

Stakeholder Participation in the Regulatory Process

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I. No Surprises Strategy



- ◆ Transparent regulation
 - ◆ Clear signals to investors
 - ◆ Rules and procedures
 - Becomes the basis of interaction between stakeholders
 - ◆ Institutional credibility
 - ◆ Organizational autonomy
 - Independence
 - Accountability
 - ◆ Predictable outcomes
- ◆ Coalition mapping
 - ◆ Valid data filed
 - ◆ Data requests complied with
 - ◆ Honest relations between regulatory commission and regulated companies
 - ◆ If stakeholders do not have confidence in the regulator, “meaningful or serious engagement” will become very difficult.

If a Tree Falls in the Forest ...

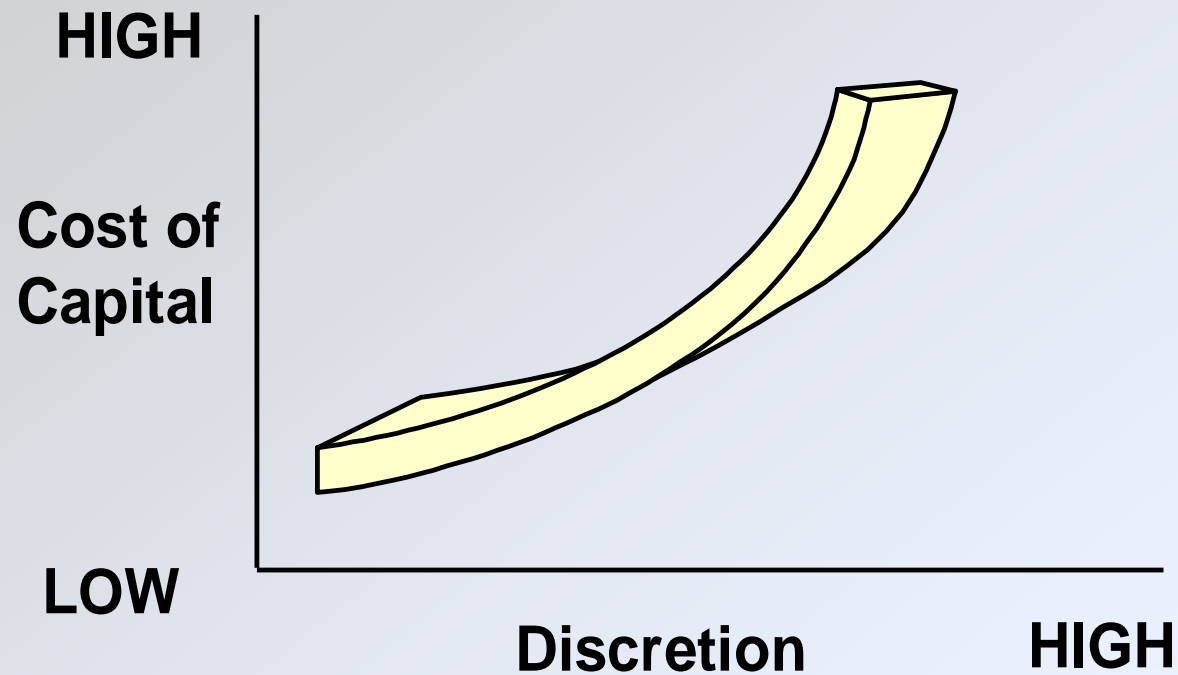


- ◆ Philosophers sometimes debate the question, "If a tree falls in the forest, and nobody hears it, does it make a sound?"
- ◆ We may not be able to answer that question, but we can answer a more pertinent one. "If someone sends a message and nobody receives it, is information transferred?"
- ◆ Certainly the answer to that question is, "No."
- ◆ How do we fix this problem?
- ◆ Subject of this discussion.

