

Exercising Leadership in Regulation

Mark A. Jamison, Ph.D.¹

Introduction

It's hard to let go of valued traditions, but that's what state regulators did in 1993 when they took the lead in opening local telephone markets to competition in the United States. For decades, the Federal Communications Commission (FCC) and the courts had led the charge to liberalize telecommunications. States had generally resisted these efforts, but these particular commissioners saw the future – a future in which monopolies should not be protected and in which customers could benefit from open competition – and concluded that state regulators could either drive the train that would open the last monopoly markets to competition or be run over by it. The challenge this handful of commissioners faced was how to get 50 state jurisdictions and the District of Columbia to act together to make a significant policy change. I describe how they succeeded in doing this later in this article.

Why is this bit of history worth examining today? Regulatory policy in the United States and abroad needs more of this kind of leadership – leadership that can bring about meaningful change to a decentralized system when the going is tough. For instance, five years after the U.S. Federal Energy Regulatory Commission (FERC) issued its order on regional electricity transmission systems there is still no agreement on whether or how to create regional transmission organizations. The implementation of the U.S. Telecommunications Act of 1996 (1996 Telecom Act) has met with so many problems, delays, and court challenges that there is a loud outcry for a rewrite. States are suing each other over water rights. And within some states, environmentalists, developers, farmers, city dwellers and others are at odds in a game of power politics that seeks to protect various groups' access to cheap, clean water.

Not Just Leadership, but Adaptive Leadership

¹ Director, Public Utility Research Center (PURC), University of Florida, Gainesville, Florida, USA, <http://www.purc.org>, and Associate with Cambridge Leadership Associates, <http://www.cambridge-leadership.com>. I would like to thank Sanford Berg, Lynne Holt, and Patricia Mason at PURC for their helpful comments. All errors are my own.

Such problems are called adaptive challenges. Adaptive challenges arise when fundamental changes in a group's (or an individual's) environment call for the group to rethink of basic goals and strategies to thrive or even just survive.² Examples of major changes that have affected infrastructure regulation include the energy crisis in the 1970s and the development of the Internet, but numerous more minor changes exist. Adaptive challenges require *adaptive leadership*, which is about mobilizing people to tackle tough problems by challenging valued traditions and questioning long-held assumptions that may not be viable in the new environment, and by exposing people to the reality of new situations that must be understood for an effective response.³ See Table 1.

[INSERT TABLE 1 ABOUT HERE]

Adaptive leadership is different from traditional views of leadership, which Peter Drucker summarizes in his interview with Forbes.com.⁴ He describes leaders as people of solid character who set goals and priorities and then communicate them throughout their organizations. These people are mission- or vision-driven and communicate their vision to others, yet they also know their limitations and when to say “no,” and they reinvigorate those around them when crises occur. I refer to this view as *Authority* in Table 1 because this describes executive roles in most organizations.

Drucker's view is inspiring and important, but it is insufficient for our current infrastructure problems because no one person or legislative body is in a position to set goals and priorities for problems that involve multiple jurisdictions (including multiple countries in some instances). It is too large an order to understand the basic needs of numerous parties, obtain and process the information these stakeholders possess, and force them to learn and adjust their goals and expectations. For instance, designing and

² Heifetz, Ronald A. 1994. Leadership Without Easy Answers, Cambridge, MA: Harvard University Press.

³ Heifetz (1994); Heifetz, Ronald A., and Marty Linsky, Leadership on the Line: Staying Alive through the Dangers of Leading, Boston, MA: Harvard Business School Press, 2002; Donald L. Laurie, The Real Work of Leaders: A Report from the Front Lines of Management, Cambridge, MA: Perseus Publishing, 2000; Pascale, Richard T., Mark Millemann, and Linda Gioja, Surfing the Edge of Chaos: The Laws of Nature and the New Laws of Business, New York, NY: Three Rivers Press, 2000.

⁴ “Peter Drucker On Leadership,” Forbes.com, November 19, 2004, http://www.forbes.com/management/2004/11/19/cz_rk_1119drucker.html.

implementing a nuclear waste disposal system in the United States has languished on for years because legislation, regulatory rulemakings, and litigation have been insufficient to help people make difficult trade-offs, find common purposes, and adjust their lives and businesses according to growing concerns for our energy supply and demand.

Telecommunications provides another example where adaptive leadership has been lacking. U.S. policy makers tried to apply traditional leadership tools in writing and implementing the 1996 Telecom Act. The Clinton Administration started on the right foot by using workshops, task forces, and white papers related to the National Information Infrastructure (NII) initiative – this work helped people see communications in a new light – but when it came time for federal policymakers and regulators to make hard choices in writing laws and setting policy, they relied on political deal making, top-down regulation, and litigation. This left the adaptive work in telecom policy unfinished, with the result that the 1996 Telecom Act has been ineffective at best.

