

NARUC AS NETWORK: A PERSPECTIVE ON THE U.S. REGULATORY POLICY COMMUNITY

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Abstract

While much has been written about network industries, somewhat less attention has been paid to the policy networks among regulators themselves. Networks serve the collective and individual interests of members through professional socialization, capacity development, and institutionalization. Regulatory networks are particularly valuable if they help address information asymmetry, an inherent strategic advantage of regulated firms. Given potential tradeoffs associated with networking, regulatory networks must be vigilant about protecting institutional integrity. The history and culture of U.S. regulation are inextricably tied to the National Association of Regulatory Utility Commissioners (NARUC). This paper presents an historical and cultural account of 'NARUC as network' and offers a perspective for thinking about regulatory policy networks generally.

Keywords: economic regulation in the U.S.; NARUC; regulatory networks

1. INTRODUCTION

The economic regulation of public utilities in the United States benefits from a long-standing professional network. The enduring history and established culture of U.S. regulation are inextricably conjoined with National Association of Regulatory Utility Commissioners (NARUC) and affiliated organizations. NARUC provides the primary means for inculcating and attending to regulators. Only a minority of regulators eschews participation. Most relish the professional and extant social networking opportunities provided through three major conferences and numerous events each year. Many have observed that the NARUC network provides regulators unique opportunities for interaction and an empathetic setting for commiseration based on shared political and professional experience.

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The U.S. regulatory policy community is a subculture that is highly specialized, rather exclusive, and somewhat arcane. The community is organized around a widely accepted paradigm of ‘independent regulation in the public interest’ that is shared through a common methodology and transdisciplinary language (or ‘creole’). The NARUC network serves both the collective and individual interests of members through the three core and reinforcing functions that most networks provide: professional socialization, capacity development, and institutionalization.

Providing amenable ‘networking opportunities’ is an obvious role and NARUC excels at socialization. Marritz (2012) concedes that “Given *ex parte* rules and other emblems of the public interest entrusted to public officials, there are occasional errors of judgment.” A long-time observer, he also commends the meetings as a collegial and respectful convening, gathering, and learning place, concluding that NARUC is a “vital and essential element of the public policy glue that holds our essential industry together” (Marritz, 2012).

NARUC also helps build the regulatory capacities and competencies of commissioners and staff members. The regulatory network provides a peer-based platform for exchanging information and engaging in discourse not afforded by other means. The association engages in various research and education initiatives aimed at developing technical knowledge and skills. Though perhaps underappreciated, NARUC has a broader purpose. The network can serve the institution of economic regulation, particularly if it empowers regulators in ways that enhance their independence and effectiveness. The value of the network is not in simply sustaining members, but in sustaining regulation as long as it is necessary to serve the public interest. NARUC’s impressive longevity speaks to its institutional relevance to the regulatory policy community.

Presented here are a brief overview of policy communities and a case study of NARUC as a regulatory policy network. The paper concludes by offering a perspective for thinking about regulatory policy networks generally.

1.1. POLICY COMMUNITIES

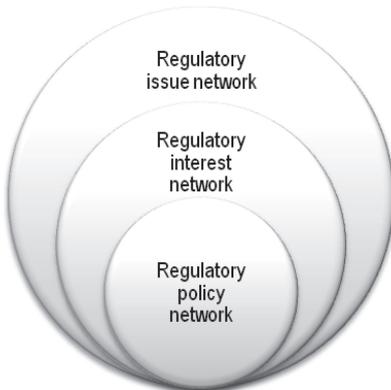
Across the U.S. political landscape, issue-oriented policy networks are common (Heclo, 1978), and economic regulation is no exception. Following the idea that policies shape politics, regulatory issues that are both salient in impact and technically complex call for expertise but they also invite political influence (Gormley, 1986). Economic regulatory policy clearly falls within this realm. While much has been written about network industries, somewhat less attention has been paid to the policy networks among regulators themselves and their role in regulatory politics and policy.

Interest-based politics were once described in terms of tightly organized and cozy relationships, particularly the triangulation among legislative committees, bureaucratic agencies, and interest groups (McCool, 1989; Jordan and Maloney, 1997).

Such arrangements have always been viewed with skepticism because they are clubbish, inconspicuous, and unencumbered by democratic accountability. Ripley and Franklin (1980) assert that cooperative ‘sub-governments’ are especially influential in the area of distributive policy but their hypothesis understates the persistently close, bilateral, and symbiotic ties found in regulatory policy.

Within the regulatory interest network operates a pluralistic mix of professional, trade, and special-interest groups, including the regulatory policy network whose members formally implement policy within their respective bodies. Whereas European regulatory networks cross nation-states, the U.S. network connects regulators with authority within the state and federal domains. For the public utility sector of the U.S. political economy, the regulatory policy network is identified almost exclusively with NARUC. NARUC is not a regulatory body but a horizontal association representing the appointed and elected members of quasi-judicial state public service (or public utility) commissions. This conception of the regulatory policy network is confined to legitimate decision actors (regulators), while recognizing that it operates within a cohesive interest network whose public-sector and private-sector ‘insiders’ are also intimately involved in the policymaking process. The regulatory policy network is entirely responsible for economic regulation but not for the entirety of public policy affecting the interests they regulate. The regulatory policy network *interacts* with the interest and issue networks in which it operates and *intersects* with communities concerned with related public policies (such as environmental protection and economic development); that is, policy networks are connected to other policy networks within a shared interest space.

Figure 1. Concentric networks in the regulatory policy community



The regulatory policy community is conceptualized here in terms of the concentric nesting of the policy network, as found within an even broader issue network (Figure 1). The regulatory issue network has expanded to include not only traditional concerns

about public utilities, but climate change, resource policy, consumer protection, universal service, and market design (to name a few). An interest (or ‘special-interest’) network includes those parties affected by and wanting to affect regulatory policy. This space is dominated by regulated firms but leaves room for the consumers they serve; regulation’s central purpose is to strike a balance between these interests. The interest space today envelops other governmental agencies, public-interest advocates, university centers, law and consulting firms, ancillary businesses, commercial vendors, and a myriad of interests having direct and often high stakes in regulatory policies.

1.2. POLICY NETWORKS

In policy analytics, the complexity of networks evolved from the linearity of systems and perpetuity of cycles. Network analysis helps explain the more intricate and dynamic relationships among the many parties of interest within policy spheres (see Hallache, 2005). The terminology used in the literature to delineate network boundaries – who’s in, who’s out, and why – is inconsistent at best. Generally, however, relatively diffuse, open, and unstable *issue networks* are contrasted with more cohesive, insulated, and stable *policy communities* defined by policy function and characterized by controlled and constrained membership, shared and stable values, frequent high-quality interaction, hierarchical resources, and consensus building (McCool, 1989; Marsh and Rhodes, 1992; and Kavanagh et al., 2006).

According to Kenis and Schneider (1991), policy networks “reflect a changed relationship between state and society.” In their framework, networks are a structural arrangement described by linkages and boundaries among organized public and private actors. Policy networks concern themselves with complex problems and require considerable expertise; policy intelligence and policymaking are dispersed. Networks present higher policy formulation costs but lower policy implementation costs. Policy networks are not necessarily expected to remain integrated over time. While policy networks may be *ad hoc*, some are relatively stable (Jordan, 1990). Persistent networks can be explained by their institutionalization, that is, the acceptance by policy actors of imposed rules (Blom-Hansen, 1997). Pragmatically, sub-governments can establish a reasonable mode for addressing complex policy issues because there “remains a procedural logic to conflict resolution via policy community style politics... [as] part of the common sense of policy making” (Jordan and Maloney, 1997). A distinct theory of ‘responsive regulation’ goes further to advocate a ‘tripartism’ of shared policy responsibility among regulators, industry, and public-interest groups (Ayers and Braithwaite, 1992).

