ENERGY Working Notes

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Funding of Energy Regulatory Commissions

30525

Elizabeth Kelley and Bernard Tenenbaum

INTRODUCTION

In the last 10 years more than 200 infrastructure regulators have been established around the world. Generally, the new regulators were created to encourage private investment in infrastructure sectors that previously were almost entirely state-owned. In almost every instance, the stated goal was to create a new regulatory entity that was *independent* and *accountable* and which regulated in a way that was *transparent* both to the enterprises that were being regulated and to their customers.[1] It was hoped that new regulatory entities with these characteristics would lead to a "depoliticized" regulatory system—one that would give confidence to investors while providing protection to consumers. With the benefit of 20-20 hindsight, it has become clear that creating new regulatory institutions with these institutional and political characteristics is easier said than done.

Consider, for example, the concept of independence. Independence does not mean that the regulator is created outside the government. Instead, it implies independent decision making. An independent regulator is a regulator that can make tariff and other regulatory decisions under specified legal standards without getting the prior approval of a minister or prime minister.[2] If independence is the desired output, then the usually recommended inputs are:

- A clear legal mandate excluding ministerial discretion.
- Appointments to the regulatory body on the basis of professional criteria with restrictions on conflicts of interest.
- Protections from arbitrary removal during fixed terms.
- Staggered terms that do not coincide with the election cycle.
- Ability to hire staff at above civil service salaries.
- Earmarked and secure funding.[3]

[1] Bakovic, Tenenbaum and Woolf (2003) argue that these "institutional characteristics" are necessary but not sufficient for getting good sector outcomes (encouraging good commercial performance by regulated enterprises while protecting consumers from monopoly abuses) in many developing and transition economies. In countries with new commissions and difficult starting conditions (high losses, tariffs that do not cover costs, a corrupt or inexperienced judiciary), they recommend that the new regulatory entity be backed up with a "regulatory contract" that specifies the tariff setting system and effectively limits the regulator and government's discretion during the early years following a privatization.

[2] Regulatory commissions are not the only governmental entities that are given decision making independence. In many countries, election commissions and central banks are often granted some degree of independent decision making authority. See Stern (2004).

[3] See Smith (1997).

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Elizabeth Kelley is a research analyst in the Energy and Water Department (EWDDR) of the World Bank. Bernard Tenenbaum (btenenbaum@worldbank.org) is a Lead Energy Specialist at the World Bank. Before joining the Bank, he served as the Deputy Associate Director of the Office of Economic Policy at the U.S. Federal Energy Regulatory Commission.

In these working notes, we take a closer look at the last element: the funding of the regulatory commission. Several recent surveys have been published that describe, among other things, how regulatory commissions are financed in developed and developing countries. In general, the surveys focus on whether the regulatory commission is funded from the government's general budget or from earmarked fees or taxes. While these surveys are helpful in providing the "big picture," they often do not go deep enough and therefore can lead to faulty assessments. Even if a commission's funding comes from sources outside the government's general budget, its funding cannot be viewed as secure if the government also has the legal right to divert some or all of the outside funds for other government needs. One needs to take a close look at the budget approval and disbursement processes in addition to the sources of funding to make an accurate assessment of whether the commission's financing supports independent decision making.

In these notes, we have attempted to "drill down" deeper in analyzing the financing of regulatory commission. Specifically, we tried to assess how funding, budget approval and disbursement practices might affect regulatory independence. Our goal was to go beyond producing another cross-country comparison of regulatory practices. In particular, we wanted to see whether it might be possible to produce a checklist of recommended funding practices to achieve both independence and accountability and whether these practices could then be used to produce ratings of commission funding procedures.

We used a three step process:

1. ***A Mini-Survey***. We picked a sample of 8 energy regulatory commissions around the world. This was not meant to be a representative sample. These were commissions where we happened to have one or more contacts. We called the commissions and spoke at length to various staff members and other individuals to obtain detailed information on how the commission is funded both in law and in practice.

