The Electricity Governance Initiative

ELECTRICITY GOVERNANCE IN KYRGYZSTAN: *AN INSTITUTIONAL ASSESSMENT*

N.Abdyrasulova – *Director of Civic Environmental Foundation "UNISON"*
N. Kravsov – *Director of Public Association "USTIN"*

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This document was prepared by a team of experts from public organizations in Kyrgyzstan, with support from the World Resources Institute (USA) and Prayas Energy Group (India).

Reviewers:
A. Sultankulova - Leading Specialist, Department of Management Fuel Energy Complex
A. Madeyuev - Director of the Center of Social Technologies
L. Ten - Adviser to the Ministry of Economic Development and Trade of the Kyrgyz Republic
B. Dyushaliev - Director of the Association of Managers Kyrgyzstan
D. Wood - Senior Associate Institutions and Governance Program, World Resources Institute
Sh. Dixit - Prayas Energy Group, India

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In this paper we review the current situation in Kyrgyzstan's electricity sector including the most important and controversial events in the past five years in the sector. Conclusions and recommendations are based on analysis of the results obtained by the authors, using the methodology of the international program "The Electricity Governance Initiative". The document is intended for a wide range of public, policy makers, business representatives, government and non-government organizations.
The document was prepared under the project "Generating Dialogue on Public Interests and Energy in Kyrgyzstan", implemented by the Civic Environmental Foundation UNISON, in partnership with the World Resources Institute (USA) and Prayas Energy Group (India), with the financial support of Central Eurasia Project of the Open Society Institute (New York).

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PREFACE

From the materials of the conference "The Electricity Governance Initiative – Generating Dialogue on Public Interests and Energy in Kyrgyzstan", 26th March, 2009, hotel «Ак-Keme»:

Erkin Abdykalykov, Director of State Department on Regulating Fuel and Energy Complex
I would like to express my gratitude to this working group for conducting this study on the energy sector, especially on public participation, and sharing the results. We are especially weak on this issue, and elaborated recommendations would be very useful for us. An outside perspective is always useful -- there may be some mistakes, and we would be glad to eliminate them. We are ready for collaboration and discussion.

Roza Isakovna Otunbaeva, Deputy of Parliament of the Kyrgyz Republic
I think that there are many critical issues in energy sector. Electricity is a basic human right, necessary for housing, heat and life. Transparent, reasonable, competent governance of the energy sector is a public issue, and it is necessary to discuss it, not only by means of barricades, posters and slogans, but also by means of governance principles. I was very glad to hear there are some approaches and initiatives that exist and are practiced in the energy sector, which will lead us to competent public participation.

Lubov' Ten, adviser of Ministry of economic development and trade of KR
The basic mechanism of interaction between civil society and state institutions is enlightening activity, that is: education: it is impossible to draw up a dialogue, if people do not hear each other or do not understand when they are talking.

Natalya Ablova, Bureau on human rights and compliance of lawfulness
Many energy sector professionals are worried about NGOs are interfering in their work, because they are not professionals, such as power engineering specialists. We want to reassure them that we are not going to interfere, as you are professionals and you are responsible for uninterrupted power supply. However, as civil society professionals, we must comment on the great social protest and tension present in our society related to sector performance. We are ready to cooperate and to combine our own work with the work done by energy sector professionals. In true cooperation, we hope to rely on you, and for you to rely on us.

Bolot Dushaliev, Director of Association of Managers
One of the essential issues regarding the power supply is the population's concern about of the lack of reliability and effectiveness of energy systems. It is obvious that one way to solve this task is to establish a dialogue between the government, energy companies and consumers. The exchange of opinions and elaboration of common approaches may increase quality of decisions adopted.

Eleonora Kazakova, Executive Director of Kalinin hydroelectric power station
In my opinion, we just have starvation. If the public knew basic facts: what is the product, how much does it cost, and why it is sold, many social problems will decline. It is not possible to go to masses to talk about high technologies, when population does not know basic information: what it is a tariff, and how is it formed.

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EXECUTIVE SUMMARY

This document is based on research conducted by Kyrgyz civil society working group using methodology developed by the Electricity Governance Initiative (EGI) of the World Resources Institute (Washington DC, USA) and Prayas Energy Group (Pune, India). The National Institute of Public Finance and Politics (India) supported the project during its first three years. The methodology was developed over 18 months in 2003-4 and was reviewed by over 100 experts from different countries. The methodology was further revised in 2007 to incorporate experiences from pilot projects in 4 Asian countries: India, Indonesia, Thailand and the Philippines.

For the study of the electricity sector in Kyrgyzstan, 32 indicators have been selected from the EGI toolkit of 68 indicators. The EGI indicators are a group of structured questions related to three interlocking principles of good governance: transparency, participation, accountability, as well as capacity. The decision-making levels in the sector indicators are divided into the political process and regulatory process, with special focus on social and environmental issues.

