



Money, Politics, and the Business of Monopolies

*An Exclusive Report by the Alliance
for Affordable Energy*

Photograph by Mike Fleming

May 26, 2015

©Alliance for Affordable Energy
PO Box 751133
New Orleans, Louisiana 70175

Table of Contents

Executive Summary	4
America's Monopolies: Gas and Electric Utilities	7
Government Regulation, Critical to Legal Monopoly Model	8
Regulatory Capture, the Goal of the Monopoly	9
Regional Context for Public Service Commission Elections	11
Monopoly Lobbyists	12
Regulatory Capture Extends to State Agencies	16
Monopoly Money	18
Conclusion and Recommendations	22
Appendix	24
Excerpt - Mississippi Statute banning campaign contributions to PSC	
Excerpt - Alabama Statute banning campaign contributions to PSC	
Excerpt - Georgia Statute banning campaign contributions to PSC	
References	26



“The arc of the moral universe is long
but it bends toward justice.”

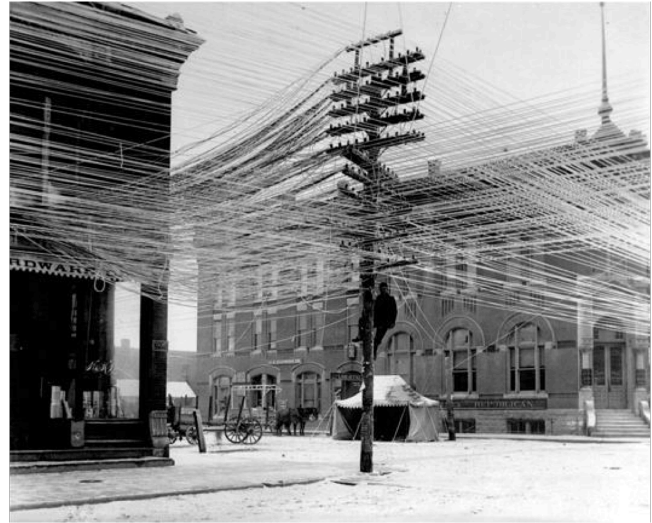
- Dr. Martin Luther King, Jr.

The Alliance for Affordable Energy has 30 years of experience in energy regulation and policy making in the state of Louisiana. Our mission is to advocate for fair, affordable and environmentally responsible energy. Over the past three decades, we have worked to hold monopoly utilities accountable to their customers. This work inspired the Alliance to research and write this report.

Executive Summary

The United States laws governing commerce are based on the English Common law, which abhorred the restraint of trade. Because monopolies tend to restrain trade by limiting the marketplace to one company, they were routinely discouraged out of existence.

However, in the early part of the 20th century the nation saw tremendous growth in electrification, which brought an unprecedented improvement in the quality of life. Unfortunately, it also brought complications, fierce competition, and eye-sores.¹ Our government determined that to grow the nation properly, electric companies should be allowed to operate without competition. In exchange for the government's protection against competition, monopoly utilities surrendered to government regulation. A Faustian bargain was struck.



Circa 1911: Even small towns like Pratt, Kansas ended up with a huge mishmash of wires clogging the streets as early electric companies competed to supply power to businesses. (Source: Kansas Historical Society)

In an article in Forbes, contributor William Pentland asks, “Why are the interests of ratepayers seldom protected as aggressively as shareholders?”² The Alliance asserts that the answer lies in a concept called “Regulatory Capture”, when a regulated utility actively pursues undue influence over the Government entity responsible for its oversight. Regulation by a captured regulatory agency is worse than no regulation at all because it wields the authority of government but without the accountability to the public.

Electric and gas utilities have a high-stakes interest in the outcome of policy and regulatory decisions and without a proper legal structure in place, these utilities spend a troublesome amount of resources attempting to gain the policy outcomes that best suit their shareholders. Over the past decade, Louisiana monopoly utility companies spent millions of dollars on candidates, decision makers, and lobbyists as a way to gain influence and control over policy-making and regulatory oversight. The political calculus was made abundantly clear when The Baton Rouge Advocate reported on former Entergy CEO J. Wayne Leonard's

¹ Kansas Historical Society. Pratt, Kansas circa 1911.

² William Pentland. Investor Owned Utilities: Asleep at the Switch or Above the Law? Forbes. September 18, 2011. Retrieved at: <http://www.forbes.com/sites/williampentland/2011/09/18/investor-owned-utilities-asleep-at-the-switch-or-above-the-law/>

boasts to Wall Street analysts that Entergy “has three very solid votes” on the Public Service Commission.³

Monopoly utilities interfere with the independence of government oversight, which undermines protections of the public, through political patronage in the form of funding political campaigns, skirting campaign limits by bundling contributions, retiring campaign debt, funding lobbying parties, and the practice of financially supporting incumbent re-elections. Fox 8 TV and NOLA.com / The Time Picayune ranked the 400 top donors in Louisiana elections, the monopoly electric and gas utilities were high on the list.⁴ Of the state’s largest campaign contributors Entergy was #13, Atmos was #86, Cleco came in at #101, and AEP (SWEPCO) at #146. While campaign contributions by regulated utilities are illegal in the majority of states that elect their Commissioners, including Mississippi, Alabama, and Georgia; Louisiana’s electric and gas monopolies have no such restrictions. Legislative efforts to fix the problem have all failed.

Monopoly gas and electric utilities have a vested interest in maintaining their monopoly power and influence, which explains why Entergy, Centerpoint, Cleco, Atmos, and SWEPCO invest heavily in lobbyists. Besides protecting the ability to influence, utilities also lobby the Louisiana Legislature for generous tax credits. The utilities successfully convinced the Legislature and Department of Economic Development to allow utilities to claim the Manufacturing Tax credit. This resulted in reductions of hundreds of millions of dollars from the state coffers.

The corrosive influence extends to Louisiana’s state agencies as well. Recently, the Louisiana Department of Environmental Quality (DEQ) testified before the State House Committee on Natural Resources and Environment. Officials representing DEQ claimed that they had conducted 6 open stakeholder meetings about the Environmental Protection Agency’s newly proposed clean air rules. In fact, contrary to their assertions, the meetings were closed to the public. In addition, the DEQ refused to disclose documents from these meetings claiming the information is confidential. To date, DEQ has refused to comply with a Public Records request for agendas, meeting notes, and other information about these meetings.

Based on our findings, the Alliance developed a list of recommendations to help better protect the public from the corrosive influence of monopoly power. It is our great hope that shining a light on this problem will mitigate the harmful effects of government capture.

³ Mark Ballard. Entergy CEO apologizes to board *** Comments about PSC regrettable, Leonard says. Baton Rouge Advocate. January 19, 2006.

⁴ Lauren McGaughy NOLA.com|The Times-Picayune and Lee Zurik Fox 8 News/Fox8live.com. Louisiana utility regulators got two-thirds of their campaign cash from industries they oversee.

