

UIEC  
J. Robert Malko  
10-035-124  
Ex. UIEC 2.2SR

DR. MALKO'S COPY

# The Regulation of Public Utilities Theory and Practice

**CHARLES F. PHILLIPS, JR.**

Robert G. Brown  
Professor of Economics  
Washington and Lee University

1984  
PUBLIC UTILITIES REPORTS, INC.  
Arlington, Virginia

competition. The historical tradition of commissions is anti-competitive. Their basic methods, especially their reliance upon the case-by-case approach, place small business firms at a disadvantage. The growing passivity of the commissions' approach and the inconvenience of dealing with large numbers of firms strengthen the commissions' tendency to identify their view of the public interest with the position of the dominant regulated firms. In short, regulation of particular businesses stacks the cards against the small competitive firms and weakens the force of competition.<sup>13</sup>

Finally, it is difficult to adopt regulatory laws and concepts to meet changing economic conditions. Rostow, for example, has argued that the statutes which our regulatory agencies seek to enforce are

... usually out of date, often confused, ill-drawn, and needlessly complex. Many of their rules echo forgotten battles, and guard against dangers which no longer exist. They comprise vast codes, understood only by a jealous priesthood which protects these swamps and thickets from all prying eyes. In the main, the agencies follow routines established for the control of local gas companies and street railways. The relevance of the model is not immediately apparent, in dealing with progressive and expanding industries like air transport or trucking.<sup>14</sup>

All four of these factors suggest that the development of consistent regulatory goals, and the adoption of policies to achieve these goals, is exceedingly difficult. Adding to the problem have been technological developments which have greatly increased the competitive relationships between the public utility industries, and between the regulated and unregulated sectors of the economy. As will be demonstrated in the following chapters, regulation is now, and always will be, a difficult process. It is only with better understanding and increased knowledge of economic, political, and social factors that regulation can be an efficient substitute for competition.

### **The Task of Rate Regulation**

Before discussing the theory of public utility regulation in detail, it is desirable to outline the overall task of rate regulation. The method of establishing rates constitutes one of the most fundamental differences

<sup>13</sup>Marver H. Bernstein, in *Airlines* (Report of the Antitrust Subcommittee of the Committee on the Judiciary, House, 85th Cong., 1st sess.) (Washington, D.C.: U.S. Government Printing Office, 1957), p. 4.

<sup>14</sup>E.V. Rostow, *Planning for Freedom* (New Haven: Yale University Press, 1959), pp. 311-12.