

**Key Lessons from the
28th PURC/World Bank International Training Program
on Utility Regulation and Strategy
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Teachers learn from their students, and students learn from each other. As in the past, the 115 participants from 36 nations in this training course identified the key lessons learned over the two-week period. During the concluding session of the program, they shared their reactions to formal presentations and informal networking. The PURC team appreciated the dedication and energy exhibited by participants: attendees brought excitement, insight, and understanding to the sessions and shared their ideas with all of us.

Note that while most of the lessons refer to regulatory agencies and to those developing infrastructure reforms, the principles apply to operators as well. Organizations face the same challenges: creating a sustainable infrastructure system where all stakeholders have confidence in the integrity of the process and have a shared vision of improved infrastructure performance.

PURC's Director, Mark Jamison, said that the lessons tend to be strategic rather than technical in nature – suggesting that many of the important ideas involved how regulators, representatives from government ministries, infrastructure managers, and consumer advocates needed to “get on the balcony.” Intentionally stepping back from the “give and take” of regulation allows leaders to see how various stakeholders limit or promote reform. We hope that the annotated list of lessons stimulates further discussion among those involved in these important sectors. I take full responsibility for errors of interpretation in this summary of key lessons. *Sandy*

- 1. Recognize Complexity:** There is no single recipe for improving infrastructure performance. Regulation is not cut and dry; it requires broad perspectives that draw upon many disciplines, including accounting, engineering, public administration, finance, economics, and law. Individuals tend to wear blinders, but teams can bring multiple perspectives to challenging issues. There is no single approach to regulation that works everywhere: “One size does not fit all.” The enabling legislation, the judicial system, national income, and investment climate all affect opportunities facing operators. However, the same regulatory principles apply in most situations: institutions, ideas, information, incentives, and individuals (leadership) matter. Finally, the “ideal” is the enemy of the “good.” No proposal is perfect. The art of politics involves assembling coalitions that see the positive impacts of the initiative and addressing any potential problems that could arise from change. Efficiencies delayed are efficiencies denied.
- 2. Practice Multi-tasking:** On the job, regulators seem to be fighting fires that erupt in different areas. Thus, regulation requires many activities going on simultaneously. Good decisions require substantial information, along with collaboration among professionals from multiple disciplines. Of course, legal mandates must be followed, which requires

commissions to act within the law, recognizing the importance of deadlines and communicating in a clear and transparent manner. Professionals do not work in silos: leaders recognize the importance of different skill sets and utilize input from others. Regulators and policymakers have only limited information about firms' commercial activities and opportunities for cost containment. The design of regulatory institutions and incentives needs to recognize this information problem – utilizing competitive markets where feasible and benchmarking when necessary.

- 3. Seek Independence:** Regulatory commissions need to be perceived as independent from all stakeholders, including consumers, service providers, and politicians. The government sets sector priorities and the agency implements these policies – ensuring some insulation from those with short time horizons. The long-term financial sustainability of operators requires that assets be maintained and operated in an efficient manner, consumers pay their bills, and performance improves over time. These objectives can conflict with the short-term interests of particular stakeholder groups. Daniel Carpenter, in *The Forging of Bureaucratic Autonomy* (2001, Princeton Univ. Press) stated: “Bureaucratic autonomy . . . emerges not from fiat but from legitimacy. It occurs when political authorities see it in their interest to defer to agency action, or when they find it too problematic to restrict it. They defer to the agency because (1) failure to do so would forfeit the publicly recognized benefits of agency capacity, and/or (2) the agency can build coalitions around its innovations that make it costly for politicians to resist them. These coalitions are part of the agency’s reputation; reputations are not ethereal but are embedded in network-based coalitions.”
- 4. Promote Triple A Performance:** Regulation can facilitate sustainable development that makes infrastructure *Available, Accessible, and Affordable*. Water, energy, telecommunications, and transportation impact the everyday lives of all citizens. Poor performance by suppliers damages the social and economic fabric of a nation. That means regulations seek credibility in the eyes of other groups (investors, government ministries, development banks), legitimacy in the eyes of citizens (acceptance of decisions), and efficiency (reducing waste, expanding access, and improving service quality)
- 5. Develop Tools and Conceptual Frameworks:** If regulators fight fires, they need appropriate fire-fighting equipment. Given the importance of sound, defensible decisions, agency professionals must utilize appropriate tools related to finance, operations, and incentives. Networking with other regulatory commissions is one way to strengthen the analytical foundations of an agency. Advanced tools are not a guarantee of good decisions, but they enable the implications of different demand and cost scenarios to be better understood. Then risks can be allocated in a manner that promotes their mitigation.
- 6. Balance Stakeholder Interests:** No stakeholder group is likely to be fully satisfied by a regulatory decision. Regulation is a delicate balancing act, requiring that operators provide information and consumer preferences are articulated and respected. Government ministries develop policies and identify funding sources: political leaders,

too, are accountable to other stakeholders for their actions. When implementing the law, government agencies investigate problems, issue rules, and implement decisions that impose benefits and costs on affected stakeholders. The oversight process creates conflicts whether the *status quo* is changed or not. A decision not to change the rules, affecting firms and other government entities, still benefits some stakeholders while denying potential benefits to others. Conflict resolution strategies utilized by regulatory and other agencies have implications for the perceived legitimacy of the decisions and their impacts on sector performance. Legitimacy, in turn, depends on both the process by which decisions are reached and the substance of those decisions. Thus, accountability, transparency, procedural fairness, impartiality, and professionalism are features that can reduce conflict and contribute to the public acceptance of regulatory rulings.

