large will accompany these structural changes. This situation, in turn, translates into increased attention to methods of conflict resolution.

II. STRUCTURAL CHANGES IN PUBLIC UTILITIES: IMPACT ON LABOR-MANAGEMENT RELATIONS

DONALD VIAL*

Introduction

The impact on labor relations, collective bargaining, and dispute settlement of structural changes currently taking place in public utilities is a grim reminder of how important product and service markets are in shaping our labor and industrial relations institutions.

We have long considered our utilities a part of the nation's infrastructure that builds community and provides the underpinning for a robust, market-driven economy. Being largely investor-owned (with some notable exceptions), we have regulated them as vertically integrated natural monopolies, primarily on a cost-of-service basis both at the federal and state levels of government. But all of this has been changing at a pace that is shaking up the utility industry and traumatizing unions that have developed their collective bargaining relationships under an umbrella of regulation.

It may be an understatement to say that, as a nation, we are rapidly losing confidence in regulators. Equally important, government itself, as a primary vehicle for building community, has become suspect. We are turning instead to the institution we seem to have the most confidence in—the marketplace—an environment for enterprise less constrained by command and control regulation.

This is to point out the obvious. In the restructuring of our utilities, as in other parts of the economy, we have been experiencing a "sea change" in ideology that looks not to government or regulations, but to the marketplace and a competitive environment that drives investments in infrastructure for the delivery of what we have known as public utility services, be they in transportation, energy services, or telecommunications. My focus today will

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be primarily on energy and telecommunications utilities with one important reference to the deregulation of trucking.

Parallel Experiences in Manufacturing Industries

Much of what is going on in labor relations as a result of the restructuring of our public utilities has its parallel in manufacturing where several years ago foreign competition shattered the oligopoly control of product markets in auto, steel, and related industries. In the halcyon days of pattern and industrywide bargaining what evolved was a market-sanctioned game of calendar economics. As the collective bargaining package was negotiated the unions argued on the basis of rising labor productivity that costs could be covered without price increases. Elaborate briefs were prepared, but when the contracts were wrapped up, the companies exercised their oligopoly domination of their product markets. Prices were administered not only to cover costs attributed to the new labor contracts, but often adding enough in "forced consumer savings" to cover their investment priorities without going to the money market.

It is not my intent to suggest that the regulation of utilities has provided an exact parallel to this game of calendar economics that was practiced in the heyday of manufacturing oligopolies.

Under cost-of-service regulation, when regulated utilities seek rate adjustments, their negotiated contracts are examined in determining what expenses are to be included in the utility's revenue requirements. Until recently, regulators generally opted to approve the contracts without much scrutiny and pass the costs on to consumers. In much the same way that foreign competition started breaking up the game of calendar economics around auto and steel negotiations, the unleashing of market forces by utility regulators began changing the dynamics of negotiating and approving contracts in regulated utilities. Utility management responded by getting tougher in negotiations, and regulators began prying into contracts, picking and choosing between what they thought should be approved as cost pass-throughs to ratepayers. By the mid-1980s, this was to be a clear warning of what was in store for labor relations as the sheltering capability of the regulatory system was being swept away by the gale winds of marketplace ideology.

But there is also something deeper to be understood in the manufacturing parallel. Oligopoly markets in manufacturing bolstered a spirit of "voluntarism" as the underpinning of collective bargaining in the United States, lending credibility to the idea that through an American brand of voluntarism major benefit programs were within the reach of workers without resorting to the "socialistic" ways of competitor nations. There seemed to be no limit to what could be achieved by our big industrial unions through the vehicle of collective bargaining—medical care for employees and their families, supplemental pensions, options for extended vacations, and supplemental unemployment insurance in pursuit of a guaranteed annual wage and employment security. You name it, the sky appeared to be the limit for voluntarism in our maturing system of labor relations.