2. ***Recommended Practices***. Based on a review of funding practices for these 8 commissions and our own experiences, we then developed a list of recommended practices. The list is inevitably subjective and we would welcome comments on whether some practices should be eliminated or modified and whether others should be added.

3. ***Scoring***. We assigned point values to each of the recommended practices based on our assessment of their relative importance. We used these point values to score the funding practices of the energy regulatory commissions in California and Bulgaria.

The recommended practices are intended to be "best practices" for the financing of regulatory commissions. We think that it should be possible to develop similar lists of best practices for other regulatory practices such as appointments, hiring and transparency. And then once these best practices are defined, it should be feasible to develop a system of overall rankings of the institutional design of regulatory commissions.

These notes are a "status report" on our current thinking. Therefore, they should be viewed as a "work in progress." We would welcome comments and criticisms from colleagues within the World Bank and from interested individuals around the world.

How Do Energy Regulatory Commissions Get Funded? Funding Models in the U.S. and in Emerging Markets*

U.S. STATES	FUNDING SOURCES	BUDGET APPROVAL
CALIFORNIA California Public Utilities Commission (CPUC) / California Energy Commission * ***Budget:*** $334 million	The basic programs of the Commission and most of its staff are funded through a surcharge on electricity consumption. State law directs electric utility companies to gather a state energy surcharge of two-tenths of one mil ($0.0002) per kilowatt/hour (kWh) of electricity consumed by all electrical customers. These funds are segregated in the state treasury as the **Energy Resources Program Account (ERPA).** For an average household that consumes 600 kWh of electricity per month, the contribution to ERPA is about 12 cents per month or $1.44 per year. The state Board of Equalization, the taxing authority, is responsible for collecting the ERPA funds and auditing utilities. The funds collected from ratepayers go into the ERPA account, but the Commission is able to withdraw only the amount of funds approved by the legislature. Excess funds (beyond the amount approved for the Commission's budget) remain in the ERPA account and earn interest; however, on average, only about 1% of the total budget amount remains in the account from year to year (the rest being spent during the budget year), and this excess has no impact on the surcharge assessed on ratepayers. The Commission also manages another source of specific funding, **a public goods charge** comprised of funds collected by investor-owned utilities for renewable energy, research and development, and other federal and state funds for specific programs. In extraordinary circumstances, the state legislature can also provide emergency funds – such as for the energy crisis of 2001. However, any funds allocated to the Commission must be approved as part of the normal budget process or via extraordinary legislation, and must be signed by governor.	The state legislature has the authority to approve the Commission's budget each year as part of the state budget process; the governor's approval is also required for the approved budget to become effective. Due to recent budget crises, some of the excess funds from the ERPA account (those funds in excess of the Commission's budget) have been rolled over to the state treasury for general government use. This extraordinary transfer of excess monies from state funds, all of which are deemed fungible, has occurred only in times of financial crises. The most recent instance of such a transfer, in 2001, was attributed to the severe fiscal problems faced by the state, and is not a regular occurrence. Such a transfer of funds last occurred in the early 1990s, during a similar fiscal crisis.

* The California Public Utilities Commission regulates privately owned electric, telecommunications, natural gas, water and transportation companies, while the California Energy Commission is the state's primary energy policy and planning agency. The Energy Commission's responsibilities include forecasting future energy needs and keeping historical energy data, licensing thermal power plants 50 megawatts or larger, promoting energy efficiency through appliance and building standards, developing energy technologies and supporting renewable energy, and planning for and directing state response to energy emergencies.

How Do Energy Regulatory Commissions Get Funded? Funding Models in the U.S. and in Emerging Markets*

