



Southern Illinois University at Edwardsville

School of Business
Economics Department

April 5, 1995

Via Federal Express

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Room 222 - Stop Code 1170
Washington, DC 20554

PR Docket Nos.
94-103
94-104
94-109
94-108
94-107
94-105
94-106

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APR 5 / 1995

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Dear Mr. Caton:

Enclosed please find an original and two copies of letters and attachments that I have sent to the Chairman and Commissioners regarding continued state regulation of cellular telephone companies. Please include these letters in the record for these dockets, and return a stamped copy of them to me in the enclosed stamped, addressed envelope.

Sincerely,

Stanford L. Levin
Professor of Economics

Enclosures

No. of Copies rec'd 0+1
List A B C D E



School of Business
Economics Department

April 5, 1995

VIA FAX

Chairman Reed F. Hundt
Federal Communications Commission
1919 M Street, N. W.
Washington, DC 20554

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Dear Chairman Hundt:

I understand that you are considering requests from several states to permit these states to continue to regulate cellular telephone service. I am writing to urge you to turn down these requests.

As a former Commissioner on the Illinois Commerce Commission, I have a good understanding of state regulation. In addition, I teach courses about public utility regulation, and I have engaged in telecommunications research for several years. I am thoroughly convinced that regulating cellular telephone service is contrary to the interests of consumers, as state regulation actually results in higher prices and inferior service. In any case, regulation is incompatible with competitive markets, a fact that nearly all the states have recognized. A recent article of mine which appeared in The San Francisco Chronicle is attached, along with a similar piece by Mitch Wilk, a former California Commissioner. These articles present my reasons for opposing state regulation of cellular service in more detail.

For a number of years, the FCC has been following a world-leading, extremely successful pro-competitive, deregulation strategy. All cellular customers, no matter where they live, should receive the benefits of a competitive, deregulated cellular industry, and I hope that you will not succumb to the well-meaning but misguided arguments of a small number of state regulators.

Sincerely,

Stanford L. Levin
Professor of Economics

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California Is Lagging In Cellular Deregulation

TEN YEARS after the break-up of AT&T, there is growing consensus that we may soon declare a victor in the battle over how to regulate the telecommunications industry. Trends in Congress and many states indicate that momentum is with those who would regulate less. Earlier this month, however, the California Public Utilities Commission decided to keep its regulatory authority over cellular rates in the state.

Deregulators had better not plan a victory party just yet.

No matter how positive the accounts concerning the enhancement of competition for telecommunications companies, the easing of regulation won't be automatic. Regulators need to regulate. And maintaining outmoded regulation leads to higher prices and poorer service.

The PUC's decision to continue cellular rate regulation for 18 months came, ironically, after Congress continued its deregulatory trend last year by replacing traditional regulation of wireless services, like cellular, with a national system of minimal regulatory oversight for all competitors.

The Federal Communications Commission must review the PUC's request and decide whether customers will be hurt if California continues what is probably the toughest cellular regulation by any state. In fact, the growing number of cellular customers in the state will be hurt if it does.

The California decision was significant in coming from a commission that has moved to deregulate every monopoly utility in the state, including proposing the nation's most far-reaching plan to make the monopolistic electric industry more competitive.

The PUC cites inadequate competition, high cellular rates and the need to guarantee Californians the best cellular service as reasons for continuing rate oversight.

It should realize that rate regulation is a relic unnecessary in such a dynamic industry. Cellular competition is evident in the

scramble for customers, the intense ad campaigns and the development and rollout of new digital and data technologies. Customers who are not satisfied switch to other carriers. And they will soon be able to switch to alternative wireless providers such as Nextel, an "enhanced specialized mobile radio" company, and personal communications service providers who will soon have twice as much radio spectrum available as cellular.

Regulating cellular rates in the most mobile of states could actually keep customer rates high, lower service quality and cripple investment in a system where the supply of cellular service is still at a premium.

The PUC announced its decision for continued regulation by saying that the growth of cellular subscribers in the past 10 years has occurred "in spite of — not because of — the level of cellular prices." Yet rates in states that do not regulate cellular service have consistently averaged 5-to-15-percent lower than California's, and in spite of strict regulation, cellular rates in California have come down in the past five years, by 10 to 12 percent.

