



USAID
FROM THE AMERICAN PEOPLE

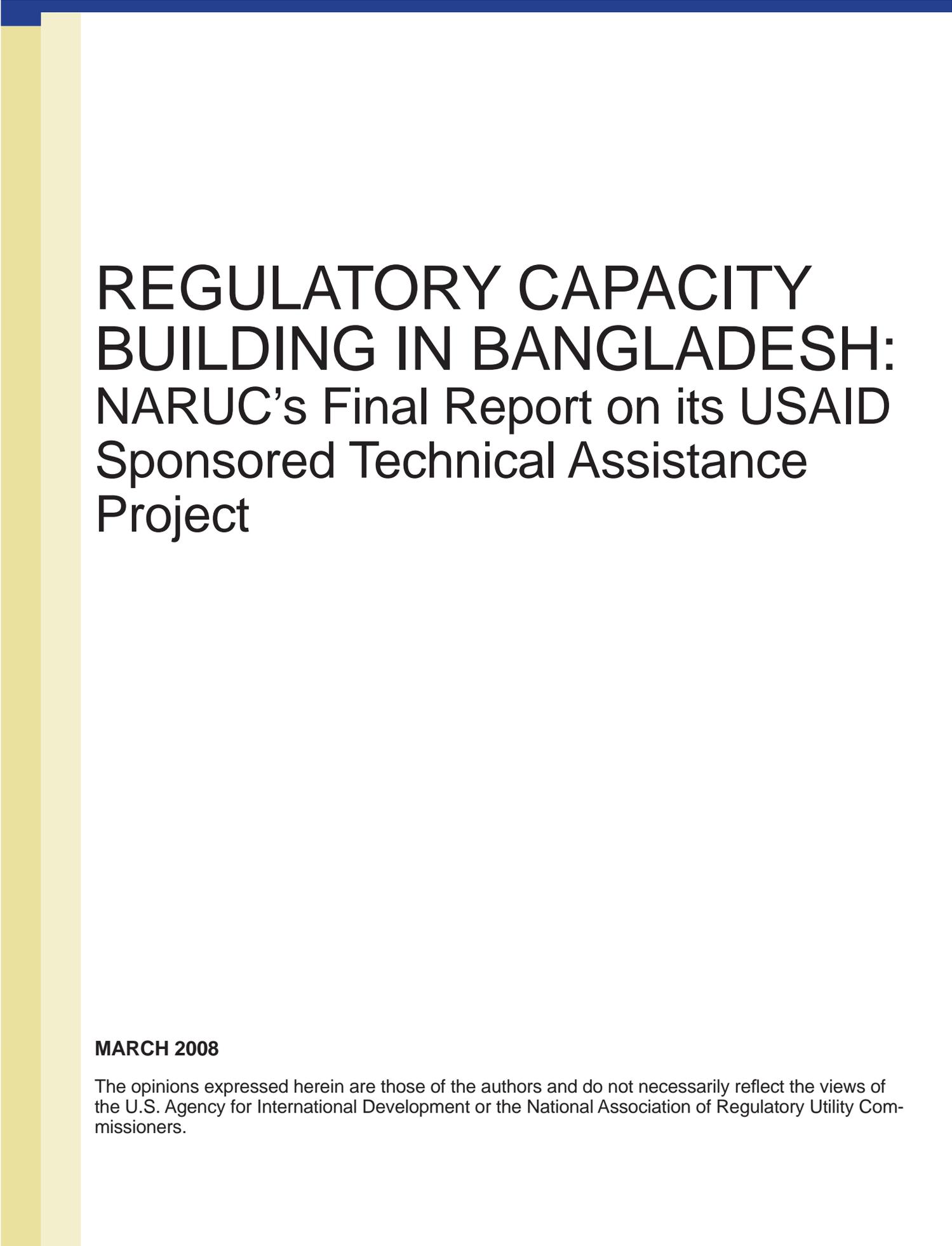


REGULATORY CAPACITY BUILDING IN BANGLADESH: NARUC's Final Report on its USAID Sponsored Technical Assistance Project

MARCH 2008

This publication is produced for the U.S. Agency for International Development (USAID) and was prepared by Jason P. Czyz, Troutman Sanders LLP, on behalf of the National Association of Regulatory Utility Commissioners

This report was made possible through support provided by the USAID Bangladesh Mission and the Energy Division of the Bureau for Economic Growth, Agriculture & Trade under the terms of its Cooperative Agreement with the National Association of Regulatory Utility Commissioners, No. GEW-A-00-02-0000-00.