Alliance Recommendations:

To increase transparency and accountability at the Public Service Commission, Legislature, and state agencies in Louisiana the Alliance recommends:

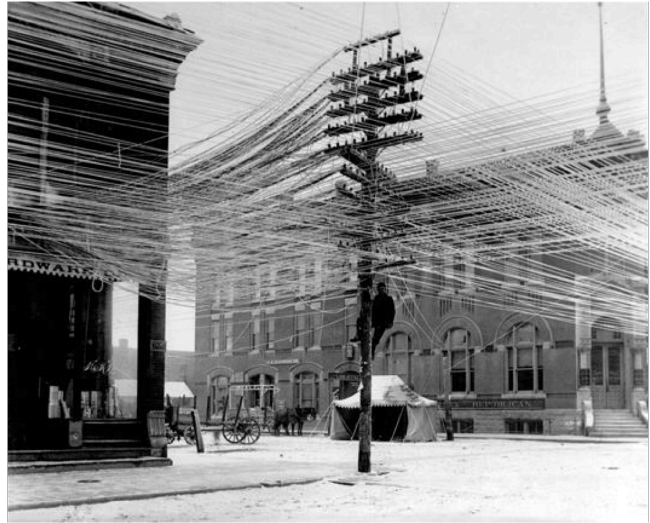
- Louisiana Legislature should adopt similar prohibitions to those enacted in Mississippi and Georgia that limit campaign contributions from regulated utilities to regulatory candidates.
- Legislature should expand Louisiana's Open Meetings Law to include state departments. The public is not served well when our public agencies are allowed to hold secret meetings, hide meeting agendas, and withhold meeting notes from the light of day as did the Department of Environmental Quality.
- The Legislature must adopt a prohibition against "unalterably closed mind", a minimum legal standard of open-mindedness used by courts. An unalterably closed mind is demonstrated when a decision-maker commits to a vote before hearing public testimony. Legislators should demonstrate an openness to new testimony during legislative hearings. All too often, members of the public experience a bewildering neglect during public testimony as legislators actively consult their smart phones, get up and leave the room, whisper in side conversations, and engage in other disrespectful behavior.
- The Commission should formally adopt Robert's Rules of Order and faithfully follow proper parliamentary procedures. The Commission claims it uses Robert's Rules of Order, but the Commission does not faithfully follow the parliamentary procedures. When the Commission alters the process, the public has no recourse because the Commission has not officially adopted Robert's Rules.
- The Louisiana State Legislative Auditor should consistently provide oversight and accountability to the Commission by performing an audit at least once every five years. At a minimum the Auditor's office should ensure that the agency is adopting recommendations from past audits. Otherwise, the audit is a singular waste of resources.
- The Legislature must disallow ex parte meetings between regulated utilities and sitting Commissioners. The secrecy of ex parte meetings is a disservice to the public. Meetings between regulators and the regulated should require the presence of Commission staff and meeting note takers at a minimum.

America's Monopolies: Gas and Electric Utilities

The United States adopted the laws of the English Common law tradition, which abhorred the restraint of trade.ⁱ Because monopolies tend to restrain trade by limiting the marketplace to one, they were made illegal.

However, in the early part of the 20th century the nation saw tremendous growth in electrification, which brought an unprecedented improvement in the quality of life. Unfortunately, it also brought complications, fierce competition, and eye-sores. The photograph from Pratt, Kansas illustrates the problem.ⁱⁱ

The U.S. government determined that to grow the nation properly, electric companies should be allowed to operate without competitionⁱⁱⁱ. In exchange for the government's protection against competition, monopoly utilities surrendered to government regulation. A Faustian bargain was struck.^{iv}



Circa 1911: Even small towns like Pratt, Kansas ended up with a huge mishmash of wires clogging the streets as early electric companies competed to supply power to businesses. (Source: Kansas Historical Society)

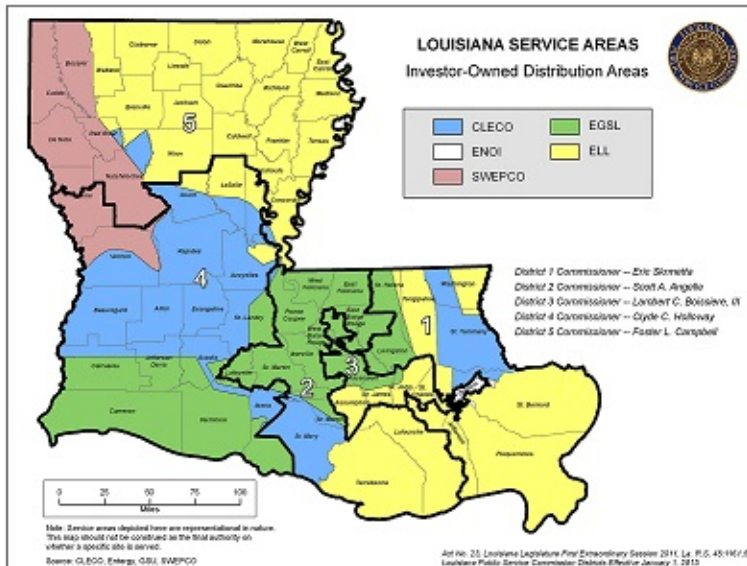
Electricity and gas utilities are called “coercive monopolies” because they operate in a competition-free environment by law. Competitors are legally barred and hence, the company is able to raise rates, make generation decisions, and fuel investments without fear of a more innovative or efficient competitor attracting away customers. If another utility company tried to set up shop in Baton Rouge, this would be illegal. A person's utility company is dictated by their address; there is no other choice.

Government regulators are tasked with the role of ensuring the utility is not engaging in the predatory practices only possible in monopolized markets such as egregious price gouging. It is the responsibility of these regulators to enact rules that will create a similar outcome as would be the case in a competitive market.”

In Louisiana, we have three privately owned monopoly electric and three gas utilities:

- Entergy (Louisiana, Gulf States, New Orleans) supplies electric and gas customers
- Cleco
- AEP/SWEPCO
- Atmos
- Centerpoint

Each company is allowed to operate in very specific locations. The following map of Louisiana shows each of the monopoly electric utility territories and the overlapping LPSC district.^v A map of gas monopoly distribution areas is not available.



Government Regulation is Critical When Free Market Forces Are Outlawed

Current economic theory prefers free market competition but in the case of electric utility service, the economic value of competition has not been practical.^{vi} However, actually achieving the economic value of monopolized utility services is highly dependent on proper regulatory oversight. An effort to introduce competition in this sector, called deregulation, has produced its own problems. In 2000 and 2001, Enron manipulated the energy markets in California causing black outs and the bankruptcy of Pacific Gas and Electric Company.^{vii} Moreover, in Texas, it is estimated that deregulation has cost ratepayers an additional \$22 Billion over the years 2002-2012.^{viii} Hence, if we cannot encourage competition in the electric and gas utility service sector, then it is essential that regulation be strong to prevent the abuse of monopoly power.

The agency responsible for regulating our state utilities is the Louisiana Public Service Commission (hereafter "the Commission"). No other administrative agency or elected body has more impact on business decisions and financial outcomes for the state's electric and gas utilities than the Commission. The five members of the Commission are the only line of defense against unfair monopoly practices.

