

BEST PRACTICES FROM THE IPP/PPA WORKSHOP, BAMAKO, MALI, JULY 2004

A workshop on Independent Power Producers / Power Purchase Agreements was held in Bamako, Mali, July 28-30, 2004. This workshop was organized by the National Association of Regulatory Utility Commissions (NARUC), USA, and funded by the U.S. Agency for International Development (USAID). Members of NARUC who participated – Commissioner Diane Munns (Iowa), Commissioner Fred Butler (New Jersey), Commissioner David Hadley (Indiana), Commissioner Wendell Holland (Pennsylvania), Kim Wissman (Ohio), and Rajnish Barua (Maryland) – summarize the best practices of the workshop into three categories below: market, regulatory, and contracts.

MARKET

1. Why engage in market reforms? There is a need for investments and investment dollars are scarce. But if you are going to have foreign investments, remember you may be selling your natural resources.
2. In small markets, it is hard to accomplish a vibrant electricity market. This holds true even for the U.S. Therefore, power pools in West Africa and ECOWAS may have better bargaining opportunities by pooling customers.
3. Reforms are most successfully accomplished if services are improved as prices rise and the public is educated about the change. The goal should be an improved quality of life.
4. Regardless of market design, some form of regulatory oversight will be necessary. Sanctity and transparency of the processes are important.
5. In the PJM example, we indicated that it has a 16% reserve margin; this is an example of metrics, i.e., 100 MW commitment means 116 MW delivery.
6. The main goal is to have reliable and affordable power supply for the consumers.

REGULATORY

1. It is important to have clear rules that will in turn enhance investor confidence. Certainty and clarity will lead to investment.
2. Accountability, autonomy, and authority: Regulatory bodies have to prove their stability and independence and impartial decision-making capabilities.

3. There should be no misunderstanding: there are always problems in coordination among regulators. There have been and will be communication problems between regulators. People are people – one needs to know personalities to respect positions. This conflict and protection of interest grows as the geographic boundaries expand (e.g., as you expand from state/national to regional/international approaches). The important issue is to keep the channels of communication open and have regular exchange of information and ideas. While parochial interests cannot necessarily all be met, these should at the least be understood by all stakeholders, who need to strive for consensus and compromise when possible. Constructive dialogue keeps the goals in sight and progress can be made.
4. Billing is an issue; customers cannot understand bills and get upset. Therefore, consumer education is very important component of the regulatory process.
5. The role of the regulatory commission is to successfully serve the consumers, utilities, and government. The regulator must perform a delicate balancing act. The government can then claim that it created a successful regulatory agency that is independent, fair, and impartial.

CONTRACTS

1. Any model of a PPA can be successful if it is transparent and the rules are set before implementing the process.
2. A good contract can be used to maintain a balanced level of tariffs such that there are no fluctuations for the end-user consumers.
3. There should be transparency in information exchange.
4. Sanctity of a contract is important; an investor needs to be confident that a contract will be honored and legally enforceable. It is important to ensure that a contract survives changes in government or regime.
5. When we negotiate, we make assumptions. A contract memorializes the intent of the parties. That is why definitions are needed for common understanding. Also when a contract is executed, the parties need to agree under whose laws that contract will be honored.
6. A successful contract results from shifting the risk to the party that has the most control over the risk.
7. Investment cannot be attracted and maintained without good government and good policies.

8. Recognize that laws can be changed and could be improved to attract investment. Learn from mistakes and build on successes in this evolution.
9. The education component is important to explain to the people the “why” and the “what” of such contracts, and how these affect their monthly bills.