

Environmental governance in the corporate sector of the United States since 2017

POL23300 Climate Politics: International, National and Local Dimensions
Words: 2799

Todd Davies - 03729787

March 9, 2020

1 Introduction	1
2 Theoretical framework	2
3 Analysis	2
3.1 Federal inaction as an engine for sub-national innovation	2
3.2 The features of polycentric governance	3
3.2.1 Self-organization	3
3.2.2 Site-specific conditions . . .	4
3.2.3 Experimentation and learning	5
3.2.4 Trust	6
3.3 Corporate Laggards	7
4 Conclusion	7
References	8

1 Introduction

In recent years, increasingly urgent reports by the Intergovernmental Panel on Climate Change (IPCC) have outlined the seriousness of the issue presented by anthropogenic global warming and the need for immediate multilateral action across the world. This has led to a revival of the ‘environmentalist’ social movement, manifesting in organizations such as the Fridays for Future

campaign, and increased interest from law-making bodies around legislative instruments to curb the emissions of greenhouse gasses.

As outlined by Harrison, the federal government in the United States has for years lagged behind other developed countries in the adoption of effective policies aimed at combating climate change, and remains the only government in the world to have pulled out of the 2015 Paris Climate Agreement (Harrison, 2010). As such the demand for governmental action on climate change within the US is being met at lower levels of the governance hierarchy, by state and municipal governments.

The strong emphasis on a market driven economy in the United States has caused some scholars to examine a phenomenon known as the “privatization of governance”, which examines the role of consumer-driven policy shifts and the great agency that corporations have in creating change through targeted business practices (Cashore, 2002).

This paper explores how the framework of polycentric governance applies to recent trends in corporate governance and environmental policy inside US corporations. In recognition of the large shifts in climate policy that took place after COP21 and the subsequent ratification of the Paris Agreement, this paper focuses its analysis on the actions of corporations since 2017.

Within these constraints, an argument is constructed showing that corporations are able to provide effective governance on environmental issues within their spheres of influence, and as such, can be seen to fit into the framework of polycentric governance.

2 Theoretical framework

This paper employs the *theory of polycentric governance* as outlined by Elinor Ostrom as a theoretical framework from which to base its analysis (Ostrom, 2009). In order to identify polycentric governance happening in the real-world, the classification developed by Dorsch and Flachsland is used, which identifies four key features of polycentric governance; *self-organization*, *site-specific conditions*, *experimentation and learning* and *trust* (Dorsch and Flachsland, 2017).

The nature of climate change as a pervasive and wicked problem (Marshall, 2015) means that it must be tackled on many fronts and across many levels of society. Using polycentric governance theory as an analytical framework enables an analysis spanning all levels of the decision-making hierarchy, and as such, is used to illustrate how policy diffusion and policy innovation on the sub-national level can cause actors such as corporations to help create a societal shift towards a zero-carbon economy from the bottom up.

This paper examines the collective behaviour and incentive structures for corporate actors operating within the United States. Corporate actors were chosen due to their nature as authoritative decision makers, as stated by Cutler (Cutler et al., 1999), their pervasiveness throughout society, and in order to highlight how their behaviour as indirect participants in the climate regime fits into the theory of polycentric governance. Indeed, Ostrom explicitly mentions private organizations when defining polycentricity: “*A polycentric system exists when multiple public and private organizations at multiple scales jointly affect collective benefits and*

costs” (Cole, 2011). As such, the unit of analysis is defined as a single corporation with the agency to make its own climate-relevant decisions.

3 Analysis

3.1 Federal inaction as an engine for sub-national innovation

As was outlined by Harrison, the US federal government has many veto players due to the fact that legislation must be approved by the House, the Senate and the President. The high likelihood of veto, combined with the fact that individual politicians often vote to protect the business interests of their local constituents rather than along party lines, means that the US Federal Government’s record on climate issues is weak, and where legislation was successfully passed, it was often quickly repealed after a change in administration (Harrison, 2010).

