

# THE ELECTRICITY SUPPLY INDUSTRY IN THE UK: THE WINDS OF CHANGE – FROM LIBERALIZATION TO REGULATION

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*“The Conservative Party has never believed that the business of government is the government of business”. Nigel Lawson<sup>1</sup>.*

## **Introduction**

The state’s role in the utility sectors<sup>2</sup>, such as gas, electricity, water and transport differs from one country to another and one time to another. In the UK context, there are direct links between the role of the state and developments in the electricity supply industry (ESI). During the 19<sup>th</sup> century, the UK was dominated by the ideology of *laissez-faire* or liberalism. The role of the state was limited to: “maintaining a market economy and property rights; ensuring and protecting the freedom of individuals; and protecting citizens from external threat”<sup>3</sup>. From its genesis in 1882, the year of the first Electric Lighting Act, the ESI has progressed through various phases of legislation. In the beginning the ESI operated within a very liberal system as a result of the acceptance of the doctrine of *laissez-faire* in the 1882 Act. So the state’s role over the industry

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<sup>1</sup> Parliamentary Debates (Hansard), House of Commons Official Report, Sixth Series, Volume 12, Session 1981-82, Her Majesty’s Stationary Office, London 1981, 10 November 1981, col. 440.

<sup>2</sup> “The public utility concept appears to involve two conditions: one is that the service should be considered to be so essential that it requires public regulation, ownership or operation; the other is that the service should be monopolistic”. **Robson**, William A, Nationalized Industry and Public Ownership, George Allen & Unwin Ltd., London 1962, p. 17.

<sup>3</sup> **Kavanagh**, Dennis – **Richards**, David – **Smith**, Martin – **Geddes**, Andrew, British Politics, Oxford University Press, Oxford 2006, p. 49.

inevitably was limited. But the *laissez-faire* approach did not last long. In the aftermath of the Second World War, a new era began called Keynesian / Welfarism during which major industries were taken into public ownership. The Second World War enhanced the state's role in the economy by way of pursuing Keynesian economics. Between 1945 and 1951 the coal, railway, civil aviation, iron and steel, road passenger and freight transport, electricity, and gas industries were taken into public ownership by the Labour Government under Clement Attlee. The Electricity Act of 1947 brought the ESI into public ownership, and the existing undertakings, which then numbered 600, were integrated into new statutory area electricity boards appointed by the Minister of Fuel and Power. Thus, the ESI became subjected to close control of the state. From the Labour Government perspective the nationalization of the ESI was much more than an organisational reform as "it was intended as part of a programme to shift the balance of power in society permanently and decisively towards 'democratic' control. ... working-class people would have a greater say in the management of the nationalised undertakings"<sup>4</sup>.

But this trend was sharply reversed when a Conservative Government under Margaret Thatcher came into power in 1979. The Conservative approach was about limiting the role of the state and increasing the role of market forces. Under this approach the Conservative Government focused upon both transferring assets from the public to the private sector (denationalisation) and removing statutory barriers to competition (liberalization). The important privatizations occurred in the utility sectors, namely telecommunications (1984), gas (1986), water and sewerage services (1989), electricity (1990) and the railways (1993-1996). Among others the ESI privatization has fundamental importance because the UK was the first major industrialized country to start electricity privatization<sup>5</sup>.

This article argues that since the creation of the ESI, the state has played an active and important role in it, and even privatization did not significantly change this role. The article will evaluate the developments in the ESI in the light of the state's role. Firstly, the article begins by reviewing briefly the origin and early history of the ESI in order to set the scene. The aim is not to provide a detailed history but rather a context to assist understanding of its evolution.

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<sup>4</sup> **Hannah**, Leslie, *Electricity Before Nationalisation: A Study of the Development of the Electricity Supply Industry in Britain to 1948*, The Macmillan Press Ltd., London 1979, p. 353.

<sup>5</sup> **Surrey**, John, Introduction. In Surrey, John (Ed.), *The British Electricity Experiment: Privatization: The Record, the Issues, the Lessons*, Earthscan Publications Ltd., London 1996, p. 11.

Secondly the strategy of nationalization is evaluated giving reasons for it. Thirdly, the privatisation of the ESI, which was started in 1988 and completed in 1991, is assessed with its reasons. Lastly, the new post-privatization regulatory framework is briefly examined. For simplicity, the article will mainly concentrate on England and Wales and it is divided into four sections: The liberalization phase, nationalization phase, privatization phase, and regulation phase.

