

## Alfred Kahn

1917-2010<sup>1</sup>

Professionally, Fred could be a paradox. This least dismal of men was prominent and merry in the dismal science. Most headlines on his passing referred to him as a deregulator, but his magnum opus was entitled *The Economics of Regulation*. Had regulators been more receptive to Fred's teachings, the case for deregulation would have been less compelling.

To give you an understanding of why this didn't happen, of just how rare a bird Fred was at a meeting of the National Association of Regulatory Commissioners (NARUC) in 1974 (when he was appointed to the New York Public Service Commission), I should make clear that Fred was not NARUC's best known utility commissioner of that era, not by a long shot.

That would have been Theophilus Eugene Connor, better known as "Bull". Bull had parlayed the name recognition gained abusing civil rights marchers in Birmingham in the 1960s into election to the Presidency of the Alabama Public Service Commission, the culmination of his governmental career.

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<sup>1</sup> Delivered by Peter Bradford at the memorial tribute to Fred at Cornell on June 25, 2011

Bull and others no better qualified dominated the state regulatory community in that era. Fred fit the NARUC executive committee as well as Einstein would have fit Rikers Island. As Fred himself would have explained it, declining long run marginal costs in the utility industry of the '60s created a happy environment in which profits could increase as long as prices stayed the same, pleasing customers and companies alike and causing a pronounced lack of public attention to the legions of political cronies who were named to utility commissions. OPEC and the nuclear cost overruns were to change all of that on Fred's watch, but not right away.

Fred never ceased trying to convert his new colleagues to marginalist principles. Wanting to demonstrate familiarity with this exotic person while avoiding wherever possible the implications of his teachings, they showed off their close personal acquaintance by – in the words of the Paul Simon song - “Calling him Al”.

Fred's modest proposals for the improvement of state regulation were routinely voted down by margins of about 17-3 in the NARUC Executive Committee. But it isn't to the resolutions of that executive committee that regulators still look four

decades later for guidance. The principles that Fred has set forth in decisions, in his book, in his essays, in testimony and in speeches are as pertinent today as ever before. They will endure as long as economic regulation itself.

Regulators, utilities and industrial customers each had their own reasons for resisting the marginal cost pricing innovations that Fred sought as chair of the New York Public Service Commission to engender. The industrial customers tried to disqualify Fred from presiding over New York's determinative marginal cost pricing case on the grounds that he had prejudged the issues.

In discussing this motion, which of course he rejected, we developed the concept of "postjudice", as in "I've spent a lifetime studying these issues so of course I have extensive opinions".

This may have been the same occasion for which we worked out the concept of pique pricing. Not the one in which services at the time of high demand cost more than the rest but the one spelled p-i-q-u-e. Under this concept, Fred would double the rate to the industrial customers who sought to disqualify him in a two word opinion reading "Take that!"

Of course, we never did these things, but Fred came close when he got the now famous letter of complaint from a good friend bemoaning that deregulation had so crowded the airlines that he had been forced to sit next to a malodorous hippy and now felt that regulation didn't smell so bad after all.

Thanking him for his carefully considered views. Fred explained that due process of law required that he take no further action until he had heard how the hippy felt about that ride.

Fred became a regulator at a time when economic regulation was said to be “a surrogate for competition”. That is, it strove to produce in monopoly industries the quest for efficiency and customer satisfaction that should be essential to prospering in competitive markets. But within a few years, regulation went from being competition's surrogate to being its midwife, roles as different in economics as in obstetrics. Indeed, one of Fred's later publications has in its title something of the tone of an exasperated midwife - “Letting Go: Deregulating the Processes of Deregulation”.

Fred's approaches were grounded in principles - especially the need to relate prices to marginal costs - rather than in the attempted prophecies that so often lead

regulators astray. Because of this, he was better able than the rest to make sense of and even to guide the confusing transitions from surrogate to midwife in regulation of diverse industries. Along with his many specific lessons, that general one endures.

I never really believed that Fred and Mary were my parents' age. Vitality and accessibility always made them seem like contemporaries. In the first years of our acquaintance though, I and other new regulators hesitated to call Fred, doubting that so eminent a person would return our calls and take on our dilemmas. But he always did, and quickly. It's almost impossible to accept that he no longer will.