

Economic Regulation of Public Utilities with Natural Monopoly Features

A Study of Limitations Imposed by Property Rights from a Legal & Economic Approach

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Abstract

Can a utility demand before an English or Welsh Court compensation for a set rate level that it believes to be a property taking? The suitability of the existing English property rights institution regarding the rationale for economic regulation is the framework that has been used to answer the research problem.

A purposive application of the law unveils the motives of economic regulation. A natural monopoly regulation aims at contriving its power to raise revenue by setting a utility's price to cover just its costs, hence obtaining efficiency. Additional to this are other goals that produce distributional effects. On the other hand, utilities maximise their profit level and, sometimes, their effort goes beyond covering costs. The regulator balances these goals, but in some cases, utilities claim that the regulator's action restricts property thus expropriating value.

The legal concept of regulatory takings as a catchall concept, which in ratemaking does not clearly account for the value expropriation, is questioned in this thesis. For this reason, the English common law and the application of article 1 of Protocol No. 1 of the European Convention on Human Rights through the Human Rights Act 1998 have been analysed. The thesis also proposes that the idea of unsatisfied investment-backed expectations is arguably a question of dispute pertaining to the administrative law. Moreover, I am proposing that to solve these disputes, economic efficiency might be a helpful criterion that might help courts.

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