### **Crawling Years with Liberalization**

The ESI in the UK dates back to the 19<sup>th</sup> century<sup>6</sup>. The history of the state regulation of industry started with the Electric Lighting Act of 1882. Introduced by a Liberal Government, this was the first public measure dealing with electricity supply. It enabled the Board of Trade by franchises (provisional orders or licences) to authorise the supply of electricity in any area by any local authority, private company or person and to grant powers to install a system of supply, including breaking up streets for the laying of cables. Licenses were granted for specific periods not exceeding seven years, although renewal was possible. The Act provided local authorities the right to purchase the assets of private companies after 21 years<sup>7</sup>. Potential investors considered the 21 years purchase clause a deterrent to their investments<sup>8</sup>. Therefore, the Electric Lighting Act of 1888 extended the purchase clause to 42 years with optional stages of 10 years<sup>9</sup>. It is argued that by way of this specific period condition the Liberal Government intended that after several years the ESI would be handed back to the public via local authorities<sup>10</sup>. The 1882 Act, therefore, rejected the

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<sup>6</sup> **Cheshire**, John, UK Electricity Supply under Public Ownership. In Surrey, John (Ed.), *The British Electricity Experiment: Privatization: The Record, the Issues, the Lessons*, Earthscan Publications Ltd., London 1996, p. 14.

<sup>7</sup> **Hannah**, pp. 5-7; **Electricity Supply in Great Britain: A Chronology – From the Beginnings of the Industry to 31 December 1972**, Electricity Council, London 1973, p. 4; **Castles**, Francis G, *The Decision to Nationalize*, In *Nationalized Industries*, The Open University, Buckinghamshire 1972, p. 29; **Kelf-Cohen**, Reuben, *British Nationalisation: 1945-1973*, Macmillan, London 1973, p. 37; **Newbery**, David M. – **Green**, Richard, *Regulation, Public Ownership and Privatisation of the English Electricity Industry*. In Gilbert, Richard J. – Kahn, Edward P. (Eds.), *International Comparisons of Electricity Regulation*, Cambridge University Press, Cambridge 1996, p. 31.

<sup>8</sup> **Hannah**, p. 5.

<sup>9</sup> **Hannah**, p. 5; **Electricity Supply in Great Britain**, p. 6; **Kelf-Cohen**, p. 37; **Newbery – Green**, p. 31.

<sup>10</sup> **Castles**, p. 29.

private enterprise ESI in the UK at birth<sup>11</sup>. It is clear from this picture that at the early years the ESI was divided between local/municipal undertakings and private commercial companies. At the beginning of the industry there was liberalization as a result of the acceptance of the doctrine of *laissez-faire* in the economy. Until 1926 the main characteristics of the ESI were “decentralised, uncoordinated, with generation under both private and municipal ownership subject to loose regulation laid down by statute”<sup>12</sup>. There were about 600 franchised electricity supply undertakings at the time of the Weir Committee Report published in 1926<sup>13</sup> and approximately two-thirds of the electricity undertakings were in fact in the hands of local authorities<sup>14</sup>. Following the Weir Committee’s recommendations, the Conservative Government under Stanley Baldwin passed the Electricity (Supply) Act in 1926, which created the Central Electricity Board (CEB) as the owner of a national grid<sup>15</sup>. It was the first attempt to create a national executive body (CEB) as a *public corporation* rather than as a *nationalized industry* capable of co-ordinating and standardising the generation of electricity, as well as integrating disparate local supply networks<sup>16</sup>. Electricity was sold in bulk by the CEB to the authorized undertakers whether local or private and distributed by them to consumers<sup>17</sup>.

### The Way to Nationalization

During and after the Second World War, the role of the state substantially increased. The incoming Labour Government in 1945 committed itself to provide full employment, to plan the economy and to nationalize the key industries. For this purpose the Keynesian policies were accepted and a welfare state was established by the Government<sup>18</sup>. Nationalization was basically a phenomenon of the post Second World War period. Between 1945 and 1951 the Labour Government under Clement Attlee nationalized key industries, such as coal (1946), electricity (1947), railways and road haulage (1948), road transport

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<sup>11</sup> Hannah, p. 5.

<sup>12</sup> Newbery – Green, p. 26.

<sup>13</sup> Hannah, p. 213.

<sup>14</sup> Robson, p. 35; Kelf-Cohen, p. 6.

