

Clean Electricity for the People by the People

Author : Felix Mormann

Tagged as : [Energy Law](#)

Date : April 18, 2018

Shelley Welton, *Clean Electrification*, 88 **U. Colo. L. Rev.** 571 (2017), available at [SSRN](#).

Climate change has made the timely decarbonization of the electric grid a top priority for policymakers in the United States and across the globe. In the absence of a meaningful price on carbon, net metering, tax credits, and other incentive programs dominate the low-carbon policy landscape. Critics of clean energy incentives have long argued that government should not engage in the business of picking winners and losers among competing technologies. With her thoughtful article, *Clean Electrification*, Professor Shelley Welton reminds us that public policy support for a low-carbon energy economy has disparate impacts not only on technologies but also on ratepayers, utilities, and other stakeholders.

U.S. policymakers increasingly seek to enlist ratepayers in the war on carbon, harnessing technology innovation to turn previously passive electricity customers into active partners in grid decarbonization efforts. This vision of a “participatory grid” rests on smart appliances, rooftop solar, energy storage, and other technologies capable of empowering ratepayers to more actively manage their energy consumption, generation, and other grid interactions. Access to these technologies and, hence, to the benefits of active grid participation, however, comes at considerable cost raising concerns over the vision’s implications for distributional equity, as evidenced by “solar fairness” debates across the country.

Professor Welton acknowledges and unpacks the various equity concerns surrounding the participatory grid, shedding light on the different stakeholders and their perspectives. In one of my favorite sections, she compares and contrasts the “distinct but overlapping equities” of climate law and energy law. Welton hones in on the disproportionately harsh impact of global warming, sea level rise, and other manifestations of our changing climate on lower-income households. Against this background, she makes a persuasive argument that, whatever the inequities of a decarbonized participatory grid, they do not justify a business-as-usual scenario as climate change itself will bring about far more serious inequities if left unmitigated.

Professor Welton’s article places the current equity debate into historic context, tracing energy law’s preoccupation with balancing equity and efficiency from the beginnings of public utility law all the way to present-day restructuring efforts. From this historical analysis, Welton distills “widespread access to affordable power” as energy law’s overarching distributive tenet. Nowhere is this commitment more apparent than in the Tennessee Valley Authority Act, the Rural Electrification Act, and other New Deal efforts to electrify rural America.

Eighty years ago, the New Deal’s electrification campaign raised the standard of living for rural communities and expanded their access to radios, refrigeration, and other amenities of modern-day technologies. Now, Professor Welton urges her readers, it is time for a successor campaign, clean electrification, to broaden public access not only to the grid itself but, critically, to the emerging suite of participatory technologies required to maintain access to affordable power in a de-carbonizing world. Welton identifies several openings in public utility regulation for a clean electrification campaign, including the long-standing mandate to maintain “just and reasonable” electricity rates and questions over ownership and management of the rich data produced by an ever-smarter grid. In the balanced thinking that distinguishes her article throughout, Welton cautions that widespread grid participation may not be achieved in the near term unless public policy moves beyond its current individualistic notion of participation to embrace more

collective forms, such as community solar programs and semi-autonomous micro grids.

With *Clean Electrification*, Professor Welton adds to the emerging literature on clean energy equity a careful historical analysis of equity's deep roots in energy law as well as a compelling argument for a concerted effort by policymakers, utilities, and others to usher in a low-carbon, high-participation energy economy. At a time when pundits polarize political debates over the future of net metering and other clean energy policies, Welton presents herself as a welcome voice of reason.

Cite as: Felix Mormann, *Clean Electricity for the People by the People*, JOTWELL (April 18, 2018) (reviewing Shelley Welton, *Clean Electrification*, 88 **U. Colo. L. Rev.** 571 (2017), available at SSRN), <https://lex.jotwell.com/clean-electricity-for-the-people-by-the-people/>.