

**PUBLIC AFFAIRS 7535**

**Markets or Mandates: The Political Economy of  
Regulation, Deregulation, and Reregulation**

Professor Douglas N. Jones  
Spring Semester, 2018  
3 Credits, Wednesdays, 2:35 – 5:10pm  
Page Hall, Rm. 240

**General Statement:**

The *economic* regulation of industries and business activities has been a major governmental practice in the U.S. for well over a century. Two service sectors of great importance to the economy that historically have been a focus of regulation are the public utilities (electricity, natural gas, telecommunications, and water) and financial institutions. The main object of such oversight is consumer protection, broadly conceived, and looking after the public interest: the main structures employed are multi-member regulatory commissions (e.g., Federal Energy Regulatory Commission, Federal Communications Commission, Securities Exchange Commission) or single-administrator agencies (e.g., Treasury Department, Environmental Protection Agency). The last thirty years, however, have seen a reexamination of how best to achieve these goals – specifically when and where to employ various market competition mechanisms to replace direct intervention and continuous oversight. The result has been a paradigm shift to relaxed regulation (sometimes outright deregulation) and major reliance on markets in the utility (energy and telecommunications) and financial (banking and investment) fields. While trusting to market solutions in these sectors has provided some success stories, in other instances the results have been very uneven and occasionally (as we have learned) calamitous. This course examines the strengths and limitations of each approach – mandates and markets -- the occasion for and evolution of their policy development, and the prospects for regulation, deregulation, and reregulation in the U.S. economy. Also included in this same context are several sessions on antitrust regulation and environmental regulation and their current status as policy instruments.

### **Class Procedure and Grading:**

The class will meet weekly, and lecture/discussion will be the format based on assigned readings. Electronic postings on Canvas will generally be used; and certain additional readings will be handed out in hard copy. In some cases guest speaker will join a class session. A seminar atmosphere will be encouraged, and substantial class participation will be expected. A mid-term exam and a final exam will be given. The weighting for grading purposes will be: mid-term = 35%; final = 50%; and class participation = 15%.

### **Session Topics: The Course in Outline**

- Session #1 – Origin, Goals, and Concept of Commission Regulation
- #2 – Theories and Independence of Administrative Regulation
- #3 – Determining Rates and Returns
- #4 – Energy Regulation and Sector Performance
- #5 – Telecommunications Regulation and Sector Performance
- #6 – Appraisal of Utility Regulation/Deregulation: Successes, Failures, and In-Between
- #7 – Midterm Examination
- #8 – Environmental Regulation (emphasis on energy sources) -- I
- #9 – Environmental Regulation -II
- #10 – Financial Regulation – I
- #11 – Financial Regulation -- II
- #12 – Antitrust Regulation – I
- #13 – Antitrust Regulation -- II
- #14 – Reregulation: Whether, What, and How Much?

### **Session Assignments:**

#1, January 10, -- Charles F. Phillips, Jr., *The Regulation of Public Utilities*, 3<sup>rd</sup> ed., Public Utilities Reports, Inc. Arlington, Va., 1993, Ch. 1 and Ch. 2 (through p. 61) and Ch. 3 (handout).

#2, January 17-- Phillips, Ch. 4 and Ch. 5. Douglas. N. Jones, "Agency Transformation and State Public Utility Commissions", *Utilities Policy*, 14, March 2006, pp. 8-13 (handout).

#3, January 24 – Phillips, Ch. 8 (through p. 342) and Ch. 10 (through p. 452)

#4, January 31, -- Alan Schriber and James Brock, "The Electricity Industry", Chapter 3 in *The Structure of American Industry*, James Brock, ed., Twelfth Edition, Prentice Hall, 2009, pp. 58 – 97. Paul L. Joskow, "Creating a Smarter U.S. Electricity Grid", *Journal of Economic Perspectives*, Winter 2012, Vol. 26, No. 1, pp. 29-45 (Canvas). Wayne Olson, "Fairness, Financial Autonomy and Independence: Lessons from Regulated Industries", *Electricity Journal*, Jan./Feb. 2012, Vol.25, Issue 1, Elsevier, pp. 57-67 (Canvas).

