Consumer Advocacy for the Future
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Age of Awareness Conference, Changes & Choices: Utilities in the New Millennium, Carlisle, PA
August 25, 1999

Good afternoon! I want to thank the conference organizers for inviting me to be here today. It's important that we all try to understand what will happen to various groups of consumers as we make massive, unprecedented changes in the electric, natural gas, and telecommunications industries.

Massive change will be our theme today. And that reminds me of a story; I don't know if it's true or not, but it's a great story anyway.

A middle-aged woman has a heart attack and is taken to the hospital. While she's on the operating table, she has a near-death experience and sees God. She asks God, "Is this it?" God says, "No, you have another 30 or 40 years to live."

Well, the woman recovers and she decides that if she's going to be around for another 30 or 40 years, and since she's in the hospital for a while anyway, she might as well make a few changes. So she has a face lift, some liposuction, she has a few body parts enhanced and tucked and what not. She even has someone come in to change her hair color. She figures if she's got 30 or 40 years to go, she should make the best of it.

After a few weeks, she walks out of the hospital. On the way to her car, she passes the emergency room entrance. She doesn't watch where she's going and she's hit by an ambulance and killed.

Well, she gets to Heaven and she marches right up to God and says, "Hey, what gives? You said I had 30 to 40 years to live and, bang, just as I get out of the hospital I'm killed by an ambulance." And God says, "I'm sorry. I didn't recognize you."

Change is not always good. Massive change can really confuse things.

It's always hard being the luncheon speaker because people want to be entertained. And my topic today isn't all fun and games. But we are going to have some fun. In fact, we're going to start with a game. And to get things started, I need some contestants. Don't raise your hands, we're going to select our contestants democratically. I'm looking for our resident utility competition experts! I would like everyone to stand up, or if you can't stand, just raise your hand.

If you are a utility professional - lawyer, accountant, work cfor a utility or the PUC or the Consumer Advocate, whatever, please sit down.

If you use AT&T for long distance telephone service, please sit down.

If you buy electricity supply from your local electric utility, please sit down.

If you use your local phone company for intraLATA toll calls, or what you might think of as local toll calls, please sit down.

If you buy natural gas from your local natural gas company, please sit down.

[if need to go further, internet from local phone company, cellular from local phone company, satellite TV, never shopped on-line]

All right, here are our contestants – maybe the most competition-savvy people among us. You're out there buying utility services from different suppliers. Now let's see how much you know. [get 3 contestants] [start with #1]

Before we start, I have to say that I'm not trying to make anyone look stupid. These are tough questions that I've had the benefit of researching. So if we laugh, we're laughing not at your not knowing the answers, but at our surprise at the answers. Because, believe me, I was surprised at some of the answers, too.

There's a radio station in Williamsport that plays a very funny, but slightly sick, game called "dead or alive." They read the names of famous people and you have to say whether they're living or dead. We're going to play the deregulation version of "dead or alive" with airlines. You see, the airline industry used to be regulated exactly like public utilities – tariffs that were hundreds of pages long, enormous hearings involving rate changes, and so on. But all that changed in 1978 when the airline industry started to deregulate. By 1984, economic regulation in the industry was completely gone. So, on with our game. After I name each airline, you have to tell us whether it's dead or alive. And just so we're clear, dead means that the airline stopped operating, alive means that it's still around - either independently or as part of a larger company. So you know what's coming, I've chosen 8 companies, and we'll do them alphabetically. And to make it even easier, they're shown up on the screen.

- Braniff Airlines - founded in 1931 - died in 1993
- Eastern - founded in 1927 - died in about 1990
- Frontier - founded in 1950 - died in 1986
- National - founded in 1934 - taken over by Pan Am in 1980
- Pan Am - founded in 1925 - died in 1998
- People Express - founded in 1980 - died in 1986
- Piedmont - founded in 1931 - part of US Airways
- Value Jet - founded in 1993 - now AirTran Airlines

There's our first lesson about deregulation or restructuring – it kills companies and it forces others to merge or change a lot. Competition is nasty. Companies that were at the top of their industries can make a mistake or fail to keep up, and they're dead.

The same thing will happen in the utility industries as they become more competitive. I can't tell you which companies will die, but I assure you that some of the household names in the utility industry will not be around 5 or 10 years from now.

What will that mean for consumers? What did it mean for consumers holding tickets when Pan Am and Eastern and Braniff closed their door? For many of them, it meant they were out of luck. Tickets that went down the drain, frequent flier miles, promises of future benefits, gone.

Do you remember the savings and loan crisis in the 1980s? It happened soon after that industry was deregulated. Though we can't say for sure that deregulation as such was the cause, it is fair to say that competition from brokerage firms and insurance companies was a major factor that contributed to the death of many S&Ls. What happened to consumers? Federal insurance bailed out many depositors, but others were out of luck - lost a good chunk of their life savings.

What will happen when your electricity or gas supplier closes its doors? Is there an insurance program that will cover it? Will you lose your deposit? Will you get that free month next year that you were promised? Will the lights go out and for how long? What if they go out of business on the coldest day in the winter or the hottest day in the summer? Will you be able to get gas or electricity then? At what price?