The message to unions and employees was loud and clear. Exercise your rights to organize under the assumed protections of labor relations law, and through collective bargaining you could achieve important societal benefits without turning to bureaucratic government for them. The contracts became thicker and more complex, dispute settlement procedures more elaborate and formal, and the need for professional involvement more pervasive in contract negotiations as well as in dispute resolution.[1]

Clearly, the product markets of organized companies have had a lot to do with what has been achievable through collective bargaining. The underpinning of voluntarism in collective bargaining is a government-fostered system that encourages (through tax incentives) the socialization of labor costs for benefit programs of high social value in lieu of socializing income dollars (through taxes) for the same benefit programs. Health care is perhaps the best example. Unions took to the socializing of health care dollars out of labor costs with great determination after the Truman Administration's national health care program, supported by labor, was defeated as "socialized medicine."[2]

As a nation, we appear to have made a mess out of health care coverage, with collective bargaining having contributed to the segmentation of society that has left millions without coverage. The lesson to be learned is that as organized labor was making

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[1]It should be noted in passing that while my focus is on drawing a product market parallel here with oligopoly markets in manufacturing, the development of multiemployer bargaining relationships in other industries contributed greatly to the optimism about what could be accomplished through collective bargaining in a society that has long harbored negative views about the role of government in our lives.

[2]I think it is fair to say we have a much greater tolerance for bureaucracies in our lives when they flow out of privately socialized dollars than through government programs that may do the same thing, even when the former is vastly more expensive than the latter, as in the case of health care plans.

relative gains for those covered by collective bargaining, the nature of the product market was obscuring the limits on benefits that could be imposed on labor costs. Moving into more competitive product markets for goods and services and away from less competitive markets that may be sheltering collective bargaining—whether the sheltering has a regulatory or oligopolistic base—removes the curtain of obscurity and requires a reality check that can be very painful in a society that frowns on government programs that smell like entitlements.

Labor and utility management might be able to speed up their learning curves by looking carefully at what has been happening to labor relations in auto and steel since the breakup of the oligopoly grip over product markets in those industries.

While the demise of utilities is not anticipated, it is interesting to note, for example, what has happened in California to automobile manufacturing. While electric car manufacturing is struggling to be born, only one auto plant has survived—the joint venture of Toyota and General Motors (GM) at NUMMI. There, labor relations has been completely transformed under a new kind of partnership responsibility for the enterprise that is based on "high performance" work organization. A contract that previously contained thousands of pages with an extensive listing of job classifications, work rules, and procedures for resolving disputes has been exchanged at the former GM plant for a thin contract with only a few classifications, simplified grievance handling, and a strong commitment to continuous upgrading of skills of front-line workers. These changes facilitate shared responsibilities with management for increased productivity, high product quality, and competitiveness in exchange for greater employment security. Adversarial relationships still exist between union and management, but changes in the auto and truck product markets have apparently required those relationships to be adapted to the competitiveness of the enterprise.

Regulatory Restructuring of Utilities and Their Product Markets—Evolving Mandates for Restructuring Labor Relations

Trucking

While my focus is on telecommunications and energy utilities, there is one observation about the deregulation of trucking that needs to be made. Unlike telecommunications or energy, general freight transportation has never been considered a natural monopoly under federal and state regulation. Labor costs are a relatively high proportion of total costs. Prior to deregulation, freight haulers had been regulated as common carriers under a system of minimum tariffs, theoretically designed to be set in relation to the most efficient carriers.

Whether or not regulation was working as it was supposed to, economists generally viewed the trucking industry as "workably" competitive, because of the large number of carriers vying for inter- and intrastate business. In this vein, minimum rate regulation was perceived as inflating transportation costs and giving common carriers "economic rents" they could not extract in a competitive environment.

And here is the direct link between the regulatory umbrella that existed and deregulation's impact on labor relations. The Teamsters were viewed as having captured the lion's share of those "economic rents" extracted by common carriers from consumers under the minimum-rate–setting umbrella. Deregulation of trucking was advanced implicitly on the premise that the Teamsters, with their high wages and rich benefit structure under industrywide agreements and the umbrella of regulation, were living too high on the hog.

Forget the promise of voluntarism in collective bargaining regarding health care, pensions, and other benefit programs, including dispute settlement. It was time to put an end to the privileges of the Teamsters relative to other workers. It should be noted that the public's perception of corruption in the union did not help working Teamsters in their efforts to focus some attention on the impact of deregulation on labor relations in the industry.[3]

Today, with more deregulation being carried out under federal legislation enacted last year, industrywide bargaining relationships between the Teamsters and a shrinking number of union carriers are undergoing vast changes. It should not be surprising that the internecine warfare currently being waged among the Teamsters leadership nationally has much of its base in the outcome of the last round of industrywide negotiations in an increasingly competitive and negative union environment.