REGULATORY CAPACITY BUILDING IN BANGLADESH: NARUC's Final Report on its USAID Sponsored Technical Assistance Project

MARCH 2008

The opinions expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Agency for International Development or the National Association of Regulatory Utility Commissioners.

THE BANGLADESH ENERGY REGULATORY COMMISSION (BERC)

The Bangladesh National Assembly passed the BERC Act in 2003, creating the first energy regulatory agency in Bangladesh. The BERC Act vests the Commission with a great deal of authority, including the ability to license, set tariffs, protect consumers, arbitrate disputes, sanction regulated entities, and a number of other powers. The BERC's mandate gives it regulatory authority over electricity, natural gas, and petroleum. In April 2004, the Government of Bangladesh (GoB) appointed the first two Members (Commissioners) to the BERC.

In June 2004, the National Association of Regulatory Utility Commissioners (NARUC), with funding from the United States Agency for International Development, began working with the BERC to assist in developing the Commission. Initially, NARUC focused solely on the BERC but as its Program for Regulatory Capacity Building evolved, the project developed into a two pronged approach: building the capacity of the BERC and working with the Consumer Association of Bangladesh (CAB) to encourage consumer participation and consumer education about the energy sector.

The concept of economic regulation is new to Bangladesh, and for the most part, a regulatory agency is unfamiliar to the country. Most of the energy companies in Bangladesh are owned by the government, and historically the Ministry of Energy, Power, and Mineral Resources determined the rates consumers pay for energy services, playing an active role in managing the country's energy companies. Overcoming the mentality that the BERC should operate as a typical administrative department of the Ministry is ongoing and will take time, but the BERC is exerting its authority and demonstrating that an independent regulator will benefit the government, industry, and consumers.

The beginning phases of the project consisted of assisting the Members with securing office space, furniture, interpreting the BERC Act, creating an organizational chart and position descriptions, drafting operational regulations, and lobbying the government to provide resources for the operation of the Commission. However, government resources were not forthcoming and the BERC was forced to take a loan from a regulated entity as bridge funding. Currently, the Commission obtains its own funding from licensing fees.

In addition to assisting the BERC with laying the groundwork for its operation, a NARUC consultant worked with the Members on a daily basis to explain the fundamentals of energy regulation; focusing on developing a regulatory commission that works within the social, political, and economic realities of Bangladesh. Throughout the duration of the project, NARUC concentrated on designing suggestions and solutions which are feasible for Bangladesh yet based on well recognized best practices and principles of utility regulation.

In June 2005, the GoB appointed a Chairman, giving the BERC a quorum for the first time, but two Member positions remained unfilled. Throughout this initial phase, work between the

BERC and NARUC continued with the drafting of a variety of regulations on such topics as hearings, docketing, confidentiality, ethics, etc.¹ However most importantly, the Commission and NARUC drafted a licensing regulation and held a public hearing that invited stakeholders to comment on the regulation, some of which were incorporated into the revised licensing regulation. This was the first time a public hearing had been held related to the energy sector. Despite initial resistance to the idea of holding a public hearing, the Members were surprised by the level of participation from stakeholders as well as how fruitful the questions and comments were to drafting the final version of the license regulation.



Participants at the BERC's First Public Hearing

As part of the license regulation, the BERC and NARUC created license applications and a schedule of fees. The licensing regulation is important to the operation of the BERC because it provides an independent source of funding through fees and establishes the groundwork for the BERC's regulatory authority over energy companies. Despite holding a public hearing, in which the GoB participated, the government decided that it needed to review the licensing regulation before allowing it to be published in the official gazette.² The GoB took more than one year to review the licensing regulation, causing substantial delays to the development of the BERC.

Since the publication of the licensing regulation, the BERC has licensed a number of energy companies. In total the BERC has licensed more than 379MWs of generation, the Power Grid

1 For a full list of regulations please see page 5.

2 Publishing a regulation in the gazette is similar to publishing a regulation in the Federal Register in the United States and is required in Bangladesh before a regulation has the force of law.