The ‘network approach’ is regarded by some as more metaphor than model (Dowding, 1995; Pappi and Henning, 1998). Scholars have tried to strengthen network theory by coupling it with theories of policy actors (Blom-Hansen, 1997), governance (Rhodes, 1996; Börzel, 1998), collective action (Carlsson, 2000), and bureaucratic

organization (Olsen, 2006). Not only is the relevance of policy networks to policymaking often unclear, but their effects on the efficiency and legitimacy of policymaking are rather ambiguous (Börzel, 1998). The effect of networks on policy outcomes appears to depend on the structure of the network and its context (Marsh and Smith, 2000), as well as wider social dynamics (O'Brien and Penna, 1997) and relations among network actors (Pappi and Henning, 1998).

Although technically specialized and narrow in scope, policy networks that transcend traditional geopolitical boundaries may offer some advantages in terms of both efficiency and effectiveness. According to Slaughter (1997), networks reflect the “unbundling [of the state] into its separate, functionally distinct parts” within a “new, transgovernmental order.” The ‘phenomenology of networks’ combines central authority with decentralized actors across governments; informal network cooperation has become an alternative to competition among regulatory bodies (Slaughter and Zaring, 2006). In Europe, endogenous transnational ‘communities of expertise’ among regulators can provide informality, flexibility, adaptability, resilience, and responsiveness; that is, a ‘softer’ form of coordination and governance compared to “centralized, prescriptive, harmonized and legally-binding EU rules” (Boeger and Corkin, n.d.).

Policy networks provide a medium for building capacity and diffusing innovation. Regulatory networks are particularly valuable when the edification of members helps address information asymmetry, an inherent strategic advantage of regulated firms. Networks can strengthen regulation by providing the means to combine forces and pool resources. Commonly supported research and education can generate new information for improving processes. Slaughter and Zaring (2006) find that “[t]o the extent that regulatory networks are codes of best practices and credible information in a particular regulatory domain generally, they have the kind of knowledge that is power in the information age.” A reinforcing relationship exists between transnational networks and the network of experts who advocate within their respective agencies for experimentation, peer review, consensus building, collegiate sharing, epistemic organization, technocracy, and cooperation over parochial politics (Boeger and Corkin, 2012).

The spread of ‘regulatory capitalism’ is attributed in part to the growing influence of international expert networks in an increasingly interdependent world (Levi-Faur, 2005). Verdier (2009) cautions, however, that the very features that make transgovernmental and transnational regulatory networks attractive – domestic accountability and informality – present fundamental limitations with respect to pursuing optimal policies, sustaining technical capacities, and resolving inevitable controversy over distributive consequences.

The early policy analysis literature may have understated the role of networks on policy innovation and change (Atkinson and Coleman, 1992). Nonetheless, it has long been recognized that policies adopted by one member state will appear legitimate to others (Walker, 1969) and that federal involvement in the community can affect the

pace of innovation (Gray, 1973). Networks can provide fertile ground for policy reform (Peterson, 1993) and policy entrepreneurship (Mintrom and Vergari, 1998). Diffusion involves both the regulatory and legislative policy communities and the dynamic interplay between them (Andrews, 2000). Among other things, networks enable data sharing, performance benchmarking, and practice formulation (Berg and Horrall, 2008). Networks facilitate the diffusion of innovation particularly under conditions of professional mobility (Teodoro, 2010).

2. NARUC: A CASE STUDY

2.1. MISSION AND PURPOSE

Virtually simultaneous with the advent of economic regulation in the United States was the emergence of a regulatory network for appointed and elected commissioners. The National Association of Railroad Commissioners was established in 1889, only two years after the creation of the now-defunct federal Interstate Commerce Commission (ICC). NARUC was the brainchild of Judge Thomas Cooley, its first chair, who envisioned an association “that could address the jurisdictional issues and act as a clearing-house for new ideas on regulation” (Childs, 2001). The group originally held meetings, and eventually enjoyed office space, in the ICC’s majestic office building on Constitution Avenue in Washington, D.C. As state authority expanded to include a growing but monopolistic public utility sector, the association evolved into the National Association of Railway and Utilities Commissioners (1917).¹

Through their new association, state regulatory officials shared tactics and advanced a pragmatic and cooperative federalism (Childs, 2001). From its beginning, the association’s guiding paradigm centered on state sovereignty: “when matters of jurisdiction between the states and the national government surfaced, the state regulators subsumed the business interests within the strategies of protecting the viability of states’ rights and their own jobs” (Childs, 2001).

Nodding to its legacy, and retaining its familiar acronym, the association in 1949 morphed into its present form as the National Association of Regulatory Utility Commissioners. A consummate executive director even memorialized its creed in verse.² NARUC describes itself as “a non-profit organization dedicated to representing the State public service commissions who regulate the utilities that provide essential services such as energy, telecommunications, water, & transportation.” NARUC’s stated mission “is to serve the public interest by improving the quality and effectiveness

¹ ‘Railway’ was changed to ‘Railroad’ in 1923 (Childs, 2001).

² Excerpt: “Dedicated to Public Services, is their creed, Serving you and yours is their deed... Their trumpets will never sound retreat, As long as the public needs relief,” *The Quest of the NARUC* by Paul Rodgers, NARUC Annual Convention Proceedings (1990).

of public utility regulation” consistent with member obligations to ensure the provision of utility services “at rates and conditions that are fair, reasonable and nondiscriminatory for all consumers.”³ Elaboration of NARUC’s priority functions can be found in the association’s constitution, where the concepts of advancement, uniformity, coordination, and cooperation illustrate the central role many network organizations play in facilitating the diffusion of ideas and innovation.⁴

The NARUC network includes interstate associations that focus attention on regional issues and operate in concert with NARUC (Table 1), particularly in terms of providing a path and process for leadership of the national group. Regulatory groups have also formed around regional electricity transmission markets. Recent decades have seen a deliberate recruitment of more than thirty international agencies in NARUC, as well as NARUC’s facilitation of and presence within an expanding transnational “network of networks.”

Table 1. Networks in the U.S. regulatory policy community

National
National Association of Regulatory Utility Commissioners (1889).
NARUC Commissioners Emeritus (1979).
Regional
Southeastern Association of Regulatory Utility Commissioners (1917).
Western Conference of Public Service Commissioners (1941).
New England Conference of Public Utilities Commissioners, Inc. (1946).
Mid-America Regulatory Conference (1956).
Mid-Atlantic Conference of Regulatory Utilities Commissions (1995).
Organization of MISO States, Inc. (2003).
Organization of PJM States, Inc. (2005).
Professional
National Conference of Regulatory Utility Engineers (1922).
National Conference of State Transportation Specialists (1958).
Society of Utility and Regulatory Financial Analysts (1977).
National Conference of Regulatory Attorneys (1978).
National Association of State Utility Consumer Advocates (1979).
University Centers
Institute of Public Utilities at Michigan State University (1965).
Public Utility Research Center at University of Florida (1972).
Rutgers University Center for Research in Regulated Industries (1977).
Center for Public Utilities at New Mexico State University (1978).
Public Utility Institute at University of Wisconsin (1982).
Institute for Regulatory Policy Studies at Illinois State University (1997).
Center for Business and Regulation at University of Illinois Springfield (2008).