Unfortunately, the Commission has been rocked with scandal and poor performance reviews over the last decade.^{ix} For example, the Alliance had to file a lawsuit against the Commission in 2013 for violating the State Open Meetings Law after the Commission Chair

moved to a vote and aggressively disallowed public comment.^x The following findings exemplify how Louisiana's monopoly utility companies have exerted a tremendous amount of financial and political pressure to turn the tables on the regulatory process to advance their own interests. This is a well-recognized phenomenon called "regulatory capture".^{xi}

Regulatory Capture, the Goal of the Monopoly

Regulatory capture is defined as the informal takeover of a government agency by the corporation subject to the agency's oversight for the purposes of reducing or eliminating corporate regulation. Electric and gas utilities have a high-stakes interest in the outcome of policy and regulatory decisions and therefore, spend a troublesome amount of resources attempting to gain the policy outcomes that best suit their shareholders.^{xii} In Louisiana, the political calculus was made abundantly clear when The Advocate reported on former Entergy CEO J. Wayne Leonard boasts to Wall Street analysts that Entergy "has three very solid votes" on the Public Service Commission.^{xiii}

While campaign contributions by regulated utilities are illegal in the majority of states that elect their Commissioners, including Mississippi, Alabama and Georgia, Louisiana's electric and gas monopolies have no such restrictions.^{xiv} These monopolies spend more money to influence the outcome of Commission races than any other source. In doing so, they vastly outmatch the financial support and overwhelm the voices of ordinary citizens.

In 2013, Fox 8 TV and NOLA.com / The Time Picayune ranked the 400 top donors in Louisiana elections, the monopoly electric and gas utilities were high on the list. Of the state's largest campaign contributors Entergy was #13, Atmos was #86, Cleco came in at #101, and AEP at #146.^{xv}

Utilities before the Commission regularly avail themselves of a loophole in campaign limit laws by engaging in "bundling", grouping many separate donations by company employees and family members into one pile of checks.^{xvi} The Louisiana Ethics Administration Program set rules on campaign giving for major offices like the Commission. These rules set a limit of \$5,000 per individual and \$10,000 for Political Action Committees.^{xvii} These limits were set to avoid undue levels of influence from wealthier individuals and businesses. The use of bundling by utilities to skirt these legally imposed limitations on contributions exerts financial influence over Commission candidates disrespecting the independence of the PSC and its Commissioners.

Combined, the state's monopoly electric and gas utilities, their Political Action Committees, and employees are the largest campaign contributors to Commission elections, giving more than \$300,000 to Commissioners' campaigns between 2009-2012.^{xviii} When contributions from affiliated lobbyists and lawyers are included, the figure grows much higher. Since 2012, the contributions have kept pace. From our research into campaign disclosure forms

we identified that Entergy has given \$50,000 and another \$130,000 from other electric and gas utilities going into Commissioner races since 2013.

Utilities direct resources to influence the outcome of Commission elections but the effort to capture the agency do not stop there. Our investigation revealed other more troubling practices in how utilities use loopholes in political campaign laws to gain favor with sitting Commissioners.

Whether newly elected or re-elected, utility companies have habitually assisted sitting Commissioners in retiring campaign debt, created when contributions run out and the candidate dips into his/her own finances to keep campaigning. These debt retirement checks from the utility can be written to a Commissioner's campaign and then paid directly to the Commissioner for what is essentially a personal loan repayment. State ethics laws bar utilities from making direct financial payments to the government officials who regulate them, but checks for retiring personal campaign debt essentially *is* a personal financial payment. Because the Commissioner has already secured his seat, and the contributions therefore do not impact the outcome of an election, the only reason to make post-election contributions is to curry favor with an important decision maker.^{xix} With regulatory issues before the Commission that directly affect these utility companies' financial interests, utilities' exploitation of this loophole represents a serious conflict of interest.

**Table I: Post Election Campaign
Contributions from Utilities 2009-2012**

Monopoly Utility	Post Election Donation
Atmos	\$22,300
CenterPoint	\$3,000
CLECO	\$13,800
Entergy	\$47,200
SWEPCO	\$3,500
Total	\$89,800

Sources: LA Ethics Administration Campaign
Finance Filings, AAE research

In addition, it is the standing position of the major electric and gas utilities to support the candidacy of incumbent Commissioners, a stance that is no secret and is reflected in

patterns that are clearly visible in campaign finance filings. In a review of campaign finance filing reports from every election cycle over the past decade, electric and gas utilities financially backed incumbents against challengers in every instance. Commission campaigns are very expensive, typically costing hundreds of thousands of dollars. With the high cost of these elections, it is therefore a huge benefit for a candidate to receive the substantial political and financial support that comes with utility company backing. Ultimately, the promise of campaign support from utilities for incumbent Commissioners translates into significant job security for the elected officials. When a sitting regulator's continued employment is dependent on the financial support of the entity it is regulating, that regulator's ability to engage in unbiased decision-making is certainly limited.

Table II: Utility Contributions Supporting Incumbents

Utility Company and PAC Contributions to Sitting Commissioners 2009-2015 (May)

ATMOS	\$79,500
CenterPoint	\$32,000
CLECO / United Employees PAC	\$47,100
Entergy	\$34,500
SWEPCO	\$2,000
Total	\$195,100

Sources: LA Ethics Administration Campaign Finance Filings, AAE research

The monopoly utility practice of funding political campaigns, retiring campaign debt, and the supporting incumbents are all forms of political patronage that interfere with the independence of utility regulators and undermine protection for the public.^{xx}

Regional Context for Public Service Commission Elections

Among states that elect their Commissioners, Louisiana has some of the lowest level of protections against regulatory capture efforts by monopoly utilities. Other states in the Deep South including Mississippi, Alabama, and Georgia all ban political contributions from utilities and their PACs to their Commission.^{xxi} In Mississippi, those restrictions extend to company employees as well.^{xxii} Here is a section of the Mississippi law demonstrating a serious commitment toward protecting their Commission from the corrosive influence of monopoly utilities:

Mississippi Code Ann. 77-1-11 Acceptance by or offering to commission members, candidates or employees of gifts, passes, campaign contributions or other benefits
(1) It shall be unlawful for any public service commissioner, any candidate for public service commissioner, or any employee of the Public Service Commission or Public Utilities Staff to knowingly accept any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever, either directly or indirectly, from any person interested as owner, agent or representative, or from any person acting in any respect for such owner, agent or representative of any common or contract carrier by motor vehicle, telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission. Any person found guilty of violating the provisions of this subsection shall immediately forfeit his or her office or position and shall be fined not less than Five Thousand Dollars (\$ 5,000.00), imprisoned in the State Penitentiary for not less than one (1) year, or both.

In 2010, the New Orleans City Council voluntarily imposed a ban on accepting campaign contributions from Entergy New Orleans, over which they have independent regulatory authority.^{xxiii}

Monopoly Lobbyists

Monopoly lobbyists appear to have more influence with the Louisiana legislature than does the public. All too often, members of the public experience a bewildering neglect while giving impassioned testimony before distracted legislators who have already committed their vote to well-paid, well-placed lobbyists. Tulane Law Professor Oliver Houck captures the sensation best in a recent article for the Tulane Law Journal.^{xxiv}

“It is often said that the best way to introduce students to the workings of democracy is to have them attend a session of their lawmakers in action. In Louisiana, that might be the last thing you would want them to do. Legislators roll in like tardy schoolboys, turn their backs on witnesses, rise and leave in the middle of testimony, talk to each other in stage whispers, tweet, compare golf scores, check the latest on LSU athletics, and consult privately with lobbyists on how to vote.”