U.S. STATES	FUNDING SOURCES	BUDGET APPROVAL
FERC (Federal) Federal Energy Regulatory Commission ***Budget:*** FY03: $192 million	FERC regulates only interstate wholesale power sales and transmission service. It does not regulate sales to end use customers. The Commission's regulations provide for payment of annual charges by public utilities; the amount of these annual charges is intended to cover the program costs for that fiscal year, with no remaining funds. These charges are adjusted accordingly each year to reflect actual costs incurred. For the electricity industry, the total related program costs are assessed proportionally among public utilities that provide transmission service. Annual charges are calculated based on the proportion of the MWH of electricity transmitted in interstate commerce by each public utility to the sum of MWH of electricity transmitted in interstate commerce by all public utilities being assessed annual charges. Similar formulas are used to determine the annual charges assessed to regulated entities in the hydropower, gas, and oil sectors. The annual charges are collected directly by FERC, which then turns over the funds to the U.S. Treasury Department. The Treasury in turn allots the total budgeted funds (equal, in theory, to the amount of funds collected from annual charges) to FERC. Any excess funds beyond the budgeted amount are rolled over to the FERC budget for the following year. Regulated entities are permitted by FERC to recoup the costs of the annual charges through the rates charged to distribution companies and electric utilities that they serve. The formula for calculating this rate increase must be approved by FERC to ensure that the increase covers only the cost of the annual charge. Previously, FERC was funded through user fees, charged for filings submitted by regulated companies – e.g. an application for a rate increase incurred a fee of $55,000. Under this funding scheme, hundreds of types of user fees were levied on regulated entities. There are now only six types of users fees, which together represent less than 5% of FERC's total budget. The previous funding mechanism also included a charge on wholesale power sales. Original sales as well as resale sales were subject to these charges, so double charging of wholesalers was an issue.	Budgets are submitted first to the Office of Management and Budget (OMB is part of the executive branch), which has the authority to cut the budget. Congress then has the power to approve or reject the final budget as part of the overall government budget process. FERC has generally received full funding of the amounts submitted to Congress in recent years. However, in 1999, the budget was cut by approximately $2.5 million, or 1.4%. **Political issues and funding** Although FERC is a program revenue agency that does not rely on tax dollars, its budget remains subject to approval by both the executive and legislative branches – OMB and Congress. The Congressional approval process renders FERC susceptible to political considerations, as policy prescriptions can be added to the budget bill, or approval of FERC's funding can be used as a bargaining chip to achieve political objectives. One example of this is the issue of Standard Market Design for wholesale electricity markets, a policy strongly opposed by some states. The 2003 energy bill would prohibit FERC from implementing its proposed Standard Market Design until 2007. The converse of this political influence is the fact that, due to its small size and technical subject matter, FERC is rarely the object of Congressional scrutiny or concern. Further, because FERC is a program revenue agency, Congress has no incentive to reduce its budget.

How Do Energy Regulatory Commissions Get Funded? Funding Models in the U.S. and in Emerging Markets* *(continued)*