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[3]As a regulator in California, I was correctly perceived as dragging my feet in the transition from a minimum-rate to an essentially deregulated system. I never had any doubt that trucking was a workably competitive industry, but I had problems with laying the transition costs on workers in the absence of a national commitment to taking the costs of benefit programs like health care off the back of labor costs and establishing an income or other tax base for their support.

Telecommunications: Merging Technologies in a Competitive Environment

The modified final judgment (MFJ) that broke up Ma Bell and created the regional Bell operating companies (RBOCs) as holding companies for local operating companies (LECs) such as Pacific Bell was the tip of the iceberg in the restructuring of telecommunications that has been going forward since 1982. The MFJ introduced competition in the interexchange market while essentially confining the RBOCs to providing local service and interexchange carriers (IECs) access to their local, largely monopoly networks. MCI, Sprint, and myriad resellers became viable nonunion competitors to AT&T. Within this division of jurisdictions, the race was on by the IECs and what are known as competitive access providers (CAPs) to find ways to bypass the local networks (avoid access fees) and access high-revenue (largely business) markets directly.

While the LECs remained union, nonunion RBOC affiliates also have been spawned in cellular and in other emerging competitive markets for information and other services. The dividing line between local service and toll services of the IECs has become blurred further as toll calls within the service areas of the local networks have been opened to competition along with other specialized telecommunication services.

While the LECs like PacBell have been fighting for regulatory freedom to defend their most important revenue streams, niche market development of competitive networks and services has been going forward—the inevitable concomitant to the creation of a competitive environment for telecommunications.

On the horizon are the wireless personal communication services (PCS) that have been licensed by the Federal Communications Commission (FCC) in recent revenue-raising auctions. This new wireless form of communication will also be developed in a quasi-competitive environment and will be integrated eventually with wireline telecommunications services.

The Bell companies and other LECs are chaffing at the bit to get out from under MFJ restrictions in order to offer video service in competition with cable companies and to compete with the IECs for interexchange toll service as the IECs themselves become competitors for local toll service. Cable companies, in turn, are vying for entry into telecommunications as full-service providers in competition with LECs, and IECs are busy making their alliances to become full-service providers. Mergers and alliances are the order of the day, cutting across current demarcation lines that have heretofore confined competitors to segmented markets. In short the LECs like Pac Bell want to be released from their MFJ constrained networks, and the IECs, cable, and the CAPs all want access to the local service markets of LECs that are still partially protected.

Establishing the policies and conditions that are to govern the letting-in/letting-out process that leads to full and open competition in all telecommunication service markets is the focus of pending federal legislation, implementing regulations of the FCC, and state public utility and service commissions. The commitment to full and open competition is essentially nonpartisan, and the rush is on to join the "First Church of the Marketplace." All the competitive providers want a "level playing field" as long as it is sloped a little in their favor. For labor unions in the industry, however, it appears that the slope of the labor relations playing field is going to be mostly uphill under industry restructuring, since most of the new players in the expanding sectors of the industry are nonunion.

In this context, it must be understood that the impact of the MFJ was the breakup of a vertically integrated monopoly (Ma Bell) that was providing essentially *voice-grade telephone services*. Today, given the pace of technological advancements, communications in an information age involves the development and deployment of networks, both wireline and wireless, to provide *multimedia/interactive communications*, integrating telecommunications, television, and computer technologies. In only one of the three technologies—telecommunications—has there been a significant level of union organization, and it has been eroding since the breakup of Ma Bell. The impact of industry restructuring on labor relations needs to be viewed in terms of how the shrinking unionized segment in telecommunications is going to cope with the integration of telecommunications with the other technologies where negative union environments prevail.

A few observations may shed some light on the challenge. The manner in which universal service as we know it today (basically voice-grade service) is upgraded and brought into the information age may have a major impact on how labor relations evolve in a competitive environment.

