

The Enablers for a Sustainable Economic Regulation



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OUTLINE

- 1. Introduction**
- 2. Enablers of Sustainable Economic Regulation**
 - 1. Methodologies**
 - 2. Skills and Capacity**
- 3. Conclusion**

Introduction

- Sound decisions by regulators create trust and legitimacy required for long-term commitments
- Energy sector regulation experience has shown that regulatory certainty is required to attract new investments in new capacity and replacing aging generation fleet
 - IPP now investing approximate R100 billion
 - Eskom build program of R300billion is already 80% funded, mainly by debt (instead of fiscus)
- That is from the investors' perspective

Introduction

- From the consumer's perspective, the challenge for the regulator is that of ensuring that the regulated services are :-
 - accessible,
 - available (service reliability), and
 - affordable to the South Africans
- Regulation for the public interest therefore also remains paramount

Introduction - Public Interest

- Regulation for the public good aims to strike a balance between the interests of society by treating both the regulated entity's customers and the regulated entity's investors fairly
- Regulation of monopolies for the public good therefore furthers public objectives and maximises social welfare
- Important to keep these key objectives in mind - i.e. what do we seek to achieve from regulation?

Enabler for Sustainable Economic Regulation

Already covered in Day 1 presentation

- Policy
- Legislation
- Regulatory independence
 - Authority for economic decision making, counterbalanced by
 - Accountability to executive, legislature and judiciary
- Integrity, transparency and public participation
- Predictability
- Efficiency
- Institutional resources framework

Role of NERSA: Legal Basis and Mandate

- NERSA is a regulatory authority established as a juristic person in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004)
- NERSA regulates the:-
 - Electricity industry in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006)
 - Piped-Gas industry in terms of Gas Act, 2001 (Act No. 48 of 2001); and the
 - Petroleum Pipeline industry in terms of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)

Enabler for Sustainable ER: Methodologies

- Methodologies are informed by NERSA primary legislation (Acts of Parliament) and Regulations issued in terms of the primary legislation
- Methodologies developed through a public consultative process
- Methodologies are NERSA rules through which the objects of the Act are implemented
- In Electricity Regulation, the Methodologies are informed by the Electricity Pricing Policy

Enabler for Sustainable ER: Methodologies

Electricity Industry Methodology – Eskom

- Cost of Service Regulation (Rate of Return Regulation)
- Efficiency incentives for controllable factors
- Multi-year price control period (3 – 5 years)
- Balances interests of consumers with that of utility,
 - must enable an efficient licensee to recover the full cost of its licensed activities, including a reasonable margin or return

Enabler for Sustainable ER: Methodologies

Electricity Industry Methodology – Eskom

- Low income households must have access to at least basic services through
 - tariffs that cover only operating and maintenance costs
 - special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service
 - any other direct or indirect method of subsidisation of tariffs for low income households
- Gradual migration (phase-in over 5 years) to achieve cost reflective tariffs

Enabler for Sustainable ER: Methodologies

Electricity Industry Methodology – Municipalities

- Benchmarks are used
- Municipalities allowed to apply for tariffs that are different from benchmarks to suit their special circumstances by providing justifications
- Deviations from benchmarks only allowed after public consultation process
- Deviations from benchmarks usually justified by:-
 - higher network maintenance expenses
 - Financial sustainability of the municipality

Enabler for Sustainable ER: Methodologies

Petroleum Pipelines Regulation - Transnet

- Cost of Service Regulation (Rate of Return Regulation)
- Efficiency incentives for controllable factors
- Balances interests of consumers with that of utility,
 - must enable an efficient licensee to recover the full cost of its licensed activities, including a reasonable margin or return
 - Promote affordable access to petroleum products
- Multi-year application allowed though not used

Enabler for Sustainable ER: Methodologies

Piped-gas Regulation (Transmission & Storage)

- Light-handed regulation intended by the legislation
- Regulator monitors and approves, and if necessary regulate where there is inadequate competition
- Regulator allows licensee to use any methodology so long as it is proven, tested and verifiable
- Regulator has therefore only issued tariff guidelines

Enabler for Sustainable ER: Methodologies

Piped-gas Regulation - gas trading

- Methodology for approving maximum gas prices
- Based on comparator energy carriers and/or imported costs (pass-through of costs)
- Includes efficiency incentives
- Also required to enable an efficient licensee recover its costs, investment and make a profit commensurate with risk

Enabler for Sustainable ER: Methodologies

- In all these three industries, NERSA has published methodologies for tariffs/price setting/approvals;
 - Methodologies aim to enable an efficient licensees make a profit commensurate with risk
 - Ensure that products and service are accessible, available and affordable to the public

Skills and Capacity

- Competencies required from a number of disciplines :-
 - Economists
 - Engineers
 - Lawyers
 - Accountants/Corporate finance
 - Customer education/dispute resolution
- Regulation being a specialised area, hard to find ready made regulators.

Skills and Capacity

- NERSA therefore invests significantly on training its staff
- Various programs locally and overseas that equip staff with regulatory knowledge as well as technical/professional training
- Study tours to other regulators to learn (adapt) international best practices
- As regulatory agencies are established, the first cohort of regulators have a crucial role in establishing administratively just regulatory procedures

Conclusion

- In our country's current infrastructure investment mode, the primary regulatory challenge is attracting sufficient funds to achieve adequate infrastructure investment
- A central concern to investment is to establish credible regulatory regime (commitment) that provides assurance to the regulated entity that, after having made the investments, it will be allowed to provide services at prices that fully recover efficient investment costs and make a profit commensurate with risk
- Building trust and a reputation for a regulator are important pillars to establishing a credible regulatory regime
- This requires the regulatory body to act fairly to both the customers and regulated entity's investors, as well as in the larger public interest, in order to effectively achieve regulatory outcomes intended by policy makers at the outset

End

Thank you