

William's World: An Essay About the History of Just Price

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William Boyd, [Just Price, Public Utility, and the Long History of Economic Regulation in America](#), 35 *Yale J. Reg.* 721 (2018).

Reading Professor [William Boyd](#)'s fine piece, *Just Price, Public Utility, and the Long History of Economic Regulation in America*, I couldn't help but think of Jostein Gaardner's international bestselling novel [Sophie's World](#). To be clear, there's no teenage girl in Boyd's essay receiving letters from a mysterious stranger that enlighten her on the history of philosophy (or, in Boyd's case, economic regulation). But, like Gaardner, Boyd does an outstanding job of bringing to life and making accessible what many might otherwise consider a dense, perhaps even tedious subject matter—the history of price regulation. And unlike Gaardner, Boyd manages to do so with remarkably little sacrifice in breadth and depth of coverage.

Professor Boyd's essay takes readers on an intriguing journey through time, tracing the doctrine of "just price" all the way back to the Aristotelian concept of corrective justice, devoted to preserving equality in exchange, commonly understood as an arithmetic proportion around a mean. From ancient Greece, readers are guided to medieval Italy where Thomas Aquinas and other Scholastics expanded Aristotle's framing into the notion of commutative justice, a construct intended to encompass the full range of voluntary and involuntary interpersonal relationships, including but not limited to economic exchange.

Drawing on the work of Max Weber and Joseph Schumpeter, among others, Boyd relates cost-of-service pricing—a staple of modern-day regulation of public utilities—back to medieval markets and their notion that just price reflected the "common estimation" as the market clearing price under free competition. Another worthwhile stop is at the grain markets of France's *ancien régime* where the *police des grains* enforced trading prices as the product of customary practices and formal rules of exchange to ensure a just price for life's basic necessities, evidence of the emerging concept of a moral economy. At the dawn of industrialization, Boyd reminds us, price regulation, was widely accepted as a necessary means for maintaining social stability.

With this historic tour de force, professor Boyd sets the stage beautifully for his discussion of public utility regulation in the United States. From [Munn v. Illinois](#) over [Smyth v. Ames](#) to [FPC v. Hope Natural Gas](#), his essay traces the defining moments in the evolution of the modern concept of public utility. Along the way, Boyd makes a persuasive argument that, Munn's famous image of private enterprises "clothed with a public interest" notwithstanding, expanding government regulation of (previously) private economic activity was motivated primarily by growing concerns over deviations from the elusive ideal of just price. To drive this point home, Boyd reminds readers that the concept of just price had long been more than a mere numbers game, as the arithmetic mean promoted by Aristotelian corrective justice might suggest. The prevailing view among economists suggests that the just price doctrine was, at its core, about preventing coercion in economic exchange, especially in the context of essential services and other necessities.

With the doctrine of just price properly understood as a safeguard against the coercive exercise of market power, Boyd makes it easy to follow along on the final stage of his essay's time travel through recent and ongoing efforts to complement, if not altogether replace, traditional regulation of public utility with competitive markets. Pointing to agency capture and other pathologies of the regulatory process, Boyd persuasively reframes the move from cost-of-service regulation to greater reliance on competitive markets as a mere resurrection of the historically prevailing notion

of just price as facilitating economic exchange free from coercive forces. Today, the Federal Energy Regulatory Commission and other regulators are retreating from the actual setting of prices, instead focusing on creating and monitoring markets with sufficient competition to realize the ideal of just price—whatever the exact number—properly conceived of as the product of economic exchange free from structural inequities.

Professor Boyd closes by musing that the experiment of just price may have run its course. It is this, the very last sentence that prompts my only gripe with his excellent essay. It is undoubtedly a tribute to Boyd's refreshing intellectual humility that the author understates the importance of his own work. In doing so, however, an opportunity is missed to emphasize the critical role that the doctrine of just price, in its various iterations over time, has yet to play as we decide the future of public utility in the United States and beyond.

Two examples of the need for continued guidance from Aristotle and his intellectual progeny quickly come to mind: first, the [ongoing debate over the "fairness"](#) of policies that seek to promote the transition to a low-carbon future by enabling better-to-do homeowners to put solar panels on their rooftops and thereby reduce their electric utility bills. The doctrine of just price so ably unpacked and brought to life by professor Boyd has a lot to teach us in the [assessment, and ultimately, design of policy incentives](#) and electricity rates, among others. The second example builds on Boyd's discussion of competitive wholesale power markets. With their (current) inability to internalize the social costs of carbon and other externalities, these markets remind us of the Scholastics' insight that only fully competitive markets operating free from market failures, should be trusted to realize the ideal of just pricing.

With *Just Price, Public Utility, and the Long History of Economic Regulation in America*, William Boyd adds important historic perspective and a much needed voice of reason to the increasingly polarized debate over the future of public utility regulation. Boyd himself describes his fine essay as part of a larger project. I for one cannot wait to see the sequel. If it is as captivating and compelling a read as *Just Price*, we are all in for another treat.

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