A market-driven system requires both cost-based pricing of services and the targeting of subsidies that are more difficult to internalize in a competitive system than in a regulated monopoly.[4] Spreading the costs of basic services for high-cost areas and those priced out of the market is going to be challenging. Some kind of a targeted social welfare "safety net" is in the mill. But a targeted "safety net" will leave millions of Americans in the backwaters of the information age.

Universal service in the future will hinge greatly on how competitors reach beyond the high end of the market and entertainment to develop effective demand for community-based applications of the new technologies in education, health care, the operation of labor markets, etc., that will reach the full spectrum of the society.

How this is done—if it is done—will have a major impact on labor relations in the unionized sector. The Communications Workers of America, for example, with their strength in the RBOCs, GTE, and AT&T, have a strong interest in their employers becoming full-service providers of interactive multimedia communications. The timing and conditions governing the letting-in/letting-out process will have a great deal to do with this. So will the proactive regulatory options exercised by the FCC and state regulatory commissions to provide competitors with incentives to invest in "market-building" for community-based technology applications having high social value.

Energy Utilities Restructuring

As in telecommunications, the forces driving restructuring of our energy utilities are many and varied. But there is an important distinction to be drawn.

What triggered the breakup of the Ma Bell monopoly was the beginning of a technological explosion in communications that continues to shake the very foundations of telephone utilities throughout the world. With the future of universal service hanging in the balance, it soon became clear after the breakup of Ma Bell that competitive forces could do a better job than regulators in developing and deploying the advanced technologies and in bringing the products and services of the information age to market. In this sense, the ideological shift to a competitive environment

[4]This is not to imply that a restructured telecommunications industry, as it evolves, will be fully competitive. Despite the thrust of competitive policies, concentrations of market power appear to be almost inevitable. Duopoly and oligopoly markets may very well surface, raising complex questions about what labor relations will look like in the long run.

merely confirmed that it was no longer possible to view telecommunications as a natural monopoly.

Technology has played a role in the competitive restructuring of energy utilities, but it was not the catalyst as is the case in telecommunications. Restructuring was triggered essentially by the energy crises of the 1970s when external events in the Middle East exposed our vulnerability to the manipulation of oil supply and prices by the marketing cartel of Arab states. The events that followed evoked public policy responses that relied increasingly on market forces to bring about a more diversified base for energy utilities.

Competition in the generation of electricity, for example, was driven by a public policy decision to require electric utilities under the Public Utility Regulatory Policy Act of 1978 (PURPA) to buy electricity from independent power generators (known as QFs) at the cost the utility avoids by not producing the power itself, as determined by the state regulators. Utilities at the time were heavily dependent on oil and committed to controversial nuclear development as an alternative energy resource. Competitive generation under PURPA became a vehicle for stimulating technological innovation in generation (from cogeneration and renewable energy sources like wind, geothermal, solar, and biomass)—not the other way around. The effectiveness of PURPA in fostering independent energy generation effectively launched the nation on an irreversible alternative energy track that paved the way for competitive ideology to take over the restructuring of electric utilities.

Despite distinctions to be drawn in the role of technology, the competitive drivers are as strong today in the restructuring of energy utilities as they are in telecommunications. Natural monopoly concepts are being shattered in both industries, although differences persist over how competition in the generation of electricity and competitive choice of generators at the retail level are to be integrated with the monopoly aspects of transmission and distribution of electricity. While the competitive environment in natural gas has been extended to pipeline on pipelines competition in the transportation of natural gas, the prevailing view in electricity is that transmission and distribution (because of the physical attributes of electricity and the existence of large economies of scale) retain elements of a natural monopoly. This is evident in the way competition has unfolded in natural gas and how competitive restructuring is going forward in electricity.

Natural Gas Restructuring

On the natural gas side, efforts to diversify our energy base after the Middle East energy crunch led to projected shortages of natural gas. During the Carter Administration, the response of Congress and regulators was to provide incentives for developing and marketing more expensive sources of natural gas. These incentives were buttressed by "take or pay" arrangements between pipelines and producers that had the undesired effect of "shutting-in" cheaper regulated gas supplies.

The regulatory edifice of the Carter years was sustainable only as long as oil prices remained high enough to make the mix of gas supplies marketable to large gas users with fuel-switching capability—the so-called "noncore market" for gas. The structure came tumbling down when oil prices began to fall.

