

Long WORKSHOP REPORT FORM

Number and title of workshop: WS #2.6 Clean Energy – Corruption and Conflicts of Interest in the Electricity Sector

Coordinators: Davida Wood, Senior Associate, World Resources Institute

Date and time of workshop: 13 November 2010 (9 – 11 am)

Moderator (Name and Institution): Davida Wood, World Resources Institution

Rapporteur (Name and Institution): Bharath Jairaj, World Resources Institute

Panellists (Name, institution, title)

Suphakit Nuntavarakorn, Senior Researcher, Healthy Public Policy Foundation, Thailand;
Shantanu Dixit, Founding Member, Prayas Energy Group, India;
Fabby Tumiwa, Executive Director, Institute for Essential Services Reform, Indonesia;
Gary Piennar, Senior Analyst, IDASA, South Africa

Summary

The Workshop on “Clean Energy – Corruption and Conflicts of Interest in the Electricity Sector” was coordinated by the Electricity Governance Initiative (EGI), a program of the World Resources Institute and the Prayas Energy Group. The workshop discussed 4 country case studies - from South Africa, India, Indonesia and the IACC host country, Thailand - that demonstrated how corruption is subtle yet pervasive in the capital-intensive electricity sector.

The case studies demonstrated that corruption could take place at various stages of electricity provision decision making – from the power development planning stage, when decisions are taken about future electricity demand; at the stage where negotiations are conducted with electricity producers to build new power plants to meet this demand; and right up to the stage where such projects are rolled out on the ground.

Even in the “clean energy” sector, issues of corruption and vested interests are rampant, underscoring the fact that merely changing the fuel from conventional to renewable did not mean that the governance challenges had disappeared. The “clean” aspect of clean energy was at best, limited to the change in fuel as is evidenced in the roll out of programs aimed at implementing clean energy.

A common theme in the session was the challenge posed in identifying and combating corruption given the technical nature and complexities in the electricity sector; and a call for greater civil society synergy to combating corruption in the sector. A significant focus of panelists was in looking at corruption within a larger “good governance” paradigm: that the creation of deliberative processes aimed at improving transparency and promoting inclusive and informed public decision making would reduce corruption avenues and will lead to better public interest outcomes in the electricity sector.

Summary of presentations

Suphakit Nuntavarakorn, Senior Researcher, Healthy Public Policy Foundation, Thailand:

In Thailand, the long term strategic plan for electricity (Power Development Plan 2010) was rushed through with very limited public participation. The plan recommends massive new investments in coal and nuclear plants and does not explore renewable energy or demand-side-management, though academic reports and analysis suggest large potential savings. An alternate plan prepared by Thai civil society shows various cheaper, more environment-friendly and higher job growth options. And yet the plan chooses the more expensive options with longer term environment consequences.

Exploring the rationale for this decision shows how the electricity sector is designed to reward higher investments, at the cost of public interest. Therefore higher investments with higher power demand forecasts offer a perverse incentive to developers. The higher costs are added to the consumer bill; with no focus on energy efficiency or demand-side-management (DSM)

This is accompanied by serious conflict of interests replete in the sector. Government officials who serve on the boards of state-owned companies (like EGAT, the electricity generating company of Thailand) also serve on regulatory boards for the sector, thus severely impacting their ability to regulate independently. Worse, these officers own shares in these companies and are paid large and additional payments and bonuses based on profits declared by the very companies that they are supposed to regulate. The rampant conflict of interest in the regulation of the sector and the perverse incentives for excess demand forecasts leads to greater environmental consequences (because more power plants are built) and higher bills for consumers.

Gary Piennar, Senior Analyst, IDASA, South Africa:

In South Africa, similar conflicts of interest are prevalent. Despite signing and ratifying various anti-corruption international treaties, in practice, anti-corruption agencies are not independent and this is reflected in their recruitment and working. To begin with, by a national conference resolution of the ruling political party ANC (African National Congress), the National Working Committee was tasked with deploying ANC cadres to all state institutions. These individuals today occupy various posts in government but are informed by and accountable to the ANC, irrespective of their Constitutional or statutory obligations. South Africa also has no regulation of private funding to political parties, despite signing international treaties requiring transparency in the financing of political parties.

The case study relating to decision making by ESKOM (the national electricity utility) shows how subtle and deeply engrained corruption is in the electricity sector in South Africa. The ESKOM chairman was a high ranking official of the ruling political party, and during the period of his chairmanship, ESKOM awarded huge coal-based contracts to a power company which was partly (25%) owned by the fund-raising arm of the ruling political party. Despite public and media outcry and legal prosecution, action against these contracts and the conflict of interest did not succeed because of the lack of evidence of corruption. The anti-corruption agencies pointed to legal loopholes, lack of evidence of the ruling party exerting influence on the ESKOM and the absence of auditor reports pointing to corrupt practices. Subsequent efforts by various agencies to tighten these loopholes have failed, pointing to serious gaps in the governance of the electricity sector in South Africa.

Fabby Tumiwa, Executive Director, Institute for Essential Services Reform, Indonesia:

In Indonesia, one of the predominant concerns is how power purchase agreements (PPAs) with independent power plants (IPPs) can be scrutinized and monitored to ensure that corrupt

practices are not prevalent. PPAs are long-term contractual commitments (for e.g. 20-30 years) made by the utility promising to buy power produced by the IPPs. The utility expects to receive the electricity from the IPP over the period of the contract. However, for several reasons (lack of investment, clearance processes, etc.) IPPs in Indonesia have not been able to establish their plants to capacity, and are therefore supplying less than committed. This results in the utility having to look elsewhere for meeting the current gap in electricity supply, often at higher costs. And yet, instead of opting out of these contracts (which is permitted by the original contract), PLN (the government owned monopoly utility) frequently renegotiates these contracts with IPPs. Very little is known about the nature and scope of these renegotiations since they take place outside of the public domain. However, if the 2 renegotiated PPAs (completed in September 2010) are to provide guidance on what is taking place within closed doors, then the news is not good. The renegotiated PPAs now include a price escalation of 30%-40% which PLN has agreed to pay.

