

**Key Lessons from the
29th 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 94 participants from 32 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 insight and understanding to the sessions and shared their ideas with all of us.

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.

As PURC's Director, Mark Jamison, observed, "Many of 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. Communication is crucial.** 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. As Winston Churchill once said, "Experts should be on tap, not on top."
- 2. Sector specific lessons inform and inspire regulators.** Since reform is a continuous process and context-specific, do not "copy" what others have done, but learn from the successes and mistakes of others. Adapt and revise tactics utilized by others. Water, energy, telecommunications, and transportation each have unique problems and opportunities that are shaped by the stage of development, geography, topology, demography, and other factors. Continuing education is necessary if we are to be effective at our jobs.

- 3. Due Process is very important for the legitimacy and predictability of regulation.** Following the law is crucial if agencies are to avoid long court battles and bad publicity. There is no recipe for improving infrastructure performance. Leaders in each nation must develop their own strategies, consistent with national priorities, and their own legal systems. However, there certainly are principles that must be followed if regulation is to lead to improved outcomes for citizens.
- 4. Continuous learning requires communication and networking.** This program has created a network of colleagues who face similar challenges around the world. Continue to use email, friends of PURC on Facebook, PURC Working Papers, and the Body of Knowledge website, www.regulationbodyofknowledge.org, for capacity-building and staying connected. Sharing lessons across national borders (and sectors) can promote innovative approaches to value creation (via new products, improved quality, cost containment, and network expansion).
- 5. Rate-making is central to public acceptance and to financial sustainability of operators.** 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 some 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).
- 6. Personal capacity-building helps maintain organizational effectiveness and professional development.** A positive attitude can help during the regulatory process: It facilitates the development of comprehensive strategies and sound procedures that promote improvements in infrastructure performance. Every person in the agency can contribute to the effectiveness of the organization.
- 7. Obtain information and apply sound analytic frameworks before making judgments (decisions).** Data are fundamental in a regulatory environment. Participants are entitled to their own opinions, but not to their own “facts.” Extracting information from state-owned enterprises may be one of the toughest tasks for a newly created regulatory commission. Regulators should monitor new studies by companies, universities, consultants, and other organizations. Information availability is always a key in establishing targets, dividing tasks, and conducting evaluations. It is not easy to satisfy all the people’s interests, but benchmarking can reduce information asymmetry.
- 8. Take care when discussing critical issues in public.** Premature release of information (that has not been checked) can cause problems. Furthermore, regulators need to be sure they maintain neutrality with regards to controversial issues. Their rulings need to be based on fact and legal mandates.

- 9. Regulatory objectives must be prioritized.** There are many potential objectives, but not all can be given equal weight. The weight depends on current levels of performance, the particular sector, and citizen attitudes. In addition, regulatory incentives can involve hybrid arrangements – mixtures of rate of return and price caps, for example.
- 10. Be mindful of needs and priorities of stakeholders.** For example, negotiations require regulators to understand the goals of all stakeholders. Regulation is both an Art and a Science. Many options are available for regulators. The art involves selecting (when possible) the approaches that generate win-win outcomes. The science involves applying conceptual frameworks that have stood the test of time. These frameworks draw upon economics, finance, law, engineering, and many other fields. Contexts differ across sectors; for example, liberalization might be feasible in telecommunications, but infeasible for water and sewerage – given the technologies and income elasticities of those services.
- 11. Answers to issues/problems are available.** Finding answers to problems requires technical and strategic activity by the regulator. No one needs to re-invent the wheel: network with others who may have faced similar problems. Of course, serious problems are seldom “solved” but they can be managed intelligently.
- 12. Sharing experiences across sectors and nations can improve decision-making.** Regulators can share information on a number of issues, including financial activities of operators (such as sources of finance), managerial incentives, targeting subsidies, promoting efficiency, and providing long-run price signals. Regional collaborations can help regulators learn from one another: via regional groups like ERRA, AFUR, ADERASA, SAFIR, and EAPIRF.
- 13. System-specific strategies are necessary (there is no single recipe that works for everyone).** Learn from others and seek allies. In addition, we need to 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.
- 14. In addition to putting issues in perspective, we need to think outside the box.** 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.

15. Regulators have friends (allies) and potential opponents (resulting in conflicts).

Make sure your friends understand what you are doing, and deal with those who fear regulation in a way that ultimately neutralizes their concerns. From a service provider standpoint, a regulatory agency can be a legitimate consumer advocate; however, regulators should not forget that ultimately the main task is to be a high-performance advocate. Generally, the regulator is a referee, but sometimes it is necessary to become a player – always seeking “win-win” options. If there is no consumer advocate, the regulator becomes the voice of those without a voice. Note that future consumers are the most “silent” stakeholders, so financial sustainability cannot be ignored.

16. The answer to most questions is “It depends.” This answer must be followed by identifying the many factors on which the outcomes depend: institutional endowments, information, incentives, resources, and other factors. A comprehensive analysis must then be presented without jargon and without pointing fingers.

17. A totally independent regulator is a myth, but it is reasonable to seek minimum political interference. Regulators must be politically aware, but they need to be insulated from day-to-day politics. “Independence” cannot be absolute, since any government agency is embedded in a legal system and must be accountable to the electorate. Regulatory commissions need to be perceived as independent from 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 U. 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.”

18. Regulation is a comprehensive subject: Resolving issues requires collaboration. 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.

- 19. Infrastructure professionals face difficult tasks.** One participant said, “To be successful, make the service as inclusive (and available) as possible.” In addition, make decisions that are timely and “neutral.” Delays are not neutral with respect to impacts. Furthermore, those favoring the status quo (over reform) are content with current poor performance. They do not want regulatory leaders who set goals, implement programs, and evaluate the impacts of decisions. “Neutral” or balanced decisions will focus on substantive issues, weighing the consequences of alternative rules in terms of national priorities (as reflected in legislation). A regulatory process that adheres to schedules and results in timely decisions is important. However, substance (attention to consequences) is even more important.
- 20. Living in a political environment: Think politically without being political.** 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.
- 21. Disappoint stakeholders at a rate they can endure.** The fundamental task of regulation involves balancing interests and communicating decisions to the public. Journalists, through the media, transmit information that influences public attitudes. Reliable information is a prerequisite to setting targets, establishing incentives, and monitoring performance. Regulators earn credibility with government ministries (and investors) and legitimacy with citizens by demonstrating their competence and balance. Public communication is central to this process, especially when no single group gets all it wants from a decision.

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 January 2011 group's "consensus answer" to the following question:

Question: Does having politically independent regulators actually benefit the average citizen?

Yes, because the independent regulator is able to examine issues objectively in the interest of the average citizen and all stakeholders.

Our role is to ensure reliable and affordable service for the citizen.

For example, one nation liberalized its international gateway by licensing three more gateways; the price for international calls decreased from \$1.50 to \$0.50 per minute.

This is important because when regulators ensure fair competition and stability in the telecoms market, investors can be assured that their investment will not be in jeopardy.

In conclusion, as regulators, we are here to create a level playing field for all stakeholders through professionalism in our agencies and partnerships with market participants.

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, Zeljko, 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 website 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 .