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*USAID Mission to Mongolia,
Economic Policy Support Project,
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**Review of ERA Consumer
Protection Procedures Concepts.
Status. Recommendations**

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EXECUTIVE SUMMARY

This report reviews the status of the Mongolian Energy Regulatory Authority (ERA) with respect to consumer protection functions (Consumer Protection Procedures and Rules). The review consisted primarily of document research/review and interviews with consultants and professionals who have worked with the ERA as well as the ERA Chair and staff, and UBEDN and UBHN management and staff. The purpose of the review process was to gain an understanding of the ERA's current capabilities and needs in the area of consumer protection, prepare this report and a companion presentation, and provide assistance to the ERA with the development of draft Consumer Protection Procedures based on the review.

Results of the review undertaken in preparation for this report indicate the law generally provides authority for the ERA to carry out consumer protection actions. The ERA is actively embracing concepts of consumer advocacy and protection, including the creation, and now the building of capacity, of an Advisory Board. Interviews with ERA staff and UBEDN and UBHN lend further support to the sense that, although the present experience and capacity are small, both ERA and utilities understand and support the need to have good consumer protection procedures or rules and an independent ERA to uniformly and objectively implement those procedures and rules.

Although it would be nice if a "model" consumer protection rule existed, one does not. There is not a single comprehensive set of "consumer protection rules" in the utility regulatory universe. Stand-alone procedures and rules that are applicable to consumer protection do exist. They exist in technical specifications, safety rules, connection and disconnection rules, public hearing and public notice processes and rules, winter disconnect rules, and many other rules and procedures that are generally spread throughout a regulatory agency's rules, regulations, resolutions, and procedures. Thus, the customer relations, consumer education, and complaint resolution department and specialist, whether in the regulatory agency or utility, must be aware of all the agency's rules and procedures as they might be applied to the protection of consumers' rights, obligations, and resolution of disputes between licensees and consumers.

In order to provide adequate knowledge and expertise in the ERA, extended training and "on the job" experiences (focused sabbaticals or internships, not study tours) with consumer protection/complaint departments of state utility regulatory agencies in the US are recommended. Specific technical assistance in capacity building in areas such as public hearing processes, including proper public notice, data management, and public education is also recommended. The consumer protection personnel of both the ERA and regulated utilities can be expected to be a dynamic group, with continual entry and exit. Training and education cannot be achieved in a few sessions or a few months, but must be well thought-out long-term repetitious programs. Certainly successful public education must be long-term and repetitive in order to gain the attention of the public and sensitize them to the main topic or concept that is to be conveyed. Therefore, it is recommended that all training activities outlined and recommended should be rigorously developed and

conveyed with some form of “train the trainer” component, such that they can be readily repeated and modified by ERA and others in the future as and when needed.

No single Consumer Protection Rule exists, and it is not possible to fashion a single comprehensive practical draft Consumer Protection Rule. However, relative to providing general stand-alone draft consumer protection procedures, several items are presented in this report:

1. It is recommended that a basic complaint handling procedure and draft rule be developed based on the concept and draft rule language presented herein;
2. It is recommended that public hearing and public notice draft rules should be developed based on the procedure and description presented herein, perhaps with the support of the Advisory Board;
3. It is recommended that customer complaint draft procedures and rules should be developed based on the framework and language previously presented by Tersztyanszky, “Consumer Protection and Complaint Handling In Hungary”, June 2002;
4. It is recommended that a general public education program and procedures about the energy sector and the ERA, be implemented based on the framework and draft language previously presented by Swartzbaugh and Amarsanaa, “Public Education Strategy for Energy Sector Reform”, August 2002.

