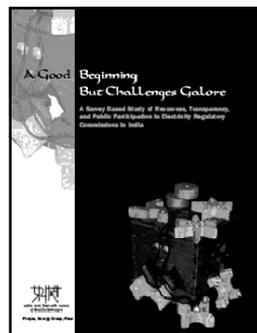


Book review

A Good Beginning but Challenges Galore: a survey based study of resources, transparency and public participation in electricity regulatory commissions in India



Prayas

Pune

78 pp.

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This report covers a wide range of issues regarding the functioning of the ERCs (electricity regulatory commissions) in the country. The study includes 13 ERCs and covers issues related to independence and autonomy, empowerment, accountability, transparency and public participation, quality of professionals, and social sensitivity of the ERCs.

It clearly brings out that governments continue to hold considerable control over the ERCs through the selection process of the chairman and members, financial control, etc. ERCs are not free to hire staff of their choice at salaries that they command. The staff of ERCs is mostly appointed on deputation from the government. The study suggests that these procedures be modified and improved to ensure timely appointments with sufficiently long tenures to ensure better selection.

Necessity of independent functioning of ERCs

Another aspect highlighted in this study is about the complete dependence of the CERC (Central Electricity Regulatory Commission and many SERCs (state electricity regulatory commissions) on government funding. The Prayas survey has revealed that many ERCs have received less than 70% of the

budget proposed by the Commission and some have even received 17%–38% of the budget proposed by them. Financial autonomy of ERCs is necessary to enable them to function independently. Lack of adequate financial freedom is bound to hamper the autonomy and effectiveness of the commissions. It may therefore be useful to allow the commissions to levy some fee or surcharge on sales, so that they need not depend on the government for funds.

Presentation of annual reports

The study brings out a major deficiency in terms of the presentation of annual reports to the legislatures. Although the present law requires presentation of annual reports to the concerned legislatures, many ERCs have not submitted any reports, or the reports submitted after considerable delay. Some annual reports were very brief and sketchy whereas they should have been comprehensive and exhaustive in order to instill confidence in the general public, as transparency is the hallmark of reforms. Timely submission of reports would enhance their accountability. Many commissions have even failed to conduct the statutory number of Advisory Committee meetings.

The study reveals that most of the documents of the Commission are not available in local languages which would allow the general public to understand the justification and implications of various orders. This is true especially in the case of tariff orders, which have a significant effect on the general public. The study suggests that all proceedings of the ERCs should be made available in local languages to ensure maximum participation of the general public in a vital sector such as power.

Accountability

Submission of accounts and correct information to the regulator is a major constraint. Non-submission or partial submission of information for tariff fixation, metering, billing and energy audit, capital expenditure, and investments, completely exposes the inadequacy of the utilities in compiling such vital information. PPAs are also not submitted for scrutiny and the new PPAs are being signed without approval of ERCs, which are serious deficiencies in implementation.

Another issue of concern is non-compliance with the directions and targets fixed by the SERCs while fixing tariffs. Invariably these targets have not been achieved, primarily due to the

lack of reliable data with the utilities themselves. The utilities fail to submit the required data, undertake studies, and delay in implementing action of key performance targets. Frivolous litigation is another strategy sometimes adopted by the utilities, which could delay crucial regulatory investigations. It is at times like these that the utilities are unwilling to allow commissions to scrutinize their functioning. It is necessary for the utilities to comply with the directions and provide severe penal provisions for non-compliance of directions of ERC. It has also been observed that many commissions have no library or a reading room with all documents of the commissions.

The study also reveals the lack of a proper system to inform the general public of proceedings, other than the public hearing process. It cites the example of MERC, which informs recognized consumers' representatives of all proceedings and even directs petitioners to send all documents to the recognized consumer representatives. A practice worthy of emulation. The study also highlights the insufficient use of web sites, as relevant information is not available on the web site of many commissions.

The study reveals that the commissions seem to have made very limited efforts for 'operationalizing' the principles of transparency and public participation. Very few commissions have taken any initiative to institutionalize public participation as a result public participation in the regulatory process is restricted only to the public hearings conducted during the tariff revision process.

The study shows that the institution of regulatory commissions in the power sector has made a good beginning in terms of bringing in more transparency and public participation. But, the commissions will have to make proactive efforts to ensure more meaningful public participation and full transparency in their functioning. It is observed that some state governments have not reconciled to the process of independent regulation. Regulatory reforms cannot progress unless there is total government commitment to regulatory reforms. Support from the government, utilities, and consumers is very essential for effectively addressing these challenges.

It is necessary to recognize that reforms in the power sector were borne out of compulsion and not by conviction, which might explain the tardy progress made in implementing the reforms, though they were initiated nearly a decade ago. The regulatory

legislation is new to India and many ERCs have been created only recently. It is necessary to recognize that the commissions have to function in totally unfamiliar grounds and there are no precedents to fall back upon, which makes their task more complex and difficult. The responsibilities and functions entrusted to the commissions are enormous and crucial. The systems are yet to be standardized. Many of the commissions are manned by personnel, who do not have adequate knowledge of the power sector. Balancing the interests of all stakeholders is not an easy task. There are many constraints under which the commissions are functioning. The study undertaken by Prayas will go a long way in improving the functioning of the commissions.