The goal of the project "Electricity Governance Initiative: Generating Dialogue on Public Interests in the Energy Sector of Kyrgyzstan," is to evaluate the decision-making processes from a governance perspective. Our research is not intended to evaluate the substantive validity of decisions made, but rather to better understand how processes influence outcomes. The general structure of methodology implemented in Kyrgyzstan is displayed in Figure A. This image also reflects key questions in the research of governance of the energy sector, such as the capacity of executive and regulative bodies, capacity of civil society organizations, the participation of consultants and donors in the energy sector, and the quality of media reporting on the sector.

The document consists of two primary parts: (i) a review of the energy sector of Kyrgyzstan, and (ii) an analysis and evaluation of sector governance. An overview of the indicators and the completed worksheets (which are the basis of the research underlying this analysis) are presented in Annexes 4 and 5.

The first part is dedicated to the review of the energy sector, presenting its history, its structure, and the most important and disputed events, particularly the restructuring and privatization reforms, as well as other events that created negative reactions within civil society. The primary goals of the restructuring reforms were to stabilize energy sector enterprises and increase efficiency through de-monopolization and the creation of conditions for the development in a competitive environment.

Figure A. Baseline Indicator Categories

BASELINE INDICATORS
MAPPING THE ELECTRICITY SECTOR OF KYRGYZSTAN

POLICY PROCESS (PP)

- Capacity and clarity of procedures of Legislative Committee;
- Independence of Electricity Ministry
- Quality of debate about reform and policy change;
- Role of donor agencies;
- Role of consultants;
- Capacity of civil society;
- Clarity of policy processes;
- Availability of supporting documentation;
- Privarization and bidding;
- Quality of media coverage.

REGULATORY PROCESS (PP)

- Authority and autonomy;
- Jurisdiction;
- selection and training of members;
- Process for resolving conflicts of interest;
- Financial and human resources;
- Use of consultants;
- Procedural clarity;
- Mechanisms for public participation;
- Disclosure of documents;
- Basis for decisions;
- Appeals;
- Tariff philosophy;
- Licensing;
- Consumer service and quality of supply.

ENVIRONMENTAL & SOCIAL ASPECTS

- Clarity of environmental jurisdiction;
- Executive, regulatory and legislative mandates;
- Setting minimum environmental standards;
- Inclusion of environment in planning and reform;
- Environmental and impact assessment;
- Access to redress on social or environmental grounds;
- NGO capacity to address social environmental issues

The functional restructuring allowed for a more transparent approach to determining spending on energy production, supply and distribution, and for the establishment of tariffs on electricity. However, the reforms have not resulted in the expected improvements to economic indicators in the energy sector. Therefore, in the current condition of the reforms, there are additional hindering factors that negatively affect the reform itself. Not the least of these is the lack of public trust in government decisions, trust which could be gained through improved decision-making processes, in part by attracting experts and civil society organizations, and by following good governance principles including transparency, accountability, and enhanced participation.

The second part of this document consists of three sections that focus on different aspects of Kyrgyz electricity sector governance. They evaluate policy processes, regulatory processes and the crosscutting issue of attention to social and environmental considerations.

Policy processes: 15 indicators on policy process were selected from the EGI indicator toolkit.

The legislation of Kyrgyzstan provides a sufficiently strong legal basis for good governance, but mechanisms to operationalize transparency, accountability and opportunities for public participation are weak or non-existent. In particular, procedures enabling public input into legislative processes are lacking, and while press freedoms exist on paper, in practice the media does not provide balanced coverage of policy discussions, or stimulate public debate. However, it is noted that Kyrgyz civil society has untapped potential to play a constructive role in sector oversight. Key documents, such as annual reports, that are critical for holding public institutions accountable are unavailable to the public. The fact that they have been available in previous years is an indication of eroding transparency. Weak access to information has been exacerbated rather than improved with the corporatization of state-owned enterprises, as the governance implications of this new status and the participation of the private sector have not been spelled out.

The regulatory process: 15 indicators on regulatory process were selected from the EGI indicator toolkit.

Regulation is an important aspect of sector governance, and is necessary to balance stakeholder interests. Its six main functions are: licensing, tariff setting, dispute settlement, investments, demonopolization and control over the standards. The main object of the present research is the State Department's Regulation of Fuel and Energy Complex under the Ministry of Industry, Energy and Fuel Resources, which is authorized to execute functions as a regulatory body in Kyrgyzstan. The structure of the regulatory body of Kyrgyzstan has changed several times in the past ten years; however, it has never had the status of an independent body. There is no clear division of power between MIEFR and State Department, causing duplication of functions and lack of accountability.

While legislation mandates public hearings for tariff increases, this practice has been withdrawn, and a full hearing has not been held since 2004. Tariff increases are typically announced after decisions have been made, and public meetings are of an explanatory nature only. Documents informing substantive reasoning for tariff increases are similarly not released on a timely, predictable basis or available for comment. Although regulatory decisions may be appealed, in practice the executive committee responsible for these decisions is not recognized as a legal entity by the courts. Licenses for regulated companies do not specify the obligations of the licensee. There is no transparency in the selection process for private service providers.

Environmental and social aspects of energy sector governance are of particular importance. Six policy process indicators and two regulatory process indicators considered these issues. The research suggests that the capacity executive and regulatory bodies to consider environmental issues is insufficient. The low level of cooperation between departments, the absence of financial and human resources, and lack of a system for skills training are also noted.

