

Energy and Competition Policy in United States

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Overview

- Historical Context
- Major Policy Challenges
- Opportunities for Comparative Work

Historical Context

- Intensity of Antitrust Scrutiny of Energy Markets
 - Examples: Standard Oil (1911), Socony Vacuum (1940)
- Extensive Regulatory Intervention and Political Oversight
 - Price and output controls
 - Repeated studies: pressure guage model
 - Regulatory Fragmentation: Federal, State, Local
- Intersection with National Security
 - FTC, International Petroleum Cartel study (1940s)
 - Proposed CNOOC/Unocal Transaction (2007)
- Social Impact of Relatively Inexpensive Energy Supplies

Modern Policy Challenges

- Formative Influence of Crisis
- Regulatory Archipelago
- Petroleum and Natural Gas
- Electricity
- Supply, Demand, Climate Control

Formative Influence of Crisis

- Enron (CFTC and FERC)
- Madoff (SEC)
- Subprime Mortgages (Treasury and Federal Reserve Board)
- Perceived Lessons

Regulatory Archipelago

- Two National Competition Agencies: DOJ and FTC
- National Sectoral Regulator: FERC
- State Antitrust Offices
- State Sectoral Regulators: Public Service Commissions
- Local Oversight: E.g., Transmission Line Location Decisions
- Private Rights of Action
- Optimal Regulatory Design and National Economic Advantage

Petroleum and Natural Gas

- Merger Control: 1990s Transactions and GAO (2004) Study
- Conduct Inquiries: E.g., Unocal and Standards
- Studies: E.g., Katrina Report (2006)
- Price Monitoring Project and Raised Expectations
- Market Manipulation Statute (2007)
- Discussions of Price-Gouging Legislation
- Response to Legislative Inquiries
 - Cases: In re Exxon (1973)
 - Studies
 - Hearings: e.g., Majoras confirmation proceedings (2004)

Electricity

- Shared Authority
- Importance of Regulatory Design: Enron
- FTC Market Studies: Retail Electricity Competition (2002)
- Behavioral Economics and Consumer Choice
- Regulatory Simplification
- Consumer Protection and Green Claims

Supply, Demand, Climate Control

- Boutique Fuels
- Refinery Construction or Expansion
- Transmission Siting
- Terminal and Pipeline Location

Larger Policy Challenges

- Public and Political Demands That Energy Supplies Be:
 - Abundant, cheap, and green
- Are US Energy Prices Too High or Too Low?
- Educational Role with Legislature?
- Staff Morale and Study Fatigue
- Is Regulatory Framework Subject to Change?
 - Crisis as catalyst? Case of electricity transmission
 - Vulnerability of regulatory controls to manipulation: e.g., land use

Future FTC Work Program

- Comparative Work: Common Research Projects with
 - Competition authorities
 - Energy regulators
- Deeper Consultation with
 - Energy regulators
 - Environmental protection authorities
- Role as Convenor
- Evaluation of Mergers and Other Phenomena