<sup>15</sup> Chesshire, p. 15; Kelf-Cohen, p. 38; Castles, p. 30; *Electricity Supply in Great Britain*, p. 18; Tivey, Leonard, *Nationalization in British Industry*, Jonathan Cape Ltd., London 1973, p. 31; Clegg, Hugh Armstrong – Chester, Theodore Edward, *The Future of Nationalization*, Basil Blackwell, Oxford 1955, p. 25.

<sup>16</sup> Chesshire, p. 15; Kelf-Cohen, p. 5; Newbery – Green, p. 26 and 33.

<sup>17</sup> Robson, p. 36.

<sup>18</sup> Kavanagh – Richards – Smith – Geddes, pp. 48-51.

(1948), waterways (1948), gas (1949) and iron and steel (1951). In general, the reasons behind the nationalization could be categorised as follows<sup>19</sup>: i. to promote greater efficiency; ii. to achieve national economic planning; iii. to ensure acceptable levels of service, prices and safety; iv. to secure employees' legitimate rights; v. to distribute income in an equitable way. Also, dissatisfaction with the operation of private undertakings<sup>20</sup> and protection of consumer from the abuses of private monopoly<sup>21</sup> can be added to these reasons.

As for the ESI nationalization there were many serious problems encouraging nationalization. In the wake of the Second World War, the UK faced strong and increasing demand for electricity and the Labour Government was in doubt that private and local understandings could solve these shortages. So, nationalisation of the ESI was expected to solve this problem by allowing the Government to take responsibility for the future of the industry<sup>22</sup>. "Public ownership at the national level was thus a superior alternative to public ownership at the municipal level"<sup>23</sup>. Also, relations between private and local undertakings were not good. "The former regarded themselves as the vessels chosen by Parliament"<sup>24</sup>. Furthermore, the Attlee Government found a plethora of over 600 undertakings, both *private and local/municipal ownership*, involved in the generation and distribution of electricity in the UK, although there had been moves towards increased centralisation since 1926 by the creation of the CEB. In fact, the CEB accomplished successful work in dealing with the transmission of electricity from region to region, but distribution of electricity had not been touched<sup>25</sup>. In other words, one of the purposes of the nationalization of the ESI was "the desirability of extending electricity supply to rural areas and sections of urban conurbations, which the market was less

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<sup>19</sup> **A Study of UK Nationalised Industries:** Their Role in the Economy and Control in the Future, Appendix Volume, Her Majesty's Stationary Office, London 1976, p. 76.

<sup>20</sup> **Meggison**, William L. – **Netter**, Jeffrey M, History and Methods of Privatization. In Parker, David – Saal, David (Eds.), International Handbook on Privatization, Edward Elgar Publishing Limited, Cheltenham 2003, p. 33.

<sup>21</sup> **Taverne**, Dick – **Liddle**, Roger, Preface. In Vickers, John – Yarrow, George (Eds.), Privatization and the Natural Monopolies, Public Policy Centre, London 1985, p. vii.

<sup>22</sup> **Thomas**, Steve, Strategic Government and Corporate Issues. In Surrey, John (Ed.), The British Electricity Experiment: Privatization: The Record, the Issues, the Lessons, Earthscan Publications Ltd., London 1996, p. 259.

<sup>23</sup> **Newbery – Green**, p. 36.

<sup>24</sup> **Kelf-Cohen**, p. 40.

<sup>25</sup> **Kelf-Cohen**, p. 39; **Robson**, p. 37; **Clegg – Chester**, p. 25.

willing to supply”<sup>26</sup>. The McGowan Committee’s Report in 1936 had recommended public ownership and considerable amalgamation among the existing electricity undertakings<sup>27</sup>. The Attlee Government was faced with the choice of either “nationalisation to impose a sensible coordinated distribution system or increased fragmentation among municipalities, which seemed incapable of rational coordination”<sup>28</sup>. Central public ownership or nationalization seemed to be the only way of coordinating the fragmented and largely municipally owned local distribution understandings<sup>29</sup>. Ultimately the reasons led to nationalization of the ESI by the Electricity Act 1947 brought all the former private and municipal undertakings in England and Wales (and Southern Scotland) into full public/national ownership. Under nationalization the ESI was controlled internally and externally by the government. The nationalized ESI formally started operations on 1 April 1948. The structure then comprised the British Electricity Authority (BEA) and established twelve Area Electricity Boards in England and Wales and two in Scotland. In other words, the new ESI in England and Wales was divided into two parts. The BEA was responsible for generation and transmission of electricity, while the Boards were responsible for distributing of electricity<sup>30</sup>. Over 600 private and municipal undertakings in the ESI were now in BEA’s keeping<sup>31</sup>.