INTRODUCTION

This report reviews the status of the Mongolian Energy Regulatory Authority (ERA) with respect to consumer protection functions (Consumer Protection Procedures and Rules). The analysis included review of documents containing consumer protection provisions such as the Energy Law (February 2001) as well as ERA rules, resolutions and decrees (e.g., Rule for Resolution of Complaints and Disputes Addressed to the Energy Regulatory Authority of Mongolia, and Decree of the Chairman of the ERA Approving the Rules on Activities of the Advisory Council, April 2003). The review process included interviews with consultants and other professionals who have worked with the ERA (Deborah Motz, Minnesota Public Utility Commission, Jason Hancock, USEA) and review of reports drafted by consultants (e.g., “Consumer Protection and Complaint Handling In Hungary”, by Tersztyanszky, June 2002, “Public Education Strategy for Energy Sector Reform”, by Swartzbaugh and Amarsanaa, August 2002, prepared for DAI under USAID sponsorship, “The Energy Sector of Mongolia-A Status Report”, by Teleki, April 2003, prepared for DAI under USAID sponsorship, “Alleviation of Social Impacts of Energy Tariff Rationalization in Slovakia”, by Voll and Juris, September 2002, prepared by NERA for the World Bank). In addition, interviews and discussions were held with the ERA Chair and staff, and UBEDN and UBHN management and staff.

The purpose of the review process was to gain an understanding of the ERA’s current capabilities and needs in the area of consumer protection, report the findings of the review in a paper and prepare a related presentation for ERA, UB utilities, and other interested parties. Assistance was also provided to the ERA relative to the development of draft Consumer Protection Procedures based on the review.

This report is organized in a straight-forward manner with a section on COMMON CONSUMER PROTECTION PROCEDURES, which provides an overview of the nature of consumer protection regulatory activities practiced in various regulatory regimes. The treatment of the subject is not meant to be exhaustive or all-inclusive. It is intended to be a simple, objective background reference and to present a realistic sense of the variety of areas and activities that can be pursued by the ERA and Mongolian utilities and other interested parties as they continue pursuing consumer protection. This section should be reassuring because, unlike many other new regulatory agencies in developing economies, the ERA has already taken beginning initiatives in some of the areas and activities listed.

The section on common procedures is followed by a section on THE STATUS OF ERA CONSUMER PROCEDURES, which presents a snap-shot view of current rules and procedures that are involved in consumer protection issues. Because of the initiative and quickly developing nature of the ERA at this time it should be expected that the status reported herein will be outdated, or at least changed somewhat, within a relatively short time after this report is completed.

The section on RECOMMENDATIONS ON PROCEDURES provides a number of areas where the ERA should begin or increase its institution building efforts. Some of the recommendations can be accomplished by the ERA with little or no outside assistance.

Other recommendations will require significant donor assistance and support. As a new regulatory agency, dealing with concepts and activities previously unpracticed or unknown in Mongolia, the ERA is likely to benefit a great deal from donor assistance, particularly technical capacity building training and support, in almost all areas of its responsibility and authority. The ERA is encouraged to continue its initiatives and to increase its communication and sharing of knowledge and concerns with other regulatory agencies, not just those in developing countries, or with economic or cultural similarities, but also with more established agencies in more distant and economically developed states.

This report is closed out with a section on CONCLUSIONS. The conclusions tend to reiterate that the ERA, especially for a new agency under a relatively new law, has done an acceptable job in the area of “consumer protection” and that general energy regulation in Mongolia is both dynamic and progressive at the present time. The other major thrust of the conclusions is that the ERA appears to be a worthy recipient of donor aid and subsequent technical assistance should be strongly considered for support and implementation by USAID and other donor organizations intending to provide technical assistance or other forms of aid and assistance to the ERA.

COMMON CONSUMER PROTECTION PROCEDURES

Common Consumer protection procedures in other countries include a wide range of specific areas and specific rules, resolutions, methodologies, and procedures. Suffice it to say, there is no known single, inclusive “Consumer Protection Rule or Procedure” at any utility regulatory agency in the world. What does exist, however, are numerous rules and procedures that touch on consumer protection, which are generally spread throughout an agency’s procedures, rules, regulations, orders, and related documents that collectively make up the overall “operating manual” for the regulatory agency.