#5, February 7, -- Genio Staranczak, "The Evolving Nature of Telecommunications Regulation", *NRRI Journal of Applied Regulation*, November 2004, pp. 25-35 (handout). Howard A. Shelanski, "Adjusting Regulation to Competition: Toward a New Model for U.S. Telecommunications Policy", *Yale Journal on Regulation*, Winter 2007, pp. 1-23 (Canvas).

#6, February 14- Harry M. Trebing, "A Critical Assessment of Electricity and Natural Gas Deregulation", *Journal of Economic Issues*, Vol. XLII, No. 2. June 2008, pp. 469-477 (Canvas). D. Jones and E. Rosenberg, "Utility Restructuring and Unnatural Acts," *Public Utility Fortnightly – Spark*, #50, February 2008 (handout). J. Pfeifenberger and A. Schumacher, "Restructuring Realities", *PUF*, July 2011, pp. 51-54 (handout). Kenneth W. Costello, "Ways for Utility Regulation to Grapple With New Developments in the U.S. Electric Industry", *Electricity Journal*, Jan. 29, 2016, pp. 50-58 (Canvas).

#7, February 21,-- Midterm Examination

#8, February 28, -- A. Myrick Freeman III, "Environmental Policy Since Earth Day 1: What Have We Gained?" *Journal of Economic Perspectives*, Vol. 16, No. 1, Winter 2002, pp. 125-146 (Canvas). Gilbert Metcalf, "Market-based Policy Options to Control U.S. Greenhouse Gas Emissions," *Journal of Economic Perspectives*, Vol. 23, No. 2, Spring 2009, pp. 5—27 (Canvas). Kenneth W. Costello, "Why Natural Gas Has an Uncertain Future", *Electricity Journal*, September 2017, pp. 18-22 (Canvas).

#9, March 7, -- Lawrence H. Goulder, "Markets for Pollution Allowances: What Are the Lessons?", *Journal of Economic Perspectives*, Winter 2013, Vol. 27, No. 1, pp. 87 – 100 (Canvas). Richard Schmalensee and Robert Stavins, "The SO2 Allowance Trading System: The Ironic History of a Grand Experiment", *JEP* (as above), pp. 103 – 119 (Canvas).

#10, March 21, -- Steven Pilloff, "The Banking Industry", Chapter 10 in *The Structure of American Industry*, James Brock, ed., Twelfth Edition, Prentice Hall, 2009, pp. 265 – 293(Canvas). Frank Ulger, "Social Provisioning and Financial Regulation: An Institutionalist-Minskyian Agenda for Reform," *Journal of Economic Issues*, Vol. XLIX, No. 2, June 2015, pp. 493 –500 (Canvas). Ray Barrell and E. Philip Davis, "Financial Regulation", *National Institute Economic Review*, No. 216, April 2011, pp. 4-9 (Canvas).

#11, March 28,-- John Y. Campbell, H. Jackson, B. Madrian, and P. Tufano, "Consumer Financial Protection", *Journal of Economic Perspectives*, Winter 2011, Vol. 25, No. 1, pp. 91 – 109 (Canvas). Robert E. Prasch, "The Dodd-Frank Act: Financial Reform or Business as Usual?", *Journal of Economic Issues*, June 2012, pp. 549 -555 (Canvas). Editorial, "Bank Business Models, Regulation, and the Role of Financial Market Participants in the Global Financial Crisis", *Journal of Banking and Finance*", pp. 51-55 (Canvas).

#12, April 4, -- William G. Shepherd, *Public Policies Toward Business*, Chapter 5 – Antitrust Tasks and Tools, 8th edition, R.D. Irwin, 1991, pp. 116 -140 (Canvas).

#13, April 11, -- W. G. Shepherd (as above), Chapter 11 – Antitrust Appraised (handout). Dennis W. Carlton, “Does Antitrust Need to be Modernized?”, *Journal of Economic Perspectives*, Summer 2007, Vol. 21, No. 3, pp. 155 -175 (Canvas).

#14, April 18,-- Richard D. Cudahy, “Whither Deregulation: A Look at the Portents”, *New York Survey of American Law*, Vol.58, No. 2, 2001, pp. 155 – 186 (Canvas). Douglas N. Jones, “Bottling the Genie”, *Public Utilities Fortnightly*, April 2013, pp. 42-46 (handout). Eva Barrett, “Market Liberalization: Five Seductively Simple Steps, to Making It Work”, *Electricity Journal*, April 2017, pp. 51-55 (Canvas). P. J. Cooper, *The War Against Regulation: From Jimmy Carter To George W. Bush*, “Reality Versus Mythology in the War Against Regulation”, pp. 221-228 (handout). [clippings on recent congressional legislation of banks and investment firms as handouts].