Change is not always good. Massive change can really confuse things.

I started in this business in 1983 and these questions were unthinkable. We were worried about new power plants and rate increases and ways to keep service affordable and the breakup of the Bell system. A utility shutting down on 1 days' notice? Absolutely unthinkable.

What else happens with deregulation? Someone does better and someone else does worse. There are winners and losers. Where's our second contestant?

I've got a few multiple-choice questions for you. [overheads]

- Within 5 years after the deregulation of airlines, how many communities in the U.S. lost <u>all</u> of their commercial air service? A - less than 25, B - 25-50, C - 50-100, <u>D</u> - more than 100. [116]
- From 1990 to 1998, how much did the average airfare (cents per passenger mile adjusted for inflation) change on average in the U.S.? <u>A</u> - decreased more than 25%, B - decreased between 0 and 25%, C - increased between 0 and 25%, D - increased more than 25% [decreased 26%]
- From 1990 to 1998, how much did the average airfare (again, cents per passenger mile adjusted for inflation) change on average from the Pittsburgh Airport? A - decreased more than 25%, <u>B</u> - decreased between 0 and 25%, C - increased between 0 and 25%, D - increased more than 25% [decreased 1.0%; Pennsylvania has 6 major airports - 4 of them had decreases of 6% or less; only Erie had a decrease of more than 20%, but still below the national average]
- From 1978 to 1998, what was the average increase in the number of airline seats available at medium-large airports in the U.S.? A - 0-25%, B - 25-50%, C - 50-75% <u>D</u> - > 75% [average increase 85%]
- Pennsylvania has 3 airports in this size category - Allentown, Harrisburg, and Wilkes-Barre/Scranton. How many of them saw an increase of 85% or more in the number of available seats? [Harrisburg - 88%; Allentown - 38%; WB/Scranton - decrease of 20%]
- And, your last question - we'll make it an easy, yes/no question. Was the 20% decline at Wilkes-Barre/Scranton airport the worst decline in number of airline seats in Pennsylvania? [no - Erie had a 26% decline]

The transition from regulation to competition creates winners and losers. Residents of large communities in expanding areas are winners from airline deregulation. Their choices have increased and their fares have gone down. Residents of small communities in less desirable areas, particularly the Northeastern United States, have been losers. Their choices have gone down and their fares have stayed about the same. Assuming, that is, that they still have air service at all.

Competitive markets have winners and losers. Small depositors - those are people who don't make a lot of money - have been hurt by deregulation in the banking industry. They pay fees for checking accounts and earn almost no interest on their passbook savings accounts. In many communities, small depositors end up paying more in fees than they earn in interest. But big depositors are doing just fine. They get lots of benefits and can take advantage of money market accounts that earn a lot more interest than the typical passbook savings account. Their benefits far exceed any fees that they have to pay.

Long distance telephone service is the same way. The big long distance companies want you to pay either a very high rate - about 25 cents per minute - or they want you to pay a monthly fee to get a lower rate. If you're a business and you make a lot of calls, you can get rates as low as 5 or 6 cents per minute. Even small businesses and astute homeowners can get 9 or 10 cent per minute rates. But if you're a small consumer and you don't know any better, you can end up paying 25 cents per minute. We used to call that price discrimination. Now we call it competition. You better get used to it because that's what competition means. One phrase I've seen that captures it: "Big dogs eat first." That's the way competition works. Us little dogs get the leftovers.

Where's our last contestant? I don't have a lot of questions for you, but these are tough ones. Ready?
[overheads]

- Who is the largest customer of Bell Atlantic? [AT&T]
- What has happened to the rates that AT&T has paid to Bell Atlantic and the other local phone companies since 1984 when the Bell system was broken apart? [declined about 60%]
- Since 1984, what has happened to the rates that residential consumers pay for local phone service? [increased about 25%]
- Since 1984, what has happened to the total bill for phone service - local and long distance - for the typical residential customer? [increased a lot]
- What about AT&T's total bill? [decreased a lot]

Big dogs eat first, and we get to pick up the tab.

Take a look at the effects of deregulation on airlines, trucking, banking, railroads, buses, and long distance telephone. You'll see the same patterns emerge over and over again. Economically desirable customers - usually big customers in growing communities - do great. Prices go down, service options increase, competitors fawn all over each other to get their business. Less desirable customers may stay about the same. And undesirable ones pick up the tab - they pay higher prices, have fewer - or even no - choices, and get lower quality of service.

Change is not always good.

One of the big buzz words in the utility industry today is "convergence." Convergence means that different industries are coming together. Long distance phone companies are merging with local phone companies. Phone companies are buying cable companies. Equipment companies are buying service companies. Electric companies are buying gas companies, and even water companies. And everybody is buying something to do with the Internet.