Although the lack of federal action on climate change paints a picture of climate apathy in favour of economic growth, it belies a large segment of the US population who have consistently felt that climate change is a pressing and urgent concern above that of business, as illustrated in Figure 1. As such, there has been significant effort to channel the demand for action on climate change to levels of the governance hierarchy where the systemic barriers to effective action are not as strong. Efforts include protests against Siemens¹, the Fridays for Future organization², The Net-Zero Asset Owners

¹Who have been associated with the construction of new coal power plants (Deutsche Welle, 2020; Greenpeace, 2020).

²Fridays for Future was started when activist Greta Thunberg, started protesting in front of the Swedish parliament every school day, and has now morphed into a movement of strikes involving over 13 million people (for Future, 2020).

Alliance³, the We Are Still In Movement⁴, and many more.

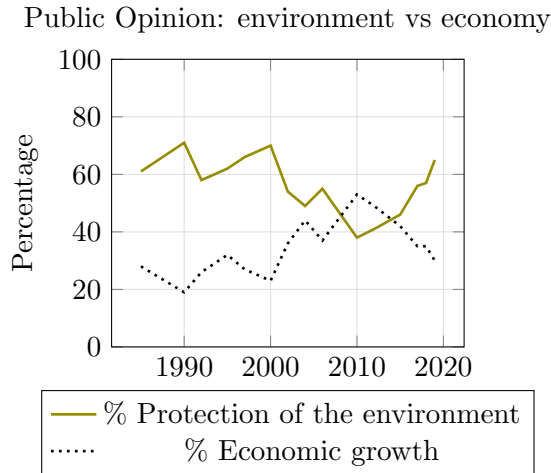


Figure 1: American respondents were asked which of these statements they most you agreed with; “*Protection of the environment should be given priority, even at the risk of curbing economic growth*” or “*Economic growth should be given priority, even if the environment suffers to some extent*“ (Gallup, 2019)

The model of cooperative federalism employed in the United States diffuses authority between the federal government and individual state governments, which leaves room for individual states to legislate on climate issues. This flexibility has been put to great use in states such as California⁵, Connecticut⁶ and Hawai’i⁷ in order to generate and

³<https://www.unepfi.org/climate-change/united-nations-convened-net-zero-asset-owner-alliance/>

⁴<https://www.wearestillin.com/>

⁵California’s climate programmes, pledges and goals span finance, power generation, transportation, efficiency, natural resource management, adaptation and resilience (We Are Still In, 2020a)

⁶In Connecticut, ‘Public Act 08-98, An Act Concerning Connecticut Global Warming Solutions’ requires the state to achieve an 80% GHG emissions reduction from 2001 levels by 2050 (We Are Still In, 2020b).

⁷Hawai’i has committed to sourcing 100% of its net electricity sales from renewables by 2045 (We Are Still In,

implement novel climate legislation, a phenomena described as *compensatory federalism* (Balthasar et al., 2019).

Yet elected government is not the only arena in which global warming is a hotly debated, in-demand and hugely consequential topic. As Executive Secretary of the UNFCCC Patricia Espinosa writes in a foreword to Microsoft’s white paper on carbon neutrality, a concerted and polycentric approach from all levels of the governance hierarchy is required to field an effective response to global warming:

This transformation cannot be achieved by governments alone, no matter how closely national policies and national action plans align with international cooperation. It will only work if all sections of society—from local and regional governments to business, investors, and citizens—also contribute at increasing levels of scale and acceleration.

– Patricia Espinosa, Executive Secretary, UNFCCC, 2016 (Microsoft, 2015)

3.2 The features of polycentric governance

Corporate action within the US will now be examined in the context of the four polycentric governance conditions outlined by Dorsch and Flachsland; self-organization, site-specific conditions, experimentation, and learning and trust (Dorsch and Flachsland, 2017).

