

Effective electricity regulation

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To effectively regulate the energy sector, processes for licensing, determining tariffs, monitoring, and enforcing rules, standards, and codes must be in place. It must lead to efficient service delivery and cost recovery through tariffs. Failure can cost individuals, businesses, and the economy. A well-informed regulatory regime can improve energy sector performance by providing public oversight of monopolistic service providers.

In Pakistan, one of the significant institutional weaknesses in the electricity sector is in the regulation process, compromising the efficiency of private and state-owned companies. The National Electric Power Regulatory Authority (NEPRA) was formed to regulate the electricity sector, ensuring efficiency, reliability, and affordability for consumers while protecting the interests of investors and operators. NEPRA, through law (Act 1997, later amended in 2018), was mandated to create a balance between all stakeholders.

Unfortunately, NEPRA failed miserably in the last two decades. Unreliable service delivery and a significant increase in electricity prices continued to hurt consumers. Under the Nepra's generation licensing rules, licences were granted to fill the demand and supply gap without considering the cost, fuel mix, or checking the required capacity. Section 3(6) of NEPRA Licensing (Generation) Rules, 2000, allowed Nepra to add additional terms and conditions for a good cause. However, the lack of regulatory oversight has caused Pakistan's power sector to fall into a "capacity trap."

Inquiry Report on the Power Sector in 2020 states that excessive payments made to private power producers in the past were either due to misreporting by the producers or regulatory oversight. Regulatory oversight in monitoring and enforcement in energy companies jeopardized sectors' financial viability and negated NEPRA's objective to ensure a reliable electricity supply to consumers.

Nepra, as an independent regulator, was responsible for resolving power sector issues. Nepra made no serious effort to minimize, if not eliminate, inefficiencies in the generation, transmission, and distribution companies. The performance of all these companies, including the privatised K-Electric, remained lacking in key performance indicators.

As Clause 31 of the Nepra Act specified, tariff cross-subsidies should have been avoided. The enormous cross-subsidy from commercial and industrial sectors to other sectors over the years is against the spirit of the Nepra Act. It continued and created economic distortions in the electric power industry. It encouraged the inefficient use of expensive energy resources, resulting in more financial

losses. Nepra played no proactive role in avoiding such subsidies.

It is regulatory oversight that the circular debt, which emerged in 2006, continues to rise and reach Rs 2.64 trillion in 2023. NEPRA has failed to prevent this debt due to increasing costs of generation, system losses and inefficiencies in the sector, anomalies in tariff methods, and delays in tariff determinations. If Nepra had played an effective role, the power sector scenario could have been different.

At the same time, it would not be wrong to say that NEPRA lacks the authority to make changes in the tariff structure or to hold state-owned companies accountable for their performance, whether operational and commercial inefficiency or over-billing to consumers. As an independent body, Nepra must have significant procedural power and autonomy for an effective regulatory process.

In the law, NEPRA has powers to issue licenses, determine tariffs, specify standards, inspect, review, and regulate procedures. NEPRA should be institutionally independent of the influence of private and public sector companies it regulates to be effective. Also, independent from the influence of the Power Division, the Ministry of Energy directly controls DISCOs and Gencos.

No clause in the Nepra Act prohibits civil servants from being appointed as employees or members of the 'Authority.' Likewise, no cooling time for civil servants or sector professionals is specified in the law. Since Nepra's establishment, directly or indirectly, it remained under the influence of bureaucracy or personnel from the Ministry of Energy. Recently, another civil services officer is appointed as Nepra chairman. It means the sector regulation will remain under the federal government's influence. But it raises the question: if the federal government wished to self-regulate the industry, why is there a need for an independent regulatory body?

When ministers or bureaucrats are directly involved in pricing and licensing decisions, it can harm regulatory credibility and affect investment decisions. Investors are likely to demand high tariffs to compensate for increased risk, especially if they are aware of the organizational risks associated with their investments (as in the case of IPPs). Ideally, investors would prefer industries with an independent regulatory agency with no government involvement.

A regulatory framework is successful when investors achieve fair returns, consumers receive quality service at an affordable rate, and governments are not allowed political exploitation. It is possible only when the regulator has qualified staff to make decisions autonomously. But at the same time, the regulator should also be accountable for all its decisions. It is possible only when there is transparency in its processes and decisions. Proper checks and balances can prevent the regulator from straying from its mandate, showing favoritism, or becoming inefficient.

The lack of autonomy and role ambiguity in Nepra's administration impedes its ability to function effectively. Clear laws with provisions for NEPRA's autonomy are needed to prevent government

interference in decision-making. Lack of clarity on roles, functions, and independence can lead to undue interventions.

The study conducted at PIDE showed that NEPRA lacks the necessary professional expertise to supervise and regulate the power sector effectively. Nepra needs to enhance the capacity of its staff to cope with market forces, sector challenges and fulfill its regulatory duties. Improving regulatory capacity can result in tangible benefits for everyone.

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