In 1954 the Electricity Reorganization (Scotland) Act changed the BEA to the Central Electricity Authority (CEA), from 1 April 1955<sup>32</sup>. However, the Herbert Committee recommended further changes<sup>33</sup>. The Electricity Act 1957 established two new statutory bodies: The Central Electricity Generating Board (CEGB) which replaced the CEA and was responsible for generation and transmission of electricity in England and Wales, and the Electricity Council

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<sup>26</sup> **Chick**, Martin, *Industrial Policy in Britain 1945-1951: Economic Planning, Nationalisation and the Labour Governments*, Cambridge University Press, Cambridge 1998, p. 79.

<sup>27</sup> **Tivey**, p. 56; **Electricity Supply in Great Britain**, p. 23.

<sup>28</sup> **Newbery – Green**, p. 36.

<sup>29</sup> **Newbery – Green**, p. 26.

<sup>30</sup> **Cheshire**, p. 15; **Kelf-Cohen**, pp. 40-41; **Newbery – Green**, p. 38; **Hannah**, p. 329; **Tivey**, p. 57; **Electricity Supply in Great Britain**, pp. 28-29; **Roberts**, Jane – **Elliot**, David – **Houghton**, Trewor, *Privatising Electricity: The Politics of Power*, Belhaven Press, London and New York 1991, p. 37.

<sup>31</sup> **Hannah**, p. 356.

<sup>32</sup> **Cheshire**, p. 16; **Park**, p. 174; **Electricity Supply in Great Britain**, p. 36.

<sup>33</sup> **Cmnd. 9672**, Report of the Committee of Inquiry into the Electricity Supply Industry – the Herbert Report, HMSO, January 1956.

was responsible for broad supervisory tasks for the whole industry in England and Wales<sup>34</sup>. The CEBG was responsible for generation and transmission of electricity, and twelve Area Boards were responsible for distributing and selling electricity to final customers<sup>35</sup>. The CEBG sold electricity to the twelve Area Boards under the terms of its Bulk Supply Tariff (BST), and then Area Boards distributed and sold it to the consumers in its region, using its own tariffs<sup>36</sup>. The CEBG therefore had a monopoly over the wholesale market, while the Boards had regional monopolies over retail supply<sup>37</sup>.

### **The Winds of Change with Privatization**

The Attlee Governments of 1945-51 were popular, *inter alia*, in the nationalization of major industries. But the 1979 Conservative Government under Margaret Thatcher sought to reverse the legislative reform adopted by Labour. The Conservative Government under Margaret Thatcher began the second major shift in industry sector of the Second World War period by denationalizing the industries which had been placed in state ownership since 1945s. Keynesian policies began to be challenged by the Conservative Government<sup>38</sup>.

Margaret Thatcher had a strong ideological commitment to small government<sup>39</sup>. Two different strategies were adopted, sometimes in tandem: “Privatisation: the transfer of ownership of assets from the public to the private sector. Liberalisation: the introduction of deregulation and competition to

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<sup>34</sup> **Cheshire**, pp. 16-17; **Park**, p. 174; **Kelf-Cohen**, p. 41; **Newbery – Green**, p. 38; **Electricity Supply in Great Britain**, p. 40; **Yarrow**, George, Regulation and Competition in the Electricity Supply Industry. In Kay, John – Mayer, Colin – Thompson, David (Eds.), Privatisation and Regulation: The UK Experience, Oxford University Press, Oxford 1989, p. 191.

<sup>35</sup> **Yarrow**, George, Privatization, Restructuring, and Regulatory Reform in Electricity Supply. In Bishop, Matthew – Kay, John – Mayer, Colin (Eds.), Privatization & Economic Performance, Oxford University Press, Oxford 1995, p. 67; **Jennings**, David, Corporate Planning: Post-Privatization Change in a UK Electricity Utility, Utilities Policy, vol. 8, 1999, issue 4, pp. 224-225.

<sup>36</sup> **Newbery – Green**, p. 38.

<sup>37</sup> **Yarrow**, Privatization, pp. 67-68.

<sup>38</sup> **Steel**, David R. – **Heald**, David A, Privatising Public Enterprise: An Analysis of the Government Case, The Political Quarterly, vol. 53, 1982, issue, 3, p. 334.

