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The Regulatory War on Alternative Energy

James Peron 10.17.18

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The Regulatory War on Alternative Energy

There is a lot of knee-jerk support for "regulation." Yet, it is often forgotten how the political system manipulates regulation to benefit those being regulated. Big Business was anxious to support regulation of "big business" in the Progressive era because the regulatory system closed down competition and thus increased their market share and their profits. It was consumers and those shut out of competing who suffered. This sort of regulatory capture is still going on.

The Los Angeles Times found consumption of electricity in California, from the grid, is going down yet regulators keep approving more expensive generating facilities. With each approval the privileged electric companies can force the costs onto all electricity consumers. So, even as residents used "2.6% less electricity annually from the power grid now than in 2008, residential and business customers together pay $6.5 billion more for power than they did then."

These monopolies are guaranteed income based on how much money they spend, not on how much energy is needed or how efficient they are. The more money they waste, the more profits they reap and the more consumers have to pay—even consumers who generate all their own electricity.

"The added cost to customers will total many billions of dollars over the next two decades, because regulators have approved higher rates for years to come so utilities can recoup the expense of building and maintaining the new plants, transmission lines and related equipment, even if their power isn't needed," the Times notes.

Here is how the rip-off works. "Utilities are typically guaranteed a rate of return of about 10.5% for the cost of each new plant regardless of need. This creates a major incentive to keep construction going: Utilities can make more money building new plants than by buying and reselling readily available electricity from existing plants run by competitors."

Instead of profiting by selling needed power they profit by building unnecessary power plants. This is not how competitive markets function—this is entirely a distortion created by bureaucrats in the back pocket of power companies.

In bizarre fashion, however, the Times blames this distortion on "poorly designed deregulation" of the industry. But, expert Robert McCullough points to a series of bad decisions by state regulators. "California has this tradition of astonishingly bad decisions. They build and charge the ratepayers. There's nothing dishonest about it. There's nothing complicated. It's just bad planning."

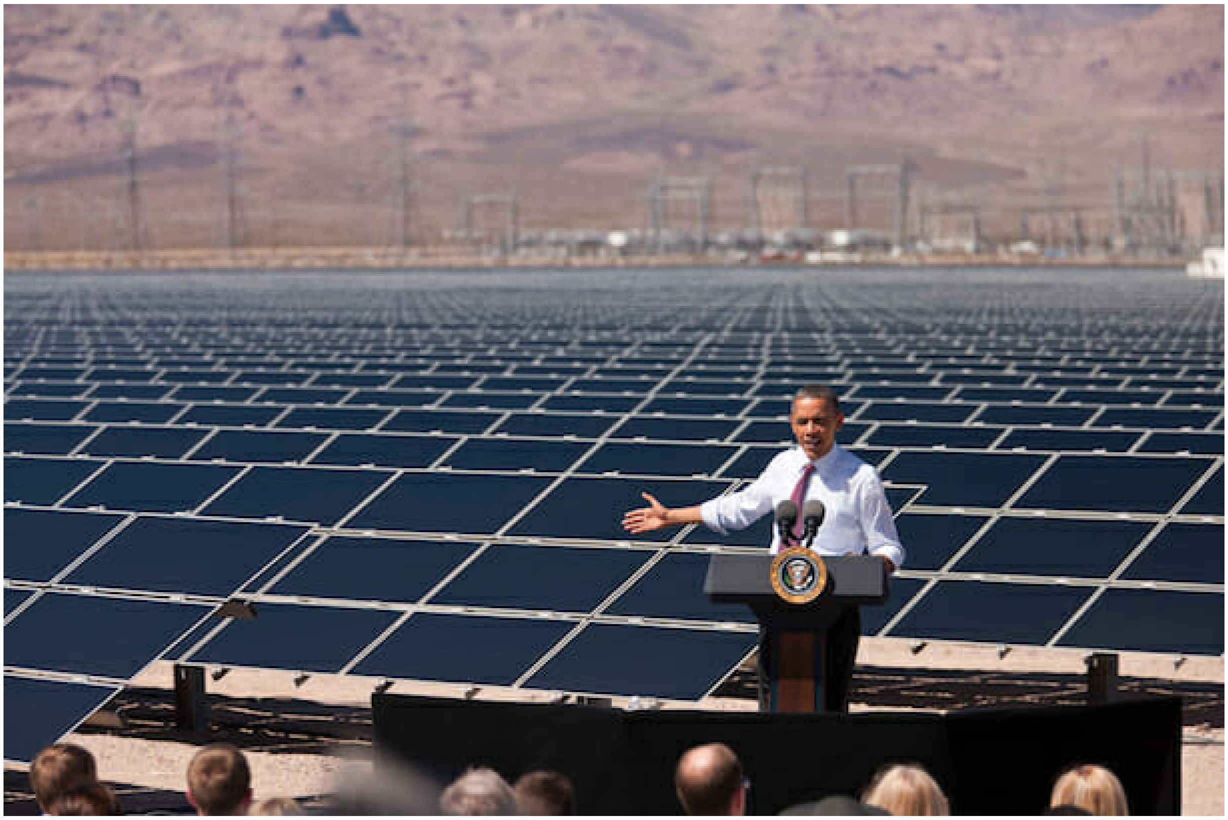
The Times tells the story of Calpine's Sutter Energy Center which didn't have a captive audience of residential customers as the regulated utilities do. Instead, they sell their electricity under contract or into the electricity market, and make money only if they can find customers for their power. It was doing nicely selling power into the market.

