

# Governance and Regulation in the Electricity Sector

Balancing Independence with Accountability

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# Scope for Discussion

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- expansive view of governance
  - more than how boards are appointed and discharge their duties
  - examination of improvements to the design of public agencies and gov't owned companies
  
- narrow focus for application
  - delivery of electricity services
  - assumes involvement of private companies
    - possibly alongside publicly owned companies
  - agnostic on commercial structure of electricity sector (competitive market or vertical monopoly)

# A Matter of Balance

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- electricity is:
  - essential
  - ubiquitous
- electricity service inherently combines:
  - commercial operations – the specialty of businesses
  - public policy – the mandate of government
- business view
  - government needs to stay out of operational details
  - commercial reality gets compromised by political considerations
- government view
  - businesses can't be relied on to deliver on public policy
  - commercial entities are insensitive to political realities
- objective is to have arrangements that are:
  - **flexible** enough to accommodate unanticipated events, and
  - **rigid** enough to insulate from political pressures

# Canadian Electricity Trends

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- engrained history of public ownership with growing desire to involve private sector
  - competing requirements for limited public funds
  - enhanced innovation and general economic growth through diversifying
  
- traditional gov't owned utilities struggle with diversification
  - just-in-time nature of electricity requires centralized control of system
  - suspicion that need for centralized control is being used to justify institutional inertia
  
- regulatory agencies struggle with mandate
  - traditional economic regulatory process based on denying excessive funding requests from utilities
  - new public policies require incenting utility performance in non-economic areas
  
- public view that electricity industry is reactionary leads to proactive involvement of government which results in declining quality of governance
  - governments adopting law that:
    - deals directly with day-to-day activities of utilities
    - bypasses regulatory agencies

# Structures Lead to Outcomes

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- governance issues have at least as much influence on performance as do regulatory policies
  - good governance attracts investment
    - stable policy environment consistent with long term nature of electricity business
  - bad governance undermines performance
    - subsidies required for investment – unsustainable, policy churn
  
- difficulties arise when assigned mandate does not match powers and authorities
  - governments
    - comprehensive powers and authorities and discretion to exercise them
  - agencies
    - specific discretion, powers and authorities defined in law
  - gov't owned corporations
    - broad discretion to exercise general powers and authorities except as circumscribed by shareholder

# Background Paper

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- regulatory governance
  - how regulatory policies are set and by whom
  - relationship between regulatory bodies, governments and courts
- (gov't owned) utility governance
  - relationship between governments, boards of directors and staff
  - degree of independence and control
  - balance between commercial and social objectives

# Metrics for Regulatory Governance

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- government's policy making powers over regulatory agency
- regulatory agency's organizational autonomy and financing arrangement
- arrangements for appointing members
- risk of capture
  - multi-person versus single person decisions and reporting
  - multi-sector versus single sector mandate
- appeals process
  
- case studies – BC, Alberta, Ontario
  - Canada has weak regulatory governance compared to US

# OECD Guidelines for Utility Governance

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- ownership policy
  - shareholder agreement or letter of expectations
  - government ability to direct limited to strategic matters
- appointments to board
  - merit-based, insulated from political influence
- ownership function
  - central coordination in government of all commercial businesses owned
- legislative accountability
  - single person or full legislative body
- avoidance of conflicts
  - utility ownership separated in government from general economic or industrial policy
- board roles
  - strategic direction, hiring CEO
- public interface
  - utility establishes stakeholder policies
  - utility publishes annual reports similar to private sector
  
- case studies – Hydro One, BC Hydro, EPCOR
  - in broad compliance with many guidelines
  - significant specific weaknesses – especially Hydro One and BC Hydro



# Questions to be Answered

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- if electricity balances public service with commercial undertaking, what is the appropriate balance in governance arrangements?
- what changes should be made to governance arrangements in the electricity sector with respect to:
  - regulatory agencies?
  - gov't owned utilities?
- what aspects of governance should be the focus of policy reform?
- what priority should be given to governance reform?
- what issues need further research and analysis?

# Today's Conference

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- purpose
  - assess and debate key governance issues
  - first step in development of draft policy paper on governance in Canada's electricity industry
  
- sessions on:
  - governance of regulatory agencies
  - academic perspectives
  - lessons from international experience
  - governance of state-owned utilities
  
- each session:
  - presentation by panel members
  - discussion among panel members and audience
  
- luncheon keynote speech
  
- final summarizing panel
  - moderator questions
  - discussion among panel members

# Chatham House Rule - official

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- When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.
  
- **Q. Can participants in a meeting be named as long as what is said is not attributed?**
  - A. It is important to think about the spirit of the Rule. For example, sometimes speakers need to be named when publicizing the meeting. The Rule is more about the dissemination of the information after the event - nothing should be done to identify, either explicitly or implicitly, who said what.
  
- **Q. Can you say within a report what you yourself said at a meeting under the Chatham House Rule?**
  - A. Yes if you wish to do so.
  
- **Q. Can a list of attendees at the meeting be published?**
  - A. No - the list of attendees should not be circulated beyond those participating in the meeting.

# Our Conference Rule

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- dissemination of the information after the event
  - nothing will be done to identify, either explicitly or implicitly, who said what without explicit permission of the person involved
  - subject to author's approvals, presentations may be posted on CCRE website
  - the conference agenda, which includes the list of presenters, will continue to be posted on CCRE website
  - a summary report of the conference will be prepared and made public but will not attribute any statements unless specifically approved by the person involved
- media has not been invited and requests to attend have been refused