Company of Bangladesh (electric transmission), Dhaka Electric Supply Company (electric distribution), and the Gas Transmission Company of Bangladesh. At the time of this report, there is another 284MW of generation capacity pending license approval.³

In August 2006 the GoB appointed a fourth member to the Commission and by the end of 2007 the GoB appointed a new Chairman and filled all five Member positions for the first time. However, the BERC is still hindered by the lack of permanent staff and GoB interference in the regulation-making process. At this time, the technical staff is “secunded” from GoB Ministries and GoB owned energy companies, meaning they are loaned to the BERC. Without permanent staff, the BERC will not be able to properly regulate the country’s energy sector. Furthermore, it is difficult to justify expending training resources on staff that may be recalled by their parent agencies at any time.

Even before the GoB published the licensing regulation, the Commission and NARUC began working on tariff methodologies for electricity generation, transmission, and distribution as well as natural gas transmission and distribution. The electricity generation tariff regulation is currently under government review.

While it is difficult to quantify, perhaps NARUC’s single greatest contribution to the BERC consisted of its daily presence at the Commission. As an in-kind contribution to program, the BERC donated office space for NARUC’s consultants. Due to this proximity, the BERC regularly called on NARUC’s consultants to assist on a variety of issues, such as ministerial requests for comments on the revised Captive Power Policy, Small Power Policy drafts, the proposed Natural Gas Act, and a variety of other substantive and procedural matters. In addition to sharing U.S. experiences through regular training activities at the BERC, NARUC provided the Commission with examples of regulatory systems in Europe and Eastern Europe as well as Africa, South Asia, and the Caribbean.

As part of its Regulatory Capacity Building Project, NARUC began working with the Consumer Association of Bangladesh (CAB) in early 2006. This aspect of the project consisted of training district leaders about the BERC, which included how they can become involved in the energy sector as well as discussion forums about the major energy issues confronting the nation. As a subpart of its work with CAB, NARUC and CAB held workshops with journalists to discuss developments at the BERC and pressing energy sector issues. The forums and workshops consisted of a lively exchange of views with a high level of female participation for the activities held in Dhaka. Additional effort is needed to encourage female participation in activities outside of Dhaka.

As a capstone project, NARUC presented CAB and the BERC with a model regulation to create a sustainable funding mechanism to provide consumer organizations with the monetary means to participate in BERC proceeding and continue consumer education.

3 For a full list of granted and pending licenses please see page 7.

REGULATIONS AND OTHER WORK PRODUCTS

Since the hearing on the licensing regulation, the BEREC has held a number of hearings and issued licenses to 3 small power producers, 26 captive power producers, and 2 independent power producers. NARUC also developed a website for the BEREC, which is currently managed and updated by the Commission.⁴ The website is designed to facilitate the publication of information relevant to investors and companies as well as consumers. Recently, the BEREC added a “notice board” link to provide up to date information on the Commission’s activities. The website provides a low cost and efficient means for the BEREC to post notices about its upcoming meetings and hearings. More needs to be done for the website to truly become a portal for the BEREC, including more regular updates, but the current website provides a good foundation for the Commission to build upon.



BERC/NARUC/USAID Workshop on Tariffs and Rate Design

In 2006, the BEREC approved its first rate increase, which took effect in early 2007. However, the rate increase was at the request of the GoB, not by an individual company, and the BEREC largely played a perfunctory approval role. NARUC assisted the BEREC with performing a basic analysis of the request, but this rate increase approval did not consist of the usual steps or analyses undertaken in a rate case. The willingness of the GoB to allow its regulatory agency to adjust rates has yet to be truly tested.

4 <http://www.berc.org.bd>

The draft tariff methodology regulations prepared with the BERC will provide the Commission and regulated entities with a basis upon which to conduct a cost of service rate analysis in order to determine the level of rate adjustments needed. The methodologies include the latest design features, such as a fuel pass through clauses to further encourage the development of privately-owned generation. In all, the BERC and NARUC have drafted a number of regulations that are integral to the rate-making process, such as the hearing regulation, but they are still not passed (gazetted) at the time of this report.

