggest, of course, that no commission should ever experience diminished budgetary resources. It could turn out that the shifting mission from quasi-judicial, trial-like, adjudicatory proceedings to encouraging and inducing competition and refereeing the contest while looking after the quality of service provided, requires fewer staff on net. It almost certainly requires different staff skills, and the cost of regulation might be fairly reduced in some instances. On the other hand, it seems that (paradoxically) commissions have never been busier, had more "federal assignments," or been more involved in major policy formulation than they are currently. And if PUCs are to be expected to handle the transition to utility competition successfully while assuring that consumer safeguards are maintained during this vulnerable period, to look after the interests of the substantial body of captive customers in all four utility sectors, and to oversee an adroit and effective restructuring of the energy and communications industries, the safer course would seem to be to retain or increase overall resources devoted to commission regulation for the time being.[84]

How might this be accomplished? A first line of defense may best be persuading the legislature on the merit of the argument. This, of course, would require frequent and substantive contact with not only the PUC oversight committee that many legislatures have, but also the members at large. In addition to the broad points identified above having to do with workload and salience of the immediate tasks, it should be noted that much of the electric industry restructuring and some of the telecommunications restructuring are legislative initiatives placing great demands on state commissions for prompt implementation. The argument can be made that, absent additional funds to carry out the law, state legislatures have in effect created an unfunded mandate of a major kind. In addition, while it may be too late to do so with the national telecommunications legislation, it would seem fair to argue that any federal legislation that might be passed regarding electric sector restructuring should contain an appropriation for aiding state PUCs in implementing it. This was provided for in the PURPA legislation of 1978 which (among other things) required states to consider six ratemaking standards and five regulatory standards listed in the bill.[85] It could have been provided for as well in the Telecommunications Act of 1996 which required states to employ a fourteen-point check list in pursuit of market competition at the local level.

Another approach is that states may have to reexamine the reliance on utility assessments substituting for General Fund allocations (Figures 7-4, vs. Figure 7-5 and

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[84] For a discussion of the relation of commission staff resources to the degree of consumer protection see, for example, Nancy N. Zearfoss, *The Structure of State Utility Commissions and Protection of the Captive Ratepayer: Is There a Connection?*" unpublished doctoral dissertation, The Ohio State University, August 1997, Chapters 6 and 7.

[85] Public Utility Regulatory Policies Act of 1978, Sections 111 and 113, respectively.

Figure 7-6). While legislatures, as mentioned, would be reluctant to do so, a return to taxpayer funding for state commissions could become an option.

A more palatable alternative might be for commissions to use their authority (where found) to levy fees on utilities for special investigations more liberally. This is to say that the kinds of commission actions associated with restructuring the energy and communications sectors qualify as major and discrete special events that cannot be merely "absorbed" by PUCs in their normal business day.

Somewhat further afield, two other approaches to assuring adequate resources at PUCs might be conceived of. One is that it might be feasible to devise a payment system for nonjurisdictional companies that have business with the public utility commissions or at least benefit directly from commission actions. Included in this group might be resellers, brokers, aggregators, and service providers of various types that surround the core utility industries either as separate firms or as affiliates.

A second avenue might be to make greater use of regional regulation, i.e., multistate collaboration by adjoining PUC jurisdictions in the oversight of utilities operating in multiple jurisdictions.[86] The idea here is that individual commission resources could be leveraged to allow "more bang for the buck" for each of the participants in meeting their common regulatory obligations.

Whatever course is adopted to try to preserve or enhance commission resources over the next five years, standing pat and hoping for the best would seem to be a dangerous choice. More likely of success are PUC actions toward assertive outreach and telling the commission story widely, while looking inward and assuring an efficient and effective agency performance.

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[86] For a thorough discussion of regional regulation and its possibilities see Douglas N. Jones et al., *Regional Regulation of Public Utilities: Opportunities and Obstacles* (Columbus, OH: The National Regulatory Research Institute, December 1992), 32-35.

CHAPTER 8

CREATING HIGH-PERFORMANCE PUBLIC SERVICE

As commissions cope with changing regulatory environments, they are seeking to do more than merely survive; they are trying to find ways to provide excellent service to the public. That quest, which is not unique to commissions, is daunting. Though high-performance public service is often recognizable when we see it, it is difficult to identify the organizational attributes that contribute to high performance.[87] It is even more difficult to create a map for getting there.