3.2.1 Self-organization

Each private company is sovereign to itself, in the sense that board members, managers, executives and other members of the administrative structure of the company wield the power to make business decisions on its behalf. As such, these actors within companies have the authority to make decisions

2020c).

in the best interests of the company, this includes obvious actions such as abiding by the law and ensuring profitability, but also in order to maintain a good social standing for the company within society.

Recent moves by large investors indicate that the risk of climate change is starting to become a credible threat to the long-term sustainability of many businesses. Larry Fink, the CEO of Black Rock, the world's largest asset manager recently released a letter warning companies that climate risk is investment risk, and predicting a significant reallocation of capital towards sustainable investments (Fink, 2020). Fink's letter is significant, since the opinion of massive institutional investors such as Black Rock sets the tone of conversation at the executive level of business⁸, and hints that companies with large exposures to risks related to climate change (such as having lots of stranded assets) could be seen as less attractive investments in the future.

As stated by Auld and Gulbrandsen, the environmental and social reputations of any given company reflect on the entire industry of which it is part, and as such, there is often peer pressure among companies to maintain a good social standing. This incentivises the creation of private regulation, where "non-state actors set rules to govern the behaviour of others", and thereby forming a self-governing, self-policing and self-organizing mechanism to ensure that companies are acting in each-other's interests (Auld and Gulbrandsen, 2013).

They also explicitly call out the public policy failures of the international climate regime as a demand factor in the generation of climate related private regulation, showing how the corporate sec-

tor can self-organize as a direct response to a lack of higher-level governance (Auld and Gulbrandsen, 2013, p.403). Cashore describes this form of private regulation as Non-State Market Driven Governance Systems (NSMD), and shows that it is most prevalent in the fields of responsible environmental and social management practices (Cashore, 2002).

In the field of private climate regulation, long-standing projects such as the Carbon Disclosure Project⁹ (which was founded in 2000, and seeks to audit companies on a range of climate related measures) are well established and provide essential services that governments and legislators are not providing, though it has been shown that companies do not always respond to their efforts (Matisoff et al., 2013).

Despite this, newer projects such as *Renewable Energy Buyers Alliance (REBA)* continue to form, providing ever more specialised private regulation as interest grows and the sector expands. Founded in 2017, the REBA facilitates private companies' procurement of renewable energy across the United States, in spite of lackluster federal support for an energy transition (REBA, 2020).

3.2.2 Site-specific conditions

One major difficulty in dealing with wicked problems such as climate change is their pervasiveness, and the large number of changes across all of society that must be made in order to tackle them. As Dorsch and Flachsland show, and as Scott discusses at length in *Seeing like a State*, actors with a deep level of understanding of a given situation are best equipped to exploit local synergies, achieving a solution that is more optimal than could be reached at a more abstract higher level of governance (Dorsch and Flachsland, 2017; Scott, 1998).

Both authors show that it is the diversity of context specific problems that makes the heterogeneity of

⁸Soon after the letter was released, many companies released sustainability reports. Some had large commitments such as Delta, which pledged to spend \$1bn over ten years on sustainability and to become carbon neutral, but others appear to be at risk of greenwashing. As outlined by (Parguel et al., 2011), sustainability ratings could be used to deter companies from greenwashing.

⁹<https://www.cdp.net/en>

lower-level governance structures highly effective. In the case of the corporate sector, each industry is by definition an ‘expert’ in the field that it operates, and as such is able to recognise the ‘site-specific’ changes required in order to create a suitable ‘polycentric task’ to be implemented.

One industry that has been amenable to a sustainable transition and exemplifies the notion of highly tailored responses has been the cloud computing industry, where industry leaders have committed billions of dollars towards sustainability initiatives and developing renewable electricity generation.

For example, Google, a large player in the cloud computing industry, is able to exploit synergies between its business model and a sustainable transition. According to its environmental report, Google enters into Purchasing Power Agreements (PPA) with energy companies which commits it to buying a given amount of renewable energy over a certain number of years (thus lowering the risk of new green energy investments and increasing their chances of success), which according to its report has driven nearly \$5 billion of new capital investment into renewable energy generation and has played a large part in enabling Google to be carbon neutral since 2007 (Google, 2013, 2019).