Source: Author’s construct.

Over the years, NARUC extended membership to commissioners and administrators of various federal agencies, while continuing to promote cooperative federalism and

³ Available at www.naruc.org.

⁴ Ibid., as amended November 16, 2009.

vertical harmonization of regulatory policy. Although federal agencies are represented *in* the association, they are not represented *by* the association, and defense of states' rights remains a defining common denominator. NARUC does not concern itself with the internal political and policy affairs of the states. Through both formal and informal modes of intervention, NARUC represents the collective state commissions before the executive, legislative, and judicial branches of the federal government, including independent regulatory agencies, "to ensure that policymakers, lawmakers, industry, and the general public understand the issues that face State regulators."⁵

Consensus can be politically challenging when the states divide over jurisdictional and policy preferences, as occurred with market restructuring for both the telecommunications and electricity sectors. Yet NARUC has managed over time to successfully combine the progressivism of public-interest oriented regulation with the conservatism of state sovereignty. The organization has also remained astutely and diligently nonpartisan throughout its long history.

The institutional dominance of NARUC in U.S. regulation has rarely been tested. A splinter group formed the Federation for Economically Rational Utility Policy (FERUP) in 2004, though members retained their NARUC affiliations. Its co-chairs were uncoincidentally a Democrat from California and a Republican from Florida. Long on purpose but short on endurance, FERUP described its network as "a coalition of regulators from across the country who are focused on the formulation of economically rational and sustainable utility policies."⁶

More ideological than partisan, and emboldened by a coalition of communications companies, interest groups, and think tanks, FERUP sought to counteract what was perceived as obstinacy toward federal preemption of state regulatory authority, particularly in the telecommunications sector. The schism reflected disparate views about the promises of deregulation. FERUP's defiance was unsettling because it struck at NARUC's core paradigm from within, muting any organized response. The message was not lost at the time, but NARUC stayed true to its mission. Lacking momentum along the bumpy road of market restructuring, FERUP faded from the regulatory policy scene as quickly as it had arrived, leaving little trace. FERUP's more political posture stood in stark contrast to the more neutral sensibilities that have served NARUC and its professional administrators so well for so long. Neither could FERUP muster the resources required to offer regulators a networking experience comparable to the organization it challenged.

2.2. MEMBERSHIP

NARUC is commissioner-centric, operating primarily to serve, support, and socialize commissioners, who by tradition are addressed as 'The Honorable' in recognition of

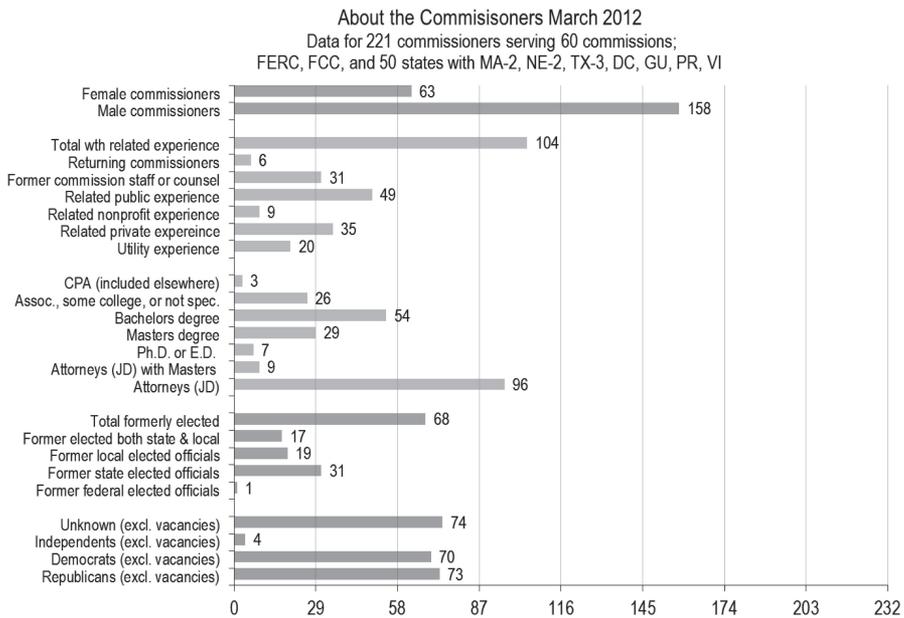
⁵ Ibid.

⁶ FERUP press release dated March 31, 2004.

their political stature. Commissioners are accorded considerable deference by their own and the NARUC staff as well as others in the policy community. NARUC also provides a subordinate professional network for regulatory personnel; engagement and leadership are confined to staff subcommittees.

NARUC is a relatively exclusive membership club representing about 240 domestic regulators working in 60 state, territorial, and federal agencies.⁷ The Federal Communications Commission and the Federal Energy Regulatory Commission are members. Most U.S. commissions seat three to five regulators, four commissions have seven regulators. Regulators are appointed for 46 panels (including the federal agencies) and elected for 14 panels (including South Carolina and Virginia, where legislatures elect commissioners). A total of 221 commissioners were seated in early 2012 (Figure 2). About 30 percent of the regulators had served previously in a state or local political office. Nearly half were attorneys and 36 had other post-graduate degrees. Nearly three-quarters of the commissioners were male, although women have figured prominently in association leadership.⁸

Figure 2. Commissioner demographics (2010)



Source: Institute of Public Utilities, All Commissioners Database.

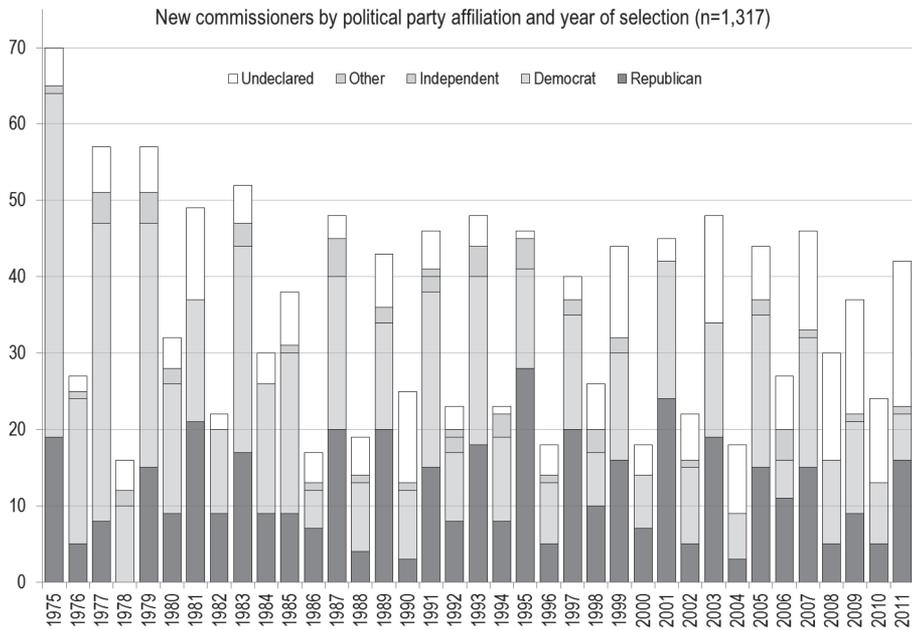
The relevance of ideology and partisanship to the regulatory enterprise is tempered by the emphasis on political independence in the U.S. regulatory model. The appointed

⁷ States have more than one member agency when jurisdiction is segmented by industry sector.