U.S. STATES	FUNDING SOURCES	BUDGET APPROVAL
WISCONSIN Wisconsin Public Services Commission (WPSC) ***Budget:*** $22.4 million (FY03)	Like FERC and the California Energy Commission, WPSC is a program revenue agency as opposed to a tax-revenue agency; the Commission assesses fees on regulated entities, and uses no tax dollars. The WPSC is funded through **direct billing of regulated entities** plus a **remainder assessment** (to cover unbilled costs) based on the previous year's gross revenues of the regulated entities. The relative percentages of the direct charges and the remainder assessment in the total budget are approximately 40-60. Any excess funds in the remainder assessment at the close of the fiscal year are rolled over to the next year's year's account. Staff time is billed directly to the case – and utility – in question. The hourly billing rate is calculated for each staff person based on salary, plus a current fringe rate of 35%, plus a weighted overhead rate of 75% of the salary (for an average hourly billing rate of $80 salary, $28 fringe, and $60 overhead, or $168 total.) . Staff time is billed on every case including construction cases, investigations and litigation of cases after commission decisions. The remainder assessment comprises the portion of the budget not collected on direct basis, but spent by the commission on other regulatory actions. These are expenses are not covered in any discernable way – i.e. not directly billable to a specific case. **Cost recovery for utilities:** The utilities are allowed to recover the costs of the PSC charges in rates. The recovery is monitored for the majority of large utilities as part of the annual rate case process, which all major electric and gas utilities (covering 75-80% of the market) must submit. (Smaller utilities, such as municipal utilities, are required to submit rate cases only when requesting changes in their rates.) **Additional Funding:** Some additional programs, such as research and programs to manage stray voltage (a major issue for farms, as it can have a significant affect on milk production) are funded by the five largest electric utilities. This arrangement was mandated by the state legislature, as most farms are based in the service areas of the five largest electric utilities. Federal matching funds, for initiatives such as the gas pipeline safety program, also contribute to the total budget.	The total state budget, which includes WPSC's budget, is approved biannually by the state legislature. The remainder assessment is automatically set at 10% higher than the previous year's level, as mandated by the state legislature. Due to state funding deficits, the budget has been reduced in recent years, by a total of about by 5-10% over this period. The state has used a "cash lapse" mechanism for reducing the budget of program revenue agencies. This involves transferring a given sum from the Commission's cash reserves to the state budget; the Commission then reduces its budget to compensate for this loss, and utilities (ratepayers) are not billed for this "lapsed" amount. ***Comment from the Budget and Intervenor Office:*** "On the whole, the PSC, prior to the recent budget problems of the last two fiscal years, has been fairly insulated from budget reductions. In Wisconsin all agencies are subject to "chapter 20" under which the legislature and governor establish the total allocation for each state agency regardless of funding source. These base budgets can only be modified by requesting emergency relief from the legislature's Joint Finance Committee between biennial budget periods. In some states the PSC or PUC is not constrained by any set limit imposed by the legislature. These are, in effect, sum-sufficient operations that collect funds based on what the agency itself determines as the amount needed to operate each year. This type of model would not be acceptable in Wisconsin because the legislature would never relinquish oversight of operating budget limits." [Note: We have not yet been able to track down examples of such states.]

How Do Energy Regulatory Commissions Get Funded? Funding Models in the U.S. and in Emerging Markets* *(continued)*

COUNTRY	FUNDING SOURCES	BUDGET APPROVAL
TURKEY Turkish Energy Market Regulatory Authority (EMRA) ***Budget:*** $4.7 million (2002)	EMRA is financially and administratively independent. It has its own revenues and its own budget. Sources of funding include: a) Fees collected for license applications, renewals, modifications, license copies and annual license fees. b) Publications and other revenues. c) Grants extended by international organizations and institutions to finance studies and projects relating to development of market, provided the details of such grants are made public. d) 25% of the administrative fines imposed by the Board. e) Transmission surcharges equal to one percent of the transmission tariff at most. EMRA was established in 2001, and market opening (the beginning of the licensing process) was in September 2002. The review and evaluation process will take some time, and until it is completed, applicants only pay 1% of the license fees. A provision in the law stipulates that resources for EMRA's budget should be transferred from the general budget, and hence Treasury, until EMRA is able to support itself through revenues. For this reason, Treasury support currently accounts for 56% of the total budget. This picture is expected to change when the 2003 budget figures are published, as regulated entities began paying full licensing fees in 2003. All existing state-owned and private generation facilities applied for licenses in 2003. Several fees in relation to licenses also came into effect, namely, licensing fees (first-time licenses, based on installed capacity), annual license fees (based on kWh of electricity generated per annum), license renewal fees, license modification fees and license duplication fees; plus several license types (transmission, distribution, retail and wholesale). Licensing fees are approved by the Energy Market Regulatory Board, as is the overall EMRA budget. Board members are selected and appointed by the Council of Ministers, and are responsible for oversight and enforcement of the EMRA law.	The budget is currently not subject to government approval. However, a new law under consideration would affect administrative and budget issues for all regulatory agencies, and could require government approval of budgets. This draft law is currently being amended. .]