Certainty vs. Discretion



Flexibility and the Cost of Capital



Presentation by Mary Clark Webster

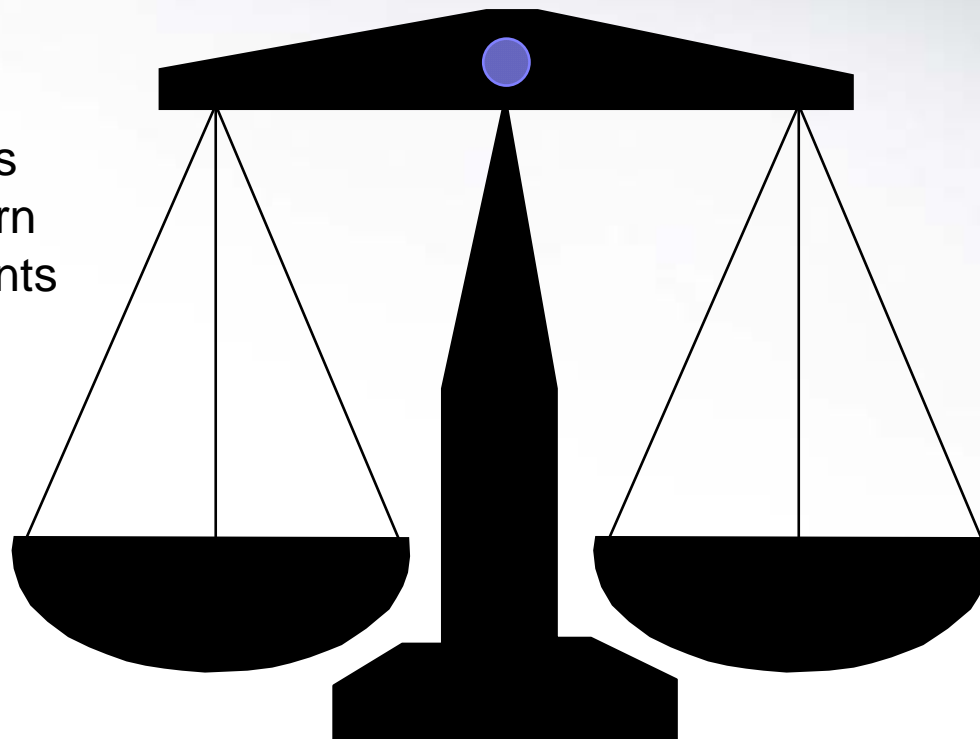
Source: World Bank, 1999

Regulation is a Balance of Rights and Duties



Sustainable regulation requires balance between competing interests

Need for investors
to earn a fair return
on their investments



Desire of
customers to
Pay as low a
rate as possible

Potential winners and losers of regulation reform can actively influence reform outcomes.

Who are the Stakeholders in Utility Regulation?



- ◆ Consumers
- ◆ Public Sector Utilities
- ◆ Private Utilities
- ◆ Government
 - Ministry
 - Taxpayers
- ◆ Regulator
- ◆ Lending Agencies
- ◆ Environment and related NGOs
- ◆ Other Interested Parties (research)



2. What Stakeholders Want



- ◆ Different stakeholders have different goals
- ◆ Good strategies will reflect different concerns
- ◆ Targeted activities to reach different groups goes toward meeting different needs
- ◆ Needs to be integrated into strategic planning process



What Do Customers Want?

- ◆ Voice in process
- ◆ Reliable supply
- ◆ Affordable prices
- ◆ Value for money
- ◆ Risk mitigation
- ◆ Investment protection
- ◆ Predictability
- ◆ Utility responsiveness
- ◆ Ease of use
- ◆ No Surprises

Reliability

Safety

Affordability

No environmental risks

Ease of use

No health risks

Rapid responses

Fair treatment

Good Regulation

Utilities Want



- ◆ Clear operating environment/rules
- ◆ Price which reflects the cost and quality of service
- ◆ Fair return on investment
- ◆ Predictable outcomes
- ◆ No surprises





Private Investors Want

- ◆ **Private Investor investor would wish:**
 - To have as high profits as possible
 - Low/minimal investments
 - Avoid non-profitable quality areas
 - Compromise on quality/standards
 - Clear definition of risks
 - Transparent procedures clearly defined
- ◆ No surprises

Environmental Groups Want



- ◆ Regulatory decisions which protect environment
- ◆ Safety standards (safe drinking water rules)
- ◆ Adequate emission control standards from power plants for clean air
- ◆ Protection of riparian rights in case of construction of dams and hydro plants
- ◆ Fair resettlement grants for affected people
- ◆ Energy efficiency programs
- ◆ More

Government Wants



- ◆ Broadly speaking, the government wants implementation of national policy
 - National security
 - Security of supply
 - Broad and easy access to services
 - Affordable prices
 - Political and economic stability
- ◆ No surprises
 - Predictability of outcomes



What Does the Regulator Want?