One way to examine high-performance public service is to identify some of the attributes of organizations regarded as providing that type of service. Some of the identified attributes are:

- Close contact with customers
- Ability to tap the knowledge, skills, and commitment of workers
- Provision of increased discretion to managers and employees
- State-of-the-art productivity improvement techniques
- Partnerships that allow knowledge sharing
- Improved work measurement
- Empowerment and shared leadership
- Free-flowing process of seizing opportunities
- Mission clarity and understanding

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[87] James L. Perry, ed., *Handbook of Public Administration* (San Francisco, CA: Jossey-Bass, 1996), 136.

- Ability to adjust when conditions change
- Open and productive communications
- New processes to motivate and inspire people
- Focus on results[88]

Embedded in this list is a mix of tangible and intangible attributes. As a result, another way to define high-performance organizations is: those organizations which are able to create a positive, dynamic balance between the intangible elements of organizational success and the tangible elements. Put simply, high-performance organizations align the hearts of their members (their values and their needs) with their feet (their abilities and actions).

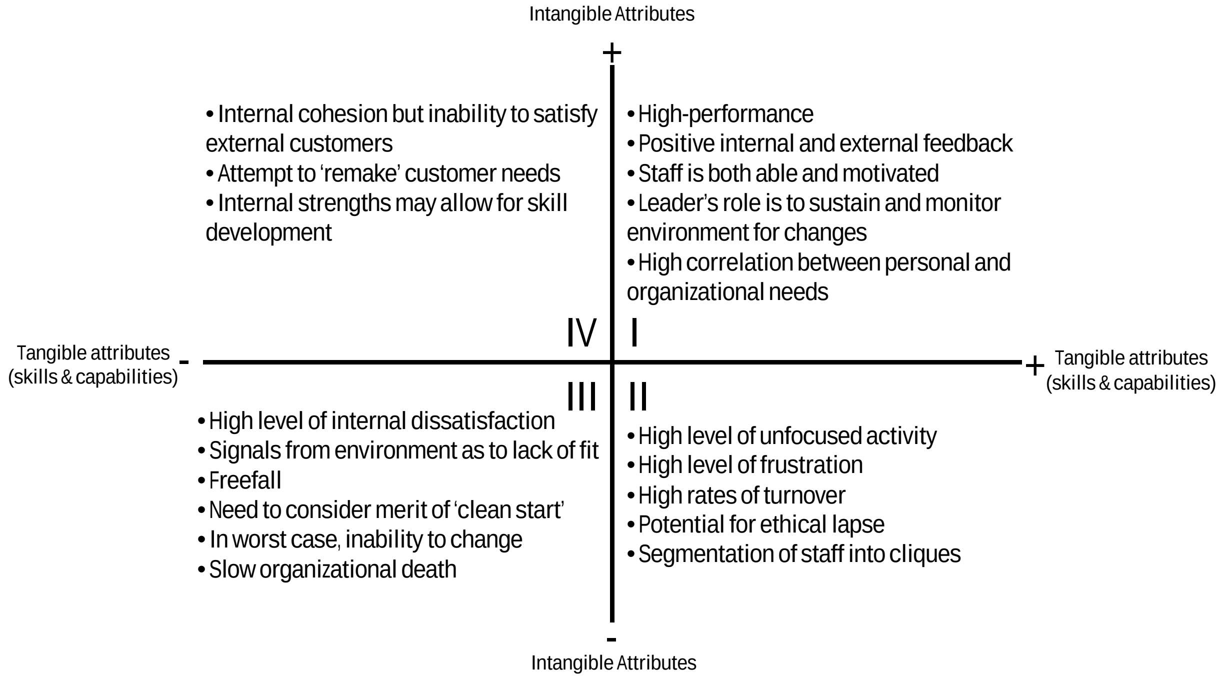
Intangible elements of organizational success include shared values, a sense of community, effective informal networks of communication, shared vision, trust in managers, trust in one another, managerial courage, a sense of overall organizational cohesion, and moral values. *Tangible* elements include job-specific skills (i.e., the ability to deliver the appropriate services to the client) and their underlying capabilities. Capabilities cut across professional disciplines and include such items as the capability to change, the capability to work with colleagues, the capability to communicate with stakeholders, the capability to innovate, the capability to take appropriate risks, the capability to understand and communicate with consumers, and the capability to use appropriate technology.

Figure 8-1 is a two-by-two matrix that links the intangible attributes of success to the tangible attributes. The vertical axis arrays the various intangible attributes of success from low (bottom) to high (top). The horizontal axis arrays the tangible attributes of success from low (left) to high (right).

[88] Ibid., 139.

Figure 8-1

Organizational Characteristics of High Performance Public Service



Source: Author's construct.