In contrast to these examples of leadership failures, our handful of state utility commissioners provided adaptive leadership. They faced a significant hurdle in 1993 convincing their colleagues to consider embracing local telephone competition. States had generally resisted competition in telecommunications because state regulation benefited from the implicit subsidies, cost allocation systems, and close regulatory oversight that were part of the traditional regulated monopoly system. To help their fellow state regulators be in a position to drive the train, the small group of commissioners decided to hold a unique event, a regulatory summit in Keystone, Colorado, where at least one commissioner from each state would hear about the future of competition and discuss its implications. Leading thinkers and key executives from the worlds of computing, media, and telephony talked about the future of communications. Significant time was set aside for dialogue, brainstorming, problem solving, and reflection. Following the summit, task groups of state commissioners continued to discuss outstanding issues. In part as a result of this work, almost every state had begun the process of opening local telephone markets to competition before the 1996 Telecom Act made local competition a national policy.

Identifying Adaptive Challenges

How do we know when adaptive leadership is needed, rather than traditional policy making? The key is to distinguish between technical challenges and adaptive challenges. Many policy issues present technical challenges, which, as Table 1 illustrates, can be addressed with traditional analytical tools and processes from political science, law, economics, and the like. Examples of technical issues include management audits, standard electricity rate case issues, public hearings, quality standards, and measuring market power. Such issues have either been solved before or can be solved without people having to change goals, beliefs, practices, etc., except at a superficial level.

There is a danger of treating adaptive challenges – those that require people to reorient traditions, mental frameworks, and jobs – as technical challenges. For example, regulators and industry have treated the badly outdated U.S. telephone subsidy system as a technical problem, investing years of work in search of a new, politically viable subsidy algorithm that would satisfy crucial stakeholders – including some telephone companies, regulators, and consumer groups – who hold dearly to long-held policy positions, traditional constituents, political power, and secure cash flows. I was part of this problem during my tenure working for state commissions and for Sprint: I consistently looked for ways to patch the system rather than go through the seemingly impossible task of practicing adaptive leadership, which would have helped my colleagues, other stakeholders, and me face the hard fact that the system was broken because our traditions and past benefits were in conflict with the realities of dynamic competition, diverse and evolving customer needs, and constant innovation.

Adaptive challenges in regulatory policy often involve problems with roles, traditional practices, conventional wisdom, perceived benefits, and constituents. For instance, reforming water management policies in Florida may challenge the established roles of regional water management districts, municipalities, lobbying groups, and various state agencies. It may also challenge long-held practices and beliefs of property owners, developers, environmentalists, and others about their rights to water, their participation in the planning process, and their economic futures. One view is that water policy is fragmented and in need of a central plan or authority. This view fails to recognize that central planning does not change people's minds and that markets and

multi- and bilateral agreements often allow complex systems to operate quite efficiently. Other issues relate to costs of water to service providers and customers. One view of these issues is that correct wholesale and retail pricing could solve many of Florida's water problems. This view fails to recognize that no amount of modeling to properly estimate marginal costs will mollify customers and developers who might find higher water costs unacceptable, or environmentalists who believe that water flows in the Everglades should be uninterrupted. Meaningful change will come about only when government officials, universities, and stakeholders effect a dialogue and investigative process(es) that define problems, challenge norms, expose real conflicts, identify facts, and help people orient to new roles and situations.

Some policy challenges include both technical and adaptive elements. Price rebalancing in telecommunications is a technical exercise involving well-established economic and financial calculations, transparent regulatory processes, and the like. However, analyses showing that most consumers benefit from rebalancing, calculations demonstrating that price changes are revenue-neutral, and public hearings to receive consumer input are often insufficient to convince an advocate for the elderly who believes her constituents should be able to buy the same telephone service they have always purchased at the same old price. Furthermore, analytical arguments and experience supporting the efficacy of economic incentives in reducing environmental pollutants are not compelling for an environmental regulator who believes that polluters should suffer if they fail to meet specified emission standards. Because technical solutions seek to modify the rules of the game without addressing the conclusions and assumptions that have been the foundation of the old rules and that are no longer consistent with reality, technical solutions can often make matters worse when they are the only tools applied to adaptive problems.

Adaptive Leadership Is Difficult and Dangerous

Ron Heifetz and Marty Linsky point out that, even though adaptive leadership is important and rewarding, it is also difficult and dangerous.⁵ Adaptive leadership is difficult because it forces people to question things that they have long held to be true and

⁵ Heifetz and Linsky (2002).

things that they value. Reputations may be at stake and, as Harvard economist John Kenneth Galbraith observed, “Faced with the choice between changing one's mind and proving that there is no need to do so, almost everyone gets busy on the proof.”⁶

For example, in developing countries, the establishment of an independent regulator necessarily means that someone – the ministry, parliament, service provider, or favored customers – has to give up power and traditional ways of winning favor.⁷ When this happens, the stakeholder who is being asked to give up something he values will sometimes strike back at what he sees as the source of his pain. This is what happened in a Central American country when the newly formed regulator tried to enforce service quality rules on the incumbent telecom provider. The operator marginalized the regulator by renegotiating its license with the ministry in a way that removed the regulator’s leverage for enforcing the service quality standards. Regulators can also become targets when implementing unpopular laws. For instance, in Zambia the energy regulator was fired for allowing a price increase near the time of a political election even though the increase was required by law.

