
Franklin D. Roosevelt — “The Great Communicator”
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Albany, NY - Radio Address re Public Utilities

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Public Utilities

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A great weight is off my mind tonight because I have acted on nearly all of the seven hundred or more bills which were passed during the closing hours of the Legislature. Only about one hundred remain and these will be signed or vetoed in the course of the next few days.

Before speaking of the important public utility bills, I want to give you a brief glimpse of some of the reasons for the very large number of vetoes made by me last year and again this year. Many bills appropriating money for special purposes, "Pork Barrel" bills, most of them of a local character and carrying comparatively small amounts, I have vetoed because the State operates under a budget system and there is no emergency which requires a special appropriation half way between the annual budgets. This is just plain good business practice. Secondly, there is a whole flock of special claim bills conferring special rights on individuals or corporations to recover money from the State instead of having the claims considered under the regular procedure before the Court of Claims. Third, a large number of local bills giving to town boards or village trustees the right to incur indebtedness for the purchase of equipment or making various kinds of improvements, without referring the proposed borrowing of money or authorizing of bonds to some kind of referendum of the voters or of the taxpayers. I have tried to make it perfectly clear that in my judgment good government requires some kind of referendum where debts are to be incurred. Fourth, I have vetoed many bills which are entering wedges towards salary increases, towards the breaking down of the Civil Service, or of the State Pension Fund, or of the various other well established practices which, if changed by special legislation of this kind would in the course of a few years run into many millions of dollars. Finally, there are a large number of vetoes on which I have written special memoranda explaining the reason for executive disapproval. If any of you were interested in a measure which you had hoped I would sign and which was vetoed by me, I wish you would do me the favor of writing in to my office to ask for the memorandum which explains the reason for the veto. A bill may seem to you perfectly proper and entirely harmless on the face of it, but it may affect many other subjects than the one in which you are interested and it may be wholly contrary to what has been the long established practice of the State Government, based on many years of experience. I hope you will remember that one of the best changes during the past twenty or thirty years has been the gradual elimination of special legislation. In the past we had one law for one town or county and a wholly different law for another town or county. Gradually we are consolidating our laws so that we are getting more uniform practices and laws covering every section of the State. This is as it should be.

When history is written the Legislature of 1930 will always be remembered as having taken one great step and opened the door towards another great step.

The first was the passage of the law authorizing me to appoint a commission to use every effort to bring in a plan for the development of our electrical resources on the St. Lawrence under a State Agency, rather than by a private

corporation. I have spoken several times before of the details of and reasons for this important State Policy and I refer to it tonight only because it has a somewhat close bearing on the general subject of cheaper electric light in our homes and I hope that you will bear the fact of the St. Lawrence policy in mind when you discuss the even broader subject of the State's general policy towards what is known as public utilities.

Let us go back about fifteen months. Early in 1929, there was a general agitation in many parts of the State over what was considered by many to be the failure of the Public Service Commission to function as it had been intended to function when it was first established under the administration of Governor Hughes in 1907. At that time, twenty-three years ago, Governor Hughes, fortified by his experience in the astounding revelations of the insurance investigation, obtained from the Legislature the warrant to create a Public Service Commission which was intended to supervise the activities of utility companies of various kinds. Up to 1907, the Legislature itself had from year to year sought to supervise utilities by stating maximum rates, an unsatisfactory system which resulted in log-rolling, lobbying, and actual bribery in the legislative halls. Governor Hughes and everybody else in 1907 recognized without question that there is a very great distinction between wholly private industrial companies dealing in commodities like steel or shoes or clothing or groceries, or flour, or automobiles or farm implements or running department stores, and on the other side, semi-public corporations dealing in service to the public such as gas, electricity, street cars and the like. In other words, services which might and probably would result in monopolies. There was no question that the State had the absolute right not merely to regulate these public utilities and to supervise their methods of carrying on business, but also to give or deny to them the right to get charters except upon terms laid down by the State. The Public Service Commission, therefore, was created in the days of Governor Hughes to act not as a court as between the public on one side and the utility companies on the other but to act definitely and directly for the public, as the representative of the public and of the Legislature, their sole function being to supervise the utilities themselves under definite rules. That is a very clear statement of the common law principle which goes back hundreds of years in the civilization from which we spring. Keep that distinction in mind when I speak of the next events.