<sup>39</sup> **Veljanovski**, Cento, The Future of Industry Regulation in the UK: A Report of an Independent Inquiry, European Policy Forum for British and European Market Studies, London 1993, p. 5.

regulated monopolistic industries”<sup>40</sup>. So the Conservative Government’s economic policy was to “roll back the frontiers of the state” which was regarded as essential to creating an enterprise economy<sup>41</sup>. The logic was that while the state’s role should be minimised with a redefinition of the public sector’s role in the economy, the private sector’s role should be increased. Privatisation was a proper tool and flagship to achieve this policy<sup>42</sup>. In other words, “the UK’s privatisation programme sought to roll back the frontiers of the state, and in the process to create an arm’s length relationship between Government and industry”<sup>43</sup>. It is for this reason that privatization became the centrepiece of the policy programme of Conservative Governments between 1979 to 1990 under Margaret Thatcher and subsequently continued between 1990 to 1997 under John Major<sup>44</sup>.

On the other hand, the policy was often criticised as being a crude money raising device – “selling off the family silver”<sup>45</sup>. But the Conservative Government had a good opportunity to accomplish the policy. First of all in 1979 the Conservative Government enjoyed a comfortable majority in the Parliament. “Opposition outside Parliament was subdued: the Labour Party was racked by internal conflict; and the trade unions weakened by unemployment, public hostility and new labour legislation. In such circumstances the government was able to pass a stream of denationalization legislation without much difficulty”<sup>46</sup>. Second, the UK had won the Falklands War with Argentina in 1982 and the following election gave Margaret Thatcher enormous political

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<sup>40</sup> **Roberts – Elliot – Houghton**, p. 22.

<sup>41</sup> **Kavanagh**, Dennis, *The Reordering of British Politics: Politics After Thatcher*, Oxford University Press, Oxford 1997, p. 126; **Lee**, Geoff, *Privatisation*. In Jones, Bill (Ed.), *Political Issues in Britain Today*, Manchester University Press, Manchester 1999, p. 181.

<sup>42</sup> **Kavanagh**, p. 126; **Beesley**, Michael Edwin, *Privatization: Reflections on UK Experience*. In Beesley, Michael Edwin, (Ed.), *Privatization, Regulation and Deregulation*, Routledge, 2<sup>nd</sup> Edition, London 1997, p. 43.

<sup>43</sup> **Veljanovski**, *The Future*, p. 5.

<sup>44</sup> **Surrey**, p. 5; **Thomas**, Steve, *The Privatisation of the Electricity Supply Industry*. In Surrey, John (Ed.), *The British Electricity Experiment: Privatization: The Record, the Issues, the Lessons*, Earthscan Publications Ltd., London 1996, p. 40.

<sup>45</sup> **Roberts – Elliot – Houghton**, p. 24.

<sup>46</sup> **Heald**, David, *The United Kingdom: Privatisation and Its Political Context*. In Vickers, John – Wright, Vincent (Eds.), *The Politics of Privatisation in Western Europe*, Frank Cass, London 1989, p. 37.



power<sup>47</sup>. Third, parliamentary sovereignty prevents the courts from reviewing the content of statutes, therefore the courts cannot declare statutes as unconstitutional. This helped to achieve the privatization programme easily<sup>48</sup>. And last but not least, one of the main factors of the Labour Government's defeat in the 1979 general election was public distaste following the so called "*Winter of Discontent*", which was a rash of strikes, often unofficial and largely in the public sector, against the Callaghan Government's attempt to impose a 5 per cent norm for wages and salaries. The Labour Government's inability to control the strikes helped lead to the Conservative Party's decisive victory against the Labour Party in the 1979 general election. The unpopularity of trade unions gave an opportunity to the Conservative Government to introduce new legislation reform to trade unions. Amongst other reforms, privatisation also was one of the tools that gave the opportunity to break the power of public sector trade unions<sup>49</sup>. As Thomas points out "the existence of large, often monopoly, state-owned companies with strong centralised union representation meant that unions could much more easily disrupt an entire sector of the economy than if the sector was split over a large number of private-sector companies"<sup>50</sup>.

In general, privatization had many objectives other than transferring enterprises from the public to the private sector. Vickers and Yarrow identify seven aims of the privatization programme<sup>51</sup>: i. reducing government involvement in industry, ii. improving efficiency in the industries privatized, iii. reducing the public sector borrowing requirement, iv. easing problems of public sector pay determination by weakening the public sector unions, v. widening share ownership, vi. encouraging employee share ownership, vii. gaining political advantage. Also, generating revenue for the Treasury<sup>52</sup>, encouraging

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<sup>47</sup> **Meggison**, William L. – **Netter**, Jeffrey M, History and Methods of Privatization. In Parker, David – Saal, David (Eds.), International Handbook on Privatization, Edward Elgar Publishing Limited, Cheltenham 2003, p. 31.