Although the National Energy Plan (NEP) for 2007-2011 discusses environmental issues, there is no concrete strategy of environmental protection in the energy sector, nor the capacity to implement one. Documents relating to Environmental Impact Assessments (EIA) are not available on websites or in the media.

The issue of social security indirectly influences tariff policies. As tariff setting is one of the primary functions of the regulatory body (State Department), the capacity of regulators to evaluate social issues is greater than it is for evaluating environmental considerations.

Recommendations in brief:

The goal of the Electricity Governance Initiative is the creation of dialogue, which implies equal participation of all interested stakeholders in electricity governance: the government represented by the Ministry of Energy and State Department on Regulation, energy companies, civil society sector and donors. Based on the findings of the research, the working group recommends the following steps to improve the integrity of decision-making in the electricity sector in Kyrgyzstan:

Review the normative and legal basis for the sector:

1. Clarify the governance implications of energy companies registered as Open Joint Stock companies with respect to
   i. Criteria for confidentiality
   ii. Eligibility for government subsidies
2. Increase transparency of policy and regulatory process:
   i. Define procedures and timelines for policy and regulatory decisions
   ii. Conduct open hearings
   iii. Consider alternative opinions
   iv. Provide reasoned reports including alternative opinions
3. Strengthen interdepartmental cooperation between the State Agency on Environmental Protection and Forest Management and Ministry of Industry, Energy and Fuel Resources (Department on Regulating of Fuel and Energy Complex).

Create a more independent framework for regulation:

4. Institute an independent regulatory body that will execute its functions to meet high standards.
5. Develop a methodology to calculate and set electricity tariffs with the involvement of specialists and experts from civil society organizations.
6. Simplify procedures for appealing regulatory decisions, including the recognition of a legal entity that represents regulatory authority.
7. Improve licensing documents to include performance standards in order to more effectively monitor the performance of regulated entities.
8. Develop procedures for transparent selection of private service providers.
9. Publish documents and processes pertaining to Environmental Impact Assessments on websites and in the media.

Promote dialogue between interested stakeholders:

10. Support unbiased media coverage of issues in energy sector that include alternative opinions and the work of the donor community;
11. Consolidate the efforts of civil society organizations in the energy sector and create a structural network aimed at building their capacity for monitoring sector activities.

INTRODUCTION

Energy has a special place in Kyrgyzstan as a main component industrial and agricultural production, and an integral part of citizens' life support systems (lighting and cooking, potable water supply, heating and health care) as well as education, transport and telecommunications. Given that the system of centralized energy supply covers almost 99% of the population in the Kyrgyz Republic, we can say that the energy sector of Kyrgyzstan has become the platform of civilized way of citizens' life. Additionally, the end price that consumers pay for goods (and services) depends on the amount of electricity expended in their production, because the cost of electricity is part of the production costs.

The lack of energy, regardless of the reasons (shortage, failure in the power system) immediately and negatively extends to all aspects of production, and social and domestic relations. Production shuts down, production costs of enterprises increase, operating conditions of the systems of housing and communal services, transport, health, communications, education and others suffer. The discomfort due to prolonged or systematic lack of household energy also causes social tensions in society.

In early 1990s, the Commonwealth of Independent States, as well as the other states around the world, started systematic reforms to restructure the energy sector on the initiative of the western financial institutions. Kyrgyzstan, like all other CIS countries, has received both good and bad sides of centralized management of the Soviet Union. After independence, the problem of ensuring a viable energy sector emerged. In order to resolve this problem, the Government developed a program to reform the energy sector, including its governance system. Reform of this sector was not left without attention by the civil society in Kyrgyzstan, because the results of the reform affected the interests of the population including the business community and ordinary citizens (domestic consumers of the electrical and heat energy).

Globally, competition has been promoted as a healthy market structure. However, for markets to function properly, consumers need information about the suppliers of the energy, as well as the opportunity to observe and participate in sector decision making processes. Joint actions result in a coherent system of decision making, foresight and predictability of regulatory decisions, sustainable and reliable energy supply and hence the incentive for investments.

However, the conditions of each country are specific and require careful study on the applicability of such practices. In Kyrgyzstan, affordability is a serious concern, as the real cost of energy for socially vulnerable segments of the population can be as high as 15-20% of income [4]. Currently, civil society participation in the energy sector is not enough to consider the NGO sector as an influential force. The majority of CSOs effectively make a stand for protection of human rights, the forces of law and gender issues with less attention paid to other areas [13].

The aim of the project is to provide a benchmark of governance processes implemented in the energy sector, including rule-making (the mechanism of consideration and adoption of legislative drafts) and executive and regulatory processes (preparation and adoption of decisions by the authorized state regulatory body). This analysis is based on research that convened numerous consultations with government structures and civil society organizations, as well as analyzed the legislation drafts on the energy sector, department reports, project materials and the mass media. The purpose of the report is to assess the quality of the decision making process following the proposed methodology.

