TOOLKIT FOR ASSESSING POWER SECTOR REGULATORY ISSUES

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Ashley C. Brown
Executive Director, Harvard Electricity Policy Group
Harvard Kennedy School
Harvard University
Criteria For Assessing Legitimacy of Regulatory Policies/Actions

- Nature of the Industry
  - Monopoly Characteristics? Partially or Entirely?
  - Infused With Public Policy Considerations?
  - Importance to Economy/Development

- National Interests vs. Economic Distortions (e.g. pricing, supplies, labor)

- Regulated or Unregulated Nature of the Business

- Vigilance Regarding Favoritism/Protectionism
Levels of Regulatory Scrutiny

- Inherent and Necessary Sector Regulatory Scrutiny
- Legitimate But Not Essential Sector Regulatory Scrutiny
- Related But Largely External to Sector Regulatory Scrutiny
Regulatory Methodology

• Transparency Essential
  o Public Information
  o Public Notice of Proceedings
  o Opportunities for Meaningful Public Participation and Input
  o Decisions Made in Public Setting
  o Written Rationale Must Be Included in All Decisions
  o Dispute Resolution
Case/Context of the Power Sector

- Central Role In Economy and Social Well-Being
- Partly Monopoly, Partly Competitive
- Thoroughly Infused with Public Policy Issues (Instrument of Public Policy?)
- Largely Regulated Sector
Inherent and Necessary Sector Regulatory Scrutiny

- **Market Entry and Exit**
  - Need for Financial and Technical Capabilities
  - Need to Maintain Vital Services
  - Consumer Protection

- **Pricing and Ratemaking**
  - Attract Investment
  - Prevent Abuse of Market Power
  - Impose Discipline Based on Costs or Market
  - Incentives for Productivity Gains
  - Incentives for Economic and Energy Efficiency
  - Prices Linked to Cost Causation (e.g. Fixed/Variable Ratio)
Inherent and Necessary Sector Regulatory Scrutiny (cont’d)

- **Service Quality**
  - Consumer Protection
  - Economic Costs of Loss/Reduction of Load
  - External to Economic Regulation

- **Risk Allocation**
  - Assure Symmetry Between Risk and Reward
    - Perverse Incentives in Privatization
  - Public/Private Partnerships
  - Sovereign Guarantees
  - State Loans
Inherent and Necessary Sector Regulatory Scrutiny (cont’d)

- **Cost Allocation**
  - Assure Correct/Meaningful Price Signals
  - Fairness to Consumers
  - Discipline Cross-Subsidies
Legitimate But Not Essential Sector Regulatory Scrutiny

- Finance and Capitalization
  - Can Be Irrelevant But:
    - Assurance of “Skin in the Game”
    - Financial Capabilities
    - Debt/Equity Ratio

- Ownership
  - Can Be Irrelevant But:
    - Assurance of Technical and Financial Capabilities
    - Assessment of Experience and History
    - Holding Accountable
    - National Security?
    - Risks Associated with Affiliate Transactions
Legitimate But Not Essential Sector Regulatory Scrutiny (Cont’d)

- Resource and Technology Choices
  - Should Be Market Based But:
    - National Security Concerns
    - Diversification of Resource Mix
    - Environmental Considerations
    - Economic Development
      - Use of Local Resources
      - Use of Local Technology
    - Potential for Corruption and/or Favoritism
    - Need for Specific Expertise/Capability
    - Assuring Prudence and Business Judgement
Related But Largely External to Sector Regulatory Scrutiny

• Choice Of Suppliers: Should Be Market-Based But:
  o Risk of Affiliate Transactions or Favoritism
  o Quality/Deliverability of Purchases Made
  o Promote Use of Local Suppliers? (External to Sector)
  o Reliability of Supply Chain

• Management and Labor: Should Be Irrelevant But:
  o Prudence and Business Judgement
  o Skills Transfer
  o Local Jobs
Related But Largely External to Sector Regulatory Scrutiny (Cont’d)

- Universal Access:
  - Major Social and Economic Benefit
  - External to Monopoly?
  - Condition of License?
  - Subsidy and/or Cross-Subsidy
  - Low-Income Protections