Deregulation at the wellhead became the order of the day. This unlocked cheaper supplies of gas as the marketing function of pipelines was separated from the transportation function of pipelines as open access common carriers. Although the disposition of "take or pay" contracts caused major transition problems, states like California plunged ahead with regulatory reforms that were required by the unleashing of market forces at the federal level.

Today, noncore users of natural gas—essentially large users with fuel-switching capability—have gained nondiscriminatory access to unbundled gas transportation services from both interstate pipelines and the transportation systems of local distributing companies. Noncore customers are free to contract for their own gas supplies, assured of transportation access. Gas has become a tradable commodity on the open market, complete with a futures market for hedging against risk in gas transactions between producers, buyers, and their representatives. Gas distribution utilities, in turn, have been largely relieved of responsibilities for supplying gas as a commodity—separated from transportation and distribution—to the noncore market.

Policies are being advanced to extend to core customers the options currently available to noncore customers, but customers with limited market power continue to be dependent on local distribution for bundled access to both transportation and gas supply.

Thus far, large users who dominate the noncore market are clearly the winners in the restructuring of gas utilities. Gas costs to them have gone down while core prices have remained relatively stable. What has been most threatening to core customers has been the adoption of public policies that made way for market forces to drive the development of additional pipeline capacity.

In California, this has resulted in excess pipeline capacity to serve noncore customers. Who pays for the stranded utility capacity when large users opt to purchase transportation from competing pipelines is potentially a growing problem. Large users with market options are not interested in paying for pipeline capacity twice. Unless regulators intervene, core customers are at risk of seeing their bundled gas costs increase. At the same time, competitive pressures on the pricing of transportation services to retain noncore customers has required greater efficiencies in the provision of transportation and distribution services in order to minimize the shifting of sunk costs to core customers.

The rest of the story has a familiar ring. Incentive regulation is being advanced in gas distribution utilities to replace cost-of-service regulation that, in the past, has provided the shelter for traditional collective bargaining relationships. A growing cost-consciousness is driving management decisions as the competitive environment in the industry continues to evolve.

Electricity Restructuring

Certain aspects of gas restructuring appear destined to be repeated in the restructuring of electric service utilities.

PURPA has largely accomplished its purpose of bringing alternative energy generation into the mainstream of the nation's energy future. Recently, President and COO Robert Glynn of the largest electric utility in the nation had this to say in the company's house organ:

> A decade or a decade and a half ago, there were 120 or 130 power units in our service territory. We owned them all and we controlled them all. Since then, we've built essentially none, and 350 new plants have been built—all of them QFs (Qualified Facilities under PURPA)—three times as many as we had. We don't own any, we don't control any, and they are there . . . .[5]

Much of the past decade has been devoted to the integration of alternative energy generation QFs into the resource planning of electric utilities under traditional cost-of-service regulation. The focus has been on least-cost/integrated resource planning that

[5]PG&E Wk., Mar. 6, 1995.

would provide a level playing field for QF/independent power development to displace projected utility projects, would stimulate demand-side management (conservation) as an energy "source" in competition with new generation, would impute environmental benefits and costs into the process, and would reserve blocks of capacity for the development of renewable energy sources. In general, integrated resource planning around the country has contributed to the development of a system of competitive bidding for new energy capacity that has provided a solid experimental base for what is evolving as a national competitive market for wholesale energy.

These developments signaled the beginning of what restructuring would mean for established labor-management relationships in the electric utility industry. Utilities themselves, seeing where further growth opportunities lie in the industry, have been quick in spawning their own energy development subsidiaries to compete with other QF/independent power generators, largely, but not exclusively, outside of their service territories and around the world. While some of the projects of the subsidiaries have been constructed with union labor, most of them are operated nonunion. They draw largely from the skilled labor pools of utilities as construction activities and generation operations are downsized.

What is important to understand about the past decade's efforts to integrate alternative generation into our energy future is that utilities have been kept at the center of integrated resource planning under increasingly complex state regulatory procedures. But this is destined to change under mandate of the National Energy Policy Act (NEP) of 1992.