Organizations in the upper right-hand quadrant (quadrant I: high achievement in both tangible and intangible success factors) are high-performance organizations. They have a strong sense of mission and a vision for the future, and they have the skills and capabilities to deliver. Staff is both motivated and able, and there is a high correlation between personal and organizational needs. The role of the leader is to maintain the organization in this state, which requires environmental monitoring to identify changes that might impact the vision or the necessary skill mix. Because of the level of performance, positive feedback is received internally and from customers.

Organizations in the lower right-hand quadrant (quadrant II: high tangible skills, low intangible success factors) have the skills to perform but lack the intangible attributes of a high-performance organization. Because they lack intangible strengths, such as common vision, confidence in leaders, and internal cohesion and trust, these organizations experience high levels of staff frustration and spend time generating activities that do not contribute to organizational movement toward a mission or vision. Staff are frustrated; good performers may leave. Though these organizations may be active, they may also be prone to ethical lapses, and because there is little overall organizational loyalty, subunits will develop their own loyalties that may be counterproductive to the organization as a whole. (Note the discussion of organizational culture in Chapter 3.)

Organizations in the lower left-hand quadrant (quadrant III: low tangible skills, low intangible success factors) have neither the right skills nor strong intangibles. High internal levels of dissatisfaction are coupled with strong signals of dissatisfaction from customers. The organization is in free fall, and governing authorities may want to consider making a clean start, which may include transferring authority to other organizations or creating a new organization to assume responsibilities.

Organizations in the upper left-hand quadrant (quadrant IV: low tangible skills, high intangible success factors) are internally cohesive; they may have a clear vision and leaders may be principled and trusted. However, the organization does not have the skills and capabilities to deliver the services consumers require. Organizations would typically arrive in this quadrant because their environment has changed. Though they may have been in the upper right-hand quadrant previously, new customer needs might have driven the organization to its current position. The organization, faced with that move, may initially attempt to remake customer needs to fit the organization's existing skills and capabilities. (For example, one might hear a phrase like, "Despite what customers are saying, what they really want is what we have always provided or with just a small change.") Over time, this strategy will fail and the true needs of the customer will be heard, possibility by another competitor organization.

Because of constant environmental and internal changes, it is very difficult to maintain the organization in the upper right-hand quadrant. Organizational success is built in the dynamic equilibrium between organizational attributes and environmental needs and sadly, organizations that begin the slide from quadrant I to quadrants II or IV may find increasing acceleration of their movement into quadrant III. Portions of an organization may exist in different quadrants. For example, one portion might lead the way toward high performance, or one might lead the way into quadrant III. Unfortunately, it would be difficult to maintain a portion of the organization in quadrant I if the remainder slides away. To stay in quadrant I alone, a single portion of the organization would need to be isolated from the remainder.

Public utility commissions firmly established themselves in quadrant I. Generally, commissions possessed a clear conception of their roles, internal cohesion, and strong public service mores. They also developed a very sound skill mix appropriate to the regulatory methods they employed.

As commission environments change, two synergistic forces are at work to move commissions to other quadrants. First, as regulatory methods change, the commission skill mix may no longer be optimal. The lack of necessary capabilities, such as the ability to adapt and the willingness to innovate, may further exacerbate the erosion of positive tangible attributes. Second, as the commission environment becomes more uncertain, it will be increasingly difficult to maintain high levels of intangible success factors. As staff perceive that there may be winners and losers in commission change, internal cohesion may be lost. In uncertain environments, it is also far more difficult to maintain a vision of the future. Therefore, it will become even more difficult to motivate staff, distrust will abound, and staff will be far more predisposed to view leaders with skepticism.

The result will likely be pressures that may force commissions from quadrant I into quadrant II, IV, or potentially III. Notable commission efforts are in place to arrest this potential slide by (1) creating new visions of commissions, (2) enhancing necessary staff capabilities such as the ability to innovate and learn as a group, (3) teaching staff new skills or recruiting staff who have those skills, (4) rethinking commission organization, (5) involving staff in change initiatives, and (6) emphasizing communication internally and with the external environment.

Throughout this report, we have presented various means of visualizing change as it impacts the roles of leaders, individuals, and the organization. Each means of visualizing change implies a different set of methods for managing change. Each of these methods will require local adaptation to fit local circumstances. What is common to all is the need for skilled leadership; competent, professional staff who are committed to change; and the placement of the needs of consumers ahead of the attachment to any regulatory method. With these in place, state public utility commissions can make the changes required of them, continue to provide exemplary service to the public, and ensure their continued relevance.