Then comes along a "regulated" competitor, PG&E who gets special privileges from the state. "Most of their revenue comes from electric rates approved by regulators that are set at a level to guarantee the utility recovers all costs for operating the electric system as well as the cost of building or buying a power plant—plus their guaranteed profit."

PG&E then builds a plant guaranteed to make money off the backs of consumers who have no choice but to pay the costs. The PG&E plant was built at a time when a massive surplus of electricity existed and there was zero demand for new plants. However, since PG&E is "regulated" they are guaranteed a profit; a special privilege Sutter Energy did not have. Even if the PG&E plant sat unused it was guaranteed to be profitable by regulators. The moment you see "guaranteed profit" you know you are NOT dealing with the free market, but with a politicized market open to manipulation and distortion by special interest groups—usually those with power, privilege and wealth.

These "regulated" generators had a government issued guarantee they would profit from every cent they spent, whether the spending was necessary or not. The more money they waste, the more they can charge consumers and increase their profits. With the new PG&E plant on line and making guaranteed profits Sutter couldn't afford to stay in business. They couldn't compete with the cronyism "regulation" creates for special companies like PG&E. Robert Flexon, CEO of Dynergy Inc., says independent producers are going under "because regulators favor utility companies over other power producers."

Californians are being "protected" by a racket of regulators in cahoots with the monopoly utility companies.



Barack Obama's efforts to push renewables was largely thwarted. (Lawrence Jackson)

Some local jurisdictions in California have responded to regulatory imposition of higher costs on consumers by forming "community choice aggregators" (CCAs). This means, "towns band together to buy power from a variety of sources, including wind and solar farms, and set the rates residents pay. Local utilities continue to deliver the energy, and also send customers their monthly bills." The CCA can thus purchase electricity on the free market allowing it to offer lower rates to consumers. But, if consumers are not buying from big utility companies these giant corporations loose money, and politicians are lining up to protect profits for these companies.

The big utility companies argue they signed contracts years ago for electricity supplied at fixed rates, but since then electricity costs have come down. So they are stuck paying higher rates for the energy they purchase. They argue their bad business decision should impose costs on their customers, not on the company, and on those who cease being customers.

Compare this to a free market where a grocer signs a contract for a year to have produce supplied to him at a fixed price. Now imagine the price of produce declining. Other grocers offer the produce at lower prices. He either has to sell it at a loss or continue selling at high prices his competitors beat. His customers find this unacceptable and start purchasing from the competition. If the grocer acted the way utilities and their regulatory buddies did he would be able to charge customers of his competitors a fee to punish them for buying cheaper produce somewhere else. This is what utilities do in California thanks to state regulations.

Bloomberg writes: "Under state law, departing customers must pay an exit fee to cover the cost of electricity utilities have already committed to buy on their behalf. The companies signed many of the power-purchase deals with renewable-energy providers several years ago, at prices that now seem expensive since the costs of wind and solar energy have been steadily falling. The idea behind revising the power charge indifference adjustment or PCIA, as the fee is called, is to protect utilities' remaining customers from getting stuck with higher bills as some ratepayers leave."

Of course, this isn't limited to California.

In Nevada the public utility commission "gave permission" to the only power company in the state, "to charge higher rates and fee to solar panel users—a move that immediately shattered the rooftop solar industry's business model." The Guardian reported: "The changes by NV Energy are part of a national trend in big utility companies arguing to eliminate the financial incentive to switch to rooftop solar, though Nevada is the only state thus far to grant such a change while also applying the new rules retroactively to existing customers. Nevada's [Republican] governor, Brian Sandoval, and NV Energy defended the PUC decision, saying that the current rate structure put too large a burden for maintaining the grid on non-solar consumers. In an emailed statement, NV Energy wrote that the revised rate structure 'fairly allocates the costs of providing electric service among all customers' and 'results in no additional profit to NV Energy.'"

One alternative, which the utilities won't like, is to separate the grid industry from the production industry and allow anyone to produce electricity to access the grid at a cost. There is no reason the grid must be owned by one producer and many reasons it's a bad idea. Separation removes the entire argument for monopoly provision of power used by utility corporations. It also allows open and robust competition in the production of power and will boost alternative power production companies who are pushed out of business by the monopoly protections given by regulators.

