

# REGULATORY IMPACT: MEASUREMENT AND IMPORTANCE



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*Celebrating 50 years of service to the regulatory policy community*

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## Introduction

- Regulatory impact assessment suggests several unique issues.
- Regulatory agencies are complex because they combine quasi-legislative, quasi-administrative, and quasi-judicial roles.
- Economic regulation defies the calculus of conventional cost-benefit calculus (for all its known flaws).
- Regulatory considerations:
  - ▶ Market criteria – what is the value of efficiency?
  - ▶ Nonmarket criteria – what is the value of equity?
  - ▶ Counterfactual evidence – what is the value of preventing abuses of market power?

## Impact metrics

- A variety of metrics are used selectively to assess regulatory productivity and climate.
- A broad conceptual framework includes metrics for
  - ▶ Capacity
  - ▶ Process
  - ▶ Output
  - ▶ Outcome
  - ▶ Integrity

## Sample of commission performance metrics

**Capacity:** budget, staffing, credentials, longevity, information technologies

**Process:** transparency, timeliness, procedural due process, dispute resolution process, commissioner selection

**Outputs:** cases, complaints, audits, investigations, studies and reports

**Outcomes:** universal access, affordability, public safety and health, financial sustainability, infrastructure investment, environmental impact, utility and market performance

**Integrity:** ethical conduct of commissioners, continuity and consistency of decisions, agency political independence

## Sample of metrics reported by US commissions (approximate)

- Complaints processed (33)
- Service quality and safety (28)
- Agency budget indicators (27)
- Agency staffing and capacity indicators (18)
- Environmental protection (15)
- Access, equality, and universal service (15)
- Cases docketed (14)
- Rate levels, stability, and affordability (13)
- Rate cases completed (12)
- Audits performed (11)
- Timeliness (10)

## Concerns

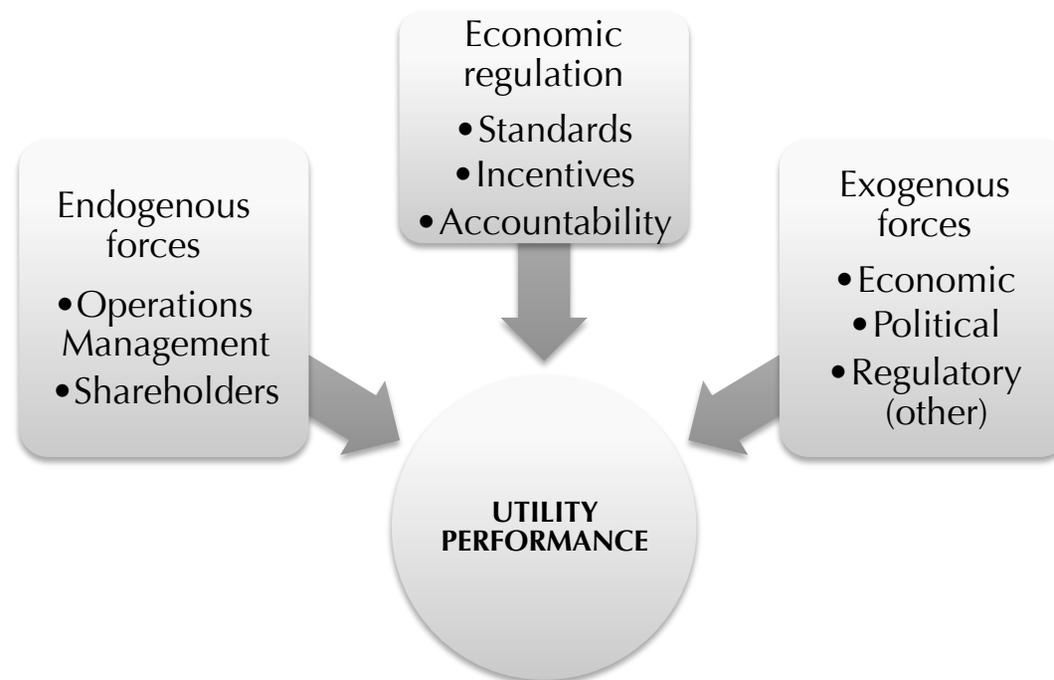
- Measuring regulatory performance raises three persistent and interrelated concerns.
  - ▶ Validity
    - Metrics may not be representative or relevant.
  - ▶ Objectivity
    - Metrics are a matter of perspective and politics.
  - ▶ Ambiguity
    - Metrics are open to competing interpretations.

