

Toolkit for the Interface between Power Sector Regulation and Trade

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Ashley Brown

Executive Director, Harvard Electricity Policy Group
John F. Kennedy School of Government
Harvard University

Two Regulatory Perspectives

- Sector Regulator
- Interest of State
 - My Perspective is that of Regulator

3 Categories of Regulatory Significance

1. Inherent and Necessary
2. Legitimate but Not Inherent
3. Non-Inherent

Inherent and Necessary

1. Market Entry
2. Pricing and Ratemaking
3. Service Quality
4. Risk / Cost Allocation
5. Transparency
6. Dispute Resolution / ISDS

Legitimate/Not Inherent

1. Financial / Capital Structure
2. Ownership
3. Affiliate Transactions / Procurement

Non-Inherent for Sector Regulator

1. Supplier Choice
2. Management / Capacity Building
3. Universal Access

Inherent and Necessary:

Market Entry

- Criteria Depend on Role of Entrant
 - High for Monopoly / Essential
 - Reduced for Non-Essential
- Minimum Include:
 - Financial Capability
 - Technical Competence
 - Performance History
- Conform to Market Structure

Inherent and Necessary (cont.):

Pricing and Ratemaking

- Jurisdictional Appropriateness
 - Signals to Customers
 - Performance Incentives
 - Promote Efficiency / Productivity
 - Internalizing Social Objectives
- Investors Should Buy In or Not but Not Seek Trade Rules to Distort Prices

Inherent and Necessary (cont.):

Service Quality

1. Jurisdictionally Appropriate
2. Essential for Regulatory Credibility
3. Investors Buy In or Not

Inherent and Necessary (cont.):

Risk / Cost Allocation

1. Jurisdictionally Appropriate
 - a. Local Sensitivities
 - b. Financial Sophistication
 - c. Who Causes Costs to Be Incurred
2. Investors Buy In or Not

Inherent and Necessary (cont.):

Transparency

1. Necessary for Regulatory Credibility
2. Investors Buy In or Not
3. Open Books and Records
4. Auditing

Inherent and Necessary (cont.):

Dispute Resolution / ISDS

1. At Heart of Regulatory Legitimacy
2. Effect on Capacity Building / Incentives for Regulators

Legitimate—Not Critical:

Financial / Capital Structure

1. Capability / Depth of Pockets
2. “Skin in the Game” (Debt/Equity Ratio)

Ownership

1. Interest in Qualification Only
 - a. Financial
 - b. Technical
 - c. Performance History

Legitimate—Not Critical:

Procurement / Affiliate Transactions

1. Enforcement of “Arms Length” Requirements
2. Protect Consumers
3. Audit Function / Not Micromanagement

Non-Critical:

Supplier Choice

- Hands off if “Arms Length” and Reflective of Market

Non-Critical:

Management / Capacity Building

1. Regulation \neq Micro-Management
2. Capacity Building May Be a Strong Interest of State but Not Inherent to Sector Regulator
3. Regulators Are Tools / Policy Is for State

Non-Critical:

Universal Access

1. Key Interest of State but Not Inherent to Regulatory Oversight
2. Regulators Can Assist but State Needs to Articulate Policy