All energy producers will pay for the use of the grid in proportion to how much they use it, so no one company can cry that it is being unfairly treated, but the vitality of depoliticized markets will allow the cheapest producers to grow and the inefficient ones to go under—but business failure is something the big utilities and regulators agree must not be allowed. Both work to keep inefficient producers in business at the expense of consumers. Milton Friedman liked to remind listener that capitalism is a "profit & loss" system and that losses are just as important to efficiency as profits. The regulatory system, by guaranteeing profits and forbidding losses, is making energy markets far less efficient.

Harvard Business Review noted solar production is now growing so rapidly "it could actually absorb all the coal jobs that would be lost if the coal industry was completely shut down." Yet we have a president so ignorant of basic economics he is doing his best to keep this antiquated business alive, even if he has to destroy more jobs in the process.

One popular system of alternative energy production is mobile solar systems. The users set up the system on their roofs or in the backyard and plug it in to their current system. Various European nations encourage the systems and they aren't nearly as costly as installed rooftop systems. But HBR notes: "These plug-and-play systems are prohibited in many instances in the U.S. because of outdated federal, state, and regional regulations. These encompass, for example, arbitrary fees or paperwork that make it harder for people to get permission to install these solar systems, and help utilities retain their monopoly on energy generation. Some utilities interpret the regulations to not allow distributed generation at all. Many of these regulations were put in place before modern inverters (which allow solar electricity to safely feed back to the grid) existed, and so local utilities are largely responsible for interpreting them, despite the inherent conflict of interest to maintain their monopolies."

For instance, Michigan Republicans passed a law "that limits the amount of renewable energy that state residents can generate." So much for Republican support of "free markets" and "small government." One Michigan Company, Upper Peninsula Power Company, "reached its cap for Category 1 renewable energy sources" and is this "no longer able to enroll new customers in the program, due to state law. This impacts any Upper Peninsula Power Company customers who are interested in installing even small solar units such as plug-and-play portable solar systems that do not return any electricity to the grid."

HBR rightly notes these regulations limit "the solar industries' rate of growth." I would argue they are intended to do just that. Regulators and utilities are in this game together, against newcomers and consumers.

Even though energy consumption is more expensive during the day—due to higher demand—utilities are changing regulations allowing them to punish individual solar users by paying low amounts for the excess daytime energy they produce and then charging them much higher rates to transfer it back to them at night. San Diego Gas & Electric was allowed to price daytime electricity for solar homes at 27¢ during the day and 54¢ in the evening. This is forcing individual energy producers to buy batteries. However, when Australian individuals solar producers had the same move played on them by their utilities, regulations stopped many from installing the batteries.

The New York Times reported that in 2016, when the article appeared, regulators in 10 states "were weighing or approving rate design measures that could undermine the economic appeal of home solar systems." Regulators are shifting "peak demand" hours to the evenings in order to take savings from individual producers and pass them on to consumers who don't use solar. Michael Picker, president of California Public Utilities Commission justifies this by arguing, "People want choices, they want customized services. And how do you make that fair to everybody, because not everybody is moving as adopters at the same pace?" Because some people aren't adopting solar energy they should be rewarded while those who do adopt it are punished. Picker sees this as acceptable because the grid is provided by one electricity producer—another reason provision of grid services should be held by a company that is not a producer—so all producers are treated equally.

Consumer Reports noted that 30 states were considering new regulations "to increase fixed charges for all residential customers. Those fees would be charged to every household before the meter even starts running and are in addition to per-kilowatt-hour charges." If this drives more consumers off-the-grid the utilities can counter with regulations requiring all individual producers be connected—whether they want to or not.

Robin Speronis, of Cape Coral, Florida wanted to live "off the grid." She installed solar panels for electricity and a rain capture and filtering system to provide her home with water. She was then prosecuted by the local government for doing so. City regulations required her to be connected to the electricity grid and water system whether she used it or not. Of course, there are still monthly fees paid to utilities just for being connected.

The way utility regulations are going these utilities will be able to make a profit off of mandatory fees even if the power is entirely produced by the consumer.

In 2015 I argued "the bulk of redistribution via politicized markets is upward, not downward." I also warned: "both Left and Right misunderstand redistribution in politicized environments. The Left believes the regulatory state and its programs benefit the poor. Conservatives complain wealth-redistribution is a downward enterprise supporting 'welfare queens' and 'lazy people.' There are wealth redistributions favoring the poor, but it would appear most wealth redistribution is an upward phenomenon. In other words, when a market is politicized, beneficiaries will be the rich and powerful, not poor and powerless."

The Regulatory State is not the enemy of big corporate interest, it is the enemy of honest big corporate interests and the friend of dishonest crony capitalists being guaranteed income via political pull and political manipulation of markets—at the expense of consumers. In many states "regulation" of utilities is a massive scheme to empty the pockets of working people to pad the bank accounts of big corporate interests. Of course, if you challenge that system you'll be accused of supporting predatory capitalism.

This article was originally posted in The Radical Center.

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