



REGULATORY COOPERATION & INVESTMENT FACILITATION

The experience of energy regulators

The West African Case

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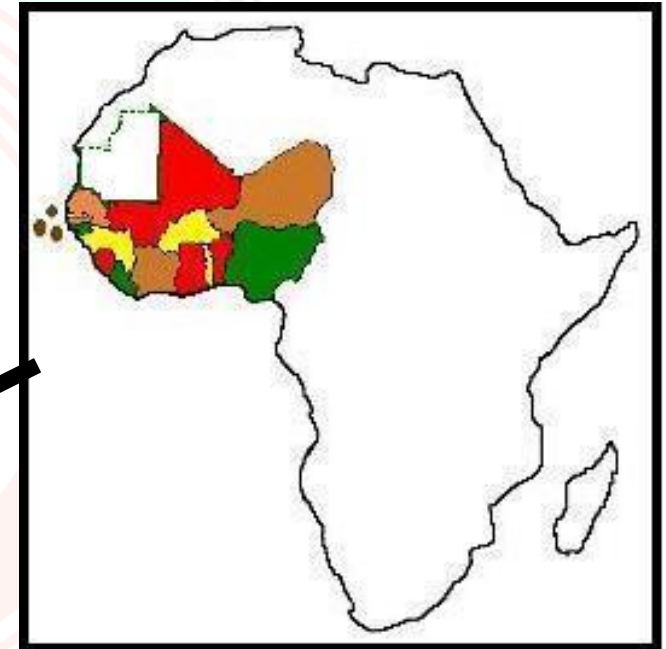
PRESENTATION OF ECOWAS

Economic Community Of West African States (ECOWAS)

A community of 15 West African States

(Benin, Burkina Faso, Cabo-Verde, Côte-d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra-Leone, Togo)

Overall Objective to promote cooperation and integration, with a view to establishing an economic and monetary union as a means of stimulating economic growth and development in West Africa



- Electricity Access (2013) : 30%
- Electricity Access (2030) : 65%
- Universal Access (+2040) :

▪ Specialised agencies in charge of electricity access

WAPP
ECREEE
ERERA

REMOVING PRE-INVESTMENT BARRIERS IN ENERGY

Mobilising energy investments towards universal access and energy transition

Oumar BANGOURA, Legal Expert - ERERA

Energy Picture

- Biomass and waste are the main source of energy supply for 70% to 90% of the West African population by country.
- The West Africa is facing a problem of fuel poverty and energy access: more than 250 million people lack access to electricity
- Low per-capita electrical energy consumption (127kwh : 3 times less than the average of sub-Saharan Africa)
- There are wide disparities between countries in per capita electrical energy consumption between countries: 346kwh–22kwh

Energy Picture (contd.)

- Significant untapped primary energy resources
- Very high political interest => obvious interference
- Vertically integrated utilities & small electricity markets
- Protected utilities and dominant players
- Limited cross border interconnections and low access

Energy Picture (contd.)

- **Low level of performance of utilities:**
 - Low availability of the installed capacity,
 - High level of losses (between 14% and 45% according to the country)
 - Low level of tariffs & low cost recovery
- **Difficult mobilisation of funds for investment:**
 - Tightness of the national energy markets,
 - Important investment funds needed to finance the energy generation and transmission infrastructures.

Energy Picture (contd.)

Legal and institutional framework is highly varied and still not stabilized

Member States do not have similar or related laws on electricity and energy in general:

- Opening of the electricity market to competition
- Energy policy choices, for instance, the issue of the TPA or the Single Buyer
- The legal and institutional framework is still not stabilized: several reforms have been carried out recently in many Member States
 - Changes are needed in the context of a progressive approach
 - Structuring principles should be stabilized

Energy Picture (contd.)

National Regulatory bodies have highly variable competencies, duties, powers and autonomy

1. Institutional fragility
 - young institutions
 - difficult and evolving context
 - economic rationale remains embedded in relationships
2. National Regulators mostly new
 - Still building capacity and autonomy
 - Procedures to be confirmed
 - Notable differences between the countries

Energy Picture (contd.)

