

Assessment Report

Electricity Governance in the Philippines

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Outline of Presentation

- Background to Philippine electricity sector
 - Overall findings
 - Use of consultants
 - Participation of weaker stakeholders
 - Lessons from the Philippines
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 - Non-universal access to electricity at the household level
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 - 5 rural electric co-ops serving as pilots for investment management contracts with private firms.
-

5 Years Later

- Three new corporations created:
 - Power Sector Assets and Liabilities Management Corporation (PSALM)
 - National Transmission Company (TRANSCO)
 - Philippine Electricity Market Corporation (PEMC)
- Functioning legislative oversight committee or Powercom
- Behind schedule:
 - Privatization of generation and transmission assets of NPC
 - Transition supply contracts w/ utilities and rural electric co-ops
 - Commercial operation of wholesale electricity spot market (narrowed to Luzon grid only)
 - Open access for large consumers
 - Transmission grid connecting Mindanao to Luzon and Visayas

Example: ESA7

- Public participation in setting minimum environmental performance standards

Elements of Quality	Score
Evidence of public consultation in determining standards	1
Evidence of communication of public input	1
Existence of explanation for existing standards	0
Regular reporting on the compliance of the electricity sector with environmental standards.	0
Total Score	2/4

Overall Findings

- Weakest: Policy processes, in all governance principles, especially in the involvement of more vulnerable and affected stakeholders. Also significantly lacking in transparency
 - Strongest: Regulatory processes, particularly in accountability and redress mechanisms
 - largely because ERC is a legally mandated independent quasi-judicial and regulatory body
 - relatively clear-cut procedures, standards and rules in place for tariff setting, licensing, generation, distribution and transmission, electricity consumers' rights
 - but weak in transparency and participation
-

Overall Findings

- Environmental and social aspects strong in transparency and access to information, weak in accountability and redress mechanisms.
 - Disconnect between environmental and social objectives and power development goals
 - Renewable energy seen as indigenous and therefore strategic to meet the goal of energy security
 - Local low quality dirtier coal also seen in same light
- Highest average score: capacity, more of CSOs, less of government
 - Despite high capacity of NGOs, the absence of enabling structures for their participation in Policy Processes and ESA makes governance ineffective.

Only 17/68 indicators

Indicators with a rating of “medium-high” or “highest”

	Policy Process	Regulatory Process	Environmental and Social Aspects
T	None	<u>RP10</u> : Procedural certainty about regulatory processes and decisions (highest)	<u>ESA1</u> : Clarity of authority to grant environmental clearance for power projects (highest) <u>ESA2</u> : Clarity of executive’s environmental and social mandates (medium-high)
P	None	None	<u>ESA10</u> : Public participation requirements in EIA laws and procedures (highest) <u>ESA21</u> : Participation in development of policies to promote low environmental impact management and technology options (medium-high)

Indicators rating “h” or “mh”

	Policy Processes	Regulatory Processes	Environmental and Social Aspects
A	<u>PP4</u> : Annual reports of the Department of Energy (medium-high)	<u>RP7</u> : Appeal mechanism (highest) <u>RP18</u> : ERC Orders and decisions (highest) <u>RP22</u> : Licensing (highest) <u>RP23</u> : Consumer service and quality of supply (medium-high)	<u>ESA15</u> : Quality of judicial and administrative forums that address environmental and social claims (highest)
C	<u>PP13</u> : Capacity of civil society organizations (medium-high)	<u>RP1</u> : Institutional structure for regulatory decisions (highest) <u>RP2</u> : Authority of the ERC (medium-high) <u>RP8</u> : Training of ERC members and staff (medium-high)	<u>ESA4</u> : Executive’s capacity to evaluate environmental and social issues (highest) <u>ESA14</u> : Capacity of civil society to address environmental and social aspects of decision-making (highest)

Use of consultants

- 3 indicators—PP11, RP9, PP12—all rated “lowest”
- Not available: contracts, terms of reference
- Not known: budgets, procedure for selecting consultants
- Known at times: financing
- No established process to ensure report is easily accessible in a timely fashion
- No process to independently review consultants’ recommendations
- Potential governance problems: Consultants have clients doing business with the electricity sector whose policies they are helping to shape

Participation of weaker stakeholders

- Indicators focusing on mechanisms for participation of weaker stakeholders in regulatory processes: RP15, RP16
- Indicators with EoQ assessing systematic efforts to reach out to disadvantaged communities: PP9, PP14, ESA2, ESA3
- Indicator (ESA19) assessing scope for project-affected people to exercise their rights

Participation of the weak

- No routine/ad hoc considerations of the interests of the weaker stakeholders in regulatory and policy processes
- No diverse structures to enable such representation in policy formulation and regulation
- No effort to build capacity of weaker stakeholders
- No financial analytical resources made available to build capacity
- No efforts to inform marginalized groups of ESA performance of electricity sector
- Case study: Not all project-affected groups were recognized or assisted, no full and prior information including potential threats to the community

Lessons from the Philippines

Policy processes matter

- Achieving good governance in the electricity sector starts with the policy process.
 - Reforms that tend to be creditor-driven, or that favor the industry players over the public, are not good for governance.
 - Also not good: reforms enacted through processes that
 - exclude effective public participation through lack of transparency and accountability
 - Fail to involve the public or exclude outright groups perceived as “nuisance” or opposed to reforms
 - do not consciously build public capacity to participate effectively
-

Effective regulation

- Effective regulation needs to put in place the right rules, but this is not enough.
 - Where enforcement is weak, and threat of punitive action is not enough to compel compliance.
 - Where it is more profitable to break or change the rules even if detrimental to the public.
- Need to recognize inherent imbalance in incentive to participate in the process between consumers and industry players
- Moreover, the regulator must have in-depth understanding of the interests of all stakeholders in the electricity sector, particularly of weaker ones.

Transparency

- Needed: Transparent, accountable, competent agencies of government
 - Needed: Conscious comprehensive effort to overcome the information asymmetry in the electricity sector
 - allocation of subsidies
 - analyses, process of policy reform
 - bidding and privatization processes
 - contracts with IPPs, etc.
 - Needed: Full disclosure by government and its creditor/donor agencies of the role played by the latter in shaping electricity sector policy
 - financial assistance
 - policy advice
 - technical assistance
 - consultants they finance (terms of reference, contracts, industry links, clients in the industry or supplying the industry)
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Participation

- Participation of empowered stakeholders is necessary to compel the electricity sector to operate and function according to the best interests of the majority.
 - Such participation not limited to the market, but in all the processes of governance in the electricity sector:
 - policy setting, policy review and modification
 - power planning
 - independent regulation
 - environmental and social impact assessment and monitoring
 - demand side management, etc.
 - Corollary: processes needed to ensure that government responds to inputs by the public on all these aspects
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Environmental and social objectives

- The disconnection hurts affected communities who already have little opportunity to participate in policy processes, and hold companies and government to account through ERC and environmental regulatory bodies.
- Need to integrate environmental and social aspects of electricity sector into policy and regulatory processes.

Thank you