◆ Regulator Aims

- Protect consumers from abuse by utilities (public and private) with substantial market power
- Support investment by protecting investors from arbitrary action by public sector
- Promote economic efficiency
- Expand access to services

◆ No surprises



Regulator As Referee

- ◆ Regulator needs to “manage” divergent stakeholders’ interests to ensure:
 - Efficiency of the sector
 - Non-discrimination
 - Increased (universal) access
 - Viability/sustainability of operations
- ◆ No surprises for any stakeholders

3. Ground Realities



- ◆ Some useful considerations
- ◆ Part of a comprehensive strategic plan
- ◆ Elements of engagement:
 - consumer education,
 - complaint handling,
 - public hearings,
 - appeals against regulatory judgments,
 - open door policy
 - compliance monitoring

Information Asymmetry



- ◆ Parties may misjudge one another's position (information asymmetry).
- ◆ Government, workers, unions, consumers and other parties may each lack complete information.
- ◆ One party may misjudge another's position, and it is only later that each becomes aware that the other party did indeed mean what it had said.
- ◆ For the regulatory agency, this reinforces the need to prepare well for new cases and, at the outset, to ensure that the messages and rationale for policy or price changes are well made and well communicated.
- ◆ By creating a plan to enable all stakeholders to present their views, mistakes can be avoided.
- ◆ Make the plan at the start.

Process never ends

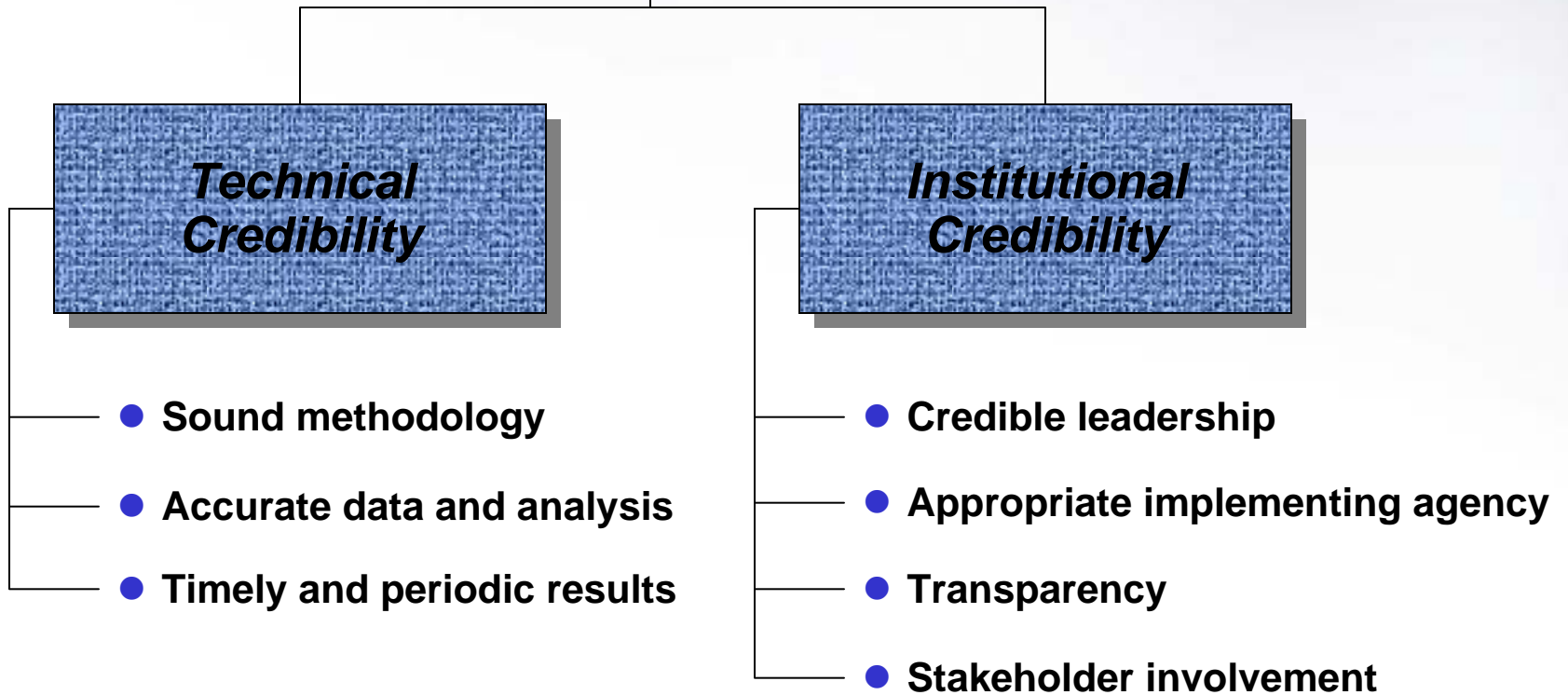


- ◆ Social dialogue is seen not as single event but a continuous process of consultation, negotiation, or both, among stakeholders, which does not end when a decision is issued.
- ◆ Social dialogue aims to build an environment in which engagement with stakeholders can bring sustainable gains to both sides within a long-term perspective.
- ◆ No surprises.
- ◆ The process may be time consuming and long, but it is rewarded by sustainable results and ownership of all stakeholders in the decisions made.
- ◆ In practice, consultation and negotiation usually work. Engagements that lead to mutually successful negotiations are in fact more common than one expects at first sight.