⁸ According to the IPU All Commissioners Database, about 9.4 percent of all public utility regulators have been women.

commissions typically reflect a balance of members by political party. Executives will normally designate a chair of their own party, but usually are not allowed to appoint more than a majority of members from their party. For the sitting commissioners, party identification was about equally divided between Republicans, Democrats, and Unknown or Undeclared. The long-term findings indicate fewer identified Republicans (Figure 3).

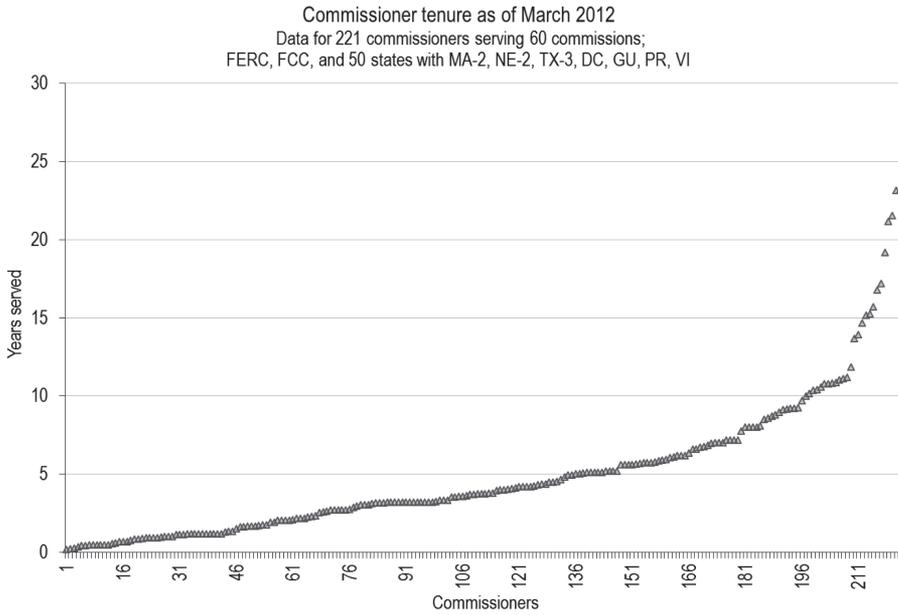
Figure 3. Commissioner party affiliation over time



Source: Institute of Public Utilities, All Commissioners Database.

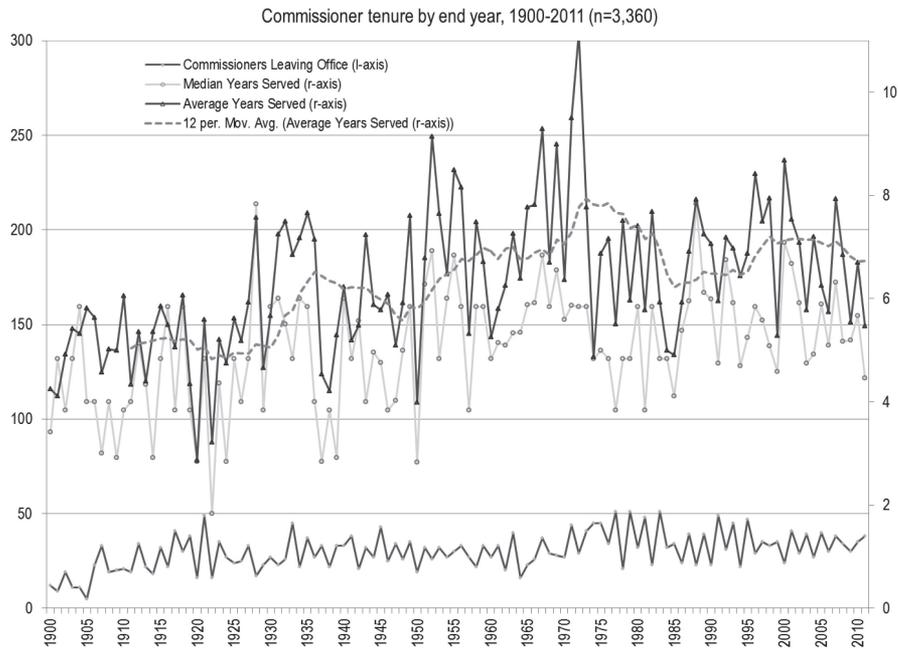
Commissioner tenure tells a story of its own. Commissioners take office for staggered terms that average five years in duration. Although some enjoy very long careers of public service, the average time served by the commissioners serving as of February 2012 was five years; the median was 3.7 years. 39 commissioners had left office since the prior year and 28 commissioners were new in 2012. The majority of the commissioners had less than five years of experience (Figure 4). Long-term trends indicate that turnover is greater in odd years (following even-year elections) and that commissioner tenure climbed steadily until the mid-70s, when it leveled off and began a slight decline (Figure 5). Given the technical complexity of economic regulation, the high rate of turnover among commissioners has significant implications for policymaking and networking.

Figure 4. Commissioner tenure as of 2012



Source: Institute of Public Utilities, All Commissioners Database.

Figure 5. Long-term trend in commissioner tenure



Source: Institute of Public Utilities, All Commissioners Database.

Aside from standard rules of order, NARUC's deference extends for the most part to the conduct of individual members. The association once detailed four ethical canons for members: a commissioner should avoid impropriety and the appearance of impropriety in all activities; a commissioner should perform the duties of office impartially and diligently; a commissioner may engage in activities to improve regulation and administration; and a commissioner should regulate his or her outside activities to minimize the risk of conflict (NARUC, 1977). The association offers ethics training at meetings⁹ but provides no enforcement mechanisms; prosecution of ethical matters is left to the various jurisdictions.

NARUC remains a powerful networking force and source of social interaction and validation for regulators even after they no longer hold office. Upon stepping down, former regulators enter a state of limbo precluding them from accepting employment with regulated companies for at least one year to reduce conflicts of interest. The 'revolving door' problem is unsurprising given the specialization of regulators in a relatively confined professional network and limited opportunities for commensurate compensation. Many (but not all) regulators eventually and rationally want to exploit their expertise and influence in the more lucrative private sector. Many ex-commissioners will work for unregulated third-party or ancillary interests (such as law firms, consulting practices, or trade associations) that engage with regulated utilities, and some remain there by choice. After designated 'stay-out' periods, some find their way to employment with utility companies. Former commissioners may join an emeritus group formed in 1979 and some stake their post-service careers on the connections made and maintained through the NARUC network.

2.3. ADMINISTRATION

In its origins, NARUC was funded with 'irregular dues' that supported organizational and lobbying efforts (Childs, 2001). NARUC's dues are regular today, but its funding is much more diverse. According to federal filings, NARUC's revenues range from \$4 to \$6 million (for years 2007–2009), with net assets of \$12 to \$15 million.¹⁰ A recent revenue surge was due to a short-term influx of special-purpose federal grants. NARUC's expanding scope is reflected in its organizational structure as well as its budget. Its Washington, D.C. headquarters house an executive director and about 30 staff members who assist members through six departments: public affairs, meetings, grants and research, policy, finance and administration, and international programs.

Today, less than 10 percent of NARUC revenues are from dues.¹¹ At about 20 percent of the budget, meeting revenues are eclipsed by the more than 60 percent

⁹ NARUC meeting attendees can earn Continuing Legal Education (CLE) credits, including ethics hours that are requisite in many jurisdictions.