We seek to create a constructive dialogue between all stakeholders and hope that the document prepared will help us provide a complete picture of the structure of the energy sector and identify gaps and opportunities to improve governance.

We hope that the findings and recommendations presented in this report will contribute to the consolidation of efforts, cooperation and inter-sectoral collaboration, and that in future a similar study will show a significant improvement in the energy sector.

I. REVIEW OF THE ENERGY SECTOR IN KYRGYZSTAN

General Information

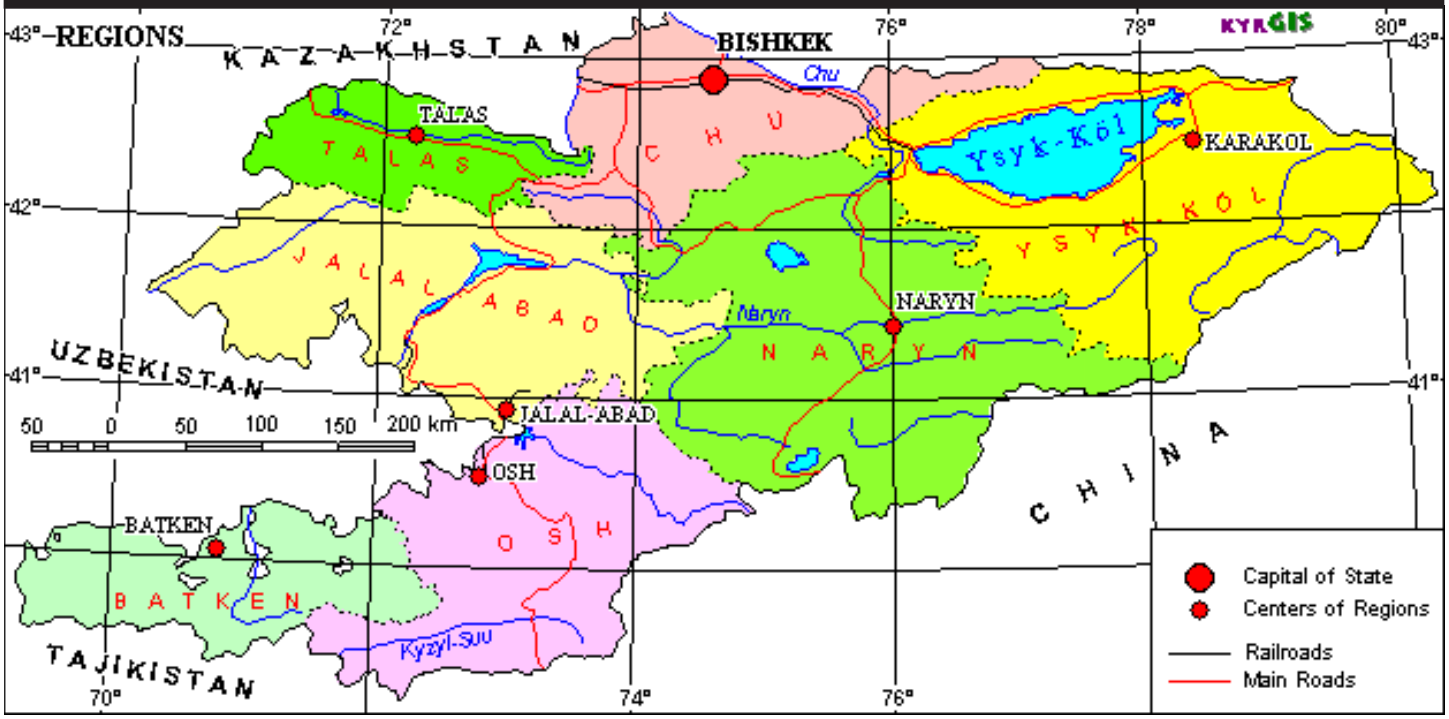
The Kyrgyz Republic is a landlocked Central Asian country with a low per capita income and a small area (198.5 sq. km.) and population (5.3 million). It is bordered by Kazakhstan, China, Tajikistan and Uzbekistan, (see figure 1).

Kyrgyzstan is situated within the limits of the mountain ranges of Tien Shan and Pamir-Alai, which occupy more than 80% of the country (Kyrgyzstan is sometimes referred to as "the Switzerland of Central Asia"). The rest of the country is valleys and river basins. Most of the country is in a temperate climate zone but its southern regions are located in the subtropical zone. The climate is defined as continental with a relatively low level of precipitation and with large differences in the seasons. In 2005, approximately 7% of Kyrgyzstan's land was classified as arable, of which 85% was irrigated and 0.3% was under perennial crops. The rest of the territory is occupied by mountains, glaciers, and mountain steppes that are used for pasture.

Kyrgyzstan is rich in mineral resources but has very small reserves of oil and natural gas, which are therefore imported. Mineral resources include large deposits of coal, gold, uranium, antimony and rare earth metals. The structure of industry is not sufficiently developed and the main branches are: small-scale engineering industry (electric motors, transformers), light industry (cotton and wool processing, textiles, food industry), construction materials (cement, glass, and slate), footwear, furniture, mining and the energy industry.