Dorsch and Flaschland show that one disadvantage of using lower-level governance structures to tackle climate change issues, is that sometimes they don’t have the requisite authority to pass legislation. In some sense, this is very true for corporations, since cannot pass climate legislation. However, corporations do have almost absolute power to make changes to their own business practices, and so are flexible and powerful with regard to their own level of the governance hierarchy.

Yet counter examples to Dorsch and Flaschland’s assertion exist, showing that legislative issues can be overcome by corporate actors through lobbying. For example, when Google was unable to implement its PPA strategy inside the existing legal framework of Taiwan, it successfully lobbied for a legislative amendment to the Electricity Act which

lifted restrictions on direct purchases of electricity if the electricity comes from renewable sources (Taiwanese Ministry of Economic Affairs, 2017). This is evidence of Google acting as a policy entrepreneur to facilitate policy diffusion, in this case, to help bring the practice of corporate direct energy purchases from the United States and Europe into the Taiwanese energy market.

3.2.3 Experimentation and learning

‘Experimentation and learning’, the third criteria outlined by Dorsch and Flaschland easily maps onto the competitive aspects of the corporate world. Corporate competition drives innovation, and an innovation by one company is often adopted as quickly as possible by its competitors.

Another cloud computing company, Microsoft, can also be seen to engage in polycentric experimentation. In January 2020, Microsoft announced that it would be “carbon negative” by 2030 (shown in Figure 2), announced a \$1 billion dollar climate innovation fund, and committed to removing all its historical carbon emissions by 2050. This investment makes Microsoft the first company in the world to commit to being carbon negative, and is undoubtedly a commercial and financial experiment, though it is too early to tell if other companies will follow suit.

To achieve its goal, Microsoft will buy energy from 100% renewable sources by 2025, applying an internal carbon tax of \$15 per metric ton. Microsoft intends to remove carbon from the atmosphere using a variety of methods, described as “*potentially including afforestation and reforestation, soil carbon sequestration, bio-energy with carbon capture and storage (BECCs), and direct air capture (DAC)*” (Microsoft, 2020).

In their paper on private regulation in global environmental governance, Auld and Gulbrandsen show how private regulation can facilitate the adoption of standards through peer pressure, providing

