

# Democracy, Regulation and Public Involvement

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**“And yet long term policies cause short term pain – to voters.”  
Fareed Zakaria, The Future of Freedom, p. 242**

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## Why democracy may need economic regulation as part of energy sector reform

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- **Democracy is not likely to be sustainable without economic progress.**
- **In many countries, economic progress is not sustainable without energy sector reform.**
- **Energy sector reform is likely to require decisions unpopular with voters.**
  - **Hence the interest in “independent” institutions capable of operating somewhat apart from short term political constraints**
- **So regulation serves to dampen down the volatile swings of democracy, but public participation injects the public into the regulatory process itself.**

## Origins of Regulation: The Incompatible and NonDemocratic Visions of U.S. Progressives and Utilities (circa 1900-1920)

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- **A body bringing independent expertise to bear on behalf of the public with regard to tariffs and conditions of service (Progressive view)**
- **A buffer against utility ownership (utility view)**
- **An alternative to tariff setting and licensing by politicized (and often corrupt) city councils and state legislatures (shared view)**

# U.S. Regulation: Two liberal views

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**“The Public Service Commission is not a mere judicial body, acting solely as an umpire between complaining consumers or complaining investors on the one hand and the great utility systems on the other, The regulatory commission....must be a tribune of the people, putting its engineering, accounting and legal resources into the breach for the purpose of getting the facts and doing justice to both consumers and investors in public utilities...” Franklin D. Roosevelt, circa 1930**

**“No shrewder piece of political humbuggery and downright fraud has ever been placed upon the statute books. It’s supposed to be legislation for the people. In fact, it’s legislation for the power oligarchy.” Milwaukee Mayor Daniel Hoan, circa 1905**

## U.S. Regulation: Another View

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**“...The Interstate Commerce Commission.....is, or can be made, of great use to the railroads. It satisfies the popular demand for government supervision of railroads, at the same time that supervision is almost entirely nominal. Further, the older such a commission gets to be, the more inclined it will be found to take the business and railroad view of things. It thus becomes a sort of barrier between the railroad corporations and the people and a sort of protection against hasty and crude legislation hostile to railroad interests....”**  
**Richard Olney, U.S. Attorney General, 1894**

# Characteristics of More “Democratic” Energy Sectors

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- **Public ownership, control with an elected board**
- **Cooperative (i.e. customer) ownership**
- **Popularly elected commissioners (about a dozen U.S. states)**
- **Decisions by referendum (i.e., California and Massachusetts restructuring)**
  - **So “deregulation” is populist optimism in the 1990s, just as regulation was in the 1890s**

## Symptoms of Regulation as “Delegated” Democracy

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- **independence from politics**
- **displacement of legislative bodies**
- **“Quasijudicial” procedures**
- **judicial review**
- **concept of the regulatory commission as part of a long-term “relational” contract, administering the inevitable disputes that arise as technology and expectations change over many years**

## Three Strikes Against Regulation in Reforming Energy Sectors

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- **Rarely the product of progressive democratic reform**
- **Unpopular initial tasks**
  - **Raise rates**
  - **Install meters**
  - **Supervise disconnections**
  - **Privatization coupled with layoffs**
- **Inadequate salaries and budgets**

## Public Involvement in the Context of Energy Regulatory Commissions

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- **More accurately seen as a form of access to law than as a democratic measure**
  - **And can therefore be useful even in a nondemocratic society like China.**
- **A buffer to the nondemocratic nature of regulation itself**
- **A source of “legitimacy” for difficult decisions**

# Essential Preconditions to Effective Public Involvement

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- **public notice as to pending decisions and other matters of importance**
- **access to information**
- **right to raise questions**
- **written explanations of reasons for decision**
- **capable regulatory officials with a demonstrated concern for the public and a capacity for listening**
- **adequate resources**

# Techniques of Effective Public Involvement

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## **Making It Meaningful**

- **Advisory councils**
- **Focus groups**
- **Systematic complaint reviews**
- **Representation**
  - **Consumer counsel**
  - **Unions**
  - **Ombudsmen**

## **Not Repressive Tolerance**

- **Not just hearings**
- **Not just “education”**

## Techniques II – Getting Out of the Office (or Getting the Public In)

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- **Regular sessions with media**
- **Meetings outside of the capital**
- **Not just road shows**
- **Easily accessible information on customer rights**

## Techniques III – Service Improvement Simultaneously with Tariff Increase

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**Demonstrate to the public that the regulatory process can deliver benefits, that the rate increases are buying something tangible from the moment that they go into place**

- **Reduce outages**
- **Improve quality**
- **Extend service**
- **End irrational subsidies to wealthy or powerful customers**
- **Energy efficiency programs**