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Sidak and Spulber first demonstrate that this arrangement represents a regulatory contract and find that recent deregulatory measures constitute breach. The authors then argue that, whether or not a regulatory contract in fact exists, recent mandatory unbundling in the electric power industry and open-access regulation in the telecommunications field effectuate a taking without just
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1 See J. Gregory Sidak & Daniel F. Spulber, *Deregulatory Takings and Breach of the Regulatory Contract*, 71 N.Y.U. L. Rev. 851 (1996), 1037 Imaged with the Permission of N.Y.U. Law Review . NEW YORK UNIVERSITY LAW REVIEW most profitable customers.² The result, at least in the short term, may be that the incumbents are left with revenues insufficient to recover the costs of investments they made

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