Thus, throughout a regulatory agency’s implementing documents (procedures and rules) one can find directions on such topics and activities as:

- recording complaints, tracking complaints, resolving complaints;
- docket control, data management;
- public notice, public hearing;
- consumer and public education;
- connection/disconnection;
- cold weather disconnection;
- low-income heating assistance;
- so-called “life-line” pricing schemes;
- consideration for “load retaining” special tariffs;
- special distribution system extension policies,

and many more areas that have various levels of “consumer protection” relevance and importance associated with them, but which are not gathered together in one single comprehensive “consumer protection” procedure or rule.

It is stressed that the list, and the recommendations made later in this report, are not meant to be exhaustive of all possible or common “consumer protection” procedures or rules that exist in regulatory agencies. The procedures and activities presented herein are meant to be representative of both typical rules that effect consumer protection in some way or another, and also to demonstrate the wide range of rules and activities that need to be considered when discussing the general topic of consumer protection. The remainder of this section consists of brief discussions of the topics listed above.

Recording complaints, tracking complaints, resolving complaints has to do with the mechanics of how to receive complaints and inquiries so that they can be individually identified, sorted, documented, tracked, resolved, archived, recalled, and so that statistics can be maintained regarding each complaint or inquiry and its resolution. This involves the development of specific forms to be used to record the initial customer contact and to follow (track) the handling and resolution of the complaint or inquiry. It also requires that a specific and sufficiently detailed identification system, often a numbering system, be created to uniquely identify every formal contact made with the regulatory agency for any purpose for which the agency is authorized or responsible to act. This identification system is usually referred to as a “docket” system, and is discussed below.

The nature of receiving and resolving complaints requires that staff must interact directly with customers who are usually unhappy and sometimes irate. Quite often the problem can be easily resolved if the customer is able to speak to someone who will listen attentively and professionally to the problem, rather than be officious, overbearing, and non-communicative. This requires either a special type of person, or good training and professional discipline on the part of the complaint officer. This requirement must be carefully considered by the ERA and utilities as they go about setting up consumer protection or customer relations capabilities. Employing the wrong person or not providing correct and adequate customer relations training and knowledge to consumer protection personnel will cause the ERA more problems than it will solve. A review of the Tersztyanszky presentation will provide a good guide to the components, purpose, and processes of complaint receiving, tracking, and resolution procedures.¹

Docket control, data management are critical “first actions” of a new regulatory agency and should be developed in the very earliest stages of the agency. Docket control is the procedure of providing unique identification to each and every official action of the ERA. It involves issuing a number or alpha-numeric to each licensee application, each tariff application, each complaint, and so forth. Generally, each utility company is issued a unique number or alpha-numeric identification, then each filing or complaint associated with that company is given a “sub” number or date, or both. This is an important area for the ERA and should be further detailed, but recommending a complete docketing system is beyond the limited scope of this review task.

¹ Tersztyanszky, T., June 2002, “Consumer Protection and Complaint Handling In Hungary”, Presentation to ERA, sponsored by USAID.

Data management involves developing the ability to completely track and be able to trace and retrieve every piece of data that is generated at the ERA, at all times. This involves significant computer hardware with appropriate software and competently trained operators as well as a robust docketing system. In addition, provision must be made for storage of hardcopy materials such as applications, testimony, transcripts of hearings, exhibits, complaints, and all the other paperwork required and generated by a regulatory agency.

The ERA will also need a reference library for law and technical research by staff and the public, as well as adequate internal networking and internet access to accept electronic filings, applications, and complaints, and to provide for staff research and professional communication with counterparts in other regulatory agencies.

Adequate consideration must be given, and procedures developed, regarding the receipt and secure handling of proprietary or confidential information which the ERA will necessarily receive during the current process of resolving customer complaints and during tariff cases as a competitive environment develops in the utility sector in the future. Privacy of personal information of customers is usually treated with special attention by regulatory agencies.