<sup>48</sup> **Prosser**, Tony – **Moran**, Michael, Privatization and Regulatory Change: The Case of Great Britain. In Moran, Michael & Prosser, Tony (Eds.). Privatization and Regulatory Change in Europe, Open University Press, Buckingham and Philadelphia 1994, p. 48.

<sup>49</sup> **Thomas**, The Privatisation, p. 42 and 51.

<sup>50</sup> **Thomas**, The Privatisation, p. 42.

<sup>51</sup> **Vickers**, John – **Yarrow**, George, Privatisation: An Economic Analysis. MIT Press, London 1988, p. 157.

<sup>52</sup> **Thomas**, The Privatisation, pp. 40-41 and 51.

competition and reducing costs<sup>53</sup>, making the industries more responsive to consumers' wants<sup>54</sup>.

In the UK context, privatization including ESI privatization was seen primarily as a way to weaken the power of public sector trade unions, such as the National Union of Mineworkers (NUM)<sup>55</sup>, by giving them little scope for taking effective industrial action<sup>56</sup>. Public sector trade unions were severely criticised by the Conservative Governments accusing them of assuming a dominant political role. Swann argued that the starting point for the emergence of the privatization strategy goes back to 1974. The Conservative Government under Edward Heath came into power in 1970 and subsequently battled with the NUM. "The strike, which contributed to a shortage of energy and three day working week in industry, eventually resolved itself into a contest over *who governed Britain*"<sup>57</sup>. The Conservative Government decided to go to the people in an election but it lost<sup>58</sup>. It is clear that the mineworkers' strike contributed to Heath's defeat in the 1974 general election. Actually up to 1974, the nationalised industries were tolerated -with a degree of consensus- by the Conservative Governments, but after the 1974 general election defeat the Conservative Party policy on those industries started to shift<sup>59</sup>. The incoming Conservative Government in 1979 was determined to break the power of trade unions, especially the power of the NUM<sup>60</sup>. Because, the Conservative Government felt the power of the NUM as a danger to power stations<sup>61</sup>. "This power to 'turn the lights out' was seen as a danger to the Government and its

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<sup>53</sup> **Webb**, Michael, Privatization of the Electricity and Gas Industries. In Steel, David – Heald, David (Eds.), *Privatizing Public Enterprises*, Royal Institute of Public Administration, London 1984, p. 87; **Taverne – Liddle**, p. viii.

<sup>54</sup> **Webb**, p. 87.

<sup>55</sup> See **Thomas**, David, The Union Response to Denationalization. In Steel, David – Heald, David (Eds.), *Privatizing Public Enterprises*, Royal Institute of Public Administration, London 1984, pp. 59-75.

<sup>56</sup> **Bishop**, Matthew – **Kay**, John, *Does Privatization Work? Lessons from the UK*, London Business School, London 1988, p. 3 and 10; **Heald**, p. 31.

<sup>57</sup> **Swann**, Dennis, *The Retreat of the State: Deregulation and Privatisation in the UK and US*, Harvester, London 1988, p. 223.

<sup>58</sup> **Swann**, p. 223.

<sup>59</sup> **Swann**, pp. 223-224.

<sup>60</sup> **Thomas**, *The Privatisation*, p. 42; **Newbery – Green**, p. 37.

<sup>61</sup> **Thomas**, *The Privatisation*, p. 52.

policies, a threat they were determined to remove”<sup>62</sup>. Thomas makes clear that “the electricity market was the only significant market for British coal, and British coal accounted for nearly 80 per cent of British power generation. Changing the dynamics of the electricity market represented a good opportunity to reduce NUM’s power”<sup>63</sup>.

In the light of these developments the Conservative Government started to privatize its major utilities, such as telecommunications (1984), gas (1986), steel (1988), water (1989) and electricity (1990-1991). The state ownership of the utilities had not been seriously challenged since their nationalisation<sup>64</sup>, but in the 1987 general election, the Conservative Government promised further privatizations, the election manifesto of the Conservative Party contained a pledge to privatize the ESI.