The Legislature is well aware of the problem of regulatory capture in Louisiana. There have been several attempts to rein in the monopolies and the intuitive impropriety involved when regulated utilities choose their own regulators. Over the past decade, the Louisiana Legislature has proposed a number of different bills addressing the problem including HB510 (2004), SB235 (2006), and HB239 (2009). All failed to achieve the desired result but House Bill 510 failed in a particularly interesting way. Rep. Montgomery filed the original bill that clearly sought to clean up the campaign problems at the Commission. Here is an excerpt from HB510:

“The legislature recognizes that it is essential to the operation of effective

democratic government in this state that citizens have confidence in the electoral process and that elections be conducted so as to prevent influence and the appearance of influence of candidates for public office and of the election process by special interests, particularly with respect to campaign contributions made to regulators or candidates for regulatory offices by the regulated entities subject to their jurisdiction or regulatory authority.”

The original language of the bill put limitations on:

“contributions to candidates and political committees participating in the election of a public service commissioner from certain legal persons under the jurisdiction of the Public Service Commission; to prohibit such persons from compelling or coercing contributions from others; to provide for penalties for persons who violate these provisions”.

The language of the bill remained consistent through engrossing and re-engrossing.^{xxv} However, when HB510 left the House and went to the Committee on Senate and Governmental Affairs, things went horribly awry. The Senate committee dramatically altered the language, completely changing the bill’s intent. HB510 went from barring political contributions to the Commission to allowing “persons substantially interested in the *gaming industry*” (emphasis added) to give campaign funds to recognized political committees.

This is a clear violation of “Germaneness”, the Legislature’s standard ensuring that amendments stay true to the original bill’s intent.^{xxvi} Senate Rules of Order state, “Every amendment must be germane to the subject of the legislative instrument as introduced.” . The Alliance posits that monopoly utility Lobbyists successfully advocated against HB510. Otherwise, why would the Senate committee change the bill from one that solved a problem at the Commission to something that had nothing whatsoever to do with the Commission?^{xxvii}

Monopoly utilities are allowed to hire lobbyists to influence policy and policy-makers but this is not on behalf of the utility’s customers. Lobbyists have proven their worth. According to an analysis by Strategas, an investment-research firm, hiring lobbyists is a stunning investment “comparable to the returns of the most blistering hedge fund.”^{xxviii} Strategas reported that U.S. companies that hired lobbyists outperformed the S&P 500 by 11% each year from 2002 to 2011.^{xxix}

Following are tables listing each monopoly utilities’ lobbyists. LG refers to the Louisiana State Legislature, EX refers to the Louisiana Public Service Commission and LO refers to local decision-makers.

Table III: Lobbyist Information for Entergy Companies

Entergy			
Name	Years Employed	Salary	Branch
Jody Reed Montelaro	4	\$100,000 - \$249,999	LG, EX, & LO
Amanda Hatten Edge	3	\$50,000 - \$99,999	EX
Daryn Michael Bovard	3	\$50,000 - \$99,999	LG, EX, & LO
Maxine Richardson Cormier	2	\$25,000 - \$49,000	LG
Katherine M. Smith	2	\$50,000 - \$99,999	LG
Stephen W. Ledet	2	\$100,000 - \$249,999	LG, EX, & LO
Michael J. Michot	<1	\$24,999 or less	LG, EX, & LO
Tyron David Picard	<1	\$24,999 or less	LG, EX, & LO
Nicholas Walts	<1	\$24,999 or less	LG, EX, & LO
Alton Ashy	<1	\$25,000 - \$49,999	LG, & EX
Christopher P. Coulon	<1	\$24,999 or less	LG
Alisha Marie Duhon	<1	\$24,999 or less	LG
Nicholas P. Cahanin	<1	\$24,999 or less	LG, EX, & LO
Joshua G. Borill	<1	\$24,999 or less	LG, EX, & LO
TOTAL PER YEAR	14 Lobbyists	Up to \$1,073,987	

Table IV: Lobbyist Information for CLECO

CLECO			
Name	Years Employed	Salary	Branch
Katie S. Chiasson for CLECO Corporation	10	\$25,000 - \$49,000	LG, EX, & LO
Katie S. Chiasson for CLECO Power, LLC	6	\$24,999 or less	LG, EX, & LO
Ginger Adam Corley	6	\$25,000 - \$45,000	LG, & EX
James D. Williams	6	\$50,000 - \$99,000	LG, EX, & LO
Eric Anthony Schouest	2	\$24,999 or less	LG, & LO
Francisca M. Comeaux	2	\$24,999 or less	LG, EX, & LO
John O. Shirley	2	\$24,999 or less	LG, EX, & LO
Jimmy R. Faircloth Jr.	1	\$24,999 or less	LG, & EX
Jonathon Ringo	1	\$24,999 or less	LG, EX, & LO
Gilbert Stephen McKee	<1	\$50,000 - \$99,000	EX
TOTAL PER YEAR	9 Lobbyists	Up to \$441,994	

Table V: Lobbyist Information for Centerpoint

CENTERPOINT			
Name	Years Employed	Salary	Branch
Rodney Braxton	6	\$24,999 or less	LG
Lindy Broussard	6	\$24,999 or less	EX
Bobby Burns	6	\$24,999 or less	EX
Scott Faulk	6	\$24,999 or less	EX
Randal Johnson	6	\$24,999 or less	LG
Robert Kidd	6	\$24,999 or less	EX
Elizabeth Mangham	6	\$24,999 or less	LG
Bradley Mittendorf	6	\$24,999 or less	LG
Kevin E. Cunningham	5	\$24,999 or less	LG
Douglas Boudreaux	2	\$24,999 or less	EX
Francisca M. Comeaux	2	\$24,999 or less	LG, EX, & LO
John O. Shirley	2	\$24,999 or less	LG, EX, & LO
Richard Collin Leger	1	\$24,999 or less	LG
TOTAL Per Year	13 Lobbyists	Up to \$324,987	

Table VI: Lobbyist Information for Atmos

ATMOS			
Name	Year Employed	Salary	Branch
Rodney Braxton	6	\$24,999 or less	EX
Kevin E. Cunningham	6	\$24,999 or less	EX
Randal Johnson	6	\$24,999 or less	EX
Elizabeth Mangham	6	\$24,999 or less	EX
Bradley Mittendorf	6	\$24,999 or less	EX
Christian Rhodes	3	\$24,999 or less	LG & EX
CJ Blanche	6	\$24,999 or less	LG & EX
Tommy Herbert	<1	\$50,000 - \$99,999	LG
Sam (Trey) H Hill, III	6	\$25,000 - \$49,999	LG & EX
John Dunbar Koch	6	\$24,999 or less	LG & EX
Jon K. Parsons	6	\$24,999 or less	LG & EX
TOTAL per year	12 lobbyists	Up to \$374,989	

Table VII: Lobbyists for AEP SWEPCO

SWEPCO

Name	Years Employed	Salary	Branch
Emile Braden Cordaro	6	\$100,000 - \$249,999	LG, EX, & LO
Terry Brian Bond	6	\$24,999 or less	LG, & EX
TOTAL PER YEAR	2 Lobbyists	Up to \$274,998	

Additionally, while the Louisiana Revised Statutes require that monthly expenditure reports include the subject matter lobbied, this is not always disclosed.^{xxx} For example, in December 2014 Cleco lobbyist Mrs. Katie Chiasson reported a \$1,650.00 expenditure on a “Holiday Appreciation Lunch” at the Baton Rouge Hilton Capital Center. In Ms. Chiasson’s monthly expenditure report she failed to disclose what issues were being lobbied at the event. Instead, the report simply states “No Subject Matters Lobbied” in violation of statutes LA RS 49:76(D)(1)(a) and 24:55(D)(1)(a).^{xxxii} When lobbyists and their clients hide information from the public, whether intentional or not, the public trust is eroded.