Public notice and public hearing are fundamental to the work of a regulatory agency. These should be required by law and procedures or rules should be developed to insure and maximize their objectivity and transparency. This includes holding regular public hearings of the ERA to conduct regular business, through establishing and publishing notice of periodic meetings of the Board of Directors (perhaps on a monthly basis). The notice of such regular meetings might be accomplished through a public agenda of the meetings which could be posted on a public notice board and circulated to interested parties such as utilities, media, government, and consumer groups.

Notices should be brief, informative, and clearly indicate where and when the public meeting or hearing is to be held and the nature of the business to be conducted. In the case of price or quality of service considerations, some informative indication of the nature of the applied for change must be in the public notice.

Public hearings can take several forms, from informal discussions and public education meetings to more formal and complex rate cases or tariff hearings. Notices and hearings are another of those important areas related to consumer protection that require extensive explanation and training that is beyond the scope of this review.

Consumer and public education are critical to a quality consumer protection program and an informed public. Activity in this area must be carefully thought out and requires continual attention and revision to be even minimally effective. A comprehensive discussion of effective consumer relations and public education, for both ERA and utilities, is outside the scope of this report. However, an informative and useful "... detailed public education strategy designed to increase knowledge and understanding as well as enhance the acceptance of the reformed energy sector among key decision

makers, industry associations, journalists, and the public.” was recently drafted.² A review of the Swartzbaugh and Amarsanaa report will provide a good guide to the components, purpose, and processes of a typical public education program.

Connection/disconnection procedures or rules are well known to the ERA. They should contain consideration for adequate notice of possible disconnection and the circumstances that can lead to disconnection. Requirements for the reinstatement of service after disconnection (reconnection) should also be developed in the procedures or rules, such as full or partial payment of unpaid utility charges, payment of an administrative fee to reactivate customer records in the utility billing office, and similar considerations. These rules should also clearly state that the customer is responsible for full and timely payment, and that the customer cannot fraudulently obtain energy. Ownership of facilities such as the distribution wire and meter, as well as maintenance responsibilities of the customer and utility company should be clearly and completely stated.

Cold weather disconnection is an important consumer protection for Mongolia because of its severe cold weather climate. Rules and procedures related to this topic are intended to assure that energy is not disconnected, especially for non-payment or partial or late payment, during the coldest times of the year, typically when the outside temperature is expected to consistently remain below freezing. Procedures must, however, consider allowing for disconnection when the average seasonal temperature again rises above freezing, and should allow utilities to not reconnect customers who have been disconnected until all of their arrearages have been paid. In addition, a fee may be assessed for the reconnection and reinstatement of energy services.

Low-income home energy assistance is a targeted subsidy directly from the state to either the customer or the designated heat providing utility. Such a program is not directly a regulatory program, but is often recommended to customers by the regulatory agency. Unlike “life-line” and other below-cost pricing schemes, this type of subsidy or customer protection program does not distort energy usage by sending wrong economic indications about the actual cost of energy. These programs can provide payment to network utilities such as electricity and central heat, as well as to other energy sources such as wood, coal, or bottled gas, so they do not favor any particular type of energy source. This type of consumer assistance has more versatility or applicability than regulated utility pricing schemes or tariffs because it can be applied to rural customers and customers not connected to conventional network energy suppliers as well as to network customers.

So-called “life-line” pricing schemes usually provide a basic level or block of energy or services at below cost prices. The amount of energy and the actual price are issues that are very controversial for every regulatory agency and utility company. The below cost provision of service in life-line schemes means that other customers must be charged more than cost of service for energy above the life-line amount in order to subsidize the customers paying the reduced life-line rates. Part of the problem with establishing a reasonable basic level of service or amount of energy has to do with whether or not

² Swartzbaugh, J., and Amarsanaa, S., August 2002, “Public Education Strategy for Energy Sector Reform”, Report to USAID.

heating or cooking with electricity is to be subsidized in the life-line block of energy. If not, then a small amount of energy for lighting and minimal refrigeration, perhaps 75 to 150 kWh, may be all that is included in the life-line rate. If heating by electricity is to be considered a basic need, then the initial below-cost amount of life-line energy would need to be larger.

