

NEGOTIATION 101: HOW TO GET CORPORATIONS TO DO WHAT YOU WANT

I just got back from driving across the rust belt – Syracuse, Buffalo, Cleveland, Toledo, MI – and am catching up on all the interesting conversations you’ve been having this week while I was celebrating my mom’s birthday (thanks, once again, to bmaz for watching the liquor cabinet while I was gone). So for the moment I want to make one quick comment.

The WSJ has a story describing how BP heroically pushed back against two of the Administration’s most onerous demands: that it pay for the costs of the moratorium on new drilling, and it pay to restore the Gulf to its natural state, rather than the state it was in when the Deepwater Horizon disaster struck.

BP PLC, despite being put under pressure by the U.S. government to pay for the oil-spill aftermath, has succeeded in pushing back on two White House proposals it considered unreasonable, even as it made big concessions, said officials familiar with the matter. BP last week agreed to hand over \$20 billion – to cover spill victims such as fishermen and hotel workers who lost wages, and to pay for the cleanup costs – a move some politicians dubbed a “shake down” by the White House. Others have portrayed it as a capitulation by an oil giant responsible for one of the worst environmental disasters in history. A more accurate picture falls somewhere between.

The fund is a big financial hit to BP. But behind the scenes, according to people on both sides of the negotiations, the company achieved victories that appear to have softened

the blow.

BP successfully argued it shouldn't be liable for most of the broader economic distress caused by the president's six-month moratorium on deep-water drilling in the Gulf of Mexico. And it fended off demands to pay for restoration of the Gulf coast beyond its pre-spill conditions.

Now, I know WSJ's job is to make corporations look good, so I'm unsurprised by this spin. And I'm skeptical the \$20 billion will get in the hands of those who need it in a timely fashion.

But it seems to me that the real story is that – for the first time I can think of – the Obama Administration has actually taken a tough approach to negotiation. Normally, of course, Obama starts by ceding on key issues (such as drug reimportation, oil drilling, and real financial reform) and from that incredibly weakened position, further damaging his policy position. Perhaps this time is different because the Administration is under a much greater public opinion threat. Perhaps this time is different because BP is a corporation (though so are the drug companies) not the opposing political party.

But this time is different.

I actually agree with the WSJ that Obama was unlikely to get BP to pay for the moratorium on drilling. But that may have not been the point. It established the window of possibility far beyond what it had been, and made the \$20 billion escrow account look reasonable by comparison. And voila! BP at least said they agreed to cough up \$20 billion.

It's called negotiation!

Whoever came up with this novel idea really ought to get a bigger policy portfolio.