How Do Energy Regulatory Commissions Get Funded? Funding Models in the U.S. and in Emerging Markets* *(continued)*

COUNTRY	FUNDING SOURCES	BUDGET APPROVAL
BULGARIA Bulgarian State Energy Regulatory Commission (SERC) ***Budget:*** LV1.7 million, or $0.93 million (2003)	Although it collects licensing fees from regulated entities, SERC is officially funded through the state budget. That is, while its funding source is licensing fees, SERC's budget is still considered part of the state budget, and it must be approved by both the Ministry of Finance and the Parliament. The Commission collects licensing fees and renders all excess income beyond the level of its budget to the state treasury, where it is used for general purposes. SERC's budget is calculated based on salaries (from a fixed scale for civil servants), equipment, and overhead, with no provisions for international travel. In previous years, SERC has collected more than twice the amount of its budget in licensing fees, and the remainder was returned to the state treasury. Current law stipulates that in instances like these, when the difference in income and budget allocation is above a certain percentage, the Commission must propose changes to the licensing fees to reduce the difference. The state Council of Ministers serves as the approving body for all licensing fee proposals from the Commission. Licensing fees (initial and annual fees) are collected biannually from all regulated entities, and the fee amount is calculated according to installed capacity of the utility. Utilities recover the costs of these fees through the tariffs charged to consumers, and approved by SERC. While SERC's funding is currently under consideration in the pending Energy Act, the draft law maintains the central features of the current funding mechanism. Licensing fees would remain the principal source of funding, and fees in excess of the budget would be rolled into the state budget, as under the current law.	The national Parliament has powers of approval over the state budget (including SERC's budget) as proposed by the Ministry of Finance. Parliamentary approval of the budget has not, in recent years, been controversial. The president, who in this Parliamentary republic has little power, does not have authority to approve the budget. The Ministry of Finance can and does, however, amend the budget proposed by SERC, often resulting in a lower final budget. According to one source, the SERC is considered a state entity, as noted by both its title and its funding mechanism. It is thus not a independent body, according to the source. Other sources disagree and maintain that SERC does enjoy quasi- independence, despite its funding arrangements.

How Do Energy Regulatory Commissions Get Funded? Funding Models in the U.S. and in Emerging Markets* *(continued)*

COUNTRY	FUNDING SOURCES	BUDGET APPROVAL
GHANA Public Utilities Regulatory Commission (PURC)	Currently, virtually the entire Commission budget is financed through the central government budget with some donor assistance. Additional sources of funding include consultancy fees, fees for Commission publications e.g. rate setting guidelines, penalties for failure to meet operational benchmarks. Fines imposed as a result of prosecution of crimes by utilities are paid through the law courts into the consolidated fund and are not available to the Commission. Although PURC is operationally independent, it is administratively under the Office of the Chief of Staff within the Presidency. The Ministry of Finance usually sets a budget ceiling with respect to the Commission's budget request. Parliament does not impose a budget ceiling, although it may debate the budget and request charges. There are currently no charges imposed on regulated entities. It has been widely acknowledged that the introduction of a regulatory charge would help to guarantee an independent and sustainable source of funding. The proposal was submitted to the government some time ago, but the necessary approval is yet to be granted for the implementation of the concept.	The Commission's annual budget is submitted to Ministry of Finance through the Office of the Chief of Staff which approves/recommends it to Ministry of Finance. After Ministry of Finance approval, the Minister must obtain Parliamentary approval for his total budget of which the PURC budget forms a part. Thereafter, disbursement of the final figure approved by Parliament is effected through the central treasury. Once approved, the budget is generally secure and not usually cut. On rare occasions, the amount actually disbursed falls short of the approved amount. After the approvals, the Commission must apply to the Ministry of Finance periodically for disbursement of a range of budget items; some specific budget items must be approved on a case-by-case basis. The differential between approved and actual may be attributed to the overall Government budget/financial outlook rather than targeting of the Commission. Occasional increases in the budget have been allocated through Ministerial interventions as a supplementary vote.
BRAZIL Brazilian Electricity Regulatory Agency (ANEEL)	ANEEL is authorized to collect a fee of 0.5% of electricity revenues from regulated entities. In the past year, however, the government has siphoned off up to 50% of these funds for general use. This transfer of funds has been well-documented. [Additional information forthcoming.]	
INDIA Central Electricity Regulatory Commission (CERC)	The expenses of CERC including all salaries and allowances payable to, or in respect of, the Chairperson and the Member of the Central Commission are charged to the Consolidated Fund of India. CERC prepares its budget for the each fiscal year, showing the estimated receipts and expenditure of the Commission, and submits it to the Central Government. [Additional information forthcoming.]	CERC is subject to periodic financial audits by the Auditor-General. It also prepares an annual report detailing its activities, and submits this report to the government.