Microsoft's pathway to carbon negative by 2030

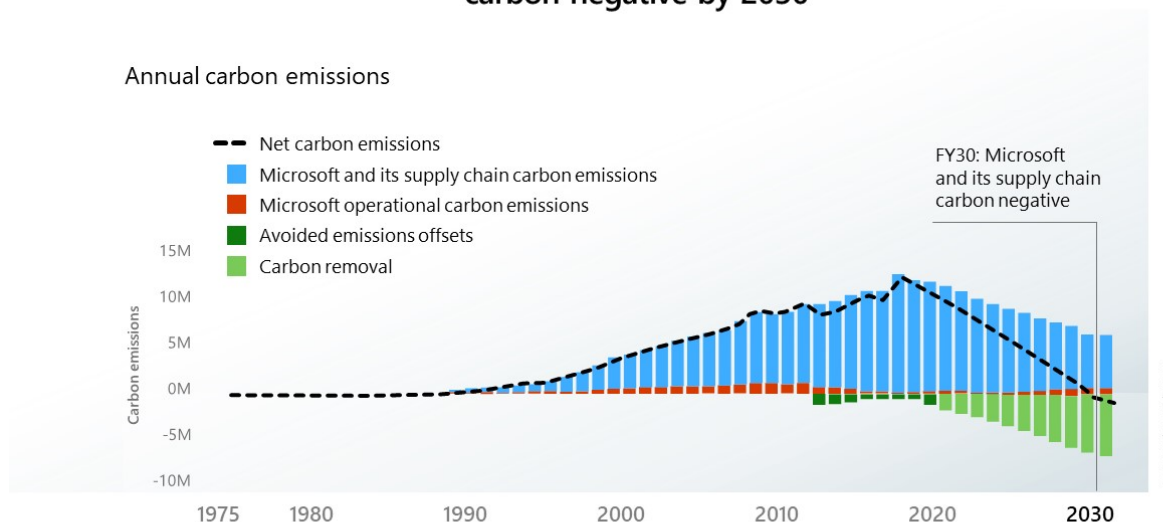


Figure 2: A graph showing the carbon emissions of Microsoft (including the negative emissions that were avoided using offsets), and showing the intended path towards net zero, and then negative emissions from 2030 (Microsoft, 2020).

a path for polycentric learning (Auld and Gulbrandsen, 2013). Likewise, it has been demonstrated in Business Management literature that corporations engage in ‘diffusion’, defined as “the process by which innovations spread to the members of a social system over time” (Rogers and Adhikarya, 1979), and that corporations will actively search their environment to find solutions to meet their organizational problems (Rogers, 2010, p.371).

3.2.4 Trust

According to Cole, Ostrom’s view on trust is that it must be *mutually earned* by actions that can be verified by the different parties interacting in a system (Cole, 2015). A mechanism for establishing trust in the context of private business is outlined

by Auld and Gulbrandsen, specifically private certification, which facilitates trust through differentiating responsible companies from irresponsible companies (Auld and Gulbrandsen, 2013, p.396), which in turn, is built on the general framework that Ostrom outlines for building trust. Taking a game theoretic view, Ostrom asserts that through mutually beneficial interactions, a stock of trust is built between parties over time, seeing the interactions as one long ‘game’ rather than many individual exchanges (Bromley et al., 1992).

This mechanism of trust building is evident in the wide range of private organizations within the corporate sector that facilitate certification, and are widely recognised as being authoritative within their sphere of influence. Examples include The Forest Stewardship Council¹⁰, The Marine Stew-

¹⁰The FSC promotes environmentally appropriate, socially

ardship Council¹¹, and the Fairtrade Labelling Organization¹². Pargue et al. explain how these types of monitoring organizations can be used to help build both consumer trust and inter-corporation trust by certifying that the sustainability practices of companies are legitimate and effective, and thus preventing free-riders and greenwashing (Parguel et al., 2011).

3.3 Corporate Laggards

This paper has focused on climate-leaders in the corporate world, yet laggards exist on the opposite end of the spectrum. A particularly well studied case is that of the oil industry, where there was widespread acknowledgment of the problem of anthropogenic climate change among oil industry executives at least a decade before it was brought to the attention of the US government (Franta, 2018).

In modern times, climate malfeasance in the corporate arena continues to thrive; companies involved in the production of fossil fuels have been shown to have purposefully misled the public through advertising campaigns (Supran and Oreskes, 2017), business lobby groups act as policy entrepreneurs and push policies that preserve the status-quo (Goldenberg, 2013) and companies engage in greenwashing, which lets them claim to be environmentally conscious, while making few changes that actually reduce their footprint (Bruno, 1997).

beneficial, and economically viable management of the world's forests, and operates in over 90 countries (Forest Sustainability Council, 2020). It is called out by Cashore as a particularly effective non-state market driven governance actor (Cashore, 2002).

¹¹The MSC runs certification programmes for sustainable fishing, and certifies around 15% of fish catches (Auld and Gulbrandsen, 2013; Marine Sustainability Council, 2020).

¹²The Fairtrade Labelling Organization certifies products as having supply chains that give decent and more fair working conditions for farmers and workers, particularly in developing countries, and according to its website, has a reach of over 1.6 million workers (Auld and Gulbrandsen, 2013; Fairtrade Labelling Organization, 2020).

Thus, the question of how the policies and strategies of corporate laggards will evolve over time remains. As described by Shipan and Volden, will policies “snowball”, and diffuse throughout the wider business world, or will they act as a “pressure valve” and make government level action to force laggards to act less important (Shipan and Volden, 2012)? Further work is required to answer these questions.