List of Regulations and Other Key Documents

- **Organizational Chart.** The organizational chart provides a schematic of the structure the BERC will adopt when it moves forward with hiring staff. According to the GoB, the organizational chart needs to be approved by the appropriate ministries. Despite it being one of the first tasks completed by the BERC and NARUC, the government has yet to unconditionally approve the organization chart.
- **Terms of Service for Staff.** The service regulation outlines the BERC's employment policies, terms, conditions, and general information on employees' rights and responsibilities.
- **Position Descriptions for Staff.** The position descriptions explain the functions of senior staff and departmental heads at the BERC, as outlined in the organizational chart.
- **Budget, Accounts, and Reporting Regulation.** This regulation describes the powers of the BERC to use its funds for the functioning of the Commission. It also provides for auditing in order to ensure transparency and proper use of the funds entrusted to the BERC.
- **BERC Fund Regulation.** This regulation authorizes the BERC to set up its own bank accounts and oversight mechanisms for the proper use of funds. The BERC fund regulation also empowers the Commission to take out loans for the operation of the agency.
- **Statistics (also concerning docketing).** The statistics regulation establishes the standards and procedures by which parties file information with the BERC. The regulation also provides for the basic requirements for accessing information filed with the BERC as well as limits situations in which the BERC will deem certain information confidential.
- **Ethics (rules of conduct).** The code of conduct stipulates how conflicts of interest should be handled, post-service restrictions, restrictions on personal investments and ownership interests in regulated entities, limits on political activities, and sanctions for violations. Overall, the code of ethics seeks to avoid even the perception of impropriety.
- **Dispute Settlement.** The dispute settlement regulation deals with both disputes between regulated entities and disputes between regulated entities and consumers. More needs to be done to spell out how a dispute will be settled and made binding, through such meth-

ods as arbitration. However, this regulation provides the BERC with a foundation upon which to build.

- Licensing (including applications, fee schedule, and regulations for small power producers and license waivers). All entities engaged in electricity generation, transmission, transportation, marketing, storage, distribution and supply of energy must apply to the BERC for a license or seek a waiver. The licensing regulation also requires a licensee to provide the BERC with information about the installation or service so that the BERC has enough information to properly regulate the entity. The fees derived from the licenses provide the BERC with operational funding independent from the government's budget.
- Meeting. The meeting regulation describes the types of meetings the BERC may hold other than hearings. For instance, public meetings to address important issues, procedures and circumstances for holding administrative meetings (closed meetings), emergency meetings, and how to conduct meetings and the amount of time needed to properly give notice to all Members of the BERC.
- Hearing. This regulation describes the basics of how to conduct a formal hearing. The regulation also describes procedures for both contested and uncontested matters as well as applicable notice provisions and appeal procedures.⁵
- Electricity Generation Tariff Methodology. This regulation provides information about how to calculate the tariff for an electricity generator. It is important to note that per the BERC Act, independent power producers with power purchase agreements executed before the establishment of the BERC do not need to file for a BERC approved tariff.
- Electricity Distribution Tariff Methodology. The electricity distribution regulation outlines the methodology to be used to calculate the rate distribution utilities may charge consumers for electricity. The regulation includes data requirements for distribution companies as well as application procedures.
- Electricity Transmission Tariff Methodology. The transmission methodology regulation includes a code of conduct for transmission providers which provides for non-discriminatory access to the transmission system. This regulation offers the BERC some flexibility to adapt and change to the circumstances of Bangladesh's evolving energy sector.
- Natural Gas Transmission Tariff Methodology. As with all of the tariff methodologies, the natural gas transmission tariff methodology provides an example calculation sheet for stakeholders for their ease of use when compiling their tariff applications for the BERC's approval.

5 A hearing examiner's manual will need to be prepared when the BERC begins to regularly hold formal public hearings, especially hearings on rate cases.

- **Natural Gas Distribution Tariff Methodology.** Currently, the price a consumer pays for natural gas is based on the number of burners they have in their home (2 or 4). The natural gas distribution tariff methodology is designed to move companies and consumers to a cost of service calculation which will also need to be coupled with an effort to meter consumers. Some consumer activists criticize the current burner pricing structure as promoting waste of the country's natural gas resources since a consumer is not charged based on actual useage.

Licenses

Type of Licensee	Number of Licenses Granted	Total MWs
Independent Power Producers	2	61.7MWs
Small Power Producers ⁶	3	67.66MWs
Captive Power Producers ⁷	26	239.07MWs
License Waivers ⁸	44	10.99MWs
Enlistment Licenses ⁹	4	
Electricity Sales ¹⁰	2	6MWs
Electricity Sales ¹¹	3	9MWs
Independent Power Producers ¹¹	6	247.4MWs
Small Power Producers ¹¹	3	37.19MWs
License Waivers ¹¹	15	4.28MWs

Training

Three BEREC Members and a senior official from the Ministry of Law received training in the United States during the course of NARUC's project. The first BEREC Chairman and Ministry of Law official attended Camp NARUC at Michigan State University, visited the Texas Public Utility Commission, the Federal Energy Regulatory Commission, and the Pennsylvania Public Utility Commission.

