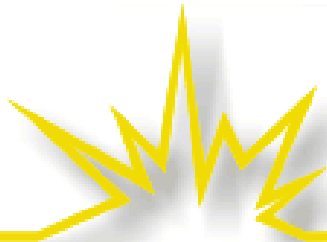


# INTRODUCTION TO POWER SECTOR REGULATION

Fundamental Legal Concepts

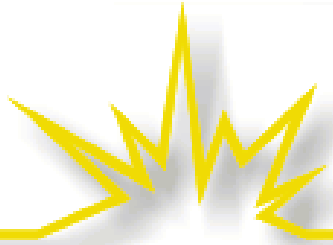


*The Regulatory Assistance Project*

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

Website:  
<http://www.raonline.org>

177 Water Street  
Gardiner, ME 04345-2149  
Phone (207) 582-1135  
Fax (207) 582-1176



# Goals of regulation revisited

- Supporting privatization/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



# Strong Energy Law

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- Basic property rights and contract rights
- Independent Commission
- Rights of the public and others
- Strong enforcement
- Rights of Appeal



# Other Laws to Consider

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- Constitution
- Federal/state issues
- Environment
- Local laws
- Taxes



# Commission Independence

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



# Commission Independence (*continued*)

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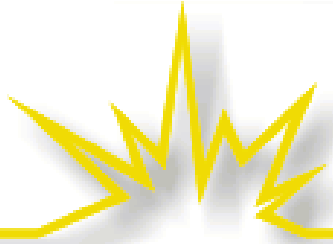
- Legal basis II
  - Removable for cause
    - Impeachment
    - By governor
    - By Ethics Commission
  - Financed by assessment or license fees
  - Court-like processes
    - Prohibitions on *ex parte* contacts



# Rights of the public

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



# Public Representation

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





# Effective Enforcement

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- 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

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



# The role of licenses

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- Not very important in the U.S. anymore
- 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

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- Procedures (10-12 months)
  - 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

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



# Other necessary powers

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