4 Conclusion

This paper has examined the responses of a select group of corporate actors within the United States to the issue of anthropogenic global warming and climate change. It examines the US regulatory environment inside which corporations operate, the social context in which they develop policies, and the governance structures they influence.

It has shown how the privatization of climate governance is increasingly fueled by latent and unfulfilled public demand for action on environmental issues within the US, which has created an environment where corporations are increasingly pressured to act, and produce policies and stances on corporate social responsibility as a result.

It then drew on the four-featured framework for polycentric governance outlined by Dorsche and Flaschland, and shows how corporate governance shows characteristics of each; self-organization (advocacy by business leaders, grassroots lobbying and corporate peer pressure), site-specific conditions (purchasing power agreements), experimentation and learning (corporate policy entrepreneurship and initiatives to reach carbon negativity), and trust (private regulators). Specific examples are given to illustrate how each case can manifest in the private sector, showing the importance of the corporate sector in facilitating effective environmental governance within the United States.

The use of private regulation in environmental governance is used to further demonstrate how corporate actors are able to self-organize, learn from

each other, and build trust in order to facilitate polycentric governance.

Finally, the paper acknowledges and examines ‘lagger’ corporations, those that are apathetic at best, or actively work against policies to tackle global warming at worst. It calls for further research into the question of how corporate policies on environmental governance are likely to continue to evolve over time.

References

- Auld, G. and Gulbrandsen, L. H. (2013). Private regulation in global environmental governance. *The handbook of global climate and environment policy*, pages 394–411.
- Balthasar, A., Schreurs, M., and Varone, F. (2019). Energy transition in europe and the united states: Policy entrepreneurs and veto players in federalist systems. *The Journal of Environment & Development*.
- Bromley, D. W., McKean, M. A., Gilles, J. L., Oakerson, R. J., Runge, C. F., et al. (1992). *Making the Commons Work: theory, practice and policy*. Number 307.72 M3.
- Bruno, K. (1997). The world of greenwash. *Corp-Watch, January*, 1:1997.
- Cashore, B. (2002). Legitimacy and the privatization of environmental governance: How non-state market-driven (nsmd) governance systems gain rule-making authority. *Governance*, 15(4):503–529.
- Cole, D. H. (2011). From global to polycentric climate governance. *Climate law*, 2(3):395–413.
- Cole, D. H. (2015). Advantages of a polycentric approach to climate change policy. *Nature Climate Change*, 5(2):114–118.
- Cutler, A. C., Haufler, V., and Porter, T. (1999). *Private authority and international affairs*, page 16. Suny Press.
- Deutsche Welle (2020). Climate protesters take on siemens board meeting. Data retrieved from dw.com, <https://www.dw.com/en/climate-protesters-take-on-siemens-board-meeting/a-52263613>.
- Dorsch, M. J. and Flachsland, C. (2017). A polycentric approach to global climate governance. *Global Environmental Politics*, 17(2):45–64.
- Fairtrade Labelling Organization (2020). Data retrieved from: <https://www.fairtrade.net/impact/overview>.
- Fink, L. (2020). A fundamental reshaping of finance. <https://www.blackrock.com/uk/individual/larry-fink-ceo-letter>.
- We Are Still In (2020a). California’s sustainability plan. Data retrieved from We Are Still In, <https://www.wearestillin.com/organization/california>.
- We Are Still In (2020b). Connecticut’s sustainability plan. Data retrieved from We Are Still In, <https://www.wearestillin.com/organization/connecticut>.
- We Are Still In (2020c). Hawaii’s sustainability plan. Data retrieved from We Are Still In, <https://www.wearestillin.com/organization/hawaii>.
- for Future, F. (2020). Fridays for future statistics. Data retrieved from [fridaysforfuture.org](https://www.fridaysforfuture.org/statistics/graph), <https://www.fridaysforfuture.org/statistics/graph>.
- Forest Sustainability Council (2020). Data retrieved from: <https://fsc.org/en/page/facts-figures>.
- Franta, B. (2018). Early oil industry knowledge of co 2 and global warming. *Nature Climate Change*, 8(12):1024–1025.
- Gallup (2019). Environmental protection vs economic growth. Data retrieved from Gallup,