One Member attended the rate design school at New Mexico State University and met with the Chief Administrative Law Judge at the Federal Energy Regulatory Commission, and the District of Columbia Public Service Commission.

6 Typically, the maximum size allowed is 13MWs but the BEREC has allowed installations with higher capacities to qualify as small power producers in certain instances.

7 There is no size limit for captive power but there are back-up power requirements.

8 License waivers are granted to generators that produce 1MW or less.

9 Enlistment licenses are given to companies that are incumbents, pre-dating the BEREC. The companies that have received licenses do not own any generation.

10 Electricity sales licenses are for the wheeling of captive power through a third parties' distribution lines.

11 Licenses are pending.



First National Conference on the Consumer Movement

An additional Member attended the World Forum on Energy Regulation III and met with the Ontario Energy Board and the Public Utilities Commission of Ohio. In addition, several Members and seconded staff participated in training activities facilitated by the South Asia Regional Initiative for Energy (SARI/E).

When the BERC hires full-time technical staff, the new staff will need substantial training in regulatory procedures, rate design, customer protections, data management, public relations, and a variety of other topics. These training needs may be met by the resident consultant, participation in regional activities such as SARI/E, and a partnership with an established regulatory commission, and other activities.¹² At the same time, regulated entities, government officials, and consumer groups need further training about the BERC's role and mandate to regulate the energy sector in Bangladesh.

Consumer Work

One of the primary reasons for the development of utility regulation in the United States centered on consumer outcry about the practices of privately owned infrastructure monopolies, such as railroads and grain towers. Unlike in the United States, consumers have traditionally had almost no voice in energy matters in Bangladesh and the private sector's participation has been limited to several independent power producer projects and natural gas extraction. During its USAID-sponsored project, NARUC endeavored to foster understanding about the role of the BERC, consumer protections, and create consumer demand for a fully functional regulatory commission.

12 For information about NARUC's regulatory partnership program please see: www.narucpartnerships.org.

NARUC's partner in this endeavor, CAB, is the oldest and most established consumer organization in Bangladesh, with a membership network of more than 450 district leaders. CAB's traditional focus has been on food quality, truth in advertising, women's health, etc., but the Association recognizes the link between adequate and reasonably priced energy services and its other programs.

The joint workshops organized by NARUC and CAB consisted of training district leaders about the BERC and forums for discussing pressing energy sector issues, such as the lack of electricity and billing practices. On average, 40 district leaders in 5 groups attended the workshops, which lasted two days each. NARUC, CAB, and the BERC also organized workshops for journalists who cover the energy sector in Bangladesh to encourage their participation in Commission proceedings.

NARUC and USAID's assistance to CAB was mostly in the form of training, orientations, seminars, workshops and one conference. The following lists the primary activities:



First National Conference on the Consumer Movement

- Consumers International (www.consumersinternational.org), a federation of consumer organizations around the world declared March 15, 2006 as World Consumer Rights Day. The theme of the World Consumer Rights Day was: "Energy: Sustainable Access for All." NARUC and USAID provided financial support for CAB to observe this day at the four major divisional headquarters of Bangladesh, which included wide scale publicity about energy access issues in each town. The then State Minister for Power, Mr. Iqbal Mahmood, was the chief guest at the seminar held in Dhaka and Professor Nurul Islam, Chairman for the review committee for the draft gas policy presented the keynote paper.

Similar events took place in other towns and involved local dignitaries and energy consumer rights activists.