Credibility Concerns



Credibility:
Information must be trusted



Formal & Informal Roles



- ◆ For all stakeholders, the Regulator has formal roles and informal roles
- ◆ Formal role
 - according to statute
 - adhering to formal schedule
 - attention to formal communications
- ◆ Informal role
 - consistent with goal of transparency
 - adhering to informal schedule
 - complimentary to formal communications



In Practice

- ◆ In emerging markets, the government and the regulated utilities are powerful.
- ◆ They are able to protect their interest just fine!
- ◆ Consumer is often the weakest stakeholder
- ◆ Role of Regulator is to promote their interests
 - Those with access and those without
- ◆ Building **NO SURPRISES** environment for regulatory process

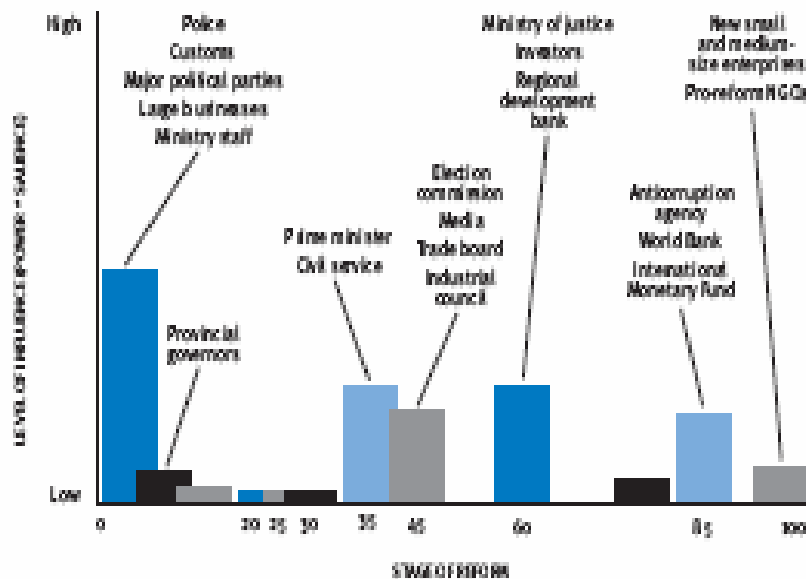
Mapping Coalitions



- ◆ Rigorous data collection, including interviews
- ◆ Establish continuum of opinions
- ◆ Identify veto stakeholders
 - Those who can prevent implementation of an unfavorable outcome
- ◆ Map policy stance and relative power
- ◆ Enables construction of strategy to move continuum to desired results
 - Chances existing views
 - Expands number of stakeholders
- ◆ Avoids unsuccessful, time-consuming initiatives such as USFERC SMD, dismissed in July 2005.



Mapping Results



Note: Stakeholders are listed according to their level of support for reforms, with the least support coming from those on the left-hand side of the figure and the most from those on the right.

- ◆ Based on World Bank
- ◆ Expected Utility Stakeholder Model
- ◆ Uses fictitious country and artificial data
- ◆ Demonstrates range of positions of affected stakeholders
- ◆ Points to steps needed to make changes

Participation on Behalf of All Stakeholders is Vital



- ◆ The government is typically active— through its agencies, officials, laws, funding powers, judicial powers.
- ◆ The utilities are active— through their board members, management team, field staff with powers, and financial resources.
- ◆ The consumers need to get more active through consumer associations, public hearings and ultimately voting power.



Susie Sorority from the Silent Majority



- ◆ Not all stakeholders are interveners
- ◆ Not all interveners care about the outcome
- ◆ So it is necessary to find the voice of the silent majority
- ◆ Requires outreach
- ◆ Concerted program

Successful Engagement



- ◆ For “engagement”, confidence must be gained
- ◆ Stakeholders must be convinced that:
 - Actual and perceived competence, integrity, transparency, and independence
 - Credibility of results
- ◆ An arms length relationship with *regulated utilities, consumers, and private interests* (market, society)
- ◆ An arms-length relationship with *political authorities* (ministers)

Summary



- ◆ Regulation balances needs of Consumers & Investors
- ◆ Ensure that Consumers really benefit
- ◆ Provide information so that Consumers know what is being done for them
- ◆ Make it a loop; keep improving outcomes; No Surprises!

Thank You



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