Final Examination – TBA (over entire course)

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### Course Policies

**Academic Misconduct Statement.** Please feel free to adjust any part of the below example statement to suit your personal style. However, the information underlined should be included (in your own words or as suggested below) so as to provide the minimum necessary information for students. The underlined passages are for your reference. Please feel free to remove the underlining at your discretion. (From: <http://oaa.osu.edu/coamfaqs.html#academicmisconductstatement>):

“The Ohio State University and the Committee on Academic Misconduct (COAM) expect that all students have read and understand the University’s [Code of Student Conduct](#) and that all students will complete all academic and scholarly assignments with fairness and honesty. Failure to follow the rules and guidelines established in the University’s Code of Student Conduct may constitute “Academic Misconduct.” Sanctions for the misconduct could include a failing grade in this course and suspension or dismissal from the University.”

“In the Ohio State University’s [Code of Student Conduct](#), Section 3335-23-04 defines academic misconduct as: “Any activity that tends to compromise the academic integrity of the University, or subvert the educational process.” Examples of academic misconduct include (but are not limited to) plagiarism, collusion (unauthorized collaboration), copying the work of another student,

and possession of unauthorized materials during an examination. Ignorance of the University's [Code of Student Conduct](#) is never considered an "excuse" for academic misconduct."

If you have any questions about the above policy or what constitutes academic misconduct in this course, please contact me.

Other sources of information on academic misconduct (integrity) to which you can refer include:

- The Committee on Academic Misconduct web page:  
<http://oaa.osu.edu/coam.html>
- *Ten Suggestions for Preserving Academic Integrity*:  
<http://oaa.osu.edu/coamtensuggestions.html>
- *Eight Cardinal Rules of Academic Integrity*:  
[www.northwestern.edu/uacc/8cards.html](http://www.northwestern.edu/uacc/8cards.html)

### **Glenn College Diversity Values Statement.**

The Glenn College is committed to nurturing a diverse and inclusive environment for our students, faculty, staff, and guests that celebrates the fundamental value and dignity of everyone by recognizing differences and supporting individuality. We are dedicated to creating a safe space and promoting civil discourse that acknowledges and embraces diverse perspectives on issues and challenges that affect our community.

### Accommodation Policy

The University strives to make all learning experiences as accessible as possible. If you anticipate or experience academic barriers based on your disability (including mental health, chronic or temporary medical conditions), please let me know immediately so that we can privately discuss options. To establish reasonable accommodations, I may request that you register with Student Life Disability Services. After registration, make arrangements with me as soon as possible to discuss your accommodations so that they may be implemented in a timely fashion. **SLDS contact information:** [slds@osu.edu](mailto:slds@osu.edu); 614-292-3307; [slds.osu.edu](http://slds.osu.edu); 098 Baker Hall, 113 W. 12<sup>th</sup> Avenue

### **Mental Health Statement**

As a student you may experience a range of issues that can cause barriers to learning, such as strained relationships, increased anxiety, alcohol/drug problems,

feeling down, difficulty concentrating and/or lack of motivation. These mental health concerns or stressful events may lead to diminished academic performance or reduce a student's ability to participate in daily activities. The Ohio State University offers services to assist you with addressing these and other concerns you may be experiencing. If you or someone you know is suffering from any of the aforementioned conditions, you can learn more about the broad range of confidential mental health services available on campus via the **Office of Student Life Counseling and Consultation Services (CCS)** by visiting [ccs.osu.edu](https://ccs.osu.edu) or calling 614-292- 5766. CCS is located on the 4th Floor of the Younkin Success Center and 10<sup>th</sup> Floor of Lincoln Tower. You can reach an on call counselor when CCS is closed at 614--292--5766 and 24 hour emergency help is also available through the 24/7 National Suicide Prevention Hotline at 1--800--273--TALK or at [suicidepreventionlifeline.org](https://suicidepreventionlifeline.org). Also, the OSU Student Advocacy Center is a resource to help students navigate OSU and to resolve issues that they encounter at OSU – visit <http://advocacy.osu.edu/> .