* The material presented here was collected from interviews with commission staff, commission websites, and laws pertaining to the structure of the particular commissions. The opinions expressed in this table are those of individuals within or associated with the commissions.

RECOMMENDED PRACTICES FOR FUNDING ENERGY REGULATORY COMMISSIONS

Levels of Funding

1. The level of funding should be adequate to allow the Commission to perform its assigned tasks. There are no hard and fast rules for determining what constitutes an adequate level of funding.
   a. In general, the funding needed by a commission will depend on: the number of tasks it performs, the number of enterprises that it regulates, the number of customers that they serve, the frequency of tariff proceedings, the extent to which the details of the regulatory system have been pre-specified and the complexity of the sector structure.
   b. For example, most states in India currently establish retail tariffs on an annual basis. In contrast, the Chilean regulator resets retail tariffs every 5 years. As a consequence, the Chilean regulator will need a smaller staff than his Indian counterpart. Similarly, a regulator that is regulating a centralized market and an open access transmission regime will need more resources than a regulator that is responsible for setting the tariffs of a single vertically integrated company.

2. There are economies of scale in regulation. The regulatory issues that must be examined (e.g., allowed rate of return, tariff structure, establishment of performance targets) are largely the same regardless of whether the resulting tariff is for 100,000 or 1,000,000 customers. Therefore, small countries are at a regulatory cost disadvantage because the fixed costs of regulation must be spread across a fewer number of customers. One recent survey found that the average number of regulatory staff per million served customers was 59 in developing countries and 15 in developed countries (Domar, Pollitt and Stern, 2002).

Sources of Funding

1. The commission should receive its funding from fees, charges and utility specific taxes rather than from general government budget allocations.
   a. If there is a utility specific tax, it should be imposed on some measure of utility revenues rather than on profits. A utility specific tax is defined as a tax imposed by the government and with the collected revenues earmarked to support the regulatory commission.
   b. The commission may also fund its activities through fees and charges that it imposes on regulated enterprises. The commission should have the discretion to choose the mix of charges and fees that it will use to fund its budget. The charges can be for specific regulatory actions: the issuance and maintenance of licenses, the processing of tariff filing applications, etc. The fees can also be on some measure of enterprise size and energy sales measured on a total revenue or kWh sales basis.
   c. It may be necessary for a new regulatory commission to receive a portion of its budget from the national treasury during the first few years of existence. The law establishing the commission should limit the number of years during which national budget funding will be accepted, so that a transition to self-funding (from the sources listed above) will be achieved.

2. The fees, charges and utility specific taxes should be paid by the regulated energy enterprises or their customers.
   a. If the fees, charges and utility specific taxes are paid by the regulated energy enterprise,

then the enterprise should have the legal right to recover these regulatory costs in its tariffs.

3. The fees, charges and utility specific taxes should go directly to the commission or to a designated trust fund account rather than to a general government account with re-allocation to the commission.

4. If there is a surplus of funds resulting from the different funding sources, some portion of the surplus should be retained in a reserve account that can provide funding for the commission in future years. If the fund grows too large (e.g., equals more than 10% of the commission's annual budget), then the surplus should be returned to the regulated enterprises or their customers. The surplus funds should not be transferred to the government's general budget.

Approval of Budgets and Fees

1. The executive and legislative branches of the government must have the right to review the commission's funding levels. However, the commission must be protected from budget cuts motivated by a political reaction to unpopular commission decisions.

2. The commission can be protected from politically motivated budget cuts in two ways:
   a. The law should specify that the commission's budget must guarantee a minimum funding level. This funding floor could be based a specified charge per connected customer or per kWh sold. It would provide partial protection to the commission if it makes a politically unpopular decision.
   b. If the government or the legislature does not act on the requested budget by a specified date, then the commission's budget allocation should automatically be set equal to the previous year's budget or to another pre-specified minimum level.