- <https://news.gallup.com/poll/1615/environment.aspx>.
- Goldenberg, S. (2013). Secret funding helped build vast network of climate denial thinktanks. *The Guardian*, 14.
- Google (2013). Expanding renewable energy options for companies through utility-offered “renewable energy tariffs”. Offers an explanation of how Purchasing Power Agreements work. Data retrieved from: <https://static.googleusercontent.com/media/www.google.com/en//green/pdf/renewable-energy-options.pdf>.
- Google (2019). Environmental report 2019. Data retrieved from sustainability.google, <https://sustainability.google/reports/>.
- Greenpeace (2020). Greenpeace protest at blackrock: Stop financing siemens and adani coal mine. Data retrieved from greenpeace.org, <https://www.greenpeace.org/international/press-release/28472/greenpeace-protest-at-blackrock-stop-financing-siemens-and-adani-coal-mine-%EF%BB%BF/>.
- Harrison, K. (2010). The united states as outlier: economic and institutional challenges to us climate policy. *Global commons, domestic decisions: The comparative politics of climate change*, pages 67–103.
- Marine Sustainability Council (2020). Data retrieved from: <https://www.msc.org/what-we-are-doing/our-collective-impact>.
- Marshall, G. (2015). *Don't even think about it: Why our brains are wired to ignore climate change*, page 95. Bloomsbury Publishing USA.
- Matisoff, D. C., Noonan, D. S., and O'Brien, J. J. (2013). Convergence in environmental reporting: assessing the carbon disclosure project. *Business Strategy and the Environment*, 22(5):285–305.
- Microsoft (2015). Expanding beyond our carbon neutral operations to accelerate global and local good. Data retrieved from microsoft.com, http://download.microsoft.com/download/6/7/0/6706756C-867B-4A53-BDDD-30D93650FED1/Microsoft_Beyond_Carbon_Neutral.pdf.
- Microsoft (2020). Microsoft will be carbon negative by 2030. Data retrieved from blogs.microsoft.com, <https://blogs.microsoft.com/blog/2020/01/16/microsoft-will-be-carbon-negative-by-2030/>.
- Ostrom, E. (2009). *A polycentric approach for coping with climate change*. The World Bank.
- Parguel, B., Benoit-Moreau, F., and Larceneux, F. (2011). How sustainability ratings might deter ‘greenwashing’: A closer look at ethical corporate communication. *Journal of business ethics*, 102(1):15.
- REBA (2020). Renewable energy buyer alliance; about us. <https://rebuyers.org/about/vision/>.
- Rogers, E. M. (2010). *Diffusion of innovations*. Simon and Schuster.
- Rogers, E. M. and Adhikarya, R. (1979). Diffusion of innovations: An up-to-date review and commentary. *Annals of the International Communication Association*, 3(1):67–81.
- Scott, J. C. (1998). *Seeing like a state: How certain schemes to improve the human condition have failed*. Yale University Press.
- Shipan, C. R. and Volden, C. (2012). Policy diffusion: Seven lessons for scholars and practitioners. *Public Administration Review*, 72(6):788–796.
- Supran, G. and Oreskes, N. (2017). Assessing ExxonMobil’s climate change communications (1977–2014). *Environmental Research Letters*, 12(8):084019.

Taiwanese Ministry of Economic Affairs (2017).
The electricity act. Data retrieved from The
Laws and Regulations Database of the Republic
of China. Amendment 11 was passed on
26.01.2017, and affects Chapter 5, Article 45.
[https://law.moj.gov.tw/ENG/LawClass/
LawParaDeatil.aspx?pcode=J0030011&bp=5](https://law.moj.gov.tw/ENG/LawClass/LawParaDeatil.aspx?pcode=J0030011&bp=5).