Performing adaptive leadership can also be difficult for universities and think tanks. A few years ago a utility company withdrew funding for a research center’s policy conference when it became apparent that one of the speakers was going to say things contrary to what the company wanted to hear. Another university research center shut down a program rather than withstand pressure from funders to produce research that fit the funders’ policy preferences.⁸

Nevertheless, universities and think tanks can play critical roles in resolving adaptive challenges, sometimes by raising the heat on issues. For example, research institutions can be well-suited for sponsoring forums that emphasize challenging dialogue and probe for basic values, providing speakers who both inspire people and make them uncomfortable. Academics can also write white papers and books that shed light on new

⁶ Quoteworld.org, <http://www.quoteworld.org/author.php?thetext=John%20Kenneth%20Galbraith>.

⁷ Frederick Butler, “Managing the Regulatory Process Toward Sustainable Development: The View of a Regulator,” Presented at the World Forum on Energy Regulation, October 2003; and Mark A. Jamison, “Leadership and the Independent Regulator,” Working Paper, Department of Economics, University of Florida, November 2004.

⁸ I am happy to say that none of the sponsors of the Public Utility Research Center were involved in these problems.

realities and question conventional wisdom, and they can train people in the techniques of adaptive leadership.

Then again, universities and think tanks can be poorly suited for providing adaptive leadership if they are seen as biased in favor of a stakeholder. I was recently asked to moderate a workshop for regulators on an FCC decision. At the time I was being offered a consulting contract to advise one of the affected telephone companies on technical aspects of its computer modeling related to the issue. No regulatory work was to be involved in my engagement with the company. Nevertheless, rival companies expressed concerns about my potential bias and I stepped away from the consulting contract in order to be able to facilitate the workshop.

Adaptive leadership can also be difficult for utility companies. Regulators generally look to companies for policy proposals, not adaptive leadership, and they may ignore the views of companies that do something other than strongly advocate well-defined policy positions. They may also question the credibility of a company that raises tough questions that challenge this company's past policy positions. And adaptive leadership can affect industry relations as well. A few years ago one utility company was cut out of industry discussions about lobbying strategies because the company publicly questioned traditional industry policy positions. Finally, when a stakeholder with vested interests "raises the heat," other stakeholders are likely to view the initiative as self-serving and dismiss the effort.

Conclusion

Adaptive leadership is dangerous but important work. It is critical in telecommunications, for example, because windows of opportunity for making meaningful change are narrow. As Dr. Sachio Semmoto, founder of eAccess, a Japanese broadband provider, recently pointed out, "There is generally only a six-month window of opportunity for innovations to occur. For a country to succeed in leading innovations, its businesses, regulatory policies, and people must be ready when opportunity presents itself."⁹ In the energy and water sectors, the pace of change is slower, but adaptive

⁹ Sachio Semmoto, "Driving the Broadband Revolution – An Entrepreneurial Success Story," Presented at the University of Florida, December 16, 2004.

leadership is still important for addressing problems that can become serious dysfunctions if left unresolved. A case in point is the California energy crisis, which could have been resolved more quickly if policymakers had been willing to face hard questions sooner.

Chinese philosopher Lao-tsu pointed to the importance of, and the process of, adaptive leadership when he said, “To lead people, walk beside them ... As for the best leaders, the people do not notice their existence. ... When the best leader's work is done the people say, ‘We did it ourselves!’”¹⁰

¹⁰ LeadershipNow, <http://www.leadershipnow.com/leadershipquotes.html>.

Table 1. Authority versus Adaptive Leadership¹¹

Authority	Adaptive Leadership
Provides solutions by applying established instruments from political science, management, economics and finance, law, and engineering.	Identifies challenges by questioning how problems should be defined and pointing out why technical solutions cannot solve adaptive problems.
Protects people and the system from external threats.	Discloses threats by calling attention to the fundamental changes in external forces that threaten the status quo and defy traditional solutions.
Restores order so that work can continue when internal or external forces disrupt the normal performance of work.	Exposes real conflicts or facilitates their emergence so that those involved face and work through tough choices.
Maintains norms so that people can work by following established rules and procedures, and not waste time “reinventing the wheel.”	Challenges norms to ensure that “solutions” are not adopted before the new environment is fully understood, the real conflicts are resolved, and key tradeoffs are made.

¹¹ Adapted from Heifetz (1994, p. 127).