

BUILDING REGULATORY INSTITUTIONS

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I. Why Regulation (energy or water)?

- Key to Broader Sector (& government) Restructuring
 - Decentralized economic regulation through separation of policy, regulation and operation
 - Key factor for investment
 - Balance utility/consumer/govt. interests
- Transparency and Public Participation
 - Reduce corruption/increase good practices
 - Open process for reg/utility accountability



I. Why Regulation--energy or water? (Cont.)

- Energy and Water Regulation: similarities and differences
- Why USAID Assistance?
 - Comparative advantage
 - Cross-cutting impact on economic growth, democracy and social portfolios
 - Investment and private sector participation
 - Potential for regional linkages
 - Low resource-high impact

II. The Context for Regulation

- Sector Reform: Restructuring, commercialization, competition, Public-Private Partnership (PPP)
- Financial Problems
 - Company losses and system disinvestment
 - Government Budgetary Drain: national and municipal
 - Balance of Payments: Energy imports & debt

II. The Context for Regulation (cont.)

- Economic Issues
 - Cost of poor service for economic growth
 - Impact on investment environment
- Social Issues
 - Tariffs and vulnerable households
 - Non-payment and discontent with reforms
- Political Issues
 - Corruption/lack of transparency/no public participation



III. Characteristics of a Sustainable Regulatory Body

- Autonomy, Authority, Accountability, Ability (AAAA)
 - Autonomy
 - Appointment of Commissioners
 - Exemption from Government Salary Rules
 - Financing—License Fees vs. On-Budget
 - Removal from Office for Cause Only



III. Characteristics of a Sustainable Regulatory Body (Cont.)

– Authority

- Full Tariff Approval Authority
- Issuance of Licenses
- Electricity Market Role
- Data Collection, Monitoring and Enforcement

– Accountability

- Public Participation and Transparency;
- Annual Report and Audit
- Appeal of Decisions to Courts Only (or Intl. Arb.)



III. Characteristics of a Sustainable Regulatory Body (Cont.)

–Accountability (Cont.)

- Budget Review
- Code of Ethics
- Removal from Office for Cause Only

–Ability

- Capable Trained Staff
- Procedures and Management
- Sound Tariff Methodologies and Prices
- Licensing Practices
- Participation, Monitoring and Enforcement



IV. Key Steps in Regulatory Development

- Sound Legal Framework
- Organization Structure/Staffing
- Priority Functions Developed: Tariffs and Licenses
- Additional Functions
 - Public Processes (Hearings, decisions, etc.)
 - Regulatory Reporting/Monitoring
 - Tariff formulation
 - Quality of Service (QoS)
 - Licensing
 - Identification of Abuses

IV. Key Steps in Regulatory Development (Cont.)

- Guiding Competition and Privatization
- Harmonization for Regional Market Development
- Benchmarking for continued improvement
 - Independence, Information Access, Security of Supply; Market Operation and Monitoring; Resources and Capacity; Core Regulatory Procedures; International Activities; Enforcement



V. Lessons Learned

- Regulatory Development: Central to successful reform
- Commissioners and Staff Turnover: Training and professional development in on-going
- Regulatory Complexity: Increases with Competition and Privatization
- Institutional Development: Takes time-five years minimum

V. Lessons Learned (Cont.)

- Scope of Regulation: Stay focused—electricity initially and gas; then heat and for some water. Multi-sector?
- Host Country Support: Frequently from Ministries of Economy/Finance
- Donor Leadership (USAID): Critical (initially and over time); leverage needed
- Change Agent: One person can make the difference

V. Lessons Learned (Cont.)

- Efficacy & Government Interference: Regulation isn't understood; need on-going dialogue with government
- Ebb and Flow: Progress not in a straight line; can vary engagement
- “Applied” Assistance: Not academic; blended approach—direct technical assistance; regional networking; and U.S. Partnerships



V. Lessons Learned (Cont.)

- Long Term: Systemic reform and institution building takes 5-10 years
- Regional Regulatory Network: Efficient and effective complement to mission bilateral programs, e.g., training and professional development (see Energy Regulators Regional Association www.erranet.org)



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VI. Design of Regulatory Assistance Programs

- Circumstances: Diagnostic of sector conditions; political environment; PPP potential
- Analysis: Sector analysis; Benchmarking of existing regulatory body; neighboring countries' experiences
- Donor/Multilateral Banks: Engaged? Leverage?



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VI. Design of Regulatory Assistance Programs (Cont.)

- Making the Case: Sector, economic, political and social; linkage to Strategy Objectives, mission portfolio, IFI programs
- Elements of Assistance: TA—short and long-term; regional engagement; U.S. partnership
- Resource Requirements: Mission staff and budget

VI. Design of Regulatory Assistance Programs (Cont.)

- Assistance for Missions: Assessment & design—AID/W staff; IQCs and Cooperative Agreements
- Regional Experience: Consider neighboring USAID Missions experience

VII. Discussion

- What are your country's circumstances?
- Is there a need for regulatory development? If so, why? (If not, why not?)
- Why USAID? What are decision factors for Mission?
 - Mission priorities and expertise?
 - Sector status/government readiness?
 - Design assistance?

VI. Discussion (Cont.)

- Assistance Available to Missions
 - Assessment/design support from AID/W staff; IQCs and Cooperative Agreements
 - Best practices