3. Neither the executive nor the legislative branches of government should have the right to transfer funds earmarked for the commission to other government functions.

Penalties

1. The commission should have the legal right to impose penalties on regulated power enterprises.

2. The commission should not be allowed to use penalties to augment its own budget.

3. If a utility fails to meet a pre-specified performance standard relative to an individual customer, any associated penalty should go directly to the affected customer. If this is not feasible or the penalty is not associated with the utility's performance relative to a specific customer, then the penalties should go into a fund that reduces tariffs for all customers, subsidizes the tariffs of poor customers or provides for other energy-related public benefits (e.g., subsidizing electrification or renewable energy).

4. In general, penalties should stay within the energy sector (though not for funding the commission's budget) rather than going into a general government budget.

Review of Expenditures and Performance

1. In return for receiving more funding independence than a normal government agency, the commission must be held accountable for its expenditures and performance.

2. *Expenditures*—Like any government entity, the commission's expenditures should be reviewed for prudence and efficiency. However, the commission must have the clear legal right to pay salaries above normal government salaries and to hire outside consultants to assist it in performing its regulatory functions. The audit should be performed by an independent and professional audit entity.

3. *Performance*—The performance of the commission should be reviewed every three to four years by a committee of the legislature. There should be a legal requirement to perform this assessment so that the regulator and ministers know that the design and implementation of the regulatory system will be assessed on a regular basis.
   a. The starting point for this assessment should be a written report of a panel of outside, independent experts.
   b. The mandate of the panel should be to review the functions and authorities of the commission in light of legislative and government energy policy goals, the division of responsibility with other government entities, transparency of the commission's processes, adequacy of legal and other protections to ensure the commission's independence, adequacy of measures to minimize corruption, clarity and specificity of the tariff setting system and predictability of commission decisions.
   c. The report of the panel should be made public when it is submitted to the legislature. To ensure that the assessment is genuinely impartial (i.e., is not biased in favor of the regulator or those who are opposed to the regulator), the panel should also include international regulatory experts from outside the country.

Energy Regulatory Commission Funding: A Scorecard
CALIFORNIA: California Public Utilities Commission

	CHARACTERISTICS	COMMENTS	SCORING
FUNDING SOURCES AND ADMINISTRATION	**Funding source:** Fees or charges imposed on the regulated entities or consumers constitute at least 50% (in developing countries) or 75% (in developed countries) of the commission's funding. (+5)	State law directs electric utility companies to gather a state energy surcharge of two-tenths of one mil ($0.0002) per kilowatt/hour (kWh) of electricity consumed by all electrical customers.	5
	The commission has the discretion to choose the best mix of charges and fees to fund its budget. (+1)	This is determined by state law.	0
	The fees or charges are paid directly to the commission or into a designated trust fund. (+2)	The state taxing authority collects and disburses the funds.	0
	If the fees or charges are paid by regulated energy enterprises, these enterprises have the legal right to recover these costs in its tariffs. (+1)	N/A (Fees are charged directly to consumers.)	0
	Transfer of funds: Neither the executive nor the legislative branches of government have the right to transfer funds earmarked for the commission to other government functions. (+3)	No. The legislature can, at its discretion, transfer excess funds from the ERPA account (those funds that are in excess of the budgeted amount) to the state budget. In recent years, this has happened only during budget crises.	0
BUDGET APPROVAL	**Budget approval:** The legislature and/or executive have the authority to approve the commission's operating budget. (+2)	Yes. The state legislature is has the authority to approve the Commission's budget each year as part of the state budget process; the governor's approval is also required for the approved budget to become effective.	2
	Budget delay: If either the government or legislature do not act on the requested budget by a specified date, then the commission's budget allocation is automatically set at least equal to the previous year's budget, or to another pre-specified amount before the beginning of the fiscal year. (+2)	No.	0
	Funding floor: The law governing the commission's funding establishes a specified charge per connected customer, KWH sold, or gross revenues from activities regulated by the commission. This floor provides partial protection for the commission's budget should the commission make a politically unpopular decision. (+2)	Yes. The surcharge on consumer electricity bills is written in state law.	2
PENALTIES	**Penalties:** The commission may not use penalties to augment its own budget. (+1)	No.	0
	Penalties are directed to affected consumers or to public goods programs for the energy sector. (+1)	Unclear.	
ACCOUNTABILITY	**Performance Review:** There is a legal requirement that the performance of the commission be reviewed every three to four years by a committee of the legislature. This review is based on a report by an independent panel, including international regulatory experts from outside the country. The final report is made public. (+3)	No and yes. Although there are performance reviews of individual programs run by the Commission, there is no provision for a comprehensive review of the Commission's performance.	1
	Audits: The commission's expenditures are subject to regular audits (either scheduled or unscheduled) by external, independent experts from within or outside the government. (+2)	Yes.	2
	The audit report is made public when it is submitted to the legislature. (+1)	Yes.	1
	Total Score		13 of 29