Even if not metered, there may be a very low price charged for life-line customers. For example in some countries, such as Indonesia, a low-amp circuit breaker is installed for low-income or life-line customers. This limits the amount of energy that the customer can actually receive from the distribution line, thus automatically controlling the maximum electricity used by a customer.

Universally applied life-line rates send the wrong economic message to customers. That is, when life-line rates are not targeted to those truly low-income and needy customers, the true cost of energy is not apparent to customers, so the self-interest motivation to conserve and use energy wisely, in order to save money, is diminished. If life-line or below cost initial-block rates are available to all consumers they provide an advantage to customers who are not low-income and who are quite able to pay the actual full cost of electricity. Also, energy conservation customers, who use more efficient devices but are able to pay the full cost of electricity, gain an advantage.

Consideration for “load retaining” special tariffs may not be one of the first areas one thinks of relative to consumer protection. This kind of tariff allows a large customer who has the ability to stop buying energy from the distributor or system to be considered separately for a special pricing scheme that may be below what other similar customers who do not have the ability to leave the system must pay. The concept is that it is better to recover some revenue (cover the fixed costs for example) by discounting the tariff price, and thus retain the customer and some (lower) revenue, than to totally lose the customer’s contribution to revenues. If such a customer leaves the system, the fixed costs to serve that customer are still in the system and must be paid for by all remaining customers. Thus it can be in the remaining customers favor (consumer protection) to allow a lower special tariff in order to retain the load of the large customer who would otherwise leave the system.

Special distribution system extension policies may seem discriminatory to customers desiring to have the system extended to them. However, if significant cost is involved in building and equipping the extension (such as long distances or large transformers or a substation), then the company needs to be assured that it will make enough revenue from the customer over a reasonable period of time (perhaps 5 or 10 years) to pay for the cost of the extension, as well as the energy used by the customer. If the customer does not pay for some or all of the extension costs, and then disconnects after only a short time, the remaining customers of the system must pay for the costs of the extension, even though they may gain no benefit. Thus, customer protection is enhanced when the regulatory agency allows the company to impose a special system extension fee or tariff on customers such as described in this paragraph.

THE STATUS OF ERA CONSUMER PROCEDURES

This review indicates the law generally provides for the ERA to carry out consumer protection actions. The ERA appears to be actively embracing concepts of consumer advocacy and protection. Table 1, below, compares the status of implementation or development of these procedures or rules in the ERA and regulatory agencies of several other countries.

TABLE 1
Consumer Protection Procedures or Rules

	ERA	Kyrgyzstan	Indonesia	Slovakia	USA
Single “Consumer Protection” Rule	No	No	No	No	No
Recording, tracking, resolving complaints	Yes	Beginning	No	Yes	Yes
Docket control, data management	Beginning	No	No	Beginning	Yes
Public notice, Public hearing	No	Beginning	No	Beginning	Yes
Public education	Beginning	Beginning	No	Beginning	Yes
Connection, disconnection	Yes/No	Yes	No	Yes	Yes
Cold weather disconnection	Yes/No	No	NA	No	Yes
Low-income heating assistance	No	Beginning	NA	Not targeted	Yes
“Life-line” pricing schemes	Considering	Yes	Load controlled	No	Yes, targeted
“Load retaining” special tariffs	Beginning	No	No	No	Yes
Special system extension policies	No	No	No	No	Yes

The ERA has initiated the building of capacity of an Advisory Board (or Council) that could be helpful to the ERA in consumer protection, particularly in the area of public education. Interviews with ERA staff and UBEDN and UBHN lend further support to the sense that, although the present experience and capacity are small, both ERA and utilities understand and support the need to have good consumer protection procedures or rules and an independent ERA to uniformly and objectively implement those procedures and rules.

If the Advisory Board exists primarily as a surrogate for public interaction i.e. to replace public hearings before the ERA, it should not be encouraged in that role. Rather, the ERA through law and/or rule should immediately begin gaining and applying capacity to hold public hearings and to provide constructive public notice of hearings and meetings

of the ERA. The public should be encouraged to attend such meetings and hearings and not rely on a bureaucratic board to solely represent the broad public interest.