The Alliance also credits utility lobbyists for securing generous tax credits from the Louisiana Legislature. The utilities successfully convinced the Legislature and Department of Economic Development that they should be allowed to claim the Manufacturing Tax credit.^{xxxiii} This allowed them to deduct hundreds of millions of dollars from taxes that otherwise would have gone into state coffers.

Table VIII: CLECO, SWEPCO, Entergy Louisiana State Tax Credits

	Entergy	Cleco	AEP/SWEPCO	TOTAL
2013 Louisiana Subsidies to Utility Companies	\$217,156,854	\$1,523,914	\$1,020,141	\$219,700,909
2008-2013 Louisiana Subsidies to Utility Companies	\$325,273,469	\$343,605,805	\$218,028,495	\$886,907,769

*Data from SubsidyTracker.com.

Regulatory Capture Extends to State Agencies

On February 12th, representatives from the Louisiana Department of Environmental Quality (DEQ) testified before the State House Committee on Natural Resources and Environment. Tegan Treadaway, Assistant Secretary of DEQ and Bryan Johnston, DEQ Air

Permits Division claimed they had conducted 6 open stakeholder meetings about the Environmental Protection Agency's newly proposed clean air rules. In fact, contrary to their assertions, the meetings were closed to the public.



LDEQ's Outreach Efforts

LDEQ conducted 6 open meetings with stakeholders: June 19, July 3, July 22, August 20, September 11, and October 8.

Stakeholders included representatives from the:

- Public Service Commission (PSC)
- State Energy Office (in Dept. of Natural Resources)
- Entergy, Louisiana Generating, Cleco, SWEPCO, and Lafayette Utilities
- Midcontinent Independent System Operator (MISO)
- Southwest Power Pool (SPP)
- American Coalition for Clean Coal Electricity
- Louisiana Electric Utility Environmental Group
- Governor's Office

Source: LDEQ Power Point Presentation. *EPA's Proposed Clean Power Plan House Committee on Natural Resources and Environment*. Department of Environmental Quality. Provided to Alliance via Louisiana Legislature staff. Full presentation available here: <http://all4energy.org/?p=4437>

The Alliance contacted the DEQ in July and August of 2014 to request a stakeholder meeting but our calls were never returned. The Alliance requested help from EPA Region 6 about setting up stakeholder meetings with Louisiana DEQ, also to no avail. DEQ never responded to these requests or even mentioned that stakeholder meetings were in fact taking place. Once we learned that DEQ had been holding meetings about the new clean air rules, we submitted a Public Records Request for documents such as the following:

- 1) Any and all documents (including, but not limited to email correspondence) providing notice to any participant in the stakeholder meetings conducted on June 19, 2014, July 3, 2014, July 22, 2014, August 20, 2014, September 11, 2014 and/or October 8, 2014;
- 2) Any and all documents of notes or minutes taken by any member of LDEQ during the stakeholder meetings conducted on June 19, 2014, July 3, 2014, July 22, 2014, August 20, 2014, September 11, 2014 and/or October 8, 2014;
- 3) Any and all documents of any correspondence (including, but not limited to email correspondence) between any employee of LDEQ and: a) any representative of the Public Service Commission; b) any representative of the Department of Natural Resources; c) any representative of Entergy, Louisiana Generating, Cleco, SWEPCO, and/or Lafayette Utilities; d) any representative of Midcontinent Independent System Operator; e) any representative of the Southwest Power Pool; f) any representative of the American

Coalition for Clean Coal Electricity; g) any representative of the Louisiana Electricity Utility Environmental Group and/or h) any representative of the Governor's office regarding the EPA 111(d) stakeholder meetings conducted on June 19, 2014, July 3, 2014, July 22, 2014, August 20, 2014, September 11, 2014 and/or October 8, 2014

Approximately eight weeks later, the Alliance was furnished with 61 emails, mostly between DEQ and the EPA, which we had not requested and a letter claiming that the other requested materials were "confidential". The power point presentation to the Legislature was also not included. In DEQ's letter, they claimed that "the records requested have been deemed confidential in accordance with La. R. S. 30:2030(A)(1):

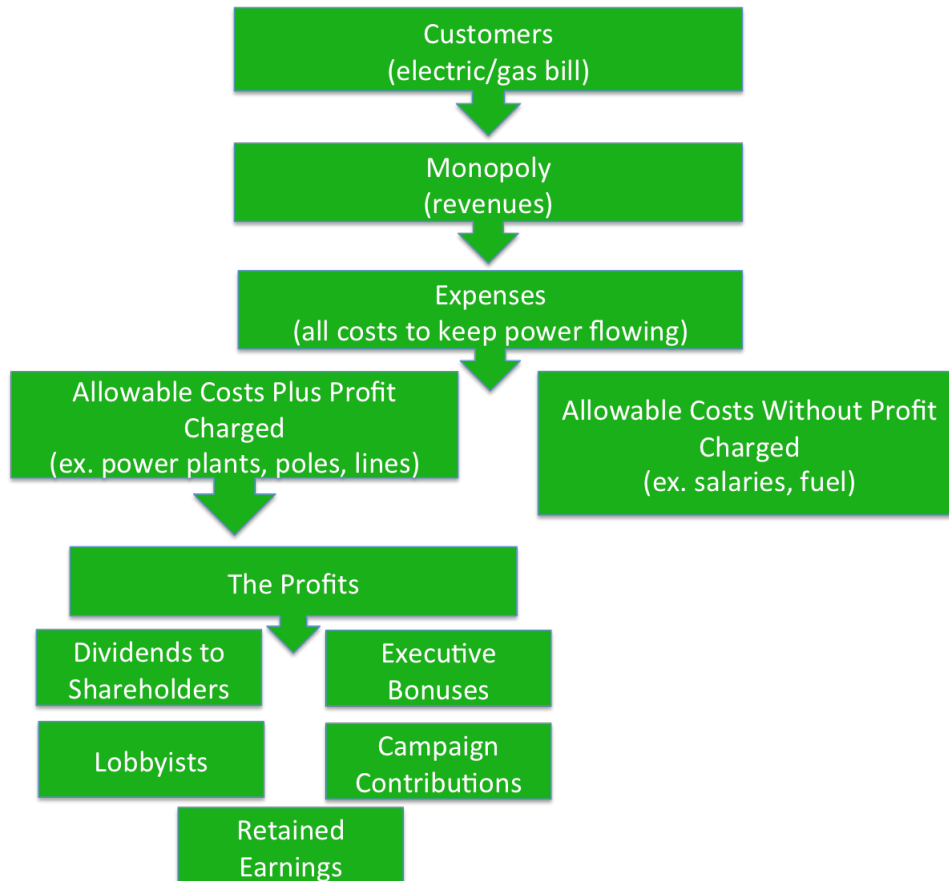
*Department records and information obtained under this Subtitle, or by any rule, regulation, order, license, or permit term or condition adopted or issued hereunder, or by any investigation authorized thereby, shall be available to the public, unless nondisclosure is requested in writing, and such information is determined by the department to require confidentiality. Such information may be classified as confidential by the department if the secretary makes a written determination that confidentiality is necessary to: (a) Prevent impairment of an ongoing investigation or prejudice to the final decision regarding a violation; or (b) **Protect trade secrets, proprietary secrets and information, and commercial or financial information (emphasis added).**"*