- 7. Accept Criticism Gracefully and Respond Thoughtfully to Questions:** Regulators will be criticized, so they are obligated to provide clear justifications for decisions at the time of announcement. Then, decisions can be defended on the basis of evidence and coherent business plans. Stakeholders may not like all the features of a particular decision, but at least they will understand the rationale behind the ruling. If decisions can create win-win outcomes, then it is easier to get buy-in from stakeholders for reform initiatives. Greater efficiency in the sector means that more resources can be devoted to poverty alleviation and other objectives, without creating new fiscal burdens. While more politicians have run on platforms of fairness rather than efficiency, the latter deserves to be highlighted when evaluating regulatory performance.
- 8. Seek Input from All Stakeholders:** All the groups affected by a regulatory decision need to be able to participate in the process: providing information, identifying concerns, and learning about the consequences of different scenarios. No one has all the information that may be required for sound regulatory rulings, so seeking that information is crucial to the process. All Party Settlements represent one way to engage those affected by decisions, obtaining a consensus. When groups have some ownership of an acceptable package, they are more likely to implement the decision.
- 9. Prepare for the Long Term:** Being a regulator is one of the most difficult jobs in the world. Regulators play a number of roles in the process, including investigator, educator, negotiator, facilitator, and communicator. These roles require a mix of skills and agility (in resisting the political pressures to make decisions that are popular in the short run). The regulatory system in place today will leave a legacy for future generations, so leaders must have a long-term vision of how infrastructure promotes social and economic objectives.
- 10. Engage in Capacity Building and Develop Expertise:** Regulation is difficult, but capacity building helps the agency address emerging problems. Training equips professionals with the tools they need to analyze complicated issues and implement public policy. An agency that values professional development encourages staff to attend courses and obtain advanced degrees. However, expertise is necessary but not sufficient for sound decisions. While technical skills related to finance, accounting, and engineering are necessary to document the reasons for a decision, “soft” skills (like

negotiation, communication, and political sensitivity) are also essential. “Soft” does not mean “easy” or “unimportant.” Finally, commissioners need to know enough to not be intimidated by specialists. “Experts should be on tap, not on top.” (Winston Churchill)

- 11. Seek Insulation from Politics:** Good regulation is transparent, accountable, and independent. It is tempting to use the power of the state to assist particular groups. However, the groups that often benefit are not the truly needy but the politically powerful. Sometimes, policymakers can achieve consensus regarding assistance for legitimate social programs. In such situations, these should be targeted carefully and evaluated on a regular basis to ensure that the purposes of the program are being achieved. If key issues are not appropriately identified and communicated, each party will try to gain public attention through unrealistic promises and the strategic presentation of information. Such activity creates a lot of noise in the system: “Weak regulation is like a swimming pool: all the splashing goes on in the shallow end.”
- 12. Utilize KISS principles:** For politicians, avoid jargon and seek clarity in objectives: **Keep It Short & Sweet**. For consumers, promote awareness and access: **Keep It Simple Stupid**. For operators, provide incentives: **Keep It Simple & Smart**.
- 13. Acquire Tools:** The fire-fighting equipment referred to earlier includes accounting, statistics, finance, and benchmarking. Quantitative techniques represent tools for understanding trends in infrastructure performance, making comparisons across current operators (in one nation or within a geographic region), and identifying best practices. However, without data “. . . regulators may as well be writing pretty poetry,” as a regulator from India once said. Executives manage what they measure; if they cannot provide data, an external evaluator can conclude that management is weak and/or is severely under-resourced to address the challenges faced by the firm.
- 14. Practice Leadership:** Set clear goals and priorities. Mark Jamison, PURC director, and Araceli Castaneda, PURC assistant director, wrote a recent PURC Working Paper entitled *Reset for Regulation: Leadership for a Time of Constant Change*. The paper reminds us to develop three perspectives: “The first is to focus on next practices, not best practices. Best practice is about following in someone else’s footsteps, whereas next practice is about going into areas where no one has gone before. The second is focusing on why rather than focus on what. Asking “What should we do next?” emphasizes practice, whereas asking “Why have certain practices been successful?” searches for underlying needs and context. The third juxtaposition is between leading and leadership. A leader provides direction, which is proper when the right direction is known. In contrast, leadership mobilizes people to tackle difficult and often ambiguous problems and circumstances.”
- 15. Learn from Others and Seek Allies:** Learn from our own mistakes and from the mistakes of others. Lessons provided by others give us hope, since regulators face similar challenges and opportunities around the world. Karen Johnson, former Director of Gainesville Regional Utilities, noted that “within the most dysfunctional system, someone is benefitting from the status quo.” Thus, changing current institutional arrangements requires a number of groups to take on those benefitting from low levels of

infrastructure performance – whether that is a political group benefitting from a patronage system, a group of workers who benefit from rigid work rules, managers with excessive discretion, or particular customers benefitting from prices below cost. Identifying opponents and potential allies is the first step in the reform process.