¹⁰ U.S. Internal Revenue Service Form 990. Filings by tax-exempt organizations are publicly available.

¹¹ *Ibid.*, 2011.

of revenues that come from contributions, grants, and ‘cooperative agreements,’ including federal support related to international development, homeland security, energy, and environmental protection (Bisnow, 2010). The association’s dominance and formidable insider grantsmanship give it a distinct advantage in the competition for relatively limited resources.

While the association has actively sought funding, substantial grant dollars have ‘found’ NARUC (Bisnow, 2010). The flow of funds correlates with ambitious federal plans to modernize the nation’s electricity grid, promote renewable energy, and manage demand through advanced (‘smart’) technologies. Funding is used for research but also for stipends that enable commissioner participation in NARUC and other events as well as international ambassadorship.

NARUC’s executive directors have been especially adept at navigating the association, as evidenced by their longevity.¹² Leadership, however, belongs to the commissioners. A president and officers are ceremoniously elected by rotation through a network of the affiliated regional associations to ensure that no one region and its policy issues or preferences reign. An executive committee includes the officers of the association, plus two appointed members; a Board of Directors consists of officers, several appointed members, and standing committee chairs. The association president serves for one year and makes committee appointments, including chairs who serve three-year terms.

2.4. COMMITTEES

Substantive committees have always been embedded in NARUC culture and functionality. Committees do the association’s work by providing discussion forums and deliberating resolutions for consideration by the whole, including recommended practices. By 1910, NARUC had established at least 16 committees, including: Legislation; Railway Service and Railway Accommodations; Railroad Statistics, Rates and Ratemaking; Uniform Classification; and Safety Appliances (Childs, 2002). In the wake of the Great Depression, NARUC established a Committee on Progress in Public Utility Regulation (Ruggles, 1937). Through the mid-1900s, many NARUC committees and subcommittees were distinctly technical in character, centering on disciplinary perspectives such as engineering, accounting, and finance, as well as safety, reliability, depreciation, and technology.

As of 2012, NARUC’s standing committees cover: Consumer Affairs, Critical Infrastructure, Electricity, Energy Resources and the Environment, Gas, International Relations, Telecommunications, and Water (Table 2). In addition, the association relies on ad hoc committees and task forces anointed for special purposes. The committees debate nonbinding resolutions that constitute association policy positions once approved by the Board. For the 12-year period between 2000 and 2011, NARUC

¹² Paul Rogers served as NARUC Executive Director from 1965 to 1996. Charles Gray, previously the association’s General Counsel, has served as Executive Director since 1999.

passed a total of about 700 resolutions, a third of which honored members for their service.¹³ Various subject-area committees sponsored the rest.

Table 2. NARUC committee structure (2012)

COMMISSIONERS	STAFF
Executive Committee & Board of Directors (1901)	Staff Subcom. on Executive Management (1940)*
NRRI Board of Directors (1976)	Staff Subcom. on Accounting & Finance (1967)*
Washington Action Program (1993)	Staff Subcom. on Information Services (1972)*
Committee on Investment (1999)	Staff Subcom. on Law (1974)
Committee on Audit (1999)	Staff Subcom. on Administrative Law Judges (1976)
Subcommittee on Utility Market Access (2004)	Staff Subcom. on Utility Market Access (2010)
Subcommittee on Research and Education (2006)*	Staff Subcom. on Research and Education (2011)*
Task Force on Environmental Reg. & Generation (2007)*	
Committee on Telecommunications (1941)	Staff Subcom. on Telecommunications (1942)
	Staff Subcom. on State USF Administrator (2003)
Committee on Electricity (1953)	Staff Subcom. on Electricity (1971)
Subcom. on Nuclear Issues-Waste Disposal (1984)	Staff Subcom. on Nuclear Issues-Waste Disposal. (1984)
Subcom. on Clean Coal & Carbon Sequestration (2006)	Staff Subcom. on Electric Reliability (2000)*
	Staff Subcom. on Clean Coal & Carbon Seques. (2006)
Committee on Gas (1963)	Staff Subcom. on Gas (1964)
	Staff Subcom. on Pipeline Safety (1982)
Committee on Water (1967)	Staff Subcom. on Water (1970)
Committee on Consumer Affairs (1982)	Staff Subcom. on Consumer Affairs (1982)
Com. on Energy Resources & the Environment (1984)*	Staff Subcom. on Energy Resources & the Env. (1983)*
Committee on International Relations (1996)	Staff Subcom. on International Relations (1996)
Committee on Critical Infrastructure (2006)	Staff Subcom. on Critical Infrastructure (2006)

Source: NARUC reports and directories.

* Indicates change of status, name, or committee affiliation from a prior period.

Most NARUC committees are shadowed by staff subcommittees, by which the association accommodates networking among agency professionals. Staff participation rates vary and ultimately depend on commissioner acquiescence and agency funding. As many professional staff members have tenures that far exceed the typical commissioner, the expertise offered by staff can be invaluable. Historically, staff subcommittees would carefully vet proposed resolutions prior to consideration by the commissioners.

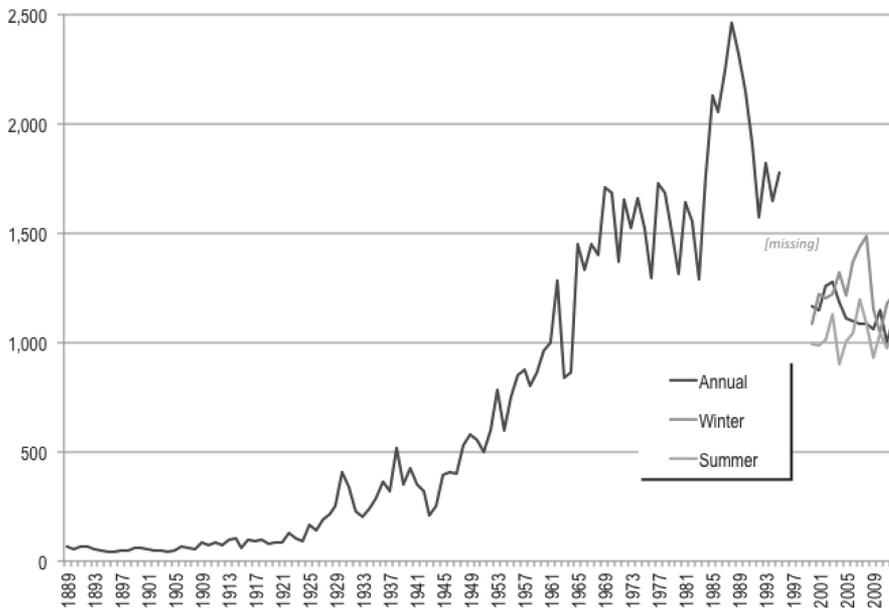
¹³ Compiled from the committee pages of the NARUC website (www.naruc.org).

Although remnants remain at the staff level, including subcommittees on law and accounting, defunct committees include those on Railroads, Motor and Air Transportation, Public Relations, Accounts, Finance and Technology, and Engineering. Many of the more technical committees have given way to sector-specific and policy-oriented committees. The subtle decline of technical and analytical focus among the committees and subcommittees may be telling of a cultural shift with respect to both cause (interest) and effect (capacity).