DEQ is withholding important information about these meetings and this is a detriment to the public. Moreover, stakeholders with a vested interest in clean air rules were summarily excluded from these important meetings. Stakeholders that would have brought an important perspective to the table include public health professionals, Doctors and nurses that treat asthma, fenceline communities, labor interests, hunter/fisher groups, renewable energy industry professionals, and technical experts on energy efficiency. The DEQ failed to include these other perspectives in their secret meetings and ultimately from the recommendations given to the EPA regarding the Clean Power Plan.

Monopoly Money

Investor-owned monopolies are "cost plus" businesses, meaning they charge all allowable costs of doing business to their customers plus a percentage of profit allowed by their regulator. Customers are obligated to pay for new power plants, upgrades to power plants, Executive pay, dividends, lawyers, fuel, poles/lines/transformers, linemen, accountants, regulatory activity, customer call centers, incurred debt, interest on debt, fuel transportation, Executive travel, and many other costs. Some allowable costs are subject to the profit percentage and some are not. Below is a simple flowchart to illustrate the flow of money that comes from customer bills to the monopoly and how the money is distributed by the monopoly.

Chart I: Flow of Customer Dollars



The Commission determines which costs are allowable and sets the profit percentage, called “Rate of Return”. A Commission must be free to make these determinations without prejudice. The public is best served when the Commission can review the utility’s books in a clean, unbiased and transparent way. Unfortunately, the process of setting profit margins is highly politicized and does not serve the public’s best interest. Currently, Louisiana’s utilities are allowed to charge ratepayers 9.95 – 11% percent above their actual expenditures on allowable costs.^{xxxiii} It is noteworthy that the profit margin only recently decreased for Entergy Louisiana/Gulf States and Cleco. Their profit margins remained sheltered throughout the 2008 financial crisis that hit other sectors of the economy.

Determining what costs are “allowable” is also a political minefield. If a cost is “allowable” that means customers have to foot the bill. If a cost is not allowed, then it comes out of the monopoly’s profits. The monopoly is highly motivated to pass all their costs onto customers. The Commission is the only line of defense on this point.

The table below gives the net income—revenue minus expenses—of Louisiana’s monopoly utilities earned from 2010 through 2014. In 2014, Entergy Louisiana reported the highest income with \$283 million.

Table IX: CLECO, SWEPCO, Entergy Net Income, 2010-2014

	2010	2011	2012	2013	2014
CLECO	\$147,404,638	\$142,834,818	\$146,847,972	\$150,409,951	\$154,315,565
SWEPCO	\$142,590,708	\$161,285,266	\$198,891,487	\$149,811,079	\$140,369,257
Entergy Louisiana	\$231,435,918	\$473,923,907	\$281,080,673	\$252,464,460	\$283,499,667
Entergy Gulf States Louisiana	\$190,739,766	\$201,603,100	\$158,977,544	\$161,661,473	\$162,491,331

Source: FERC Form 1 Filings and Subsidy Tracker

Executive Pay

Executive pay is an allowable cost, meaning customers pay for Executive salaries through their electric bills. Monopoly managers have the option of providing themselves with amenities in their salaries but the ability to take advantage of this option is largely dependent on how well they are externally controlled by reliable public officials.^{xxxiv} Further, the regulatory agency must have consistent and good oversight of the monopoly because of complicated compensation packages. An Executive for a monopoly has a base salary and likely one or several of the following: bonuses, stock awards, stock option awards, non-equity incentive plan compensation, changes in pension value, non-qualified deferred compensation earnings, and other compensation.

These complicated compensation packages are intended to give executives incentive to improve the financial performance of the utility. Financial performance is primarily a measure of increasing shareholder value—dividends and retained earnings. Typically, eighty percent of executive pay is considered at-risk or performance-based; base salary is about twenty percent of total compensation.

Monopoly executives in Louisiana are handsomely compensated. Below is a summary table of executive pay for the Louisiana monopoly utilities. In 2014, the highest earning utility executive in Louisiana earned \$11.8 million/annual, and the average total compensation of the nine top executives was \$5.1 million.^{xxxv}

Table X: Total Compensation for Each of the Top Three Executives at CLECO, SWEPCO, Entergy Louisiana, and Entergy Gulf States Louisiana, 2010-2014

	2010	2011	2012	2013	2014
CLECO	\$524,000*	\$595,154*	\$10,667,448	\$4,198,421	\$6,610,521
	\$277,477*	\$333,846*	\$1,426,417	\$1,085,266	\$2,425,800
	\$255,523*	\$268,069*	\$2,118,932	\$1,532,055	\$2,115,902
SWEPCO	\$9,026,114	\$9,186,906	\$7,286,490	\$10,612,588	\$11,373,520
	\$4,254,957	\$2,807,802	\$3,627,587	\$3,521,319	\$4,417,885
	\$3,805,684	\$2,429,828	\$3,996,528	\$3,521,814	\$3,979,032
Entergy	\$3,211,932	\$3,411,668	\$3,043,594	\$2,775,784	\$11,824,034
	\$1,639,494	\$1,832,250	\$2,163,870	\$955,443	\$3,242,418
	\$1,331,678	\$1,387,141	\$1,473,938	Not Listed	\$1,558,055
Median Louisiana Household Income	\$45,412	\$43,225	\$43,568	\$44,164	NA**

*Base salary only.

**NA Not Available until December 2015.

Sources: Top three executives as reported in FERC Form 1 filings. Total compensation found in SEC 10K reports. Census Bureau.

Dividends

Louisiana's monopoly utilities have consistently paid dividends to their shareholders. Dividends are attractive to investors because they demonstrate that the investment is safe and provides a return but customers pay these dividends.^{xxxvi} The table below gives the dividends Louisiana's utility monopolies paid to common and preferred stock holders from 2010 to 2014. Over the past two years, Entergy Louisiana paid more dividends than the other monopolies, with a total of \$691 million.

Table XI: CLECO, SWEPCO, Entergy Louisiana and Entergy Gulf States Louisiana Dividend Payments to Common and Preferred Stock Holders 2010-2014

IOU	2010	2011	2012	2013	2014
CLECO	\$59,374,000	\$68,368,000	\$79,179,000	\$86,756,000	\$95,030,000
SWEPCO	\$228,835*	\$209,685*	\$0	\$250,000,000	\$200,000,000
Entergy Louisiana	\$6,950,000**	\$365,150,000	\$22,550,000	\$363,204,000	\$327,570,305
Entergy Gulf States Louisiana	\$125,127,000	\$302,775,000	\$115,025,000	\$120,725,000	\$167,728,292

*Common stock wholly owned by American Electric Power.