- On May 25, 2006, NARUC held a workshop in Dhaka for CAB and the Forum for Energy Reporters Bangladesh on stakeholder participation in the BERC decision-making process. Fifteen officials from CAB and an equal number of energy reports participated as well as the Chairman and Members of the BERC.
- On July 31, 2006, CAB organized a discussion meeting with members of the media on energy regulation and consumers' rights and responsibilities.
- On September 4, 2006, CAB held a discussion meeting among the civil society groups, professional organizations, business chambers, women's groups and others. The meeting was well attended by more than 70 participants and members of the press. The President of the Dhaka Chamber of Commerce and Industry (DCCI) was the chief guest. A similar event was organized in Chittagong at the Chittagong Chamber of Commerce on September 16, 2006. About 100 consumer activists, media representatives, business people, local politicians, and others attended.
- Between April 16, 2007 and July 19, 2007, 160 CAB members from across the country received training during 5 separate workshops, each for two days in Dhaka. The participants represented a cross-section of Bangladeshi society, with delegates from diverse backgrounds, including a number of female participants. USAID representative McDonald Homer and the Chairman of the BERC addressed the inaugural session on April 16.
- On April 22, 2007, CAB organized a discussion meeting on an "Energy Consumers' Bill of Rights for Bangladesh" at the CIRDAP Auditorium in Dhaka, with the goal of drafting an Energy Consumers' Bill of Rights to be adopted by the BERC. Dr. Tureen Afroz, Assistant Professor of the School of Law, BRAC University and the Executive Director of the LawDev (Bangladesh), presented the keynote paper. The BERC, Power Development Board (PDB), Dhaka Chamber of Commerce and Industries (DCCI), Nagorik Shomaj, LawDev (Bangladesh), Farmers' Voice, German Development Cooperation (GTZ) and many other civil society and energy sector activists participated in the meeting. Following the meeting, a select drafting committee comprising Dr. Tureen Afroz, Barrister-at-Law; Dr. Kazi Akhtar Hamid, Senior Advocate, Supreme Court of Bangladesh; Mr. Mosharraf Hossain, Ex-Member BERC; Mr. Showkat Hossain, Ex-Member, BERC; Qauzi Faruque, General Secretary, CAB and Mr. Muhammad Rafiqul Husain, Ex-Member Distribution, BPDB, drafted the Consumers' Bill of Rights and formally presented it to the Chairman of the BERC in August 2007.
- On August 22, 2007, CAB organized a day-long orientation on energy consumers' rights and responsibilities for the media in Dhaka. About 30 journalists participated, and the activity consisted of an overview of the energy sector, role of the BERC, and rights and

responsibilities of energy consumers.

- During the last quarter of 2007, NARUC conducted similar workshops for the media in five district towns outside of Dhaka. A total of 150 journalists from Cox's Bazar, Rajshai, Khulna, Sylhet, and Barishal participated.
- In 2007, NARUC assisted CAB in developing a website for consumers: www.consumerbd.org.
- The First National Conference on the Consumer Movement in Bangladesh was held on January 21, 2008. Over 500 delegates attended the conference from across the country. Mr. Akbar Ali Khan, former Adviser to the Care Taker Government and Chairman of the Regulatory Reforms Commission and Ms. Denise Rollins, Acting Chargé d'Affaires & USAID Mission Director, addressed the opening session.

The partnership between CAB and NARUC culminated in a National Conference on January 21, 2008, which brought together more than 500 district leaders to discuss energy sector and other consumer issues. As a direct result of the previous workshops, CAB and NARUC put forward model regulations for the BERC's adoption at the National Conference, which includes the following items:

- A funding mechanism for consumer organizations to participate in the BERC's proceedings as well as for continued consumer education.
- An intervener's fund to assist consumer organizations with the costs of participating in particular BERC proceedings.
- Mandatory notice procedures for the BERC concerning their meetings, rate hearings, and the creation of annual work plan.
- Limits on the types of documents that will be deemed confidential by the BERC.
- Standardization of billing practices and placing limits on the amount of time utilities may back bill customers.
- Regulations for rationalizing load shedding during times of generation shortfalls.
- Consumer responsibilities and disconnection procedures.
- Establishment of a consumer protection department within the BERC.
- Promoting energy efficiency and renewable energy sources.

Overall, the consumer activities provided an opportunity for CAB district leaders to become acquainted with the prevailing energy situation and problems in the country and a forum to discuss possible solutions. The workshops included discussion about production/availability, distribution, accessibility, system losses, tariffs, affordability, and the need for conservation and the sustainable use of energy. The knowledge and experience gained through these workshops and training programs greatly contributed to raising the awareness of district leaders to be consumer activists for energy conservation, proper regulation, and to promote consumers' rights and interests. CAB now has a better network of communications among its members from different parts of the country.

One tangible impact of these activities is that utility service issues are now included in the agenda of bi-monthly CAB district committee meetings. The recommendations put forth in those meetings are subsequently placed on the agenda and discussed in the District Coordination Committee Meetings, presided over by the Deputy Commissioner of the district. On returning to their districts, most participants organized meetings of their own committees to share the lessons learned.