2.5. MEETINGS

The service work of NARUC takes place primarily at three annual meetings: an annual convention each fall is complemented by summer and winter conferences that center on committee meetings, the latter taking place in Washington, D.C. NARUC also organizes and participates in various other conferences and collaboratives, some federally funded. NARUC experienced an apparent attendance bubble as it enjoyed rising participation rates for the annual meeting through the 1980s, followed by a marked decline and more recent stability (Figure 6). Deregulation is a likely culprit in the attendance drop, beginning with federal preemption of state regulation of surface transportation (trucks, trains, and buses) in the 1980s; deregulation of the telecommunications sector in the 1990s was another contributing factor. Recent attendance has likely been bolstered by wide-ranging interest in energy policy.

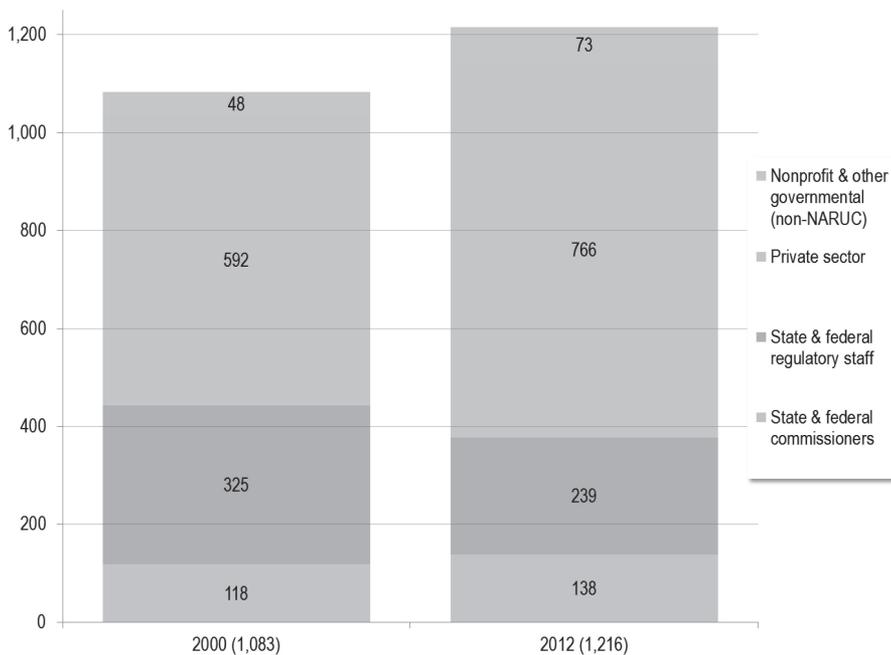
Figure 6. NARUC meeting attendance over time



Source of data: NARUC published sources and communications. Peak years may include spousal registrations not counted in later years.

Participants at NARUC meetings wear color-coded badges that reflect standing: commissioners (blue), staff (red), nonprofit organizations (tan), and private industry (green). Attending a NARUC meeting requires a considerable outlay and private sector attendees pay higher registration fees. NARUC meetings are generally held in relatively desirable locations and travel adds to the cost of participation. While the number of regulators is fixed at any given time, the same is not the case for interested parties. NARUC publicizes registrants in advance, so attendees are aware of potential network contacts. It is unsurprising to observe a sea of green badges at NARUC meetings representing an ever-expanding range of commercial interests. A comparison of 2000 and 2012 contrasts a reduction in staff participation and a rise in private industry participation (Figure 7). The industry presence is not limited to attendance; conferences tend to feature executives of the largest corporations as speakers.

Figure 7. NARUC winter meeting attendance by type of registrant (2000 and 2012)

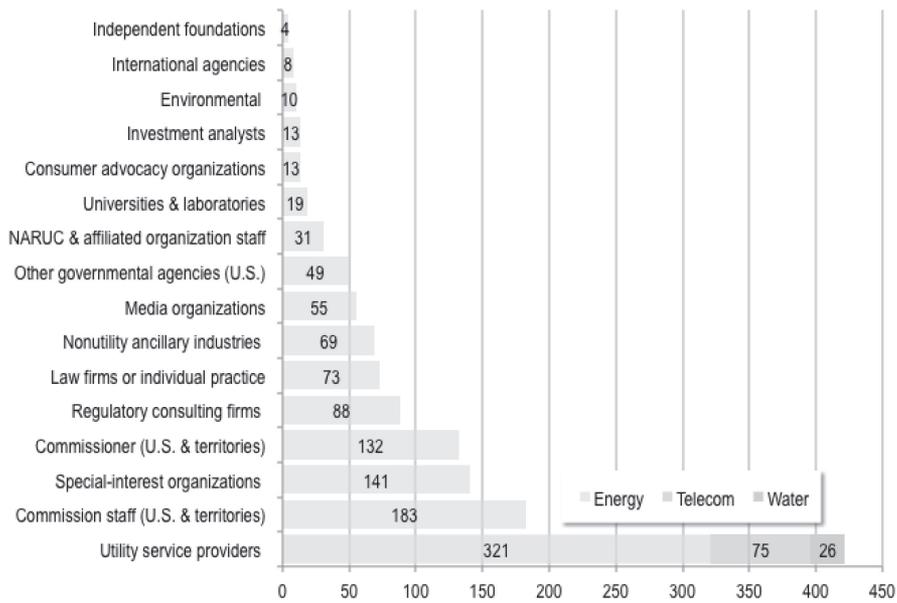


Source of data: NARUC published sources and communications.

Also revealing is a detailed analysis of 1,310 registrants for the 2012 winter meeting based on organizational affiliation. Private utilities led the pack with energy companies dominating and total registrations that exceeded the combined registration of commissioners and staff members. Large numbers of green badges were sported by representatives of law, consulting, ancillary, and special-interest

organizations. The financial investment community had a small but discernible presence. Nonprofit organizations, including consumer advocates, universities and laboratories, and media organizations were dwarfed in the distribution (Figure 8). Of the 1,310 registrants, 31 were commissioners who left office in the prior five-year period (2007–2011); many were affiliated with consulting or law firms. Although many former commissioners continue their careers in public service, some find positions in the private sector, including utility providers (Figure 9).

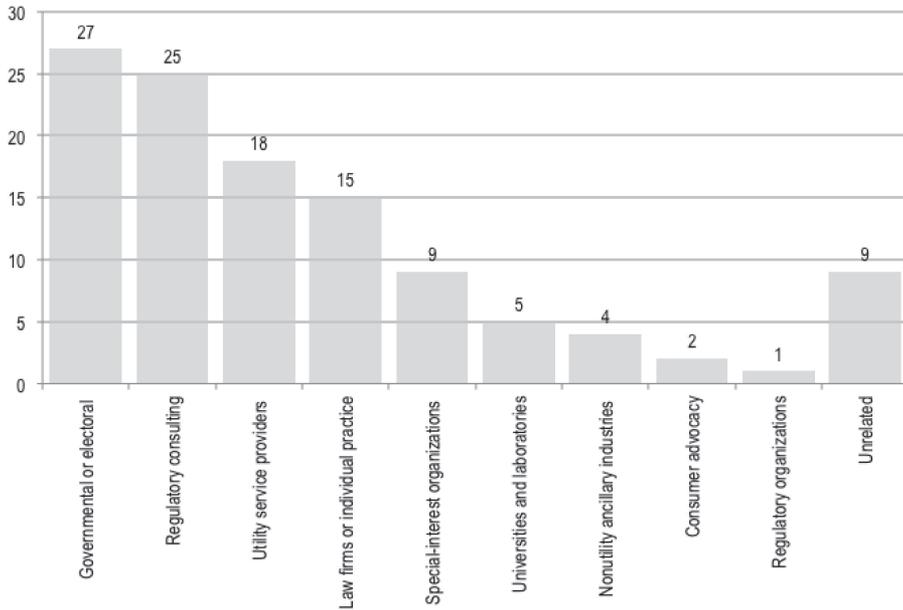
Figure 8. NARUC attendees by organizational affiliation



Source: Author’s coding based on NARUC registration data for Winter 2012 meeting (n=1,310).