** Preferred stock only.

Sources: FERC Form 1 Filings. CLECO dividends from SEC 10K 2014 and 2012.

Retained Earnings

Profits that are not paid to shareholders as dividends are reinvested by the utility into the utility. These profits are reported each year as retained earnings. The alternative to paying out excess profits as dividends are: undertaking more projects, repurchasing the company's own shares, acquiring new companies and profitable assets, and reinvesting in financial assets.^{xxxvii} Retained earnings equal the retained earnings at the beginning of the year plus net income minus dividends. The table below gives the retained earnings reported by Louisiana's monopoly utilities in 2014. In 2014, SWEPCO reported the most retained earnings with \$1.3 billion.

**Table XII: Retained Earnings for
Louisiana Monopoly Utilities, 2014**

2014	
CLECO	\$1,198,986,422
SWEPCO	\$1,270,252,397
Entergy Louisiana	\$1,061,052,917
Entergy Gulf States Louisiana	\$625,918,644

Source: FERC Form 1 Filings

Conclusions and Recommendations

Over the past decade, Louisiana monopoly utility companies have spent a troubling amount of money and resources on candidates and decision makers as a way to gain influence and control over policy-making and regulatory oversight. It is absolutely essential to protect the public from regulatory capture because regulation by a captured agency is worse than no regulation as it wields the authority of government but without the accountability. The Alliance is committed to increasing transparency about the corrosive influence of monopoly power over our Public Service Commission, Legislature, and state agencies. It is our great hope that shining a light on this problem will mitigate the effects of capture.

We have developed a set of recommendations that address issues around campaign contributions, lobbyists, and transparency problems.

We recommend the Louisiana Legislature adopt similar prohibitions against campaigning funding enacted in Mississippi, Alabama and Georgia without delay. Lobbying and campaigning by regulated utilities and their employees must be prohibited in order to protect decision-makers and the public. In addition, the Legislature must disallow Ex parte meetings between regulated utilities and sitting Commissioners.^{xxxviii} The secrecy of ex

parte meetings is a disservice to the public because it affords utilities and lobbyists with more influence than is afforded to the public. Meetings between regulators and the regulated should require the presence of Commission staff and meeting note takers at a minimum.

To protect the public and the public's confidence in state agencies, the Legislature should expand Louisiana's Open Meetings Law to include state departments. The public is not served well when our public agencies are allowed to hold secret meetings, hide meeting agendas, and withhold meeting notes from the light of day.

It is absolutely critical that the Legislature ensure the public has at least as much influence as well-paid lobbyists. In order to achieve balance, the Legislature must adopt a prohibition against "unalterably closed minds," meaning that Legislators should demonstrate openness to new testimony during legislative hearings.^{xxxix} This includes paying attention to members of the public while before Legislative committees.

Along with changing ex parte communication rules, the Commission must increase transparency about how decisions are made. The Commission should formally adopt Robert's Rules of Order and faithfully follow proper parliamentary procedures. By formally adopting Robert's Rules of Order, the public and other stakeholders will be able to accurately follow the Commission's activities and trust the Commission's process.

The Louisiana State Legislative Auditor should consistently provide oversight and accountability to the Commission by performing an audit at least once every five years. The last Audit occurred in 2008. At a minimum the Auditor's office should ensure that the agency is adopting recommendations from past audits. Otherwise, the audit is a singular waste of resources.

The Alliance is committed to ensuring that the public is protected. We believe that these recommendations are sound, reasonable, and in the public interest. It is our great hope that members of the Commission and Legislature will recognize the importance and scale of the problem and work with the Alliance to implement these recommendations. We believe that reining in the monopoly utilities will help keep utility bills lower and more affordable.

Appendix

Mississippi Code

Miss. Code Ann. § 77-1-11 Acceptance by or offering to commission members, candidates or employees of gifts, passes, campaign contributions or other benefits

“(1) It shall be unlawful for any public service commissioner, any candidate for public service commissioner, or any employee of the Public Service Commission or Public Utilities Staff to knowingly accept any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever, either directly or indirectly, from any person interested as owner, agent or representative, or from any person acting in any respect for such owner, agent or representative of any common or contract carrier by motor vehicle, telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission. Any person found guilty of violating the provisions of this subsection shall immediately forfeit his or her office or position and shall be fined not less than Five Thousand Dollars (\$ 5,000.00), imprisoned in the State Penitentiary for not less than one (1) year, or both.

(2) It shall be unlawful for any person interested as owner, agent or representative, or any person acting in any respect for such owner, agent or representative of any common or contract carrier by motor vehicle, telephone company, gas or electric utility, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission to offer any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever to any public service commissioner, any candidate for public service commissioner or any employee of the Public Service Commission or Public Utilities Staff. Any party found guilty of violating the provisions of this subsection shall be fined not less than Five Thousand Dollars (\$ 5,000.00), or imprisoned in the State Penitentiary for not less than one (1) year, or both.

(3) For purposes of this section the term "emolument" shall include salary, donations, contributions, loans, stock tips, vacations, trips, honorarium, directorships or consulting posts. Expenses associated with social occasions afforded public servants shall not be deemed a gift, emolument or other pecuniary benefit as defined in Section 25-4-103(k), Mississippi Code of 1972.

(4) For purposes of this section, a person who is a member of a water, gas, electric or other cooperative association regulated by the Public Service Commission shall not, by virtue of such membership, be deemed an owner, agent or representative of such association unless such person is acting in any respect for or as an owner, agent or representative of such association; nor shall a person who owns less than one-half of one percent (1/2 of 1%) in stock, the value thereof not to exceed Ten Thousand Dollars (\$ 10,000.00), of any public utility

that is regulated by the Public Service Commission, or of any holding company of such public utility, by virtue of such ownership, be deemed an owner, agent or representative of such public utility unless such person is acting in any respect for or as an owner, agent or representative of such public utility."

Alabama

Ala. Code 17-5-14 Establishment of political action committee by corporation.

"(c) A utility regulated by the public service commission may not make a contribution to any candidate for the public service commission, but shall otherwise be entitled to take any action permitted corporations under this section."

<http://law.justia.com/codes/alabama/2013/title-17/chapter-5/section-17-5-14>

Georgia

O.C.G.A. 21-5-30.1 Contributions by regulated entities to elected executive officers or candidates

"(5) "Regulated entity" means any person who is required by law to be licensed by an elected executive officer or a board under the jurisdiction of an elected executive officer, any person who leases property owned by or for a state department, any person who engages in a business or profession which is regulated by an elected executive officer or by a board under the jurisdiction of an elected executive officer, or any public utility corporation regulated by the Public Service Commission. For purposes of this paragraph, public utility corporation regulated by the Public Service Commission shall have the same meaning as provided by subsection (f) of Code Section 21-5-30.

(b) No regulated entity and no person or political action committee acting on behalf of a regulated entity shall make a contribution to or on behalf of a person holding office as an elected executive officer regulating such entity or to or on behalf of a candidate for the office of an elected executive officer regulating such entity or to or on behalf of a campaign committee of any such candidate.