The Kyrgyz Republic's potential hydropower resources are estimated at 142 billion kWh but utilizes less than 10% of that amount.

FIGURE 1. Administrative Regions of Kyrgyzstan



Source: UNEP GRID-Arendal

1. Overview of the electricity sector

1.1. The history of the electricity sector

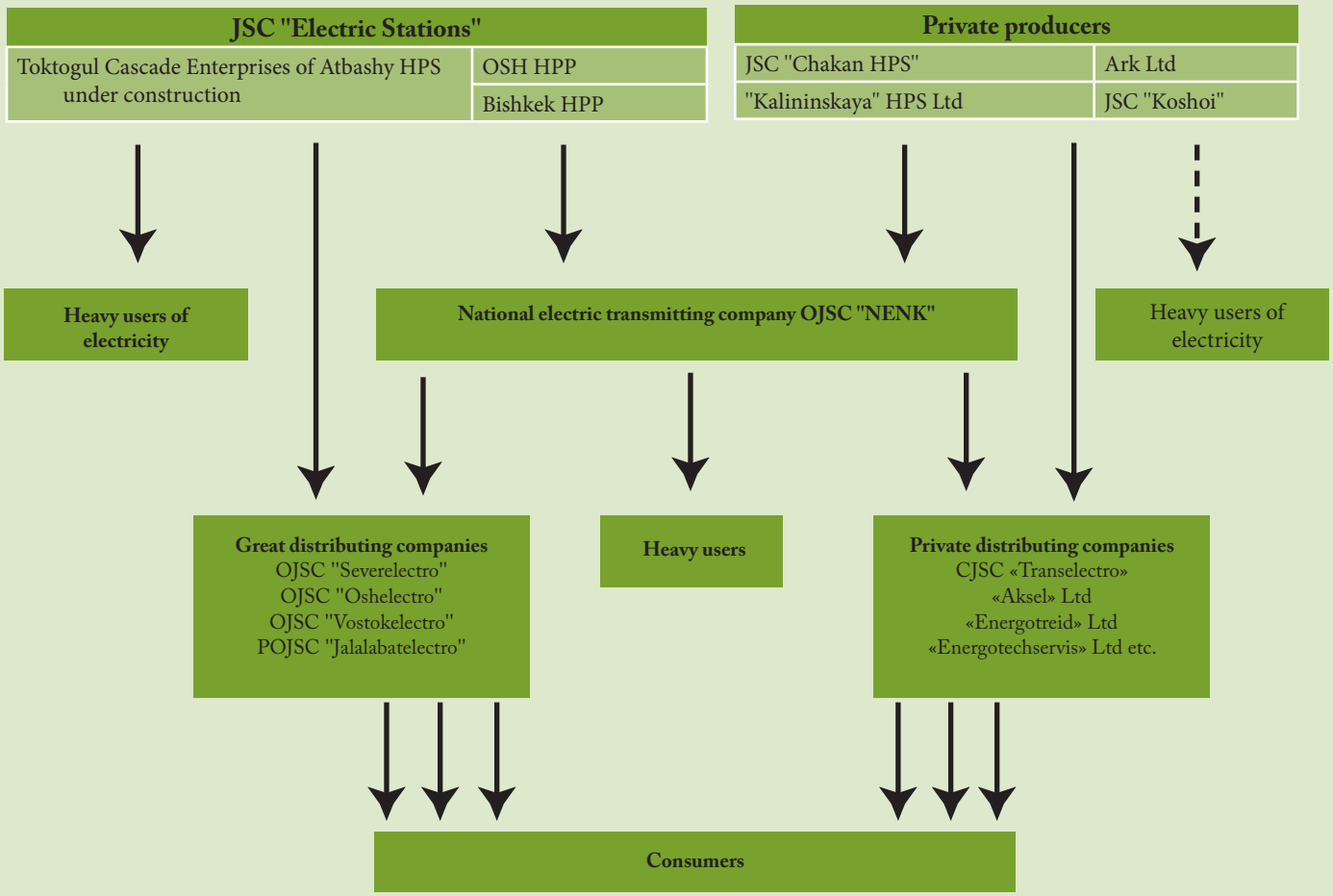
The "Kyrgyzgenergoholding" company was established on the basis of existing energy facilities in accordance with the Regulation of the Government of the Kyrgyz Republic No. 592 on December 10, 1993. "Kyrgyzenergoholding" carried out its activities on the principles of full cost accounting with 16 different enterprises, parts of which were engaged in production, transmission and distribution of electricity and heat energy in the territory of the republic. The company also included three joint stock companies specializing in design and construction works. In 1996, the company introduced corporate governance and "Kyrgyzenergoholding" was transformed into the joint stock company (JSC) "Kyrgyzenergo".

JSC "Kyrgyzenergo" acted as the sole authority with a single vertically integrated system; JSC was a natural monopoly in the electricity industry and had the exclusive right to the production of electricity and its delivery to the terminal point of consumption. The situation demanded reform in order to create and introduce competition. Therefore, in 1997, the Government of the Kyrgyz Republic (Regulation No. 239 dated 23.04.1997) developed and adopted a program of denationalization and privatization of the joint stock company "Kyrgyzenergo" according to which the company was subject to separate its functional lines from within the structure of JSC "Kyrgyzenergo". This meant that the functions of generation, transmission and distribution of electricity were shared between the separated companies in the chain from electricity production to its delivery to end-users.

