The Bootleggers and Baptists of Utility MACT

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Disclaimer: the views expressed here are my own and do not reflect those of FERC or the US government
Who Supported Sunday “Blue” Laws?
Prof. Bruce Yandle’s B&B Theory

Bootleggers
* Favored bans on alcohol sales because they limited legal competition
* As Yandle said, Bootleggers “tolerated the [bans] gleefully because their effect was to limit competition”

Baptists
* Actively sought bans on alcohol sales and influenced public opinion
* Quoting Yandle, Baptists “fervently endorsed such actions on moral grounds”
Clean Air Act of 1990 mandated “Maximum Achievable Control Technology” to protect public health from hazardous air pollutants as “appropriate and necessary”

EPA makes “appropriate and necessary” finding for mercury and other pollutants (2000)

Clean Air Mercury Rule (2005) established a mercury cap-and-trade system (using section 111 instead of 112)

DC Court of Appeals vacated CAMR (2008)

EPA issued the Mercury and Air Toxics Standards rule, also referred to as Utility MACT (finalized Feb 2012)

Owners of coal- and oil-fired generators have three years to comply by installing a scrubber, switching fuels, or shutting down

Projected to cost $9.6 billion per year (EPA estimate)
Why $9.6 billion?
The Baptists of Utility MACT

* Environmental groups, public health groups, etc.
* Win-win – scrubbers mandated to clean up mercury emissions also remove PM2.5 (and the PM2.5 co-benefit dominates the total benefits in the EPA’s regulatory impact analysis)
* Moral motivation – protect the public (especially young children) from the effects of mercury and other pollutants
* However, Baptists tend to do the dirty work for the Bootleggers...
“[C]ompetitive generators whose... power plants are unaffected by the new regulations, but will enjoy materially higher power prices” (Bernstein Research)

Bootleggers support legal means to reduce competition, and Utility MACT reduces competition from coal producers

For example, members of “The Clean Energy Group” like Exelon stand to gain hundreds of millions of dollars from reduced supply of coal-generated electricity
Exelon: Clean, Dirty, or Bootlegger?
A Case Study in Regulatory Rent-Seeking

- Member of the Clean Energy Group
- Very nuclear-heavy (92%)
- Could gain over $300 million a year due to the combined effect of Utility MACT and the Cross-State Air Pollution Rule
- Exelon’s support for Utility MACT: “The proposed Toxics Rule represents a reasonable approach to reducing emissions of HAPs from coal- and oil-fired EGUs that has been delayed far too long. Addressing this problem does not present the nation with a choice of health or prosperity. To the contrary, controlling emissions will promote health and the economy.”
- Removed from the American Wind Energy Association for criticizing the wind production tax credit
- Produces only 3% of its total electricity from renewables (including hydro), stands to lose from wind PTC
- Environmentalists lamented: “[E]veryone would like to pick and choose the subsidies they want and get rid of others. Wind power is growing significantly enough that Exelon appears to fear it will erode the market price for its nuclear generation and it wants to stymie a competitor.”
“[E]nchanted to learn that it is so easy to increase the wealth of a people simply by legislation, the manufacturers of laws voted in favor of the restriction…. And, in fact, the law had all the consequences predicted by Mr. Protectionist, but it had others too; for, to do him justice, he had not reasoned falsely, but incompletely. In asking for a privilege, he had pointed out the effects that are seen, leaving in the shadow those that are not seen…. It is for us to repair this omission, whether involuntary or premeditated.”
-Frederic Bastiat (1848)

*Bastiat’s thesis is that restricting competition hurts consumers, who tend to be poorly represented
*NERA Economic Consulting estimated that electricity prices will go up by 12% and natural gas prices will go up by 17% (combined Utility MACT and CSAPR)
*No trade-off between health and prosperity?
What About the Political Process?

* Economists: Why use a technology standard at all? A tax or cap-and-trade program would be more efficient
  * Technology standards are a blunt policy instrument, but some Bootleggers prefer blunt instruments (see Ackerman)
* What are we regulating? Mercury or PM2.5?
  * “estimated benefits for reducing the air toxics that are the purpose of the Proposed Rule ... are between 0.0004% and 0.011% of the total benefits that the EPA is attributing to this rule.”
  * 99.9% of benefits come from reducing PM2.5
Conclusion

• The Bootleggers and Baptists model takes an unromantic look at “green” energy companies, offers a new perspective on their public comments

• Utility MACT lends itself to substantial Bootlegger and Baptist coalitions

• The Bootleggers’ political rent-seeking encourages bad policy and remains a barrier to the efficient transition to a sustainable energy future
References