The ESI was seen as the jewel in the crown of the whole privatization programme<sup>65</sup>. While some people believed that privatization of the ESI would not be possible, the Conservative Government strongly were determined to achieve and carry out this aim<sup>66</sup>. The Conservative Government’s reasons for privatization of the ESI were similar to those of privatization in general. These objectives may be listed as follows<sup>67</sup>: “1. to reduce the role of the state in the economy; 2. to raise money for the public finances; 3. to improve economic performance by increasing competition; 4. to widen share ownership”. Also, in comparative perspective “such industries operated under private ownership with apparent success in a number of European countries and certainly in the United States”<sup>68</sup>.

The Conservative Government’s detailed plans for privatising the ESI in England and Wales were first set out in the White Paper “entitled Privatising Electricity: The Government’s Proposals for the Privatisation of the Electricity Supply Industry in England and Wales” published in February 1988<sup>69</sup>. In his House of Commons statement introducing the White Paper, Cecil Parkinson,

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<sup>62</sup> **Thomas**, *The Privatisation*, p. 52.

<sup>63</sup> **Thomas**, *The Privatisation*, p. 52.

<sup>64</sup> **Thomas**, *The Privatisation*, p. 44.

<sup>65</sup> **Surrey**, p. 5.

<sup>66</sup> **Thomas**, *The Privatisation*, p. 45.

<sup>67</sup> **Johnson**, Christopher, *The Economics of Britain’s Electricity Privatization*. In Johnson, Christopher (Ed.), *Privatization and Ownership* (Lloyds Bank Annual Review), volume I, Pinter Publishers, London and New York 1988, p. 60.

<sup>68</sup> **Newbery – Green**, p. 58.

<sup>69</sup> Cm. 322.

Secretary of State for Energy, emphasised the priority attached to this: “In framing my proposals for privatisation, I have adopted six principles: - Decisions about the supply of electricity should be driven by the needs of customers. - Competition is the best guarantee of the customers’ interests. - Regulation should be designed to promote competition, oversee prices and protect the customers’ interests in areas where natural monopoly will remain. - Security and safety of supply must be maintained. - Customers should be given new rights, not just safeguards. - All who work in the industry should be offered a direct stake in their future, new career opportunities and the freedom to manage their commercial affairs without interference from Government”<sup>70</sup>. The White Paper argued that competition would “create downward pressures on costs and prices, and ensure that the customer, not the producer or distributor, comes first”<sup>71</sup>. The White Paper also explicitly talked of privatization as a process that produces an industry “more responsive to the needs of customers and employees”<sup>72</sup>. Finally the proposals as revised by Parliament became law as the Electricity Act in July 1989.

The ESI was substantially restructured before privatization by way of separating generation, transmission, distribution and supplying. “It was the first public utility to be broken up before sale with the specific intention of introducing competition into the industry”<sup>73</sup>. The CEGB was split into four companies, the National Grid Company-NGC, National Power, PowerGen, and Nuclear Electric. The twelve Area Electricity Boards were converted into twelve Regional Electricity Companies (RECs). The transmission assets of the CEGB were transferred to the NGC. The fossil-fuelled generating stations were vested in two companies namely PowerGen and National Power. All nuclear power-stations were transferred to Nuclear Electric, which has remained in the state-owned sector. The NGC was jointly owned by the twelve RECs, the successors to the former twelve nationalized Area Electricity Boards, and the RECs were sold to the public in December 1990. Sixty percent of National Power and PowerGen were subsequently sold to the public in March 1991 and the remainder four years later<sup>74</sup>.

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<sup>70</sup> **The White Paper**, 1988, p. 1.

<sup>71</sup> **The White Paper**, 1988, para. 66, p. 16.

<sup>72</sup> **The White Paper**, 1988, para. 66, p. 16.

<sup>73</sup> **Newbery – Green**, p. 59.

<sup>74</sup> **Newbery – Green**, p. 59; **Park**, pp. 174-175; **Yarrow**, Privatization, pp. 68-69; **Gray**, Philip – **Helm**, Dieter – **Powell**, Andrew, Competition Versus Regulation in British Electricity Generation. In MacKerron, Gordon – Pearson, Peter (Eds.), *The UK Energy Experience: A Model or A Warning?*, Imperial College Press, London 1996, p. 202.

The most important project in the UK privatization took place in 1990 when the electricity supply industry (ESI) in England and Wales passed into the private sector. It aimed to promote competition in generation and for England and Wales to separate supply, distribution, transmission and generation into separate businesses<sup>75</sup>. In other words, a major feature of privatization adopted in England and Wales is “the distinction between generation and supply, which are regarded as amenable to competition, and transmission and distribution, which are recognized effectively to be natural monopolies requiring regulation”<sup>76</sup>.