The absence of an independent regulatory institution to scrutinize the renegotiation provides multiple avenues for corruption. Higher prices are fixed and private contracts (MoUs) are chosen instead of competitive bidding processes. Given that Indonesia is on a development trajectory where new power plants using both renewable and conventional forms of fuel are likely to be used, there is an urgent need for a strong independent regulatory body to review IPPs.

Indonesia needs to develop standard transparent and accountable processes that do not allow the current vested interests to continue to flourish.

Shantanu Dixit, Founding Member, Prayas Energy Group, India;

In India, clean energy is growing in leaps and bounds, which has positive impacts for climate and environment, but also multiple avenues for corruption too. For instance, the Electricity Regulatory Commission in the State of Gujarat calculated the tariff for new solar power at Rs.15 per unit for the first 12 years, and Rs. 5 per unit for the next 13 years. Soon after, the Indian Central Electricity Regulator calculated this tariff at Rs.17 per unit for the next 25 years (as an incentive for more investment in solar energy). The Gujarat Regulatory Commission chose not to revise their tariff, and were told to expect no investments, because the tariff calculated by the Central Regulator was based on costs as shared by investors and promoters. However, despite this lower incentive, Gujarat saw large investments in new solar power in the State suggesting that even the lower tariff was high enough to attract large scale investments. The information asymmetry is evident.

Similar examples in other renewable projects in co-generation and wind power show how regulators and decision makers were providing enormous incentives without necessarily backing these numbers with adequate justification. In energy efficiency too such instances exist. CFL bulb programs showed huge failures (bulbs failed within 6 months) demonstrating lack of regulatory oversight and the potential for corruption.

Main Outputs

The panel presentations converged on a common theme that acknowledged the technical nature of the electricity sector, but called on the participants especially those from the anti-corruption civil society to play a greater role in civil society oversight to ensure that decisions in the sector work in the public interest.

The case studies demonstrated large governance gaps, and multiple avenues for corruption. Thailand's power development planning process is premised on perpetuating gains for vested interests and designed to continue providing perverse incentives to extractive and nuclear industries, though various alternatives exist. South African anti-corruption agencies are unable to take action even where conflicts of interests are visible in decision making and seek higher levels of "evidence" of corruption or undue influence. Indonesia's government continue to sign private contracts with IPPs outside of the public domain committing to buy electricity at

higher costs with virtually no public or regulatory oversight. Clean energy development and deployment in India has shown how information asymmetry, limited regulatory and public oversight and the calculation and rolling out of incentives and subsidies can cloud decision making in the sector.

Greater spaces for public debate over technology and fuel options for meeting future energy needs are needed; and opening up sector decision making to the public will reduce corruption avenues. More transparency and inclusive decision making will lead to better public interest outcomes in the electricity sector.

Recommendations, Follow-up Actions

The way decisions are made in the electricity sector strongly influences the success of policies. The problem, as well as the solution, lies in how the sector is governed.

Given the technical nature and complexities of the sector, civil society participation and oversight in the electricity sector has been limited. Anti-corruption civil society could play a key role in joining hands with others working on improving governance of the electricity sector (for instance, the Electricity Governance Initiative) in tackling the subtle, yet pervasive corruption in the sector.

Stronger civil society collaboration with sharing of tools and approaches aimed at bridging the gap between sector experts and anti-corruption / good governance sectors is one way forward.

Specific follow up steps include:

- How does civil society begin to engage with the electricity sector, and specifically how can the anti-corruption civil society begin to engage with this sector?
- What specific sector changes are likely to reduce scope for corruption and improve decision making in the sector (e.g., changing the return on investment from its current formulation to one that rewards higher efficiency and performance)
- What tools will help civil society push for greater transparency and accountability in the sector? (PPA contract templates, sharing of best practices, etc.)
- How can civil society coalitions expand the space for participation in electricity decision making?

Highlights

The Workshop was well-attended (over 70 people) and brought together the experience and knowledge of four large developing countries – India, Indonesia, South Africa and Thailand – all facing similar yet different corruption challenges in the electricity sector.

During the discussions that followed the presentations, an interesting debate took place on specific challenges being faced with respect to nuclear power in Thailand which included questions and comments from Senators from the Thai Parliament. Other questions posed to the panellists focused on specific steps that the anti-corruption community can initiate in order to engage more deeply with the electricity sector.

Interesting quotes:

Suphakit Nuntavarakorn, Healthy Public Policy Foundation, Thailand: “Using the RoI (return on investment) criteria for tariff setting provides a perverse incentive for over-investment in the electricity sector since higher investments lead to more profits for the investor, at the cost of the public”;

Fabby Tumiwa, IESR Indonesia: "Corruption in the electricity sector is subtle and difficult to detect in the absence of regulatory and civil society oversight"



Shantanu Dixit, Prayas Energy Group, India: "There is a dirty side to clean energy. Removing information asymmetry and strengthening oversight on implementation can help clean up this dirty side of clean energy"

Signed and date submitted

A handwritten signature in black ink, appearing to read 'Shantanu Dixit', written over a horizontal line.

November 29, 2010