As a matter of policy, NARUC will not accept program sponsorship by regulated companies or their affiliates, but support from other commercial interests (including trade associations and media organizations) continues to proliferate. Sponsorship fees defray costs but make for a gauntlet of elaborate displays and conference swag. Although the mix varies from meeting to meeting, some continuity is seen among core sponsors. Industry and other organizations will also host social events during the meetings. Sponsored events can add to the meeting experience, though appearances of impropriety are a persistent concern for all participants.

Figure 9. Employment status of former NARUC commissioners (2012)



Source: Author's coding based on Institute of Public Utilities, All Commissioners Database. Includes commissioners leaving office from 2007 through 2011 (n=115 of 171 living former commissioners for which status could be established).

2.6. EDIFICATION

NARUC is devoted to the edification of members and the regulatory policy community, more so than the public at large. In its early history, NARUC published voluminous annual 'red books' documenting the annual conventions, including committee reports and summaries of deliberations. Hefty biennial 'blue books' with commission histories, profiles, and detailed statistics about jurisdiction and practices were published through 1996. NARUC distributes membership directories and subscribers receive a biweekly news Bulletin (The Semi-Weekly Voice of NARUC); the association also communicates through social media.

In the past, staff subcommittees produced technical guidance manuals with greater frequency; many concerned regulatory accounting, financing, and ratemaking. Staff members continue to share member-generated surveys and other information through the association. In recent decades, NARUC publications have become more topical and thus to some extent more time-bound. Some NARUC sponsored studies are grant funded and produced by outside consultants.¹⁴ NARUC's forays into

¹⁴ The association established a short-lived private Education and Research Foundation in the mid-2000s.

providing education, research, and consultancy directly (internationally and domestically) are suggestive of an expansionistic mission.

The regulatory policy community at large is supported through university-based programs that operate with a large measure of independence from NARUC. For many years, the Institute of Public Utilities at Michigan State University (1965) and the National Regulatory Research Institute (NRRI) at The Ohio State University (1976) divided primary responsibility for education and research, respectively.¹⁵ A number of other academic institutions also support economic regulation. Despite varying degrees of engagement all of the centers are ever cognizant of NARUC's needs, priorities, and influence on the market for their services. The association has a process for endorsing externally provided educational programs and allowing use of the NARUC logo.

By design, the educational programs that support U.S. regulation are self-sustaining and financially independent of NARUC, while resources are pooled for research through a voluntary dues process.¹⁶ The original logic was that education could be supported through program fees but research should be treated as a 'common good.' NRRI surrendered a 30-year academic affiliation in favor of an interlocked not-for-profit status and a focus on technical assistance. NRRI is guided by a Board of Directors consisting of NARUC commissioners and a Research Advisory Committee, which also includes industry representatives. Annual research revenues totaling about \$2 million, come from voluntary assessments on NARUC member commissions and contracts.

NRRI's central challenge over the years has been to 'speak truth to power' within a diverse membership body. An affiliated but non-mandatory model for research funding can be precarious. Sensitivities can run high and fear of provocation and retribution can have a chilling effect. Evaluating policies or performance in any way risks offending the regulators and losing financial support. Ideally, researchers must avoid prescription, communicate thoughtfully, and avoid inviting unnecessary controversies that undermine the research role. Also ideally, regulators will be socialized to tolerate, if not to embrace, independent research. Fiscal dependence, potential politicization, and the want of academic freedom, tend to constrain the research agenda and output. University-based centers thus must strive to support the regulatory policy community in ways the regulatory policy network cannot.

¹⁵ Although not NARUC sponsored, IPU's Annual Regulatory Studies Program is popularly known as 'Camp NARUC.' The program, designed exclusively for the public sector, was once considered a rite of passage for new regulators.

¹⁶ The academic centers are sustained through program fees, corporate contributions, and grants and contracts, as well as some university support.

3. PERSPECTIVE ON REGULATORY POLICY NETWORKS

Communities and networks are essential to policymaking. Although regulatory networks are generally perceived positively, they may have deleterious effects that could actually weaken regulatory institutions. Thus, potential tradeoffs and the unintended or undesirable consequences of networking are worth considering. Some of the problems with regulatory and other policy networks may result from ‘too much of a good thing.’ In other words, certain hallmarks of network exchange (inculcation, diffusion, and consensus) also have darker sides (insularity, didacticism, and cooptation), briefly summarized here. These concerns are not exclusive to regulatory networks, but are especially pertinent to this realm.

Table 3. Positive and negative manifestations of network exchange

Cultural role	Positive form of network exchange	Negative form of network exchange
Professional socialization	Inculcation	Insularity
Capacity development	Diffusion	Didacticism
Institutionalization	Consensus	Cooptation

Source: Author’s construct.

3.1. INCULCATION V. INSULARITY

Perhaps the central purpose of professional networks is to inculcate members. Networks nurture members in part so the members will sustain the network over time. The exclusivity of any ‘members-only’ club is enjoyed and protected. Delimited participation may make specialized policy communities and the networks within them more efficient but it also makes them prone to insularity (or ‘insider syndrome’). The regulatory interest network is full of familiar faces, including former regulators. Jordan and Maloney (1997) note that community exclusivity comes with policy complexity and reliance on expertise, but can appear monopolistic; thus, shared concerns “must be legitimized in a language that refers to wider interests.” Accountability is essential to the effectiveness of networks, although traditional tenets of administrative law (such as transparency, participation, and notice) may not fully fit this purpose (Slaughter and Zaring, 2006).

Regulatory meetings provide beneficial forums for socialization and exchange, but they also provide a venue for intimate access along with potential for influence outside of fair, independent, and ‘due’ processes. The venue may be mostly open, but participation is limited. Commercial interests readily pay their way as a cost of

business,¹⁷ but consumer advocates and other public-interest groups cannot afford the same level of access. Bilateralism defines the discourse and industry voices often dominate the conversation. Policymakers want to appear knowledgeable, and praise is heaped on those who ‘get it.’ As regulators gain experience and understanding, they become comfortable with, and perhaps sympathetic toward, industry viewpoints. In the interest of collaboration, boundaries may become blurred.¹⁸ With time, consciously or subconsciously, regulators may begin to identify with regulated industries and suffer from real or apparent ‘capture’ (Bernstein, 1966). In the worst-case scenario, regulation is effectively “acquired by the industry and is designed and operated primarily for its benefits” (Stigler, 1971).

Ethical boundaries may be breached when interests seek influence by inappropriate means (Beecher, 2008). A potentially serious issue related to regulatory independence is the growing presence of third parties in the policy community, especially because the rules of engagement and ethical conduct do not fully contemplate their influence. Firms that supply ancillary products and services to utilities may have as much or more at stake in regulatory policies and decisions as regulated firms; their network participation is a form of strategic hedging. Some interests may not become involved in the formal regulatory proceedings to which ethical standards and scrutiny apply. Lobbying also can take place through emissaries whose affiliation with regulated interests may not be obvious. Regulators are well aware of the rules that pertain to interaction with utilities, but they may be less sensitized to the conflicts of interest attached to third parties. Even seemingly benevolent interests are still special interests. The electronic age has introduced new forms of information exchange that also call for new rules.

