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**PUBLIC UTILITIES FORTNIGHTLY**

# **PUF 2.0**

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## **Making the Grid Great Again (For the First Time)**

**By Jim Hoecker, former FERC Chair**

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# When Super Heroes Clash

## When Policy and Practice Don't Match

BY ROGER WOODWORTH

**D**id you catch the movie *Batman versus Superman: Dawn of Justice*? If not, you can probably guess the storyline. Two super heroes are dedicated to saving the world from all of its ills.

While the purpose they share is similar, their methods are distinctly different. They're slow to understand each other and are naturally suspicious. The friction between them becomes intense, causing them to work at odds.

But each new encounter yields fresh insight. Perspectives change. Paradigms shift. And in the end, they align forces to achieve greater things for humanity than either could do alone. Roll credits and outtakes.

### Hope versus Reality

A similar story plays out in real life, starring legislators and regulators. Both are well intended, with what should be complementary efforts. But like our super heroes, their methods are distinctly different. Friction and costly misalignment is too often the needless result.

You know how this show goes, too. With each new election cycle, representatives come together to reflect their constituents' current values, will, and imagination. Aspirations for better things ride high. An energy future that's cleaner, more efficient, and affordable is near the top of every official's list.

**Roger Woodworth**, principal consultant at Mindset Matters, helps others align strategies for greater impact. Previously he was vice president and chief strategy officer of Avista Corp. He's chaired Edison Electric Institute's customer service executive advisory committee and was board president of the National Hydropower Association and the Northwest Gas Association.

So, they pass new laws. Policies to mandate efficiency of appliances and buildings. New standards for more renewable energy generation. Incentives to encourage what's in favor and taxes to dissuade what is not. Each new policy carries with it directives to government agencies to develop new regulations.

But one thing legislators rarely do is rationalize the new policy directives with the old. Nor do they offer clear guidance to the implementing agencies about tradeoffs that may be required. So, the bureaucracy is left to fend for itself. And fend it does.

The very term "bureaucracy" is telling. Coined in 1818 by French economist Vincent de Gournay, the word combines a French term and Greek suffix to describe the "power of the desk." That power manifests in new regulations.

The new processes and permits, monitoring and reporting requirements, fees and penalties are additive. What had been remains and the burden builds. Tradeoffs



**Good intent goes awry when different agencies interpret policies in different ways.**

are made. Uncertainties are left to the courts for interpretation. And costs rise.

The root of the problem seems obvious. Good intent goes awry when different agencies interpret policies in different ways. The following six examples, minus detailed explanations, serve as symbols of this problem.

### Cases in Brief

Remember the many early wind turbines at Altamont Pass? Those initial facilities were built with support of the federal investment tax credit. The credit paid for construction, not operation. No wonder that it became a graveyard of inoperable plants.

Then there's the federal production

tax credit. This credit fixed the investment tax credit problem by tying the tax benefit to actual generation of energy. Problem is, that tie incents operation without regard to system dynamics, power demand, environmental conditions, or other requirements.

Cost shifts, negative spot market pricing, minimum in-stream flows, and more can all come into play.

Energy efficiency is another topic where policy and practice don't always match. For example, most state policy makers and regulators expect utilities to promote the efficient use of energy. Regulators often use a Total Resource Cost test to determine the prudence of expenditures. Other social benefits from efficiency are valued at zero.

This caps efficiency far below what might otherwise be achieved. While the demand of utility regulation is satisfied, a cleaner, more efficient and affordable energy future is missed.

In the realm of transmission, you'll recall the Northeast blackout of 2003. About fifty-five million people were affected. The

costs included eleven deaths and about six billion dollars.

In response to legislators' outcry about transmission system reliability, FERC boosted the return on equity it would allow, to incent upgrades. Nice. But Congress did nothing to relieve restrictions on transmission over lands managed by other Federal agencies.

In 2007, Oregon passed the Business Energy Tax Credit – without any caps. Regulators quickly wrote the rules to implement the new policy. And it worked. The generous incentive attracted many solar projects and companies to the state.

Sadly, after receiving the credits, many scaled back, halted construction, went bankrupt, or were later found to not qualify. So there went over a billion taxpayer dollars.

Here's one more example for good measure. The California energy crisis of 2001 wasn't what then-Governor Pete Wilson thought he was signing into law in 1998. With zeal to restructure energy markets, utility divestiture of generation plants

was mandated. But the new law harbored an unexpected consequence.

The divesting utilities were barred from entering new power contracts of more than one year in duration. That single proviso moved a massive amount of energy demand from a stable, long-term condition to the spot market.

Peak power prices rose from forty-five to fourteen hundred dollars per megawatt-hour. The U.S.'s then-largest utility, Pacific Gas and Electric, went bankrupt. And the system-wide event cost to everyone involved was about forty-five billion dollars.

## Closing Thoughts

Good intentions and different methods can and do collide. The unintended consequences can be costly, even disastrous. That's why everyone and everything is better off when past practices are amended to align with current policy intent.

Superheroes are most appreciated when they work together. We should expect and encourage the same of legislators and regulators. ❖



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