The time and expense spent by the cellular industry responding to regulation could be shifted to cutting consumers' costs and providing better service.

The breakup of AT&T isn't all that should be celebrated. A new upstart wireless technology was also introduced in 1984. Two billion dollars and two million customers later, cellular has become a critical part of the California lifestyle, enhancing its economy.

A recent PUC report to Governor Wilson outlining a strategy to spur state economic development of the telecommunications industry recommended streamlining regulation and opening all markets to competition. Its advice should have been better heeded by the commission that wrote it.

Stanford Levin is chairman and professor of economics at Southern Illinois University at Edwardsville.

DECEMBER 27, 1993, MONDAY, FINAL EDITION

SECTION: BUSINESS; Pg. D3

LENGTH: 1353 words

HEADLINE: How to Break Up Gridlock at the California PUC

BODY:

The California Public Utilities Commission made the news earlier this month, when Governor Wilson announced a reform program for the state regulatory agency.

The governor has focused on two key truths about the PUC: It plays a critical but largely unappreciated role in attracting jobs and investment, and it still operates largely as it did in the days of Hiram Johnson, the governor who helped establish the PUC early in this century.

While most know that their phone and energy bills are regulated by the Commission, they don't understand the huge impact this agency's decisions has on virtually every sector of the state's economy, particularly those that can create or kill jobs.

Governor Wilson wants to make sure that those who serve on the Commission become more sensitive to this wider impact, and that they have modern approaches at their disposal to do this job in the age of technology and rapid competitive change. What is known about his plans, however, suggests that they may not go far enough.

As a former commissioner and president of the PUC, I fear that the problem may be a lot bigger than the governor realizes. In short, the agency is too busy doing things it doesn't have to.

The PUC directly oversees about \$ 1 in \$ 12 of California's huge economy, and it does so in a very detail-intensive, controlling fashion, including formal court-like hearings to address virtually any issue of substance.

What it doesn't control directly, its policies and decisions affect in any case. And, things are getting even more complicated. What used to be the province of monopolies now is becoming fertile ground for rapidly increasing competition, both in energy and, of course, in telecommunications.

While competition is great news for consumers, it wreaks havoc with traditional ways of regulating utilities. The PUC's court-like hearings have become full-fledged forums for competitors to try to hamstring and disadvantage each other in the name of the elusive "level playing field" to which all feel entitled; this ties up the process, which now requires at least a year and sometimes two or more, for most decisions of any consequence.

The public also doesn't get much help from so-called consumer advocates, some of whom (including some at the PUC itself) have become shrill, short-sighted, professional utility-opponents who lack any accountability.

The result? All this competitive self-interest and formal legal process lands on the desks of five commissioners, who must understand and act upon 40 or 50 complicated matters (involving literally hundreds of pages) every two weeks! Just reading what you sign your name to can take most of a normal workweek.

But, of course, that is only a part of what commissioners must do to monitor utilities, hear from interested parties and the public, perhaps exercise some leadership and maintain everyone's confidence in the agency. In any given day's work, commissioners go from considering limousines, airport shuttles and dump trucks, to nuclear power plants and the newest telecommunications services waiting for approval.

There is one simple point that needs to be emphasized -- unless reform substantially reduces the PUC's duties, the gridlock of its formal process will likely only increase, the already-overwhelming workload of its commissioners will only grow, and the public interest will be increasingly compromised as a result.

It's time to go back to basics. What's broken? Simply stated, old PUC ways of making decisions, designed to prevent abuse of monopoly customers, have been gradually extended and co-opted into trying to control competition.

But competition is dynamic, unpredictable and difficult to control; thus, staid court-like hearing processes that dominate the commission have become terribly slow, expensive and confused, while commissioners are increasingly asked to decide which competitors to favor rather than how to protect customers of remaining monopoly services.

The result is gridlock and intense lobbying from firms wanting the PUC to protect their interests or, in some cases, their very survival. As responsible public officials, commissioners must hear out these interests before making critical decisions.

But they do not have the time and resources necessary to research and hash out the issues -- or to perform the PUC's real job of protecting you and me when we buy monopoly utility service. Decisions that drag out a year or longer are hardly responsive government or, where it is needed, timely justice.

