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INTERBANK SETTLEMENT OF FASTER PAYMENTS DOCKET NO. OP-1625

According to the Wikipedia Dictionary “a Public Utility is an organization that maintains the infrastructure for a public service. Public Utilities are subject to forms of public control and regulation...” Of course that begs more than a few questions regarding what is infrastructure, what is public service and what forms of public control and regulation are at stake.

Historically speaking the idea of a Public Utility has changed over time, and what was once regarded as such has been redefined and then redefined once again. In the United States money/cash/simoleons, what have you, has been taken as legal tender going from IOUs to private company issue, financial institution promises-to-pay, state and then federal issue and finally to Federal Reserve Bank Notes exclusively (though crypto currency is taking up the challenge). Waterworks (Hamilton’s bank in origin), sewer systems, electrification and generation (TVA, Hoover Dam), and even a State Bank (North Dakota) fall under the public utility classification, at least by authorization of voters, legislatures and administrations. In my understanding a public utility is a necessary service provided to an overwhelming majority of the population (not just citizens) without which great privation, if not chaos, would ensue. The payment system is no less an infrastructure than these other examples: they address a universal need whose failure would be catastrophic.

This still leaves open the question of whether that service can be provided, or best be provided, by a governmental or private entity. In the case of the payment system I feel that the Federal Reserve System is our best bet. Banks, banking intermediaries and other businesses all fail, but the Federal Reserve does not. During our deepest economic crises of 1929-33 and again in 2008 many banks failed, the payment system seized up, but the Fed not only remained intact, to one degree or another, but had the wherewithal to nurture the system back to health, with the assistance of the Bank Holiday and establishment of the Federal Deposit Insurance Act in 1933, and Fed and Treasury Dept. intervention in 2008. The private sector, although instrumental in the formation of the Fed in 1913, and very useful in 2008, did not have the authority or enough public trust on its own to rescue the U.S. economy from near collapse.

Finally, regarding public control and regulation, the private financial sector is certainly under regulatory scrutiny to one extent or another. But being private it has its own reasons for being which are very much more limited than the reasons for being of our governmental institutions as inscribed in the U.S. Constitution. Admittedly governments can be slow to move, gridlocked, mistaken even, but they are representative of the entire nation and, in their best moments, do not have conflicts of interest to the same extent that private entities do. Yes, the Fed is not synonymous with government, but it is about as close as you can get to a governmental arm.

If we accept for a moment that payment system rails are a utility then the question of Fed entry into the system should be judged by utilitarian principles: who will provide the greatest good for the greatest number? Let’s try to answer the question by comparison:

	<u>Fed</u>	<u>Private Sector (THC)</u>
Physical Security	extremely tight	secure but not as secure
IT Security	rarely if ever hacked	occasionally (but rarely) breached
Human Integrity	superb, to my knowledge	compromised on an almost daily basis
Back up resources	U.S. Treasury & other agencies	slower to draw upon U.S. Government
Risk Appetite	limited	gamble precipitated economic panic
Decision Making	Board of Governors of experts	real decision makers few in number
Reputation	attacked by fringe groups	tarnished consumer record
Responsiveness	open to our letters	opaque, handled by P.R. Dept
Reason for Being	avert economic distress & chaos	return on investment

Paradoxically, even though the Fed is a quasi-governmental agency, Fed security breaches, errors and internal lapses of integrity may not be as transparent as those of the private sector. I do not know. That aside it should be clear which sector of the economy is the better bet to provide the greatest, surest good for all Americans.

Ours is a small banking institution at \$140 million with only a few thousand customers. We are also located in a semi-rural area where depositors are slower to adopt e-commerce and other payment options. We offer e-banking, wire transfer, ACH origination and receipt, mobile banking, remote deposit capture, and Pay Pal, but all of this is not utilized as extensively as it might be. We worry that, despite claims to the contrary, we could be penalized for slower and lower usage by a private faster payments entity. We worry that a system failure could tie our settlements into knots. We also need assurance that payments, in and out, will be accepted by all financial institutions. We have yet to adopt P-to-P or B-to-B because these systems are not cost-beneficial, at this time. And we very much worry about faster payments' speeding up fraud, though we are encouraged by the fact that there will be concurrently running payment speed systems. As an example we can cite the case of one older customer whose internet "romance" came to our attention by her multiple, out-of-character wire transfers. We tried to convince her she was being defrauded; we had information about the criminal record of her beneficiary and thought we had her convinced until she tried an end run around the wire transfer system and wrote a \$75,000 check, almost her entire savings to the fraudster; we took a chance and dishonored the payment because we were convinced a crime was being perpetrated; payment delay bought some time, but she ultimately closed her accounts; we do not know what ultimately happened but the fact that we were able to intervene might have saved the day. Faster payments in general have, as we well know, a downside. Who is better at addressing fraud, the Fed or the Private Sector? That unfortunately may be a toss-up.

Sincerely,
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Word: Faster Payments