The pace of competitive restructuring developments has been significantly accelerated by the NEP. It has removed the "holding company" barriers that prevented electric utilities from becoming aggressive independent power generators in a fully competitive wholesale market. The Federal Energy Regulatory Commission (FERC) is currently proceeding under congressional mandate to lay the foundation for open competition at the wholesale level, requiring utility owners of transmission facilities to provide nondiscriminatory, open access transmission for competing generators of electricity.

These are giant steps down the competitive road, but they have stopped short of giving electricity customers at the retail level a competitive choice of continuing to buy energy from their distribution utility on an unbundled basis or to pay the utility to "wheel" electricity that they may wish to purchase directly from a competitive energy generator. "Retail wheeling," as it is called, is a decision that has been left to the states.

In this respect, the focus of national attention is on the California Public Utilities Commission (CPUC). State regulators, committed to advancing the competitive environment for electricity generation and distribution, intend to adopt structural reforms centered around separating transmission and distribution from electricity as a commodity (paralleling restructuring in national gas), linking a fully competitive wholesale market to retail choice of generators, and evolving a transmission and distribution system that accommodates full and open competition at both ends. There are major transition problems and issues to be confronted—and they are being hotly debated—but there is little doubt that the CPUC's restructuring proposals represent the wave of the future.

Where the embedded cost of utility generation far exceeds the incremental cost of a new kw/hr of electricity from competitive generators, there are major issues to be addressed concerning the costs and disposition of utility resources rendered uneconomic by retail choice. How these transition costs are to be allocated between stockholders and between consumers (whose retail access to cheaper power for large users may be sequenced ahead of other consumers) is of great concern to stakeholders. As in gas, residential consumers fear that the primary winners will be large users and that only modest benefits, if any, will be realized by small users.

Another set of problems revolves around mandates embedded in the current regulatory system that support low-cost energy for the poor, advance environmental objectives, and encourage energy conservation and diversity of energy resources. There is serious concern about how these mandates can be adapted to a competitive environment and how their costs can continue to be "internalized" in a disaggregated electric utility industry.

Of major importance to the future of labor relations is how the transmission and distribution function will be structured and regulated to accommodate the level of competition and choice being contemplated. There is great division between the utilities, as well as between consumer and environmental groups, on this issue.

One view supports a system of bilateral agreements between generators and consumers to be developed on the foundation of current cooperative arrangements between utilities for wheeling and distributing electricity. An opposing view advances the British system of transmission and distribution through an independently operated pooling system that would provide a "spot market" for the sequencing and dispatching of all electricity. To accommodate competitive choice of energy suppliers, provision would be made for consumers and generators, or their brokers, to enter into third party arrangements to hedge against spotmarket fluctuations in buying through the pool.

These are intensely complex matters, but what is generally understood by all stakeholders is that there are huge economies of scale to be realized from transmission and distribution systems and that transmission and distribution must be physically integrated because of the way electrons flow. These are the elements of a natural monopoly. Whatever view prevails in the structuring and regulation of transmission and distribution, these monopoly characteristics must be dealt with to achieve the benefits of a competitively restructured industry.

The resolution of issues of this nature will have a major impact on how the competitive environment actually unfolds in California and the nation. The stakes in the outcome are high, but there is no evidence of any backing away from the dominant themes of competitive ideology sweeping the nation.

Even as differences over regulatory strategies become more intense, the utilities are clearly indicating that they "got the message." As they make commitments to rate stability and future reductions (and this is not limited to electric utilities), they are honing their enterprises to become aggressive competitors in an increasingly competitive and segmented environment.

There is widespread acceptance that the era of cost-of-service regulation is coming to an end. Like telecommunications and gas utilities, electric utilities are well into incentive/performance-based regulation for obligation-to-serve functions that they retain in a competitive environment.

This is the essence of the new reality that is challenging traditional labor-management relationships in utilities—signaling perhaps that they are also in line for restructuring.

Time for Restructuring Labor-Management Relations!

