

The Synthesizing Regulator

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I have been through this wringer. Synthesizing massive amounts of data, intelligence, slants, opinions, tactics, and trying to maintain a strategic big picture was a challenge. You feel it creeping up into your brain like a numbing cold and you just have to choke it down, sift faster, and stay with it. [It's] challenging, to be sure, but if you practice it, you develop a good tool for the leadership toolbox.

— Navy Captain Richard Severs, quoted in Howard Gardner, *Five Minds for the Future* at pp. 46-47

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Daily, weekly, monthly, and yearly, regulators enter and re-enter a similar wringer. Multiple industries (electricity, gas, telecommunications, water, ferries in Hawaii, taxis in Maryland, grain elevators in South Dakota); hundreds of cases (each one dumping a paper pile high enough for the pole vault); seven professional disciplines (engineering, law, economics, finance, accounting, management, politics); conflicting policy goals (reliability, cost effectiveness, environmental responsiveness, affordability); multiple pressure points (shareholders, bondholders, consumers, employees, federal and state legislators)—all press for attention. Like Captain Severs, regulators have to “choke it down, sift faster, and stay with it.”

In Regulation, Synthesis Is Survival

“Sources of information are vast and disparate, and individuals crave coherence and integration.” Gardner at 46. Regulators must synthesize not just to satisfy a craving but to ensure survival. The regulatory universe has atoms and galaxies—individual cases and broad statutory purposes. To master it all, a regulator needs both microscope and telescope—and the synthesizing skills to make sense of it all.

Life inside a rate case can feel microscopic—a revenue requirements spreadsheet with a thousand cells. But a rate case is not just numbers; it is hundreds of judgments about prudence, capital structure, CEO compensation, price signals, fuel mix, short-term economic effects and long-term investment strategies, internal performance and external influences—all bound together by two central questions: What is the regulator’s vision for this company’s purpose and performance? How can the regulator shape her decision so that her vision becomes the company’s vision? She must learn how the atoms form galaxies.

So the regulator must turn from microscope to telescope. Every commission role, from chairperson to first-year accountant, requires its own exercise in synthesis: defining the agency's mission; establishing utility performance standards; communicating those standards (and the commission's intent to enforce them) throughout the regulated industries and the practitioner communities, among fellow commissioners and staff, and to adjacent states; recruiting the expertise that fulfills the mission; then molding the interdisciplinary relationships to produce the required results.

“Perhaps the most ambitious form of synthesis occurs in —multidisciplinary work.” Gardner at 47. Multidisciplinary synthesis must occur both within professionals and within organizations. Who has the most influence in regulation? Lawyers who can talk capital structure with the economists, economists who can talk transmission with the engineers, financial analysts who write with the clarity of Ernest Hemingway, chairpersons who can design a tariff one day and sway a legislative committee the next. These leaders model “multiperspectivalism” (Gardner's admittedly awkward term) for their entire organizations, which in turn must replicate this cross-cultural fluency. The best regulatory orders result not from stapling together each department's reports, but from the professional toothbrush-sharing that occurs when different disciplines live in each other's dormitories.

Why Is Synthesizing Difficult?

“[A]s a species, we are predisposed to learn skills in certain contexts and to resist—or at least find challenging—their wider generalization and broader application.” Gardner at 47. Synthesizing does not come naturally, for the adult mind is inherently conservative. Gardner echoes the thought (at p.65): “[A]s a species, we evolved to survive in distinctive ecological niches; we did not evolve in order to have correct theories, to master disciplines, or to transfer lessons encountered in one setting appropriately to others.”

Here's the message for regulation: Synthesis requires active thinking—but whose? The typical case submitted to a regulator reflects the submitter's active thinking, rooted in the submitter's self-interest. Synthesis requires the regulator's active thinking. She must (1) create, and articulate, her own vision; then (2) craft a strategy that aligns the submitter's interest with that vision. And to find the mental and temporal space necessary to carry out this hard work requires yet more synthesis—the synthesis that organizes one's day, week, and year to ensure that one's own priorities prevail over the stream of others' demands. (On that topic, see the chapter “Know Thy Time” in Peter Drucker's classic, *The Effective Executive*.)

The “Obligation to Serve” Imposes on States a Unique Synthesizing Role

Despite all the state-level concern about a growing federal footprint, utility regulation's dominant feature is the obligation to serve. That obligation is exclusively a state law

construct. State commissions are its definers, designers, and enforcers. Those three verbs—defining, designing, and enforcing—require a special synthesizing effort, because the federal regulators are injecting national concerns, often unsynthesized, into state-level contexts.

A federal policymaker sees a transmission shortage, so he creates, or exercises, new federal powers to stimulate transmission. Another sees a broadband shortage, so she sends money to states to stimulate broadband penetration. A third worries about water quality, so the EPA sets new standards. Each example produces demands on the state-level synthesizing mind.

Consider: For transmission construction to be cost-effective and politically acceptable, state commissioners must synthesize state policies on land preservation, environmental effects, aesthetics, and cost-effectiveness (in light of multiple transmission, generation, and demand-side options); and they must mitigate political tensions by offering consolation (and compensation) to the offended. To make effective use of federal broadband money, the state decisionmaker must address physical infrastructure, assess citizens' sophistication, and determine the quantity and quality of commercial entrants, all while determining what type of governmental agency will best craft and execute the penetration strategy. The change in water quality standards will require an assessment of water company managerial capability, rate structure and rate levels, and infrastructure readiness.

These examples demonstrate the uniqueness of state-level synthesis. Utilities have no federal legal obligation to serve. The legal obligation to serve is sourced in state law. To enforce that obligation, state commissions must satisfy multiple objectives: reasonable cost, environmental compatibility, utility financial health, infrastructural adequacy, minute-by-minute physical stability, prompt customer service, and competent outage management, not to mention the customer education necessary to ensure that the citizenry's expectations remain realistic. Each of those objectives in turn demands inputs from the multiple professional disciplines that populate regulatory agencies.

This link between our utilities' "obligation to serve" and our state commissions' "obligation to synthesize" brings the focus back to the purpose of regulation: ensuring utility performance. State regulators must integrate the disparate federal decisions into a coherent set of expectations about utility performance and a coherent set of regulatory signals that induce that performance. That challenge is what makes state utility regulation unique—and so demanding of the synthesizing mind.