The ERA has accomplished more than most fledging regulatory agencies found in other developing economies in its very short existence, and it should be commended for this accomplishment. However, as has been correctly observed, in order to continue to move forward in a timely and effective manner, “The ERA will need help in consumer relations, complaints management, dispute resolution procedures, handling legal cases, enforcement procedures and in instituting, if possible, public hearings.” It can be noted that all of these areas or activities can easily be identified in some manner with consumer protection. It is also worth noting that these are all generally common consumer protection procedures or activities that are being developed in regulatory agencies globally.

Specifically, with respect to the short list of examples of consumer protection areas presented in this review, the ERA has a consumer complaint process in place and is working on improving its usefulness and effectiveness. There is some organization relative to uniquely identifying documents and tracking and archiving them. However, these are areas where the ERA could benefit greatly from outside technical assistance and training. The presentation by Tersztyanszky on “Consumer Protection and Complaint Handling In Hungary”, cited above is a good framework and source of draft rule language for customer complaint procedures.

As is noted throughout this review and by others, public notice and public hearing procedures are fundamental to a regulatory agency’s responsibility and effectiveness. These procedures are not in place at the ERA. This significant deficit from international best practices needs to be addressed immediately.

The ERA recognizes that public education is an important activity and has started an initiative in this area with regular informational releases to the media. The ERA recognizes it needs to do more and anticipates additional technical assistance from donors in this area.

Connection and disconnection procedures seem to exist to a limited extent. The UBHD does not disconnect customers when the temperature falls below -5C, and both UBEDN and UBHD have license language regarding disconnection for lack of payment. This is a start but must be made more detailed and a procedure or rule in this area should be developed at the ERA.

The status for the several other areas chosen for this review can be found in Table 1, above.

RECOMMENDATIONS ON PROCEDURES

The ERA has shown good initiative and professionalism by moving forward with the Advisory Board made up primarily of utility and consumer representatives. During

development of this report the ERA requested technical assistance in developing objectives and actions to be considered or undertaken by the board. A short list of appropriate activities is provided.

It is recommended that the Advisory Board consider pursuing the following types of activities:

- develop and implement a public education strategy or campaign relative to the energy sector, including discussions of cost of providing energy, energy conservation, and the role of the ERA, this could be in conjunction with ERA and utility companies (see the Swartzbaugh and Amarsanaa report cited elsewhere in this report);
- create a knowledgeable group of speakers and actively promote important energy sector issues to consumer groups, government, parliament, schools and universities;
- lobby for greater political and financial independence of the ERA;
- provide recommendations to the ERA with respect to public notice and public hearings; and,
- provide recommendations to the ERA relative to other specialized procedures or rules and actions such as those discussed earlier in this report in the section on Common Consumer Protection Practices.

Additionally, the Advisory Board should undertake its own strategic planning exercise to self-determine what it believes to be its most important goals and objectives and to develop a list of activities the board finds to be in the public interest and supportive of its role to advise and support the ERA in its regulatory mission.

If it is determined, either from the law or from internal analysis, that the Advisory Board is merely a substitute for robust public notice and public hearings, it should begin planning for its early demise. In a modern, transparent, democratic era there is no need for a board to act as surrogate or substitute for the interested and affected public relative to receiving public notice and participating in public hearing procedures.

It must be noted in these recommendations that the ERA has participated in the past in reciprocal site visits (study tours) for consumer protection capacity building with the Minnesota Public Utilities Commission (MPUC) arranged by USEA with USAID sponsorship. Unfortunately, a visit by the MPUC, scheduled for July 2003, has been cancelled. This is a set-back for capacity building of the ERA in developing consumer protection procedures and public education knowledge and expertise. It is recommended that a suitable substitute regulatory partner be identified as soon as possible.