The impact of moving into a competitive environment is not being lost on unions representing employees in the utilities that are undergoing restructuring. There are some common threads running through telecommunications and energy utilities that can be brought into focus:

1. In much the same manner in which foreign competition blew away the oligopoly product markets that once sheltered pattern bargaining in auto and steel, the regulatory system that has sprinkled holy water on negotiated agreements has or is being blown away by incentive/performance-based regulation that is more compatible with competition.[6] Increasingly, labor relations in our restructured utilities are being driven by a new cost-consciousness as utility management looks more carefully at the costs of negotiated agreements that can be recovered in a competitive environment.
2. Where regulators are still reviewing utility costs, they are becoming more inclined to open up collective bargaining agreements for selective approval of what has been negotiated without necessarily understanding or looking into the labor-management trade-offs behind the agreements.
3. The erosion of collective bargaining units is setting in, either in fact or in the segmented growth that is taking place in telecommunications and energy service industries. Much of the growth is in nonunion segments. Even where the growth is in affiliates spawned by organized utilities or their holding companies, the affiliates tend to take on the negative union environment that may be dominant among their competitors. New entrants generally reflect the negative union environment that is flourishing under the nation's labor relations policies.
4. Outsourcing of services previously performed by bargaining unit employees is on the rise, propelled in part by incentives to reduce the labor costs of negotiated health and welfare plans.
5. Perhaps most important, employment security and the idea of a working career with a utility is being shattered by the reality of "downsizing," cutting across management as well as bargaining unit employees.

With all of this going on, bargaining over the employment consequences of management decisions to downsize has been insufficient to contain impending layoffs, raising questions in the

[6]Typically, incentive/performance-based regulation links price adjustments to an external gross domestic product index, less an imputed annual productivity increase in network or system operations.

minds of employees and their unions about the direction in which their restructured utilities are headed, including concerns about public safety, the reliability of utility service, and the quality of a work force to deliver it.

What does all this mean for labor-management relations? On the negative side, does the competitive environment of a restructured industry mean an inevitable intensification of adversarial relationships, mounting labor-management distrust, and the development of an increasingly negative union environment in the growth components of the restructured industry, as well as in utility itself?

Looking at this from the perspective of arbitrators and other professionals in dispute resolution, a negative option might hold out the possibility of more business. I doubt, however, that in the long run the interests of professionals in dispute settlement would be benefited by the decay of labor-management relationships that have served utilities and their workers well under an earlier regulatory regime.

On the positive side, there may be alternatives that need to be discussed and thoroughly understood. In the trauma of adjusting to radical change, both on the part of labor and utility management, the question needs to be asked: Is there a shared interest building up in our restructured utilities to do something about developing a new social compact for labor-management relations in a competitive environment? If a new social compact is to mean anything, it must address the role that "partnership" can play in an otherwise adversarial relationship between labor and management.

In regulated service industries that are flying apart under regulatory restructuring, the stakes are as high as the challenges are formidable. For the utility, they are increased productivity, service quality and reliability, and an opportunity to grow competitively. For workers and their unions, it is all of that, plus a partnership that enhances employment security along with a positive, rather than negative, union environment in the restructured industry.

What would be most damaging to efforts to bring these labor-management interests together in a harmonious relationship would be for the downsizing that is taking hold in the restructured utilities to degenerate into "corporate anorexia." And that is not unthinkable.

High Performance Work Organization—A New Partnership Base?

It is important to bear in mind that corporate downsizing in utilities is being linked to the management philosophy, taking hold in industry generally, that focuses on "high performance" work organization. As indicated earlier in my reference to NUMMI, high performance organization of work seeks to involve front-line workers directly in the way work processes are structured and carried out to increase productivity, enhance product/service quality, and strengthen the competitive position of the enterprise. Implicitly, the trade-offs for workers are greater employment security, continuous upgrading of skills for high-paying jobs, and improved prospects for labor mobility in case of layoffs.

If high performance work organization is to be the base for a new social compact for labor-management relationships, serious attention must be given to the key elements of high performance work organization. There is much that can be learned from experience at NUMMI and from other union and nonunion settings where high performance work organization has been taken seriously.

A critically important question is how worker participation in high performance organization systems can be reconciled with the potential impacts of downsizing. Even more fundamental is the question of the extent to which the response options of utility management to competition may be jointly determined to advance a partnership relationship as industry restructuring goes forward.