Gradually from 1907 on there has come about a forgetfulness of the Public Service Commission's primary function. Gradually the commission had come to consider itself more and more as a court and many of the public had come to think of a utility company as very similar to any corporation engaged in private business as distinguished from public service.

As a result of the agitation early in 1929 a commission was appointed consisting of six members of the Legislature, and three people appointed by me. This commission held extensive hearings last autumn and until March 1 this year. The six legislative members brought in last month a series of over thirty bills. Let me tell you first what these bills sought to do. All but ten of them may be dismissed with the simple statement that they are of distinctly minor importance, chiefly changes in language and making small changes in the Public Service Commission procedure. Of the other ten bills which were of some importance, one gave authority for the first time to the Public Service Commission over holding companies; one bill proposes a new method of appeal to the Appellate Division by companies who are not satisfied with the Public Service Commission rate-making; one bill creates a Bureau of Valuation and Research; and another seeks to set up a People's Counsel in the office of the Attorney-General. The bill to create a so-called People's Counsel, I vetoed yesterday on two very simple grounds. The first is that the Public Service Commission itself should act as the People's Counsel and should be given all the legal, engineering, and accounting assistance possible to this end, and secondly, because there would be a division of responsibility if both the Attorney-General's Office and the Public Service Commission were charged with the protection of the people's rights in utility matters. All of these five bills passed both houses of the Legislature, but two others extend-

ing regulation got lost between the Senate and Assembly during the rush of the final night session and did not pass the lower house. These were the bills to provide for regulation of private water companies, and the bill providing regulation of the practice of sub-metering electric light to tenants of large buildings. I wish that the public and I could some day learn the true story of where and how these bills got lost. I think it would make interesting reading.

It is greatly to be regretted that the Public Service Commission was not given authority over private water companies, because though few people realize it, a very definite drive is now being made by promoters and others to buy up private water companies and even the municipally-owned water companies in many parts of the State in order to create new holding companies and permit them through their financing arrangements to be turned into gold mines for the promoters, even though they are not always gold mines for those who buy the stock.

Now we encounter the meat in the cocoon; and here is where my friends in the Legislature made what I honestly and sincerely believe to have been a very grave error of judgment and a very grave failure to understand the overwhelming public demand for laying down a clear and well-defined State Policy about utility companies and their rates.

I refer to two bills introduced by the Legislative members of the investigating committee, the valuation bill and the contract bill.

The first when introduced proposed a definite valuation by the Public Service Commission of all of the utility companies of the State over a period of years, but did not set up in any way any policy or clear cut definition of how the valuation was to be made. The purpose of valuation is, of course, to find out how high or low the rates charged to consumers should be in order to give the utility company a fair profit. I objected to the bill from the beginning, because it failed to set up any distinct standard for the valuation. In the closing days of the session, the bill after protest by the utility companies was amended by the legislative leaders by making the so-called valuations wholly discretionary thereby pulling out the few remaining teeth in the bill and making it, in my judgment, absolutely valueless and ineffective.

The other bill, also weakened in the closing days of the session, is equally a mere gesture by the Legislature, and I do not think it is worth the paper it is written on or the cost of having it printed. It represented originally a half-hearted attempt to provide for voluntary contracts between the Public Service Commission and the utility companies by which a company might come to some kind of an agreement on valuation, this to hold good for ten years. It was perfectly clear at the hearings that the utility companies would not enter into any such contracts, unless they could get what they thought were wholly satisfactory rates and there was nothing to compel them to make the contract. It was, indeed, stated that they had no intention of making any contracts with the Public Service Commission whatsoever. This bill in the closing hours of the Legislature was practically strangled and the new bill substituted, providing that municipalities may, if they can,—and let me stress the words "*if they can*"—make ten-year rate contracts with the utilities doing business within the municipality. There is nothing new in this provision. It has been tried out in the past with street railroads and has proven practically useless. This bill is also a mere gesture and means less than nothing at all.

The above is a simple statement of the way the mountain labored and brought forth a mouse, and this in spite of the fact that nearly one hundred thousand dollars has been spent trying to provide some really useful legislation.

Nevertheless I feel that the money and the time have not been wholly wasted, because more and more people are taking a greater interest in the whole subject of public utilities and the greater the discussion, the more the public will realize that the time is at hand for this State, and most of our sister states, to take definite and positive action.

