

Energy and Competition Policy in United States

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Overview

- ⌘ Historical Context
- ⌘ Major Policy Challenges
- ⌘ Opportunities for Comparative Work

Historical Context

☒ Intensity of Antitrust Scrutiny of Energy Markets

- ☒ Examples: Standard Oil (1911), Socony Vacuum (1940)

☒ Extensive Regulatory Intervention and Political Oversight

- ☒ Price and output controls

- ☒ Repeated studies: pressure guage model

- ☒ Regulatory Fragmentation: Federal, State, Local

☒ Intersection with National Security

- ☒ FTC, International Petroleum Cartel study (1940s)

- ☒ Proposed CNOOC/Unocal Transaction (2007)

☒ Social Impact of Relatively Inexpensive Energy Supplies

Modern Policy Challenges

⌘ Formative Influence of Crisis

⌘ Regulatory Archipelago

⌘ Petroleum and Natural Gas

⌘ Electricity

⌘ Supply, Demand, Climate Control

Formative Influence of Crisis

⊞ Enron (CFTC and FERC)

⊞ Madoff (SEC)

⊞ Subprime Mortgages (Treasury and Federal Reserve Board)

⊞ Perceived Lessons

Regulatory Archipelago

- ⌘ Two National Competition Agencies: DOJ and FTC
- ⌘ National Sectoral Regulator: FERC
- ⌘ State Antitrust Offices
- ⌘ State Sectoral Regulators: Public Service Commissions
- ⌘ Local Oversight: E.g., Transmission Line Location Decisions
- ⌘ Private Rights of Action
- ⌘ Optimal Regulatory Design and National Economic Advantage

Petroleum and Natural Gas

- ⊞ Merger Control: 1990s Transactions and GAO (2004) Study
- ⊞ Conduct Inquiries: E.g., Unocal and Standards
- ⊞ Studies: E.g., Katrina Report (2006)
- ⊞ Price Monitoring Project and Raised Expectations
- ⊞ Market Manipulation Statute (2007)
- ⊞ Discussions of Price-Gouging Legislation
- ⊞ Response to Legislative Inquiries
 - ⊞ Cases: In re Exxon (1973)
 - ⊞ Studies
 - ⊞ Hearings: e.g., Majoras confirmation proceedings (2004)

Supply, Demand, Climate Control

⊞ Boutique Fuels

⊞ Refinery Construction or Expansion

⊞ Transmission Siting

⊞ Terminal and Pipeline Location

Larger Policy Challenges

⊞ Public and Political Demands That Energy Supplies Be:

⊞ Abundant, cheap, and green

⊞ Are US Energy Prices Too High or Too Low?

⊞ Educational Role with Legislature?

⊞ Staff Morale and Study Fatigue

⊞ Is Regulatory Framework Subject to Change?

⊞ Crisis as catalyst? Case of electricity transmission

⊞ Vulnerability of regulatory controls to manipulation: e.g.,
land use

Future FTC Work Program

- ⌘ Comparative Work: Common Research Projects with
 - ⌘ Competition authorities
 - ⌘ Energy regulators
- ⌘ Deeper Consultation with
 - ⌘ Energy regulators
 - ⌘ Environmental protection authorities
- ⌘ Role as Convenor
- ⌘ Evaluation of Mergers and Other Phenomena