At its core, high performance work organization is a partnership compact between the company and its employees that is focused on the health and competitiveness of the enterprise. In a nonunion setting there are questions about what kind of a partnership can exist in the absence of some form of organization that gives front-line workers a voice in the enterprise, if not the independence demanded by organized labor to achieve a viable working partnership. This is an issue that has been highlighted in the report of the Commission on the Future of Worker-Management Relations, created by the Secretaries of Labor and Commerce and headed by Professor John Dunlop of Harvard.

Where a high performance partnership is to be imposed on collective bargaining relationships that are being hammered by competitive restructuring—the prevailing case in telecommunications and energy utilities—the challenge to labor and management is significantly broadened. Labor and management must jointly confront and overcome the barriers to developing a new social compact of cooperation and partnership as their industries grow nonunion components, including nonunion affiliates of the unionized utility itself. For example, can "high performance" concepts of work organization and partnership coexist and thrive in union and nonunion affiliates of the same utility or utility holding company? What impact will this have on what can be expected of the new social compact for labor relations?

Joint Responsibilities for Skills Development—A New Foundation for Partnership?

In conclusion, various aspects of providing for skills for a viable base for restructured utilities need to be brought into focus.

As industry restructuring goes forward, spurred by both technology and competitive ideology, it would appear that a new social compact for labor-management relations would require priority attention to be given to the skills base of restructured utility industries. Historically, regulated utilities have been heavy investors in training and skills upgrading of their work force. They have been leaders in a nation that is largely without a broad-based industry culture that invests in the training and continuous upgrading of skills of front-line workers.

There is a limit to how far the skills base of utilities now undergoing restructuring can be stretched to serve new affiliates, or for that matter, to serve as the recruiting base for emerging competitors. Continuous upgrading of the skills of front-line workers is a key element in high performance work organization. In this context, evolving a new social compact for labor-management cooperation would require attention to be given to what can be done to prevent competition from undermining the skills base of restructured utilities as new industry segments are spawned.

While this may be essential to maintaining utility competitiveness, consideration should also be given to laying a new foundation for education and training in order to encourage high performance and service reliability throughout the restructured industry as an important element of a new labor-management partnership.

Today, educational and job training reforms are in the wind.[7] The focus of these reforms is on integrating academic and vocational education around career choices and linking classroom training to structured training on-the-job in the model of generic apprenticeship-type skills development. The main thrust is to make these programs industry-driven, based on partnership relation-

[7]*See, e.g., America's Choice: High Skills or Low Wages,* the report of Commission on Skills of the American Workforce of the National Center on Education and the Economy, June 1990, and the report of the California Business Roundtable, *Mobilizing for Competitiveness,* Jan. 1994.

ships between industry and labor that set the standards for training and the certification of skills.[8]

There are three key issues that need to be addressed. They concern:

1. How labor-management partnerships in the organized sectors can take the lead in developing training standards and certification procedures for all segments of the industry, union and nonunion alike.
2. What a partnership relationship between labor and management can do in working with education and training reformers to make sure that training programs serving all elements of a restructured industry are industry-driven and clearly identified with labor and management's leadership.
3. How an industry culture for investing in the training of frontline workers can be broadened to include investments by all sectors of the utility industry under restructuring.

It should be clear that unions in utilities undergoing restructuring would have much to gain by such a partnership in training. Workers entering nonunion segments of the telecommunications or the energy service industry might be less responsive to a negative union environment if they received their training through programs identified with both labor and management. On the other hand, that may be the reason why utility management may be resistant to a new labor-management partnership being the dominant force behind education and training programs that serve a restructured utility industry. This may well test the fiber of the new relationship.

What all of this may mean for arbitrators and professionals in dispute settlement, I do not know. My gut feeling, however, is that there always will be enough problems in labor relations to fully challenge professionals in the field. A restructured, competitive environment may require that you become more innovative and creative in fostering dispute resolution that is oriented toward building new relationships. I am sure that you will readily accept the challenge and rise to the occasion. In this vein, I would suggest that those of you who have ongoing relationships with utilities can do a great deal to help labor and management develop a new social compact for labor relations in the increasingly competitive environment of utility services.

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[8]Work on industry-driven training, including standards setting for training and skills certification, is already occurring in telecommunications, but unfortunately, the Communications Workers appear to have been locked out of the process.