

# Economic Evidence in Regulatory Disputes: Revisiting the Court-Regulatory Agency Relationship in the US and the UK

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## BACKGROUND

- Increasing numbers of jurisdictions around the world have been concentrating on the review mechanisms of regulatory decisions in the utilities sector.
- This focuses on the relevant scope of review of economic evidence held in the regulators' decisions. The scope of the review includes questions relating to the standard of review and its intensity.

## METHODOLOGY

- Examines the issue of the relevant scope of review of economic evidence held in the discretionary assessments of utility regulators in the US and the UK. Also, the comparisons between the court-regulatory agency rapport relating to policy in the US and the UK.
- Using evidence from political science and economics, the advised method highlights the institutional disadvantages of the courts that potentially justify a high degree of deference.

## KEY FINDINGS

- For the demands created by economic evidence to be conclusively met, the substantive review of economic evidence enshrined in the regulatory agency's discretion should become sensitive to institutional competencies considerations.

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### POLICY ISSUES

- There are problems associated with each of the methods. Regulatory technique increases under-deterrence and the competition law technique raises the prospect of over-deterrence. Both of these restrict firms using competitive strategies which ultimately leads to an increase in surplus and reduced prices for consumers.

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