16. Continue the Journey Begun at PURC: One participant thanked the PURC staff for providing “priceless” technical information. The “hard” (technical) and “soft” (non-technical) skills were both relevant for addressing complex issues and implementing sustainable regulations. Jamison responded that the lessons shared by participants have added a whole new dimension to the course. PURC thanks all the participants for their active involvement in the learning process.

Finally, “Nobody can do everything.
Everybody can do something,
And together we can change the world.”

Answering Questions: On the concluding day of the *PURC/World Bank International Training Program on Regulation and Strategy*, participants also “wrote” a Press Release that epitomized the Intermedia Team’s recommended approach to effectively answering questions (while avoiding jargon):

- (1) Begin with an honest direct answer;
- (2) Position your message (“our role or goal”);
- (3) Provide evidence through a specific example, story, analogy, or facts;
- (4) Connect to the audience – recognize concerns or interests of listeners/readers;
- (5) Conclude with a summary or memorable image.

Here’s the June 2010 group’s “consensus answer” to the following question:

Question: Is independence really important for utility regulators?

Yes, because it insulates the agency from interest groups, enhances credibility, and makes regulators more effective.

Our goal as regulators is to ensure that infrastructure institutions provide a fair and reasonable service for a fair and reasonable price.

We have seen service coverage in some areas increasing by 5 percent up to 74 percent in the past year, while service increased from 15 hours to 19 hours per day; complaints have fallen dramatically from 300 to 20 per month.

These numbers show that fair and independent regulation improves overall service levels and this, in turn, will lead to a stable and predictable investment climate for our business sector.

Finally, to sum up, we would like to emphasize that independence is one of the cornerstones of objective, transparent, reliable, and effective regulation in the interest of consumers and the public at large.

Links to a few resources (from Sandy's Selections at the PURC website):

[Consumer Participation in Infrastructure Regulation: Evidence from the East Asia and Pacific Region by Elisa Muzzini](#). This paper draws on results of a survey questionnaire conducted among 45 infrastructure regulators in the East Asia and Pacific (EAP) region. It finds that EAP regulators have successfully begun to involve consumers in the regulatory process.

[Tariff Setting Guidelines: A Reduced Discretion Approach for Regulators of Water and Sanitation Services](#) - By Chris Shugart and Ian Alexander. The objective of the project 'Tariff Setting Guidelines - A Reduced Discretion Approach' is to prepare a set of sound, well-specified guidelines that can be used by regulators to improve the predictability and transparency of the tariff-setting and adjustment process and thus reduce uncertainty.

[The World Bank Infrastructure and Law Web site](#). This website is designed for government officials, lawyers and project managers who are involved in the planning, design and legal structuring of infrastructure projects, especially projects with private sector participation

Bogetic, Zelijko, and J. Fedderke. 2006. "[International Benchmarking of Infrastructure Performance in the Southern African Customs Union Countries](#)." World Bank Policy Research Working Paper 3987. This paper provides a first, systematic benchmarking of infrastructure performance in the SACU countries in four major sectors.

[Benchmarking Data of the Electricity Distribution Sector in the Latin American and Caribbean Region, 1995-2005](#). This web site enables users to conduct cross-country and cross-utility comparisons.

Gratwick, Katharine Nawaal and Anton Eberhard. 2007. "[An Analysis of Independent Power Projects in Africa: Understanding Development and Investment Outcomes](#)." University of Cape Town, Graduate School of Business, MIR Working Paper. This document provide a valuable overview of IPPs.

Another helpful resource on the power sector is the report, [Reforming Power Markets in Developing Countries: What Have We Learned?](#) by John E. Besant-Jones. The paper is a sourcebook of some 240 references that study international experiences in power market reforms. The author was a featured presenter at the 24th PURC/World Bank International Training Program on Utility Regulation and Strategy.

The volume, [Handbook for Evaluating Infrastructure Regulatory Systems](#) (Brown, Stern, and Tenenbaum, World Bank, 2006), provides an overview of why, what, and how to evaluate regulatory systems. A CLASSIC!

International Benchmarking Network for Water and Sanitation Utilities, <http://www.ib-net.org>.

Check out other web-links at www.purc.ufl.edu and at www.regulationbodyofknowledge.org.