

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
 - Public Information
 - Public Notice of Proceedings
 - Opportunities for Meaningful Public Participation and Input
 - Decisions Made in Public Setting
 - Written Rationale Must Be Included in All Decisions
 - 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
 - i. Use of Local Resources
 - ii. 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:
 - Risk of Affiliate Transactions or Favoritism
 - Quality/Deliverability of Purchases Made
 - Promote Use of Local Suppliers? (External to Sector)
 - Reliability of Supply Chain
- Management and Labor: Should Be Irrelevant But:
 - Prudence and Business Judgement
 - Skills Transfer
 - 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