HINDU BUSINESS LINE
AUGUST 6 2025
“EMPOWER THE Regulator” by SLRAO

Power sector remains the fiefdom of the sarkar. The multiplicity of oversight bodies has complicated governance


What a mess Too many agencies, too much confusion T Vijaya Kumar

Independent regulation requires that regulators’ decisions are overruled only by a judicial body following the appropriate procedures. However, in practice, in Indian States, administrative officials and a succession of ministers represent government as owner. Their directions have to be obeyed by State-owned enterprises, including electricity undertakings, and regulatory orders are often flouted. Many of the regulators are subservient to the State government and the autonomy of regulators and of managements of State-owned enterprises is often a fictitious claim.

Take electricity. Ministries are staffed, especially at senior levels, by bureaucrats who are generalists. They are usually either too confident of their judgment, or are awed by the apparently technical complexity of electricity, and the likely public repercussions of decisions.

The down side

State ownership has led to higher operational costs, overstaffing, indiscipline, inefficiencies, little accountability on the part of top officers or others, and government funds not being used for improving people’s well-being. Generalist administrators as CEOs with short tenure have little incentive to improve the enterprise. Regulators collude with governments by withholding approval of legitimate expenses of the utility, to keep tariffs low, and thus adversely affecting the cash flow of the enterprise.

The electricity regulator’s dilemmas are: poor information from companies, for deciding on tariffs; unreliable data creating a mismatch between estimated and actual transmission and distribution (T&D) losses; high T&D losses in most States, from around 19 per cent in Himachal Pradesh, Kerala and Tamil Nadu, to over 50 per cent in the North-East and Bihar, and between 30 and 40 per cent even in the ‘developed’ States.

Problems that affect decision-making are: poor information base; inefficiency of State level generating enterprises; inability of the State to pay up subsidies for selected customer groups; and past liabilities that have to be serviced from an inadequate income stream.

Load dispatch function is a key regulatory tool and should be a neutrally carried out by the regulator. But it remains with the State electricity board and the regulator regulates tariffs without being able to ensure that load and dispatch are balanced at all times. The regulator has only partial authority. The system remains inadequately regulated.

The same contradiction exists at the central level. Inter-State transmission is regulated by the Central Electricity Regulatory Commission, but the regional load dispatch centres that do this balancing are under the inter-State transmission monopoly, the Power Grid Corporation.

Two aspects of government ownership make independent regulation difficult: inconsistencies, gaps and ambiguities in government policy; and the fact of government ownership with consequent nexus (vested interest) in supporting State-owned enterprise.

Too many ministries (electricity, power, nuclear, renewables, fuels) and many senior administrators prevent coordination. The Central Electricity Regulatory Commission cannot regulate atomic energy even though all electricity irrespective of source flows through the same wires and cannot be identified. Similarly, the CERC regulates tariffs of the Neyveli Lignite Corporation, a centrally owned integrated generator using captive lignite coal mines. Coal is regulated by another ministry, not the CERC, and Neyveli can hide extra profits behind high coal transfer prices for power generation.

Government ownership enables State electricity boards and other State enterprises to violate the principles of good governance. For example: often, the accounts are not finalised for many years. Asset registers are either not kept or are out of date. Or, there is no record in many cases of the number of transformers, feeders and so on with the board. Further, demand forecasts for electricity have been perennially overestimated and revenues and expenditures for tariff filings are revised repeatedly.

Private intervention

Not surprisingly, the response from private investors to the few proposals offering distribution businesses has been poor. Investors perceive that the price-setting methodology (based on the rate of return concept) of regulatory agencies is hostile to long-term investments. The tendency among some regulators to routinely remove legitimate expenses from the rate of return and classify them as “regulatory assets”, deprives the utility of cash. .

The multi-year tariff framework also poses problems. Sufficient data is not available to correctly set the initial level and benchmark improvements. It could either produce excess profits or losses or require commissions to re-open the issue.

Principles must be evolved for sharing of risk of demand and/or demand-mix changes substantially. The basis for laying down targets for investments in advance and method for relating it to target improvements must be known. There must be linking of the return on capital base to achievement of certain performance standards such as improvement in service quality, extension of coverage to a specified group of consumers and so on.

Also, the regulatory risks faced by other utilities where reforms are in place and tariff orders have been passed must be considered. Another risk is in securing political support to implement harsh measures for reducing inefficiencies.

Resolving issues

How can these problems be resolved? One answer is to completely distance government enterprises from the controlling ministry. However, this has not worked despite attempts in many public enterprises since 1988 to do so. These include the government and the enterprise entering into an MoU about targets and responsibilities. They are mere paper exercises since the ministry concerned is able to commit only for itself, not for the other concerned ministries in government.

Another answer is to truncate the size of a ministry after creation of a regulatory commission, since it will be doing things that were earlier the responsibility of the ministry. This means loss of power and jobs for many, especially lower level officers. No politician or senior bureaucrat has been willing to implement such proposals.

Government ownership and control of much of the regulated systems makes for ineffective regulation. For independent regulation to be effective, courts and public opinion must clean up the system. Privatisation with competition and choice for customers must become universal, electricity markets and trading with adequate regulation to ensure fairness is needed, and independently run transmission and load dispatch systems are a must. Similar principles must apply to other State enterprises.

For years we have hoped that public enterprises would boost the economy. They will not, without basic reforms.

The writer was the director-general

of NCAER

(This article was published in the Business Line print edition dated August 6, 2015)