

INTRODUCTION TO POWER SECTOR REGULATION

Fundamental Legal Concepts



The Regulatory Assistance Project

*50 State Street, Suite 3
Montpelier, Vermont USA
05602
Tel: 802.223.8199
Fax: 802.223.8172*

*177 Water St.
Gardiner, Maine USA 04345
Tel: 207.582.1135
Fax: 207.582.1176*

Website:

<http://www.raonline.org>



Goals of Regulation

- Attracting investment
 - ❖ Rights and obligations must be clear and enforceable
 - Strong energy law
 - Clear franchises
 - Competent regulators
 - Transparent regulatory processes
 - Predictable regulatory outcomes
 - Rights of appeal

Goals of Regulation

➤ Protection of customers

- ❖ Avoid excess profits
- ❖ Clear customer rights
 - ◆ Participation/legitimacy
 - ◆ Service standards
 - ◆ Connection and disconnection
- ❖ Freedom from political and utility influence
- ❖ Transparency
- ❖ Rights of appeal

Other Laws to Consider

- Government Powers (Constitution, etc.)
- Environment
- Local laws
- Taxes



Agency Independence

- "Independence" is a relative term
- Legal Basis
 - ❖ Selection process
 - ◆ Appointment (nominating board)
 - ◆ Popular election
 - ◆ Elected by Legislature
 - ❖ Fixed terms, ending in different years



Agency Independence (*continued*)

➤ Legal basis II

- ❖ Removable for cause
 - ◆ Impeachment
 - ◆ By higher authority (minister, parliament, courts, etc.)
 - ◆ By Ethics Commission
- ❖ Financed by assessment or license fees
- ❖ Court-like processes
 - ◆ Prohibitions on *ex parte* contacts



Transparency

- Access to information
- Notice of pending proceedings
- Right to participate and be heard
- Decisions clearly explained
- Right to appeal



Public Representation

- Consumer advocate offices
- Consumer organizations
- Commission staff
- Individuals
- Industrial customers
- Funding of intervenors?



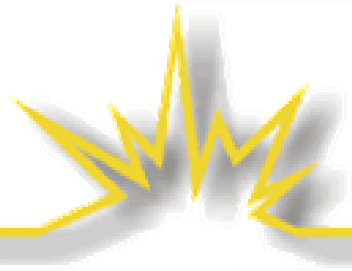
Effective Enforcement

- Power to inspect and review all records
- Power to impose (or seek fines)
 - ❖ Companies and individuals
- Power to penalize in rates
- Power to revoke franchise
- Nature of court review



Right of appeal


- Standards for court review
 - ❖ Property taken unfairly
 - ❖ Unreasonable procedures
 - ❖ Violations of law
 - ❖ Unjust discrimination
- Appeal elsewhere in government
- Appeals to the legislature



Licenses

- Can serve vital role for obligations to serve
- Tension between stability and flexibility
- Interplay between license and the issuance of regulations

Issuance of Regulations

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- Initiated by Commission or by parties
 - Procedures
 - ❖ Notice of proposal
 - ❖ Comments
 - ❖ Reply comments
 - ❖ Hearing if necessary
 - ❖ Decision

Rate or Siting Cases



➤ Procedures

- ❖ Prefiling notice
- ❖ Utility testimony filed
- ❖ Petitions to Intervene
- ❖ Information gathering
- ❖ Reply testimony
- ❖ Hearings and cross-examination
- ❖ Briefs and reply briefs
- ❖ Recommended decision
- ❖ Exceptions
- ❖ Decision reached and written



Informal Proceedings

- Customer complaints
- Policy statements
- Alternative dispute resolution
- Public outreach

Other necessary powers



- Power to order mergers?
- Power to reject mergers?
- Power to order divestiture?
- Power to create open access?