REVIEW OF EXISTING TRADE CONTRACTS

Remarks on the content

- Model Contracts are in the form of Bilateral Agreements
- Great disparities in the content
- Existence of "incomplete" or "provisional" clauses
- Balance of risk and optimal allocation of risk
- Challenge of compatibility to domestic regulation
- Contracts not always implemented by the parties
- Difficulties for investors
- Need for harmonization of cross-border contracts

Energy Picture (contd.)

REVIEW OF EXISTING TRADE CONTRACTS

A diagnostic study carried out in 2013 revealed that difficulties governments and regulators of member States encountered when setting up and monitoring IPP contracts and delegating power supply resulted in part from:

- Choice of model contract
- Bid process
- Negotiation
- Contract management and monitoring
- Techniques for reviewing and renegotiating contracts
- Disparity in dispute settlement rules
- Different arbitration clauses and different regional jurisdictions
- Lack of clarity between national and regional levels with respect to
 - Tariff methods
 - Invoicing
 - Recovery
 - Technical information exchange rules

Energy Picture (contd.)

In summary, the main problems for attracting investment in the region:

- ✓ the amount of money that an investor must incur
- ✓ the poor financial situation of the power companies
- ✓ the fact that they are still owned by the state or under its control
- ✓ Interference from Government
- ✓ the lack of transparency and capacity / competency
- ✓ the closely regulated tariffs and lack of legal guarantees for the protection of investments

all this is make that the risk is very high for the investor.

How to cope with this situation

1. All parties must come together and make efforts in the same direction: Only harmonized regional initiatives can help to cover the deficits in a sustainable manner.
2. Regional integration must be promoted: regional integration helps to provide access to resources and markets.
3. It is necessary to build strong regulatory and legislative frameworks

ECOWAS VISION

- To develop interconnection and power exchange between power systems of Member States
- To use gas flared in Nigeria to feed Power stations in neighbouring countries and to develop the very large potential hydroelectric (Guinea, Ghana, Cote d'Ivoire, Nigeria)
- To promote and protect private investments in energy projects;
- To harmonize legislations et standards of operation in the power sector;
- To create an open and competitive regional electricity market
- Defines non –discriminatory rules for trade and dispute resolution.

REGULATORY FRAMEWORK FOR THE POWER SECTOR IN WEST AFRICA

- ✧ The vision of a regional electricity market in West Africa is rooted in **the ECOWAS Treaty** adopted in May 1978 and revised in 1993.
- ✧ The **ECOWAS Energy Protocol** (Protocol A/P4/1/03 of 31 January **2003**) addressed a strategy to achieve this Vision by establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector;
- ✧ Decision A/DEC.3/5/82 of the Authority of Heads of State and Government relating **to the energy policy of ECOWAS**
- ✧ Decision A/DEC.5/12/99 of the Authority of Heads of State and Government of 10 December **1999** relating to **the establishment of the West African Power Pool (WAPP)**
- ✧ Decision A/DEC.6/01/05 of the Authority of Heads of State and Government of 19 January **2005** relating to **the development of a regional regulatory framework** for the power sector within ECOWAS
- ✧ The Supplementary Act A/SA.2/1/08 of 18 January **2008** relating to the **establishment of the Ecowas Regional Electricity Regulatory Authority (ERERA)**

ERERA's Mandate

- ✓ Contribute to the implementation of conditions favourable for public and private investments
- ✓ Ensure regulation of regional electricity trade
- ✓ Assist ECOWAS Commission in the definition of regional sector policies and in the harmonization of policies and national power structures
- ✓ Support the establishment of the regional market and its opening up to competition

ERERA's strategy

- ✓ Foster good sector governance and the empowerment of national regulators
- ✓ Capacity building to support new roles
- ✓ Establish a harmonized and functional legal and institutional framework at state and regional levels;
- ✓ Induce competition through:
 - Benchmarking of existing actors;
 - Eligible customers' access to the Transmission network;
 - Optimum unbundling of utilities; and
 - Responsible disclosure and information dissemination
- ✓ Develop harmonized rules and methodology for calculating costs and tariffs for services related to cross border electricity exchanges (transit, access, auxiliary services, etc.)