It is recommended that a basic complaint handling procedure and draft rule be developed based on the following draft language. Such a rule is necessary to assure that all parties understand and have a consistent procedure to follow when being approached by customers with complaints. Adherence to such a basic rule, especially by members of government and parliament, will add order to the system and make complaint resolution more effective and efficient.

Draft rule for handling of customer complaints

This rule applies to all parties and is to be followed by all parties: ERA, company, government, customers, and other entities.

1. First contact of complainant is the utility licensee complaint department; if other parties are contacted, they shall refer customer to the utility licensee complaint department
 - Complaints made to licensee meter readers, technicians, or engineers shall be referred to the licensee complaint department
2. Second contact, if complaint cannot be resolved between complainant and licensee, is referral to ERA complaint department.
3. Last contact is formal appearance at a public hearing before the ERA Board of Directors for a decision by the Board. Both complainant and licensee must appear at the ERA public complaint hearing, which shall be publicly noticed.

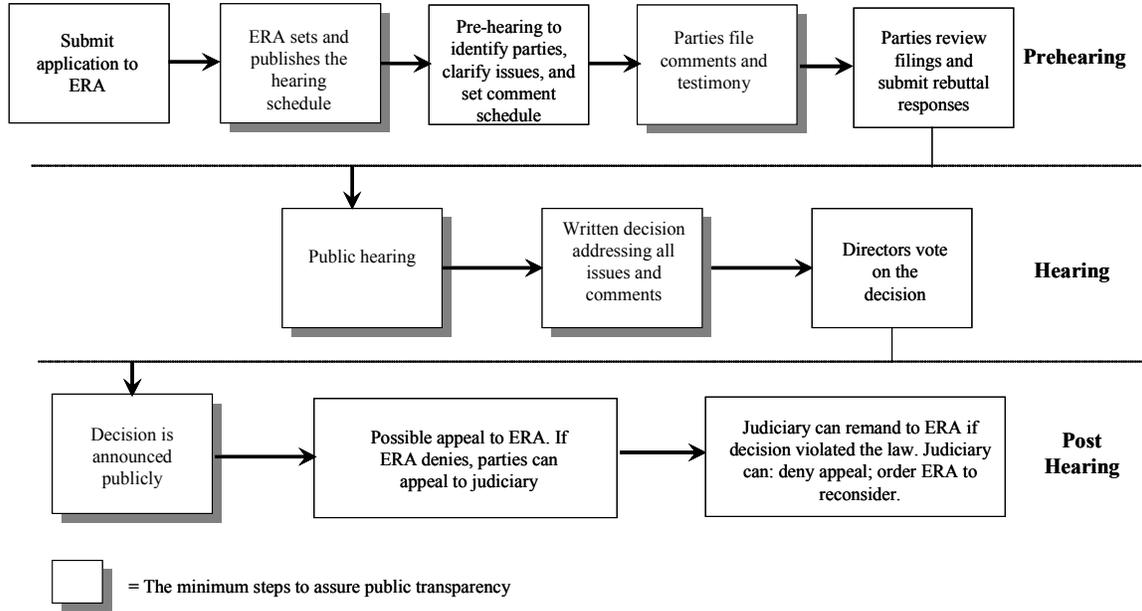
ERA and the licensees, perhaps with Advisory Board, should develop common complaint form to make it more efficient to track data and to move the complaint through the steps of the process.

As indicated in the section on Common Consumer Protection Procedures, above, an important common aspect of consumer protection, complaint resolution, good public education, and building the confidence and respect of all parties in regulatory processes is the public hearing process. Future technical assistance, and if necessary policy efforts, should be directed toward developing official procedures or rules, and amendments to the law if appropriate, to require public hearings for purposes of setting tariff terms and prices, and quality of service as well as for resolving consumer complaints at the ERA Board level if they are not able to be resolved by less formal dispute resolution means.