The three minority members of the investigating commission, in the hearings and in their recommendations, went to what is really the root of the public utility problem. They pointed out the simple truth that the major problem of restoring proper supervision of utilities centers around the question of valuation for rate-making purposes. The question is whether the great utility companies are under present methods rendering regulation ineffective by insisting they are entitled to profits rated on inflated valuation of their properties and by starting long drawn out controversies in the courts when they do not like the rates granted by the commission.

The minority report signed by Commissioners Walsh, Bonbright, and Adie is a model of clarity and will for many years be used as a kind of text book throughout the United States. They say that the only way to get anywhere so as to assure reasonable rates for electric light, telephone and similar service is to set up by statute a definite declaration on the part of the people of the State who grant the charters under which these companies operate, making it clear just what elements can be used to set up the rate base, these elements being composed essentially of the actual cost of the necessary properties, namely, the actual cash put into the utilities by investors. Such a rate base becomes fixed and on this rate base and no other, a reasonable rate of return should be allowed to the utility.

Take a simple example. Suppose a new electric light and power company is organized to serve a given territory and that the cost of developing the power, transmitting it, and distributing it to the homes and industries of the region is one million dollars. Under the definite plan proposed by the minority report this million dollars would be raised, let us say, by bonds which would be entitled to the actual rate of interest on the bonds, say 5 per cent, in part by preferred stock which would be entitled to the actual rate of interest, say 6 per cent, and in part by common stock which would be entitled to say 7 per cent or 8 per cent. This would mean that the rate would have to be high enough to pay this interest on these dividends, say an average of 6 per cent or the total of sixty thousand dollars profit to the company in the first year.

The Public Service Commission would also allow an annual sum to retire the bonds, so that the net result, if the bonds ran, say for thirty years and amounted to one-half the financing, the capital of the utility company at the end of thirty years would be only one-half a million dollars because the bonds would be retired. In other words, at the end of thirty years the public in paying for this electric light and power would only have to pay enough to give about thirty-five thousand dollars of profit to the stockholders of the utility company.

Now let us see what is done by some utility companies operating under the present laws, or rather lack of laws. The same company in the same territory capitalized for one million dollars gets the same part of this capital through the issue of 5 per cent bonds, through 6 per cent preferred stock, and by 7 per cent or 8 per cent common stock, but it demands at once that it be allowed a 7 per cent or 8 per cent return on the whole million dollars. This means that it is getting 12 per cent, 14 per cent or 16 per cent on the common stock, and this common stock is usually held by the insiders in the company.

Next under existing laws, the company fails to retire a portion of the bonds each year so that at the end of thirty years, the life of the bonds, they are refunded by issuing new bonds and running them another thirty years. Thus, the public has to continue to pay for all time on the original capital structure. In this example, the public would be paying at the end of thirty years from seventy to eighty instead of thirty-five thousand dollars under the bond retirement principle.

But, this is by no means all. In many cases in the United States, through the mysteries of so-called accounting, companies have been allowed to set up each year very large depreciation reserves and instead of having these depreciation reserves deducted from the original cost of the plant, the depreciation reserves have been actually added to the capital structure. Bear in mind that this depreciation reserve is paid for out of the monthly bills which

are sent to you, the consumers. This method may mean very easily that at the end of thirty years a depreciation reserve may amount to one-half the original investment cost so that you are paying a profit on one and one-half million dollars instead of a million dollars.

But still this does not tell the whole story. Under the lack of a plainly-stated policy by the State Governments as to what the rate base shall be, the Supreme Court has gradually allowed large additional amounts to the rate base, based on what it would cost to reproduce the plant anew after many years have elapsed. This means that if a dam or power house actually cost only one-half million dollars when erected twenty years ago, it would now cost twice that amount to reproduce. The utility company could add one-half million dollars to this rate base, a straight out and out gift of that amount to the utility company stockholders. Suppose then, that in the case of our million dollar utility company a one-half million dollars were added by this wholly illogical depreciation reserve addition, and another one-half million dollars were added by the reproduction of plant theory, even though the old plant continued to be operated, we would have a rate-base of two million dollars instead of a rate base of one-half million dollars under the proposed investment theory.