ERERA's strategy (contd.)

- ✧ The WAPP Secretariat in 2012 **proposed market design and market rules** for WAPP.
- ✧ To facilitate the development of the market, ERERA prepared **market directive** for necessary reforms of the regional electricity market. The directive was adopted by the ECOWAS Council of Ministers on **the 21st June 2013**.
- ✧ Key Principles of **the Market design**:
 - Gradualism
 - Promote generation expansion
 - Respect of national regulations
 - Facilitate infrastructures expansion
 - Converging standards



**Development of the
regional market in 3
phases**

DIRECTIVE ON THE ORGANIZATION OF THE WEST AFRICAN REGIONAL ELECTRICITY MARKET

Objective :

To define the general principles ruling the Regional Electricity Market in the frame of the ECOWAS Energy Protocol.

Approach of implementation :

The regional electricity market must be developed gradually to enable national electricity sectors adapt in a gradual and rational manner

Contents of the directive :

Market design:

In line with the principles of the ECOWAS Energy Protocol, the development and establishment of the regional electricity markets shall evolve in three (3) phases according to the **Regional Market Rules** approved by ERERA.

Structure of National electricity markets:

Member States shall ensure that their existing Electricity Acts and relevant Regulations be adapted to provide functional **separation of accounts** in terms of Generation, transmission and distribution functions

DIRECTIVE ON THE ORGANIZATION OF THE WEST AFRICAN REGIONAL ELECTRICITY MARKET**Contents of the directive (Contd.):****Tariff methodology:**

In accordance with its procedures after consultation of the stakeholders, ERERA will settle the cross border transmission of electricity tariffs methodology.

Regional Transmission Network Open Access:

ERERA shall specify by way of Regulation, specific conditions for third party access to the Regional Transmission Network after due consultations with Stakeholders

Harmonisation of contracts:

After consultations of Stakeholders, ERERA will develop and approve model bilateral contracts and standard Connection and Use of Network Agreement for access to the Regional Transmission Network

Strengthening of National Regulatory Authorities :

Member States are mandated to establish an independent regulatory authority where none exists and to expand the powers of the national regulators to include market monitoring and tariffs setting.

STATUS OF THE REGIONAL ELECTRICITY MARKET

1. In August 2015, EREDA's Regulatory Council adopted the **Regional Electricity Market Rules**, submitted by WAPP General Secretariat
2. The Regional Electricity Market Rules establish and govern an efficient, competitive, transparent and reliable market for the sale and purchase of wholesale electricity and Ancillary Services in the West African Power Pool (WAPP)

STATUS OF THE REGIONAL ELECTRICITY MARKET (Contd.)

1. The **WAPP Operational Manual** has been approved by the Regulatory Council in September 2015.
2. Its Objective is to ensure that all the interconnected power systems of the West African Power Pool (WAPP) operate their interconnected network efficiently for the benefit of the power pool.
3. The Regulatory Council of EREDA also adopted *the Regional Transmission Tariff methodology* for the West African Power Pool (WAPP) in August 2015.

NEXT STEPS

1. Ensuring the implementation of the ECOWAS directive on the organization of the regional electricity market by a majority of Member States
2. Approval of model bilateral contracts
3. Adoption of Procedures for dispute resolution and sanctions
4. Compliance of Conditions precedents of Phase 1 of the regional electricity Market;
5. Launching of Phase 1 of the regional market: ERERA's will launch by the end of this year the 1st phase of the Market.

ENERGY CHARTER EXPERT MEETING

Brussels, 14th June 2016



THANK YOU



ECOWAS Regional Electricity Regulatory Authority
PMB 76 Accra
REPUBLIC OF GHANA

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