## Regulatory “lag” is illustrative

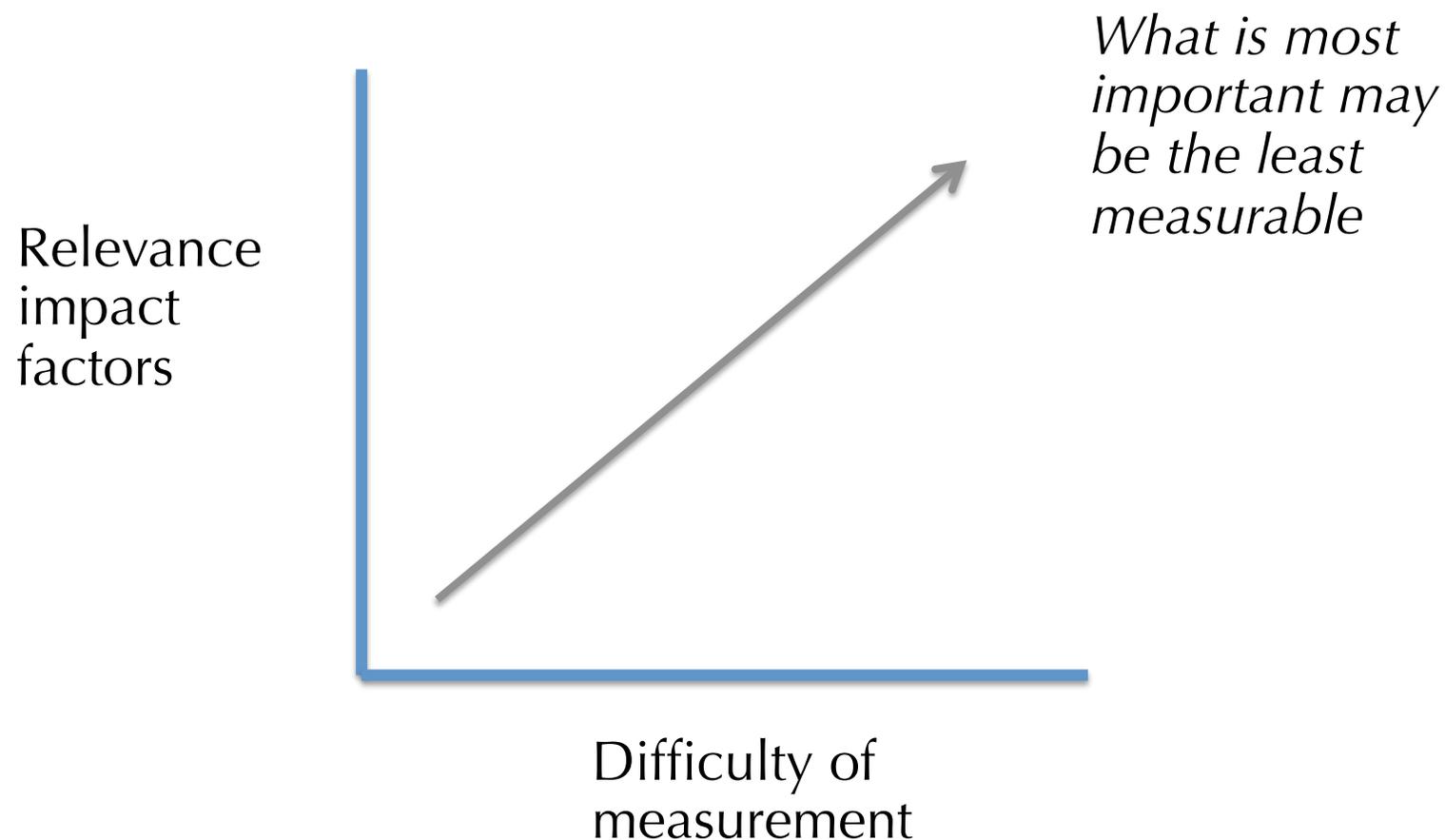
- Lag is the delay between a change in costs or revenues (+/-) and a change in authorized prices.
  - Lag is part of the paradigm by design (including price caps).
  - Regulators are under pressure to “reduce lag.”
- Validity
  - ▶ Lag can be defined and measured in different terms.
  - ▶ Decision time alone does not indicate quality (“right” decision).
  - ▶ Some lag is actually “utility lag.”
- Objectivity
  - ▶ Perceptions and promotion of “best practices” vary (e.g., rating agencies)
  - ▶ Lag tends to shift risk from investors to ratepayers.
  - ▶ Competitive firms are similarly constrained.
- Ambiguity
  - ▶ Lag is not always disadvantageous to utilities.
  - ▶ Methods to address lag alter performance incentives.
  - ▶ Regulators are expected to ensure due process.

## Regulatory and utility performance

- Regulatory performance is tied to the performance of regulated firms, especially in terms of the price and quality of service.
- The regulatory focus on efficiency and productivity is important – and more analysis is needed (Europe v. US)
- However, utility performance is a function of other endogenous and exogenous factors.



## Can we measure the most relevant impact factors?



## Concluding thoughts

- Economic regulation substitutes for competition to ensure prudence and promote efficiency – a core function.
- However, by definition, governments and regulation also must do what markets and competition cannot or will not do – ensure equity.
- Any focus on measurement should not deflect attention from more important but less quantifiable impacts – such as equity, justice, well-being, and a better society.
- Impact analysis is imperfect but it will play a role in modern regulation – academic research can contribute to this effort.
- A mindful approach to impact analysis can be used to support institutional accountability, credibility, and legitimacy and apply measurable means toward the immeasurable end understood as “regulation in the public interest.”

# Thank you!



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