CAB has now begun to take on a more proactive role in energy issues and has started taking part in energy dialogues and Commission hearings. The consumers' point of view is now regularly heard in the BERC's open meetings through participation by CAB representatives.

AREAS FOR FUTURE WORK

Procedural/Operational

1. Staff. The greatest impediment to the development of the BERC has been its lack of staff. It is important for a regulatory agency to have skilled technical staff. This is even more important in the context of the BERC since the Members' terms are only for three years and the staff will need to provide continuity for the operation of the BERC. Per the BERC Act, the Commission should be allowed to set its own pay scale so that it can attract the caliber of staff needed to properly regulate Bangladesh's energy sector.¹³

2. Regulations. The BERC's development has been significantly hampered by the amount of time it takes to pass regulations. The GoB insists that it review and edit the BERC's regulations. If it remains impossible to change the stance of the GoB, the BERC will need to work with the government to develop a standardized system and timeline whereby regulations will be reviewed, processed, and published in the gazette in a timely manner.

Substantive

3. Tariffs. As the BERC moves forward with promulgating its tariff methodologies, the Commission will soon need to begin the process of holding rate cases. As part of this process, the BERC should consider compiling data about the current state of the rates, what the actual cost components are and where they should be in terms of cost of service as well as providing an adequate rate of return. Once the BERC has this data, the Commission should consider drafting a multi-year plan that will gradually increase the rates to the point where they need to be and implement the plan. At the same time though, the BERC should constantly look for ways to increase the efficiency of the utilities it regulates, which includes reducing both commercial and technical losses.

a. Uniform System of Accounts. In order to receive proper data for rate making, the BERC will need to adopt a standard format for data reporting by regulated entities. This will be an important outreach and education activity for the BERC in exercising its regulatory authority over the energy sector.

4. Terms of Service. Most regulatory agencies adopt their terms of service as a condition of the tariff and thus they are usually integrated into the tariff regulations. Due to the amount of time it has taken for the passage of regulations and the level of effort needed for the BERC to pass tariffs, it was recommended that the BERC first adopt its tariff methodologies and then address the terms of service. However, the Commission should turn its attention to drafting and adopting terms of service for electric, gas, and petroleum companies as soon as possible.

13 Per section 13, subpart 2 of the BERC Act, the Commission has the legal authority to set its own pay scale for staff so that it may attract employees with the requisite technical knowledge and skill.

Outreach

1. Outreach to the GoB. During the four years of the BERC's existence, Bangladesh has witnessed the BNP government, the first Care Taker government as well as a second Care Taker government. Due to these changes and the challenges of working with Bangladesh's bureaucracy, it has been difficult for the BERC to effectively reach out to the ministries that need to interact with the Commission. However, building a rapport with the appropriate ministries should be a top priority for the BERC.

2. Consumers. Through NARUC and USAID's efforts, a linkage has been established between the leading consumer groups and the BERC. Moving forward, the BERC should be proactive in reaching out to consumers in order to encourage their effective and constructive participation in the regulatory process.

CONCLUSION

An energy regulatory agency fits within a broader administrative framework, coupled with a legal system that provides a foundation, guidance, and oversight. The development of regulatory agencies in the United States has had a long evolution of expanding and contracting independence and authority which continues to evolve to this day. While Bangladesh has not had the benefit of this experience, the BERC and other regulatory agencies within the country have the opportunity to learn from the successes and failures of other regulatory systems. However, in order for regulation to provide benefits to both industry and consumers, the BERC will need to be much more than an administrative department of a ministry.

Despite its slow start, the BERC is poised to play a key role in the development of Bangladesh's energy sector, which currently experiences regular blackouts and gas shortages due to under investment, lack of oversight, and a variety of other challenges. The appointment of all five Members in 2007 is an encouraging sign and an important step to making the BERC truly operational. The BERC still faces a number of hurdles though, including the lack of permanent staff, opposition from the government to allow the BERC to set its own pay scale for technical staff, and government interference in the regulation-making process. Furthermore, the BERC faces a tremendous amount of work in designing rates that reflect the cost of service and improving the efficiency of the utilities. Much of this work will be politically difficult, even unpleasant, but necessary for the continued progression of Bangladesh's economy and thus the welfare of the Bangladeshi people.