1.2. The structure of the electricity sector in Kyrgyzstan as of 2008

The first steps to develop a market in the electricity sector of Kyrgyzstan were taken in 1997 when "Kalinin HPS" on the Kara-Balta river (capacity of 1400 kilowatts) was transferred to the French firm "Mekamidi" by means of a concession contract (affermage). In early 2001, a joint stock company "Chakan HPS" was formed from 6 small hydroelectric power stations on the Alamedin cascade with a total installed capacity of 30 megawatts.

FIGURE 2. Existing structure of the electricity sector in Kyrgyzstan as of 2008



By 2001, the Government of the Kyrgyz Republic completed a three phase restructuring of the electricity sector based on functionalcharacteristics: generation, transmission and distribution of energy.[1]

As a result of this restructuring, eight companies originated the energy market of Kyrgyzstan:

1. Generating company Open Joint Stock Company (OJSC) "Electric Stations"
2. Generating company OJSC "Chakan HPS"
3. Transmitting company on high-voltage grid OJSC "National Electric Network of Kyrgyzstan".

Four electricity distributing companies on a regional basis:

4. OJSC "Severelektro" covering Chui, Talas oblasts and Bishkek city.
5. OJSC "Vostokelektro" covering Issyk-Kul and Naryn oblasts.
6. OJSC "Oshelektro" in Osh oblast.
7. OJSC "Jalalabatelektro" in Jalalabat oblast.

One heat energy distributing company:

8. OJSC "Bishkekteploset" providing heat energy to consumers in Bishkek city.

The controlling stake of JSC "Electric Stations", "National Electric Network of Kyrgyzstan", "Severelektro", "Vostokelektro", "Oshelektro", "Jalalabatelektro" and "Bishkekteploset" remained under State ownership however, the form of ownership of these companies has been corporatized as Open Joint Stock Companies and are structured to enable private investment. The state currently owns 95% of the stocks.

2. Electricity Generation, Distribution and Consumption

2.1. Electricity distributing companies

The main visions of the development of the four regional distribution companies "Severelektro," "Vostokelektro," "Oshelektro," and "Jalalabatelektro" are:

- Quality and regularity in power supply to consumers;
- Modernization and reconstruction of the existing lines and substations of 35-0,4 kV by voltage;
- Measures to streamline the accounting of electric power in the grids of 35-0,4 kV by voltage;
- Reduction of accounts receivable and accounts payable and the loss of electricity.

2.2. Transmission of electricity

Transmission of electricity from generating companies (JSC "Electric Stations") to distribution companies is implemented by JSC "National Electric Network of Kyrgyzstan" (NENK). NENK is a power transmitting company that consists of 6 local enterprises of high-voltage electrical networks (EHVEN) which exploit the electrical grids of 110-220-500 kV by voltage with a 93.72% stake under the state property.

FIGURE 3. Comparison of pre-reform and post-reform state of Kyrgyzstan's electricity industry