Among others, those who might have had California on the list of states in which to invest are increasingly concerned. Indeed, anyone with interest in investing their money here has a right to be skeptical. How, for example, is the PUC supposed to keep up with modern telecommunications technology in the face of such sluggishness and delays?

There are some who see the answer as increasing the number of government bureaucrats or further isolating the commissioners by imposing even stiffer bans on any contacts with folks who depend on commission decisions.

Wrong! The answer is limiting what the PUC actually is responsible for, cutting red tape and opening the place up, not closing its doors.

Rather than reducing its responsibilities as competition grows, and limiting itself to regulating truly monopoly services, the PUC has drifted squarely into the regulation of competition.

Some examples:

* Expansive laws once drafted to corral the old monopoly Bell System (leaving no way out of the PUC's oversight of every business detail) now capture competitive businesses like long distance, paging and cellular in their net -- these should be deregulated, as they have been in many other states.

* Trucking, never a monopoly but rate-regulated for political reasons, still merits over 300 full-time PUC staff, and a corresponding share of commissioner time -- federal trucking deregulation has greatly benefitted consumers, and California should follow suit.

* Multiple, competitive pipelines bring natural gas into the state, but the PUC (and its sister federal agency) still set monopoly-type rates and bureaucratic conditions for that service -- consumers would also benefit from market-driven prices and earnings there.

Some old laws even allow special interests to compel the PUC to regulate when it doesn't want to! As the once-monopoly telephone and energy industries become even more competitive, more and more players are forced into the PUC process, gridlock intensifies, and the public interest is less and less observed.

The need for reform permeates all levels and processes at the commission. The PUC bureaucracy is terribly jealous of its ability to become involved in all sorts of business decisions; indeed, many who now make a living in PUC hearings would have their livelihoods threatened if the agency refocused on monopoly utility services and got out of the "level playing field" business of competition-handicapping.

Almost without fail, PUC staff and many others advise commissioners to strongly oppose any legislation that would reduce the scope of the agency's activities or prerogatives.

I would urge those who now sit where I sat at the agency, as well as other responsible legislators and officials, to put the public first and pass reform legislation to refocus the PUC to what Governor Hiram Johnson first intended when urging his fellow Californians to set up the agency over 75 years ago.

Just as Governor Wilson has said, let's get government out of the business of trying to regulate competition, and limit the PUC to protecting consumers where that protection is truly needed.

The PUC needs a better set of priorities and limits, and I encourage all involved to step up to the challenge. More than you may realize, our state's economic future will be affected by the results.

The Point of View column provides a forum to comment on important business subjects.

GRAPHIC: PHOTO, G. Mitchell Wilk, a former president of the California Public Utilities Commission, heads a public policy research and consulting practice in S.F.



School of Business
Economics Department

April 5, 1995

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VIA FAX

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N. W.
Washington, DC 20554

Dear Commissioner Chong:

I understand that you are considering requests from several states to permit these states to continue to regulate cellular telephone service. I am writing to urge you to turn down these requests.

As a former Commissioner on the Illinois Commerce Commission, I have a good understanding of state regulation. In addition, I teach courses about public utility regulation, and I have engaged in telecommunications research for several years. I am thoroughly convinced that regulating cellular telephone service is contrary to the interests of consumers, as state regulation actually results in higher prices and inferior service. In any case, regulation is incompatible with competitive markets, a fact that nearly all the states have recognized. A recent article of mine which appeared in The San Francisco Chronicle is attached, along with a similar piece by Mitch Wilk, a former California Commissioner. These articles present my reasons for opposing state regulation of cellular service in more detail.

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Sincerely,

Stanford L. Levin
Professor of Economics

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Economics Department

April 5, 1995

VIA FAX

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N. W.
Washington, DC 20554

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Dear Commissioner Ness:

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Economics Department*

April 5, 1995

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Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N. W.
Washington, DC 20554

Dear Andy:

Following is a copy of a letter I sent to all of your fellow Commissioners regarding the continued state regulation of cellular telephone service, which I oppose. I hope you will use your influence, as always, to reach a pro-competitive outcome.

I hope to see you again soon.

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April 5, 1995

VIA FAX

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N. W.
Washington, DC 20554

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Dear Commissioner Quello:

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