Commission "Branding": Can It Help Produce Utility Performance?

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For Utility Commissions, Does Branding Belong?

There is plenty to dislike about the verb "to brand." Its connotations include manipulating emotions and manufacturing loyalty through oversimplification and slickness. "I Can't Believe It's Not Butter" brands itself as "zero calories" only because each spray-shot's calorie count falls below the quantity at which the FDA allows ads to assert, falsely, "zero" calories.

But branding can have a positive purpose. It can increase understanding, appreciation, and respect, producing the political deference required for hard decisionmaking. That result—political deference—is the real reason to brand. Given the surfeit of manipulative messages that do permeate politics, a principled effort to brand can distinguish a commission both substantively and ethically.

There is also a defensive purpose. Eric Filipink's recent NRRI paper, Serving the "Public Interest"—Traditional vs. Expansive Utility Regulation, describes our era's expansion of commission's statutory roles, from old world (setting reasonable rates) to new world (establishing market structures, promoting energy efficiency, increasing renewable energy, empowering consumers, protecting the environment, financing broadband, stimulating economic development). These new roles bring new stakeholders. Shopping for outcomes, they seek to cast their commission in the roles they want played. Consider transmission line disputes. Opponents see the commission as land protector; proponents stress the commissions' duty to "open up markets." Whoever loses then denounces the commission for having shirked its duty—the duty as defined by that stakeholder. The commission must do its own branding.

Branding Begins With Self-Definition

Branding begins by defining oneself: differentiating with coherence. The coherence part is a real challenge. Legal responsibilities often arrive piecemeal, each year's legislature shoe-horning new ideas into the commission's 1930s-era statute. To sum up these disparate duties in a "brand" when coherence was absent at their creation is not easy. Yet the commission is likely the only entity with the authority and ability to pull off a rational resolution of the multiple policy thrusts. So a brand must emerge.

Non-experts at branding, like me, find it easier to critique than to create. With a tentative promise to offer positive thoughts in the future, here are some critical thoughts. I'll use a composite branding statement drawn from several websites: "The Commission regulates the state's electric, gas, telecommunications, and water industries in the public interest." This sentence is a start, but it raises several questions.

"Regulate." The term "regulate" has suffered such mixed use and overuse that any five commissioners would likely define it in five different ways. The purpose of regulation is performance. To "regulate" is to influence an actor's behavior, to produce performance that promotes the public interest. That means setting standards, enforcing them, and getting results. A commission regulates effectively not when it issues a stated number of orders, but when the utility's performance satisfies the public interest. Branding, therefore, should focus less on the ideology-laden term "regulate," and more on the public-interest goal of performance.

"Industry." To say one regulates an "industry" is inaccurate, in a literal, legal sense. A commission does not regulate an industry; it regulates the behavior of actors within that industry. The commission's orders are obeyed by individual entities with a corporate or personal existence; an "industry" has neither. Further, there are many actors within these four "industries" who are responsible for performance but who sit outside the commission's jurisdiction: the equipment makers, the money lenders, the entities that train and license the skilled craftspeople.

Yet "industry" does have relevance, because an industry performs. Commission decisions about industry structure (competition or monopoly, vertical integration or disaggregated ownership, bundled or unbundled services) should have performance as their purpose. Commissions regulate the performance of specific entities to produce the performance of an industry.

"Public interest." We all use the phrase "public interest" repeatedly, but we rarely define it. Expect each regulated actor to offer a different definition, grounded, not surprisingly, in the actor's pecuniary well-being. A commission needs its own definition. I've defined the "public interest" as a composite of economic efficiency (achieving the best feasible benefit-cost ratio), sympathetic gradualism (moderating efficiency's short-term pain, so that the public accepts the need for long-term gain), and political accountability (adjusting the angle and pace of change—without caving in—to ensure that acceptance). See my October 2007 essay The Effective Regulator, Part I: Purposefulness.

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So, the three main elements of this composite commission self-description—"regulate," "industries," and "public interest"—all deserve more precision. To brand is to differentiate. A commission cannot differentiate using shopworn terms. By eliminating confusion and ambiguity, branding can portray purpose.

Branding Creates Accountability for Performance

The Ontario Energy Board Act (1998) includes this Board objective:

"To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry."

The phrase brings performance to the foreground. The key word-pairs—economic efficiency, cost effectiveness, and financial viability—are all about performance. Applied conscientiously, they lead to expectations and standards, and from there to measurements and judgments. The phrasing makes the Board accountable for performance.

But does the term "promote" undermine accountability? "Promote" accurately implies that the Board is not responsible for actually achieving economic efficiency, cost effectiveness, and financial viability; that would be the utility's job. But if a regulator's job is merely to "promote," how then can it brand itself as responsible for results? Bridging this gap between promoting and producing, between defining standards and extracting performance, is what defines regulatory success.

From Branding to Mission Statement

Our thoughtful colleague Larry Landis, an Indiana Commissioner and former advertising executive, asserts that "as a part of a commission's branding process, they need to develop a meaningful mission statement. The shorter, and the more likely it is to be assimilated, internalized, and even committed to memory, the better ... AND the more it says about the 'togetherness' and focus of the organization. Organizations with long, rambling mission statements tend to be unfocused and undisciplined."

He offers two favorites—one from his alma mater and the other from the Indiana Historical Society:

> *"Wabash College educates young men to think critically, act responsibly, lead effectively, and live humanely."*
>
> *"Indiana's storyteller: connecting people to the past."*

What's your commission's mission statement?