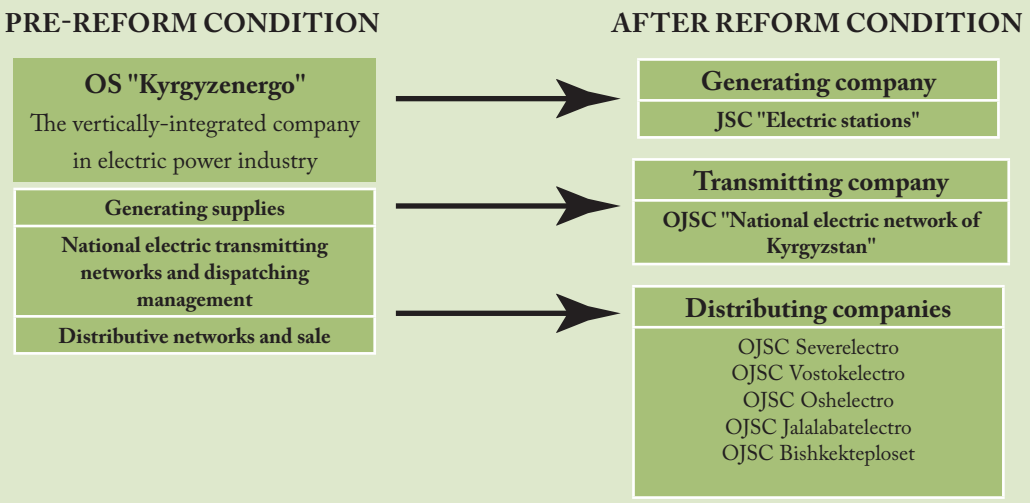
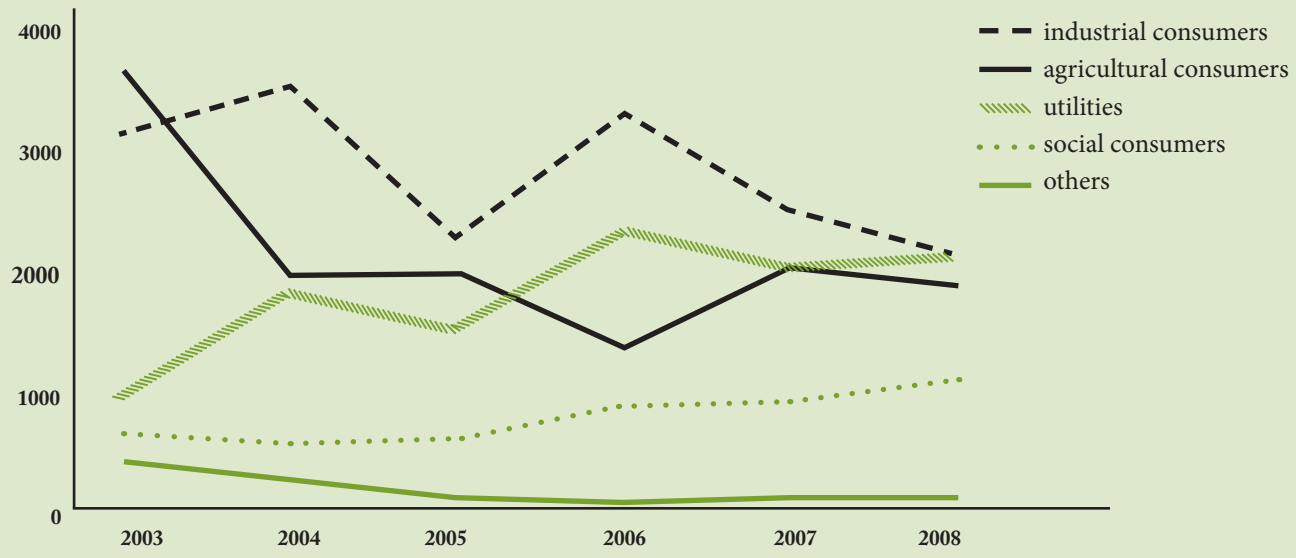


FIGURE 4. Dynamics of the electricity consumption from 2003-2008 (million KWh)



The main tasks of JSC "National Electric Network of Kyrgyzstan" are the transmission of electricity through the national power grid of 110-500 kV by voltage to the entities of the market as well as operational and supervisory control over the national power grid and over interstate and domestic regimes of overflows of electric energy and power.

For the past 5 years Kyrgyzstan has been a key member of the energy system of Central Asia due to the presence of vast power available in hydroelectric power stations. This allows the country to export electricity to neighboring states and to regulate the frequency in the power system of Central Asia and southern Kazakhstan.

2.3. Electricity production

The generating company OJSC "Electric Stations" is a consolidation of 8 power stations with a total installed power capacity of 3640 megawatt and with a 93.72% stake under the state property. This includes the cascades of Toktogul HPSs, Heat Power Plant (HPPs) of Bishkek and Osh cities, Atbashy HPS, and enterprises of HPS under construction. OJSC "Electric Stations" is the main producer of electric and heat energy in the country.

2.4. Installed capacity and energy generation by fuel types

Approximately 90% of Kyrgyz electricity is produced at hydroelectric power stations, which significantly reduces its cost. However, about 80% of the republic's fuel energy resources are imports, including up to 59% of coal and 98% of gas and petroleum products. The country also has good potential for renewable energy sources: solar energy, wind energy, geothermal energy and biomass. Thus, the local hydroelectric energy and imported gas and oil form the basis of the primary energy balance of Kyrgyzstan.

TABLE 1. Electric power generation over the past years (million kWh)

Generation of electric power	2002	2003	2004	2005	2006	2007
HPS	10787	13004	14094,3	13980,4	13652,5	14004,1
HPP	1135	1017	104,7	910,8	870,7	826,2
Total:	11922	14021	15141	14891,2	14532,2	14830,3

2.5. Energy consumption dynamics by years

Since independence, a trend in the structure of energy consumption in Kyrgyzstan can be observed, namely the reduction of electricity consumption in industry and agriculture on the one hand, and growth in the domestic, social, cultural and non-economic sectors on the other, (see Figure 5)[2].

The dynamics of electricity consumption in Kyrgyzstan over the post-reform years clearly reflect the trend of growth of electricity consumption in the domestic market. Low tariffs for electricity as compared with other fuels (such as coal, fuel oil, and natural gas that experience price fluctuations because of global variations), has led to increased consumption by the general population. The result has been a decrease in the export of electricity and difficulty in providing sufficient electricity to consumers. In 2008-9, this resulted in forced limitations of the power supply to enterprises and the general population (see Figure 6)[3].

According to statistics, 98% of residents have access to energy, except in remote mountain areas where mainly isolated and part-time residence associated with grazing is observed. There potential for independent energy supply by small-scale and micro HPS since there are no power lines in these areas. This kind of energy supply has great prospects in the country and both the international organizations and local communities are active in this sector.