Energy Regulatory Commission Funding: A Scorecard
BULGARIA: Bulgarian State Energy Regulatory Commission (SERC)

	CHARACTERISTICS	COMMENTS	SCORING
FUNDING SOURCES AND ADMINISTRATION	**Funding source:** Fees or charges imposed on the regulated entities or consumers constitute at least 50% (in developing countries) or 75% (in developed countries) of the commission's funding. (+5)	SERC is funded 100% from the state budget.	0
	The commission has the discretion to choose the best mix of charges and fees to fund its budget. (+1)	No.	0
	The fees or charges are paid directly to the commission or into a designated trust fund. (+2)	Licensing fees are paid directly to SERC, but excess funds are transferred to the government thereafter.	2
	If the fees or charges are paid by regulated energy enterprises, these enterprises have the legal right to recover these costs in its tariffs. (+1)	Yes.	1
	Transfer of funds: Neither the executive nor the legislative branches of government have the right to transfer funds earmarked for the commission to other government functions. (+3)	No. All excess funds (beyond the level of the commission's budget) collected by SERC are transferred to the general budget.	0
BUDGET APPROVAL	**Budget approval:** The legislature and/or executive have the authority to approve the commission's operating budget. (+2)	Yes. The national parliament has the authority to approve the Commission's budget each year as part of the budget process; the president's approval is not required for the approved budget to become effective.	2
	Budget delay: If either the government or legislature do not act on the requested budget by a specified date, then the commission's budget allocation is automatically set at least equal to the previous year's budget, or to another pre-specified amount before the beginning of the fiscal year. (+2)	No.	0
	Funding floor: The law governing the commission's funding establishes a specified charge per connected customer, KWH sold, or gross revenues from activities regulated by the commission. This floor provides partial protection for the commission's budget should the commission make a politically unpopular decision. (+2)	No. While SERC collects licensing fees directly, it can only use the budget amount allocated to it. The budgeted amount could thus be significantly lower than the collected fees.	0
PENALTIES	**Penalties:** The commission may not use penalties to augment its own budget. (+1)	False. 20% of fees from penalties go to SERC's budget (the remaining 80% go to the government budget).	0
	Penalties are directed to affected consumers or to public goods programs for the energy sector. (+1)	No. The fees are not allocated to specific purposes or programs in the SERC or government budget.	0
ACCOUNTABILITY	**Performance Review:** There is a legal requirement that the performance of the commission be reviewed every three to four years by a committee of the legislature. This review is based on a report by an independent panel, including international regulatory experts from outside the country. The final report is made public. (+3)	No. The Commission submits an annual report, prepared by staff and Commission, to Parliament. However, the report is not prepared by independent experts.	0
	Audits: The commission's expenditures are subject to regular audits (either scheduled or unscheduled) by external, independent experts from within or outside the government. (+2)	No audit of financial performance is required.	0
	The audit report is made public when it is submitted to the legislature. (+1)	N/A.	0
	Total Score		5 of 29

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"If you do not know where you are going, any road will take you there."

Professor William Hogan
Director, Harvard Electricity Policy Group
Statement at a public conference of the U.S. Federal Energy Regulatory Commission

Working Notes

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