Today’s regulators are well advised to guard their independence and be deliberate about openness, transparency, and reaching out to wider interest and issue networks in order to enrich the regulatory process and ensure participatory governance. The network should find ways to hear new voices and new ideas, both from within and from outside its boundaries. At the same time, regulators should be aware of potential ‘fairness bias’ that *always* entitles certain parties to have a voice, regardless of the relevance or validity of their positions. Above all, given institutional implications, the network should avoid enabling regulatory capture, or the appearance thereof, by any party of interest.

¹⁷ The Center for Responsive Politics reports that for the years 1998–2012, total lobbying expenditures related to energy and telecommunications were among the highest of all industry sectors (www.opensecrets.org, accessed 09/11/12).

¹⁸ NARUC’s 2012 Annual Meeting theme was “Effective Regulation Takes Teamwork.”

3.2. DIFFUSION V. DIDACTICISM

The diffusion of innovation is a central function of policy networks. In the U.S., the states are the experimental laboratories of democracy and networks ensure that ideas are shared regardless of spatial proximity or other commonalities. Networks can become didactic, or even dogmatic, when they endorse and reinforce some policies over others and members of a collective are expected to fall in line. ‘Group think’ can become pervasive in specialized and close-knit networks. Diffusion processes can take on a life of their own, spreading policies on the basis of popularity rather than proof. Trans-jurisdictional diffusion runs the risk of exporting parochial agendas or positions.

Increasingly, regulators and other policymakers are asked to recognize ‘best practices.’¹⁹ All policymakers, regulators included, would be wise to be more critical and circumspect about the term,²⁰ which is too frequently appropriated by regulated and other special interests in what can become a manifestation of capture. A policy that is best to one interest may not be best to another because regulation almost always has implications for distributing or socializing resources and risks. Many contemporary regulatory practices identified as ‘best’, for instance, focus more on cost *recovery* than cost *control*.

While the regulatory network can facilitate the diffusion of *practice*, the diffusion of *policy* can be at odds with the ideals of independent regulation. Nor is diffusion itself always a good thing. What works in one jurisdiction may not work in another and what seems best today may not be best tomorrow. In a ‘second-best’ world, diffusion of suboptimal, satisficing, or even ‘bad’ policies is also a distinct possibility, particularly if the political process is subverted or parties acquiesce to a vocal minority. Lesser solutions may diffuse along a path of least resistance to the exclusion of better but bolder options. The concept of best practices raises institutional considerations because best practices can be used as a ‘substitute for accountability,’ where “leaders may select programs that are billed as best practices to portray themselves as effective leaders or to avoid potential challenges to program effectiveness” (Hall and Jennings, 2006). Policy homogeneity and administrative uniformity may tend eventually toward bureaucratic mediocrity. Thus, paradoxically, excessive diffusion may thwart policy experimentation and innovation among regulatory agencies.

Regulators should not cede the determination and evaluation of practices to others. Any practice deemed ‘best’ should certainly bear a heavy burden of proof before regulators and no single entity can be the ultimate arbiter. Unbiased empirical

¹⁹ For example, in July 2005 NARUC passed a “Resolution Supporting Consideration of Regulatory Policies Deemed as ‘Best Practices’” pertaining to the water sector.

²⁰ Other terms of art include smart practices (Bardach, 1998), sound practices, promising practices, and just ‘better’ practices.

research should be brought to bear on regulatory methods.²¹ Over time, merit-based durability and convergence of practice may elevate a practice to a standard. Only through continuous experimentation and vetting, however, can ‘generally accepted regulatory practices’ (GAARP) emerge, that is, principled practices that are theoretically sound, demonstrably efficacious, and widely recognized by unbiased experts, peers, and practitioners.

3.3. CONSENSUS V. COOPTATION

Networks function on the basis of consent. Members consent to paying dues, to following rules, and to supporting policy positions. Human nature favors consensus over conflict. The reliance on consensus, however, can also force compromise, conciliation, or capitulation. Concern for achieving consensus can elevate form over substance. Members of highly socialized networks may be likely to stay within a comfort zone, choosing battles wisely, if at all. Over-vetting of conference content can result in a rather sanitized exchange. Conflict avoidance can have the effect of excluding issues from the agenda, chilling debate, and quieting dissent. Avoidance and aversion behaviors support the status quo. The life-cycle theory suggests that organizations naturally become more conservative with age (Downs, 1967); network organizations may exhibit similar tendencies.

An emphasis on collaboration can also have distorting effects, particularly when political power is unequal. Collaboration cannot exempt regulators from performing their own responsibilities with due diligence and due process. When parties have disparate interests and resources, collaboration raises the potential of cooptation. When funding flows from one agency to another, strings and expectations are attached and conflicts of interest are inevitable. Substantial federal grant funding, for example, can be at odds with the paradigms of state sovereignty and regulatory independence. Federal funding also has the potential to influence state regulatory consideration of the costs and impacts of federal policies.

Regulatory networks may function to harmonize policy to positive effect. Regulated entities do not respond well to discordant standards that send conflicting signals about expected performance and efficiency is likely to suffer. Market restructuring argued strongly for harmonizing standards related to market design, interconnection, planning, and operation; similar arguments have been made for alternative energy development, energy resource management, and grid modernization. Harmony, however, can also come at the expense of one policy player over another. Issues of shared power are endemic to U.S. federalism, including regulatory federalism. Harmonization becomes hegemony when it results in a

²¹ Agencies dominated by science-based professions are expected to be more evidence-oriented in the use of best practices (Hall and Jennings, 2006).

permanent shift of power, authority, or jurisdiction – including federal preemption of state autonomy.

According to Verdier (2009), the consensus orientation of transgovernmental networks may undermine policy effectiveness and favor dominant interests: “[R]egulators will be tempted to simply water down the proposed standards to make them acceptable to each participant without requiring tangible offsetting concessions... The resulting standards, while beneficial to all, will likely disproportionately benefit powerful states” (Verdier, 2009). In sum, consensus can lead to policy improvement, but cooptation within a regulatory policy network may cause an indiscernible but insidious drift of policy mission and shift of political power.

4. CONCLUSION

Many analysts have asked whether and how policy networks matter. The role of networks is as much cultural as political. The case study of NARUC demonstrates the association’s efficacy in serving members in terms of political socialization, capacity development, and institutionalization. NARUC is a particularly mature network and its longevity is owed to the focus and clarity of its mission and the effectiveness of its administration as well as to the highly institutionalized nature of economic regulation in the U.S. The NARUC network seems likely to survive as long as regulation and regulators survive.

Others have recognized that normative research is still needed to specify the conditions under which networks can be effective (Slaughter and Zaring, 2006). Research is also needed to specify the conditions under which networks may be ineffective, or worse. The vigilance of network organizations is consistent with their ultimate obligation to protect not just member interests but also the institution they serve. Indeed, network organizations must be cognizant of their role in ensuring institutional integrity and sustainability, particularly in uncertain or tumultuous times. Arguably, the NARUC network could be more active in defending independent regulation against existential threats.

Finally, the regulatory policy network may be at the center but it is not alone in the regulatory policy community. In fact, the effectiveness of the network depends in part on the effectiveness of other institutions that share the policy space. These include institutions of governance, advocacy, and higher learning that broaden perspectives on regulatory issues and solutions. In particular, the complex and transdisciplinary nature of regulation suggests the value of substantial academic engagement. Policy reforms might consider strengthening not only the regulatory network but also the relevant networks and institutions with which it interacts.

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