

“Protect the Consumer” – From What?

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Today’s Consumers: Victims or Actors?

In statutes, orders, and conversations, “regulating utilities” and “protecting consumers” are phrases joined at the hip, often offered as synonyms. I have equated “regulating utilities” instead with “inducing performance.” Regulators can define the desired performance and condition utility-sought approvals on that performance. They can embed performance in commission organization and processes, by framing regulatory proceedings as performance inquiries and regulatory opinions as performance assessments. See “Utility Performance: Will We Know It When We See It?”.

If “regulating utilities” means “inducing performance,” what do we mean by “protecting consumers”? Protecting them from what?

If the purpose of regulation is performance, then regulation protects consumers from poor performance—price gouging, false advertising, suboptimal service, and voicemail hell. We introduce regulation when markets fail—when seller misbehavior draws no consequences because customers are captive.

This traditional view of consumer protection has two limitations. First, it is incomplete. Customers remain captive to many other forces that drive up costs or impair services, such as inflation, weather, and inefficiencies in input markets for fuel, concrete, and construction services. Second, it leaves customers exposed to the costs arising from their own inefficient behaviors—and those of their neighbors. A small but common example: In my county, a resident can forbid the utility from cutting down trees on his property, even if that tree’s collapse could cause outages elsewhere.

Traditional consumer protection thus seems to view customers as victims and innocents. This traditional view deserves a second look. Consumers are not merely captives to be protected; they are also actors to be empowered and influenced—empowered to avoid becoming captive, and influenced to own their actions. By creating choices, by educating consumers on those choices, and by assigning consumers the consequences of their choices, regulators can improve the performance of consumers and utilities alike.

Today’s Consumer Education: Empowerment and Responsibility

Traditional consumer protection produced traditional consumer education: how to read a meter, interpret a bill, light a pilot light, report an outage. This approach was rooted in an industry structure where the seller was a monopoly and the customer a captive, where energy

consumption was an unconditional right (provided the customer paid her utility bills). The consumer was a ward to be protected, consumption an act to be encouraged.

Things are different now. With retail competition (telephone in all states, gas and electricity in some), the customer has choices. With global pollution, consumption causes externalities. Customers are not merely wards to be protected; they are also actors to be empowered and influenced. Price increases prompt protests, but not every protest stems from abuse. There is no avoiding the price increases necessary to wean us from fossil fuels, to spread broadband, and to modernize our water and gas pipelines. The educated person is not only a consumer with rights but also a citizen with responsibilities. Consumer education must reflect these facts.

To transmit these multiple messages, and cause consumers to absorb them, will require education on six themes:

It's our turn to help: We owe today's infrastructure to yesterday's consumers. Now it's our turn to contribute for tomorrow's consumers. Responsibility does not skip generations.

We are all cost causers: Consumers are not innocent victims. Their decisions about house size, commuting distance, appliance use, and temperature settings cause externalities today and capacity costs tomorrow. We can shove those costs onto our successors or we can bear them now.

Cost increases are unavoidable: Infrastructure breakdowns and obsolescence, new grids and grid services, clean power sources, communications technology—their costs do not respond to protests. Cost increases and rate increases are inevitable.

"Protection" will depend more on discipline than on protest: The more we educate consumers about their alternatives (in terms of equipment, sellers, and rate designs), the more they can align their behavior to reduce everyone's costs. The best consumer protection is self-protection.

The reliability-cost tradeoff deserves a second look: In the developed world we expect and demand near-perfect power availability. That standard comes at a cost. It is not the only possible standard. Educating customers on perfection's cost opens doors to discussions of tradeoffs at lower cost.

Customer education must line up with industry facts: Here's what the Maryland Commission said, in its order conditioning its approval of BG&E's "smart grid" proposal:

“[W]e cannot emphasize this strongly enough: the success of this [smart grid] Initiative, and the likelihood that customers will actually see the benefits this project promises, depend centrally on the success of the Company's customer education and communication effort. ... Timing is crucial—customers must get the information they need before BGE installs meters in houses, before Peak Time Rebates begin, and before any other programmatic changes would take effect.”

Consumer Education’s Challenges: Politics and Metrics

Consumer education succeeds if it converts consumers from victims to actors, if it shifts their attitudes from “Shield me” to “How can I help?” Success will require politicians and regulators to play their distinct roles. We need political leaders to lead—to inspire citizens to do the work of choosing well and bearing the costs of their choices. Then regulators can succeed in their jobs—planning infrastructure, designing rates, and setting performance standards.

Easier said than done. Our electoral reality is that candidates who tout “green power,” “smart grid,” “energy independence,” and “universal broadband”—leaving costs unmentioned—beat those who predict tough choices, rate increases, and the need for sacrifice. These political “winners” leave the problem to regulators, who then must persuade citizens used to prices below costs to start paying prices reflecting all costs.

Accompanying the realities of politics is the challenge of metrics: How do we test education’s effects? Traditional metrics measured inputs (meters installed, customers contacted, flyers distributed, advertising dollars spent, coupons redeemed, customer calls answered). Today’s metrics must also address outcomes: Has consumption dropped? Demand shifted? Broadband been disseminated? Is there a rise in public-spiritedness?

Conclusion: Bases for Optimism

Regulation’s mission of cost effectiveness requires us to treat consumers not as interests to placate but as actors to inspire. We can inspire best if we assume a consumer mindset of “How can I contribute?” rather than “What’s in it for me?” Customer education that stretches perspectives, that demands active choosing, that explains how the community’s welfare depends on each customer’s actions, is better than education that merely instructs customers in how to cut their bills. Which do you think reduced littering more—highway signs warning “Littering Prohibited—\$500 fine,” or the ad campaign of “Don’t Mess with Texas”?