Convergence. What does it mean for the small consumer? It means that everybody is going to converge … somewhere else. No one cares about you because you're small and you have a low income. No one cares about you because they can't use their "converging" to sell you more stuff on one bill. No one cares about you because you live in a small town. No one cares about you because you don't have a cell phone and you don't have a pager and you get your Internet access through the local library or community center or - perish the thought to the convergers - not at all, and you only make about 5 long distance calls a month. So do you know what you'll get? You'll get to pick up the tab for the big dogs. Unless you do something about it.

What's a consumer to do? And, perhaps more to the point, what's a consumer advocate or consumer service organization to do? How can you make sure that your clients and constituents don't become the victims of convergence, or as one commentator put it, "road kill on the information superhighway."

My suggestion to you is to fight convergence with convergence. To protect consumers against the big dogs, the little dogs need to work together. And I have three suggestions for where you can get started.

First, in order for consumers to make it through deregulation, you need to find ways to educate and inform consumers about what's going on. They need to understand how to shop for electricity, natural gas, and telephone service. It's not like shopping for other products or services - we need different skills, different types of information, and we need to ask different questions.

So, your number one priority must be to educate consumers about what's going on and how they can be smart consumers of utility services. Don't consumers know how to do this? No, they don't.

People have been able to choose their long distance telephone company for almost 15 years. Yet about two-thirds of residential customers still use AT&T, often at rates that are at least twice as high as another rate that's available. Let's say you make just 6 calls a month and each call lasts only 10 minutes. If you pay 25 cents a minute, you're paying $15 per month for long distance. If you switch long distance companies, you can get a rate of 9 cents a minute. Those same calls would cost you $5.40 per month. That's a savings of almost $10 per month, if you make only 6 calls. You know as well as I do that there are a lot of people out there for whom $10 a month can mean the difference between eating decent dinners for a week or not. There's a lot of money to be saved, but consumers have to know what to do, what questions to ask, and where to turn for help.

So, number 1: consumer education.

Number 2: consumer protection. The other type of convergence that comes with deregulation is the convergence of scam artists. Consumer fraud, misinformation, misleading advertising, promises that aren't kept – they're all part of competitive markets, too. One of my first cases as a very green, 24-year old lawyer, involved someone who paid a few thousand dollars for a new garage. The contractor came, built part of the garage, took all of the money, and was gone. That's what happens in competitive markets. Most of the consumer protection procedures we have aren't designed to deal with utility problems.

What makes utilities different? There are two major differences. First, utility services are essential to public health and safety. Second, they can't be stored - utility services must be delivered instantaneously and on demand. This combination of an essential service that must be instantly available makes it one that existing consumer protection methods are not well suited to. When you're out of electricity, you don't have months to investigate and negotiate. When your gas company failed to deliver in the middle of February, and you had to move into a motel for a couple of days, that's not your ordinary consumer protection problem. Particularly when it's multiplied by hundreds or thousands, or even millions, of consumers.

Number 3: Do the policy work, too. You can be sure that the utilities and the big-dog customers will have their lawyers and policy people involved in setting the rules for the transition to competition. You need to be there, too.

When convergence starts to happen - when the giant utility companies want to merge to become mammoth, you need to be there. Look what's happened in Pennsylvania in the last couple of years. PP&L bought the Penn Fuel Gas companies. AT&T bought TCI's cable systems. Bell Atlantic wants to buy GTE. Allegheny Energy and Duquesne thought about merging. Out of state energy companies want to buy Peoples Gas and PG Energy. GPU and Duquesne are selling off all their power plants to giant, out of state energy companies. And we're just getting started.

You need to be there. You need to be there to find out what's happening so you can help educate consumers. But you also need to be there to try to protect consumers and, maybe just maybe, to get some benefit for consumers from all of this.

In short, utility consumer advocates, and consumer service organizations, will need to do things differently than they have in the past. The number one priority must be to educate and inform consumers about what is happening and what they can do to benefit from the changes taking place in the industry. Second, work together to find ways to protect consumers from fraudulent, misleading, and other improper business practices. Third, get involved on the policy side of things. Help to write the rules that will govern these industries. Help to make sure that mergers, acquisitions, and other forms of convergence work for the benefit of small consumers.

Because change is not always good, and massive change can really confuse things.

And how do you make this happen? I'll suggest that it's only possible for this to happen if you work together. Form alliances of community groups, state agencies, local governments, labor unions, and other consumer groups. Pool your resources and your expertise.

To be blunt: Big dogs can eat first only if the little dogs let them.

I'll give you one quick example. The state of Maine has one of the more balanced electric restructuring laws in the country. There are protections for small consumers, utility workers, electricity suppliers; and there are reasonable opportunities for utilities and large industrial customers to benefit from more competition. How did Maine achieve such a balanced approach? By forming a broad-based consumer coalition that made some very tough choices, but above all realized the importance of sticking together and speaking with one voice. The coalition includes local and statewide consumer groups, government, large companies, environmentalists, and others. And they stayed together not only to influence the legislation, but they're still together to make sure that the legislation gets implemented in a way that makes sense.

Fight convergence – the mergers, takeovers, and sales – with convergence – coalitions of community groups, government, and others with similar interests. Change is not always good. But it can be good if you work together.

Thank you again for having me hear today. I'd be happy to answer any questions that you may have.