Put it another way. On two million dollars the users of electricity in our homes would have to pay 7 per cent or 8 per cent or one hundred and forty thousand dollars to one hundred and sixty thousand dollars a year of profit to the company instead of thirty-five thousand dollars a year under the proposed new set up. It is perfectly evident that the difference between thirty-five thousand dollars and one hundred and forty thousand to one hundred and sixty thousand dollars means not only much higher electric light bills to the consumers but also profits to the original common stock investors which would be not 7 per cent or 8 per cent on their investments, but anywhere from 25 per cent to 50 per cent.

That is why I am insisting that this State should return to the original theory of granting a reasonable return and only a reasonable return to the owners of utility companies.

Let me give you some very simple figures prepared by one of the great New York papers which show graphically the importance of this question of State regulation. Generally speaking, the people of our State are paying higher rates for electricity in their homes than in most other sections of this country and of Canada. And even within our own State the prices charged for electricity have an absurdly wide range. These figures are based on the monthly use of 250 kilowatt hours of electricity, an amount that would permit the occupants of an average four-room house or apartment with one thousand square feet of floor space to light their home and also to use the following electrical equipment: an electric flat iron, toaster, vacuum cleaner, electric fan, washing machine, ironing machine, radio, sewing machine, refrigerator, and last but by no means least, an electric range. This family living in Manhattan would pay \$17.50 a month; in Brooklyn, just across the East river only, \$13.40; in Staten Island, just down the bay, \$11.55. In Buffalo the family would only pay \$7.80; and in Albany \$19.50; while in Schenectady, only fifteen miles from Albany, they would pay \$9.40.

If this family lived in Ontario on the Canadian side of Niagara Falls they would pay \$2.79 but if they lived on the American side of the Falls they would pay \$5.53. If they lived in Dunkirk, N. Y., a city owning its own municipal plant, they would pay \$6.93 but in Oswego, which has a private plant they would pay \$11.20.

In Ithaca, in Bronx County; in Westchester County, and in several other parts of New York this family would pay over \$20 a month and as high as \$23.70, whereas if they lived almost anywhere in the Province of Ontario they would pay less than \$3 a month.

This mind you is not an argument on my part for every city in this State to embark right away on a program of municipal ownership. The spread in rates merely indicates that there is something wrong with our present method of supervising private ownership. I realize full well that this great problem can not be successfully solved in one year, or in two years. Like most great

problems it will take several more years of presentation of the simple facts to the average citizen, not just to experts, and courts, and trained accountants. The facts are there in simple homely terms; comparisons of monthly bills, items of family expenses which are very pertinent to every family and every householder and every apartment dweller in the State of New York.

You will be inundated with all kinds of propaganda which in the past has been extended even to our Public Schools, and people will try to befog and becloud the simple issue. Be prepared for this.

The straight question for you and for me to ask is whether we are going to return to the three hundred year old distinction between a company engaged in wholly private business and a company engaged in a monopoly of a service which must be used by all of our citizens, rich and poor alike, a monopoly which exists by the grace of you and me through the charters which we as the people, have granted.

There are two methods of restoring reasonable rates for electricity and telephones in this State, and I say advisedly that I consider the rates charged to householders for these commodities are today too high. Unless we act definitely and promptly they are going even higher. One of these methods is to allow and restore competition either by encouraging new companies to enter the field or by setting up at least as a yardstick more municipally-operated companies, especially in the electrical field.

I think it is an established fact that those municipalities in the United States which have their own municipally-owned companies providing the light and power for their citizens give just as good service and much lower rates than in almost any of the privately owned companies. The yardstick of municipal operation is the question of success. Almost all of the municipally-owned companies are successful today, and the yardstick which they have furnished us proves that the rates of most of the privately-owned electric companies are too high.

The other method which can well go hand in hand with the first is to give to the Public Service Commission a definite rule for valuation and to make it obligatory on the Public Service Commission to fix rates in accordance with this definitely set standard and no other. Let me say that this is not and should not be a matter of politics. If it becomes such, it will not be through my action. Nevertheless it is an issue, and I hope that the two major parties will not line up on different sides of this issue. It is an issue between two schools of thought, between those who would return to the fundamental that a public utility is the creature of the State, that it must give service and that it can and should earn a reasonable return on the investment which it has made and no more. The other school of thought would have us believe that a public utility company is essentially a private business operated for service perhaps, but operated in such a way that through swollen valuations past, present and future it can make the public pay rates on two and five and ten-fold the amount of money which was actually invested.