References

- i William L. Letwin. The English Common Law concerning Monopolies. The University of Chicago Law Review. Vol. 21, No. 3 (Spring, 1954), pp. 355-385.
- ii Kansas Historical Society. Pratt, Kansas circa 1911.
- iii Lazar, J. (2011) Electricity Regulation in the U.S.: A Guide. Regulatory Assistance Project. Retrieved at:
file:///Users/johnston/Downloads/RAP_Lazar_ElectricityRegulationInTheUS_Guide_2011_03.pdf
- iv Webster's Dictionary. To "strike a Faustian bargain" is to be willing to sacrifice anything to satisfy a limitless desire for knowledge or power.
- v Louisiana Public Service Commission. Louisiana Service Areas for Investor Owned Utility distribution areas. Retrieved at:
http://www.lpsc.louisiana.gov/Maps_Electric_Distribution_Areas.aspx
- vi World Trade Organization. Economic Rationale for Trade Agreements. World Trade Report 2009.
- vii Sweeney, James L. (Summer 2002). The California Electricity Crisis: Lessons for the Future. National Academy of Engineering of the Nation Academies.
- viii Dyer, R. A. (2014), Deregulated Electricity in Texas (PDF), Texas Coalition for Affordable Power
- ix Theriot, S. (2008) Performance Audit of Louisiana Public Service Commission. Louisiana Legislative Auditor's Office. Retrieved at:
[http://app.lla.state.la.us/PublicReports.nsf/A221CDB6CF57A877862574E9005D9834/\\$FILE/0000576F.pdf](http://app.lla.state.la.us/PublicReports.nsf/A221CDB6CF57A877862574E9005D9834/$FILE/0000576F.pdf)
- x Mark Ballard. Nonprofits sue PSC over energy program vote. Baton Rouge Advocate. April 23, 2013. Retrieved at: <http://theadvocate.com/home/5782711-125/nonprofit-groups-sue-psc-over>
- xi Adams, G., Hayes, S., Weiarter S., and Boyd, J. (2007). Regulatory Capture: Managing the Risk. ICE Australia, International Conferences and Events. October 24, 2007.
- vi Jon D. Hanson and David G. Yosifon, The Situation: An Introduction to the Situational Character, Critical Realism, Power Economics, and Deep Capture. Abstract at Social Science Research Network. University of Pennsylvania Law Review, Vol. 152, p. 129 (2003-2004).
- xiii Mark Ballard. Entergy CEO apologizes to board *** Comments about PSC regrettable, Leonard says. Baton Rouge Advocate. January 19, 2006.
- xiv Miss. Code Ann. § 77-1-11; AL Code § 17-5-14; O.C.G.A § 21-5-30.1

-
- xv Lauren McGaughy NOLA.com|The Times-Picayune and Lee Zurik Fox 8 News/Fox8live.com. Louisiana utility regulators got two-thirds of their campaign cash from industries they oversee. Retrieved at:
http://www.nola.com/politics/index.ssf/2013/11/louisiana_utility_regulators_g.html
- xvi Ibid.
- xvii Louisiana Election Code Title 18 § 1505.2 Retrieved May 19, 2015
<http://ethics.la.gov/Pub/Laws/Title18.pdf>
- xviii Ibid.
- xix Greg Giroux. Corporate PACs help lawmakers retire campaign debt. Bloomberg Politics. November 25, 2014. Retrieved at:
<http://www.bloomberg.com/politics/articles/2014-11-26/corporate-pacs-help-cover-lawmakers-campaign-debt>
- xx Lauren McGaughy NOLA.com|The Times-Picayune and Lee Zurik Fox 8 News/Fox8live.com. Louisiana utility regulators got two-thirds of their campaign cash from industries they oversee. Retrieved at:
http://www.nola.com/politics/index.ssf/2013/11/louisiana_utility_regulators_g.html
- xxi Miss. Code Ann. § 77-1-11; O.C.G.A § 21-5-30.1; AL Code § 17-5-14
- xxii Miss. Code Ann. § 77-1-11
- xxiii Bruce Egger. New Orleans Keeps Ban on Certain Campaign Contributions. Times-Picayune. June 24, 2010. Retrieved at:
http://www.nola.com/politics/index.ssf/2010/06/new_orleans_city_council_keeps.html
- xxiv Houck, Oliver. (2015) The Reckoning: Oil and Gas Development in the Louisiana Coastal Zone. Tulane Law Environmental Law Journal Volume 28 Issue 2. Page 246. Retrieved at:
http://www.law.tulane.edu/uploadedFiles/Faculty_and_Admin/Publications/The%20Reckoning-OilandGasDevelopmentInTheLouisianaCoastalZone.pdf
- xxv Engrossed bill - Original bill prepared with amendments adopted upon initial consideration by the house of origin incorporated into its text. (House Rules 7.8, 7.9, 7.20, 8.16, 8.17, and 8.20 and Senate Rule 7.8)
Reengrossed bill - Refers to a bill to which additional amendments have been added after its engrossment. (House Rule 7.10 and Senate Rule 7.9)
- xxvi Germaneness - The relevance of amendments and a substitute bill to an original bill. The constitution and rules require that amendments and substitute bills be germane to the original bill.(Const. Art. III, §15(C) and House Rules 11.1 and 6.12(B) and Senate Rule 8.2)
- xxvii The Governor signed HB510 into law on July 6, 2004.
- xxviii The Economist. Money and Politics. October 1, 2011. Retrieved at:
<http://www.economist.com/node/21531014>
- xxix Ibid.
- xxx LA. Rev. Stat. Ann. §49:76; and LA. Rev. Stat. Ann §24:55 (2010)
- xxxi RS 49:76 governs lobbying of the executive branch, while 24:55 is its legislative counterpart. Subsection (D)(1)(A) of each of these reads: “(D)(1) Each report shall

include the following: (a) a listing of each subject matter lobbied during each reporting period...”. LA. Rev. Stat. Ann. §49:76; LA Rev. Stat. Ann. §24:55.

xxxii LA. Rev. Stat. Ann. 47:4305 Manufacturing Exemption from Taxes: A. Whenever the governor and the Legislative Budget Committee finds that the contract submitted by the Board of Commerce and Industry satisfies the requirements of this Chapter, they shall advise the Board of Commerce and Industry that it may enter into a contract with such establishment exempting it from taxation as provided in this Section.

xxxiii CLECO SEC 10K 2014

xxxiv Ben W.F. Depoorter (1999) Regulation of Natural Monopoly. Center for Advanced Studies in Law and Economics University of Ghent, Faculty of Law. Retrieved at: <http://encyclo.findlaw.com/5400book.pdf>

xxxv Entergy SEC 10k 2014

xxxvi Investopedia Staff. How and why do companies pay dividends. Retrieved at: <http://www.investopedia.com/articles/03/011703.asp>

xxxvii Investopedia Staff. Definition of retained earnings. Retrieved at: <http://www.investopedia.com/terms/r/retainedearnings.asp>

xxxviii Ex parte communication is any private communication from one side of a proceeding to a decision maker.

xxxix Beerman, Jack. Administrative Law. Aspen Publishers.