### **Last Stop?: Regulation**

As a part of the privatization policy, the ESI has been regulated by a new regulatory watchdog, mainly to protect customers. The initial framework for the regulation of the ESI was set out in the 1989 Electricity Act. It established a Director General of Electricity Supply (DGES) which aimed to regulate the ESI with the support of the Office of Electricity Regulation (OFFER)<sup>77</sup>. The primary duties of the DGES were, *inter alia*, to secure that all reasonable demands for electricity are satisfied; to secure that all licence-holders are able to finance the carrying on of their licensed activities; and to promote competition in generation and supply of electricity (Article 3[1]). Subsequently, Gas (OFGAS) and Electricity (OFFER) regulation were merged and emerged with the new name as the Office of Gas and Electricity Markets (OFGEM) under the provisions of the Utilities Act 2000.

Veljanovski has drawn attention to the fact that “... privatisation entailed the replacement of public ownership by regulation. It recast the state’s role from that of a producer of goods and services to that of the regulator of the producers”<sup>78</sup> and “regulation is the new border between the state and industry”<sup>79</sup>.

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<sup>75</sup> **Surrey**, p. 3.

<sup>76</sup> **Parker**, Mike, General Conclusions and Lessons. In Surrey, John (Ed.), *The British Electricity Experiment: Privatization: The Record, the Issues, the Lessons*, Earthscan Publications Ltd., London 1996, p. 295.

<sup>77</sup> See **Littlechild**, Stephen C, Office of Electricity Regulation: The New Regulatory Framework for Electricity. In Veljanovski, Cento (Ed.), *Regulators and the Market: An Assessment of the Growth of Regulation in the UK*, The Institute of Economic Affairs, London 1991, pp. 107-118.

<sup>78</sup> **Veljanovski**, Cento, The Regulation Game. In Veljanovski, Cento (Ed.), *Regulators and the Market: An Assessment of the Growth of Regulation in the UK*, The Institute of Economic Affairs, London 1991, p. 3.

<sup>79</sup> **Veljanovski**, The Regulation Game, p. 4.

### Conclusion

In conclusion, this article has set out the role of the state in the ESI. As indicated at the outset, the analysis has concentrated largely on issues of liberalization, nationalization, privatization and regulation of the ESI. Starting with the Electric Lighting Act of 1882, the ESI was mainly under local/municipal ownership and private ownership. Thus gradually moved to public ownership which was completed by nationalization in 1947. It then moved to private ownership which was completed by privatization in 1991, and then to control of the regulator. It is worth noting here that while the Conservative Governments are doctrinally opposed to nationalization; they have created some public corporations, such as the CEB in 1926. They also nationalized Rolls Royce and other industries in the 1970s under Edward Heath. In fact, “many of the industries which Labour decided to nationalize in 1945 were already partially under some form of public ownership and control or subject to a high degree of government regulation”<sup>80</sup>. The privatization programme was started in 1979 but proceeded over a very long period of uninterrupted Conservative Governments. The newly elected Conservative Government under Margaret Thatcher in 1979 determined, *inter alia*, to remove a variety of assets and undertakings from the public to the private sector and privatization became a distinguishing character of the Thatcher Governments and Major Governments. The privatization of the ESI was not an isolated package policy but the conclusion of a concerted policy by the Conservative Governments<sup>81</sup>. Whatever the fundamental philosophy behind the ESI privatization it can be seen as the Conservative Government’s *coup* or *counter-revolution* over public assets and taking *revenge* for the public sector trade unions as well. It is clear that the UK’s utility privatization has not been just a simple transfer of ownership of assets from the public to the private sector, but has also involved liberalization and structural reforms aimed at facilitating competition<sup>82</sup>. It can be said that in the last phase by creating a new watchdog, direct state intervention, and control has been replaced by arm’s-length control via the regulator, OFGEM. Finally the ESI privatization is special to the UK context as Parker points out “the privatisation and restructuring of the ESI in the UK is not an Experiment, it is very much a British Experiment, which is still in progress”<sup>83</sup>.

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<sup>80</sup> Castles, p. 29.

<sup>81</sup> Thomas, The Privatisation, p. 40; Parker, p. 296.

<sup>82</sup> Saal, David, Restructuring, Regulation and the Liberalization of Privatized Utilities in the UK. In Parker, David – Saal, David (Eds.), International Handbook on Privatization, Edward Elgar Publishing Limited, Cheltenham 2003, p. 562.

<sup>83</sup> Parker, p. 304.

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