The ERA should gain knowledge and expertise about all forms of public notice and public hearings. Figure 1, below, provides a schematic of some typical steps or procedures associated with a formal hearing such as a rate case. Not all regulatory agencies follow all the steps indicated, and some include additional or different procedures than are illustrated. Even without detailed additional technical assistance by knowledgeable experienced consultants, it is recommended that the figure be considered as a guide or framework for rule drafting during the formulation or development of any public hearing procedure or rule by the ERA. Generally, definite time-frames are specified for publication of notices, and for the various steps of the public hearing procedure.

FIGURE 1

Public Hearing Process



At the current time, the ERA is sensitive to and receptive to increasing its knowledge and expertise relative to consumer protection, public education, and other related regulatory areas. In order to capitalize on this and to continue to develop the public advocacy mind-set necessary to institutionalize high quality consumer protection in the ERA, it will be necessary to arrange for extended training and experience with consumer protection departments and activities of other countries' utility regulatory agencies. It is recommended that donor agencies should consider extended placement of ERA staff for "on the job training" (OJT) sabbaticals or internships (perhaps several months, but certainly more than only one or two weeks) in a department of a US regulatory agency that is primarily responsible for customer relations/complaints. Reciprocal placement of US regulatory staff in the ERA should also be considered. This sort of placement is complicated by language constraints but is a best-practice method of transferring knowledge and building capacity and should be carefully considered by any donor agency that is seriously interested in building solid long-term regulatory expertise at the ERA. Such expertise is fundamental to further reforms and to eventual development of competition in the energy sector of Mongolia. As with site visits or study tours, a binding commitment of the Governor or appropriate state authority to grant release time for providing training, especially for reciprocal visits to Mongolia by US staff, must be obtained before an OJT agreement such as recommended above is finalized.

The ERA should use the presentation on consumer complaints by Tersztyanszky as a source of draft rule language for formalizing and detailing their existing customer complaint procedures.

Specific technical assistance in capacity building training in areas such as public hearing processes, including proper public notice, document identification and control, data management, and public education is strongly recommended. These are also all areas that would benefit from OJT experiences, as outlined above. Because the consumer protection personnel of both the ERA and regulated utilities can be expected to be a dynamic group, with continual entry and exit, and because of the necessity of long-term and repetitious presentations for successful public education to occur, it is recommended that all training activities of the type outlined above should be rigorously developed and conveyed with some form of “train the trainer” component, such that they can be readily repeated and modified by ERA and others in the future as and when needed.

CONCLUSIONS

The level of effort and scope of work for this review task did not allow for an exhaustive and detailed provision of specific suggested language for all possible consumer protection related procedures that an energy regulatory agency should consider for adoption or implementation.

The review focused on the current state of affairs of the ERA relative to typical consumer protection related procedures, rules or activities. The ERA exhibits solid positive progress toward developing into a credible objective consumer-aware regulatory agency. As a new agency under a relatively new law, it has done an acceptable job in the area of consumer protection.

Although it would be nice if a “model” consumer protection rule existed, one does not. There is not a single comprehensive set of “consumer protection rules” in the utility regulatory universe. What do exist are important stand-alone procedures and rules that are more or less directly appropriate or applicable to the generic concept of consumer protection. They exist in technical specifications, safety rules, connection and disconnection rules, public hearing processes and procedures including public notice, winter disconnect rules, and many other rules and procedures that are generally spread throughout a regulatory agencies rules, regulations, resolutions, and procedures. It can be said that utility regulatory consumer protection is as much a conscious mind-set that is continually applied to all aspects of regulation, as it is a single rule or specific set of closely related rules. Thus, the customer relations and complaint resolution department and specialists, whether in the regulatory agency or utility, must be aware of all the agency’s rules and procedures as they might be applied to the protection of consumers’ rights, obligations, and resolution of disputes between licensees and consumers.

The ERA appears to be a worthy recipient of technical assistance and other donor support. Based on the willingness and evidence of direct applications of this assistance and the progress the ERA has made over the short period of its existence, the recommendations contained herein should be strongly considered for support and implementation by USAID and other donor organizations intending to provide technical assistance or other forms of support to the ERA.