2.6. Energy in Regional Context

Kyrgyzstan is a net exporter of electricity (about 93% of which is generated by hydroelectric power stations) but depends on imports fossil fuel since local production of oil and natural gas is negligible, and coal mining has sharply declined over the 1990s and is just beginning to recover. In general, imports secure about 55% of primary energy supply.

Interstate transmission lines of 10-500 kV by voltage between the republics of Kazakhstan, Uzbekistan, Tajikistan and China, a large reservoir of Toktogul HPS with (over-year) regulation, and the dominance of large hydroelectric power stations are positive features of the power grid in the balance of electricity and power generation.

The CIS countries' aspiration to create a market economy and to trade in fuel and energy resources at world prices has become a continuously growing problem for Kyrgyzstan. For years, Kyrgyzstan has been an exporter of electricity to Kazakhstan, Uzbekistan and China. The export volume amounts to 2-2.5 billion kWh per year. Kyrgyzstan's relationship with Kazakhstan and Uzbekistan concerning control of the Naryn river water resources and energy supply is based on annual intergovernmental bilateral and multilateral agreements. These agreements provide for the export of Kyrgyz electricity and the import of natural gas, coal and heating oil in an exchange mediated through electricity to water from the Toktogul reservoir. The negotiation of intergovernmental agreements on the use of water and energy resources in the region began in 1995.

The basic intergovernmental agreements are:

- The Agreement (framework agreement) between the Government of the Republic of Kazakhstan, the Government of the Kyrgyz Republic and the Government of the Republic of Uzbekistan on the use of water and energy resources of the river Syr Darya basin, signed in Bishkek, March 17, 1998 (in force) (duration of the Agreement (except Article 7) was extended for the subsequent 5 years from March 17, 2003 by the Regulation of the Government of the Kyrgyz Republic dated September 16, 2002 No. 626).
- The Agreement between the Governments of the Republic of Kazakhstan, the Kyrgyz Republic and the Republic of Uzbekistan on the parallel operation of the power systems of Central Asia (Biskek, June 17, 1999) are in force.

2 National Statistical Committee of the Kyrgyz Republic, http://www.stat.kg/stat.files/din.files/prom/1050102.pdf

3 National Statistical Committee of the Kyrgyz Republic, http://www.stat.kg/stat.files/din.files/prom/1050102.pdf

3. Policy and legislative framework

3.1. Public institutions governing and regulating the electricity sector

State management of the electricity sector is implemented by the Government of the Kyrgyz Republic through the State Fund of State Property Management and the Ministry of Industry, Energy and Fuel Resources (MIEFR) (see Figure 5).

3.2. Legislative system

According to the Constitution of the Kyrgyz Republic the following have the right of legislative initiative:

- The President of the Kyrgyz Republic
- Members of Jogorku Kenesh of the Kyrgyz Republic
- The Government of the Kyrgyz Republic
- 30 thousand electors (public initiative)

According to article 28 of the Law "On normative legal acts of the Kyrgyz Republic", the drafts of normative legal acts that directly affect the interests of citizens and legal persons as well as the drafts of laws and regulations governing business activities, should be published on a mandatory basis for public discussion by posting on the official website of the legislative body. Received suggestions and comments should be considered by the legislative body in finalizing of the draft.

Legislative drafts can be brought forward for the public discussion in the prescribed manner by the decision of the Jogorku Kenesh of the Kyrgyz Republic.

According to article 6 of the Law "On Energy", the Government of the Kyrgyz Republic defines the energy program and monitors the implementation of this program; has various functions for the provision and transfer of property rights and rights for use of water, mineral and other energy resources; exercises control over the exploitation of energy resources and their contents, etc.; and may delegate certain functions to other public authorities.
In accordance with the rules and regulations of the Government of the Kyrgyz Republic dated March 26, 2007, No. 86 "Issues of the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic", the Ministry of Industry, Energy and Fuel Resource of the Kyrgyz Republic was defined as the State body responsible for implementing state policy in the electricity sector and the planning of activities. The Ministry, in accordance with applicable law, has the right of legislative initiative and may introduce to the Government of the Kyrgyz Republic legislative drafts in the prescribed manner.

4. Regulation

State governance in the power industry is implemented by the Government of the Kyrgyz Republic through:

- The State Fund for the Management of the State Property;
- The Ministry of Industry, Energy and Fuel Resource of the Kyrgyz Republic (MIEFR).
    - State department for regulation of FEC: economic regulation (tariffs, licensing, and dispute resolution)
    - State Inspectorate on Energy and Gas: technical regulation

The main objective in the electricity sector is to achieve financial recovery and to create conditions for a balanced and integrated development of the electricity sector and energy security of the Kyrgyz Republic in the long term until 2025.

The following issues are to be solved within the framework of achieving the objective:

1. ensure reliable and uninterrupted supply of energy, particularly to domestic consumers;
2. establishment of institutional and legal frameworks needed to complete the structural reforms commenced in 2001;
3. transfer to concession or privatization of the electricity distribution companies before the end of 2008 or early 2009;
4. identify and evaluate assets and the cost of the electricity sector legislatively with the assistance of independent auditors.

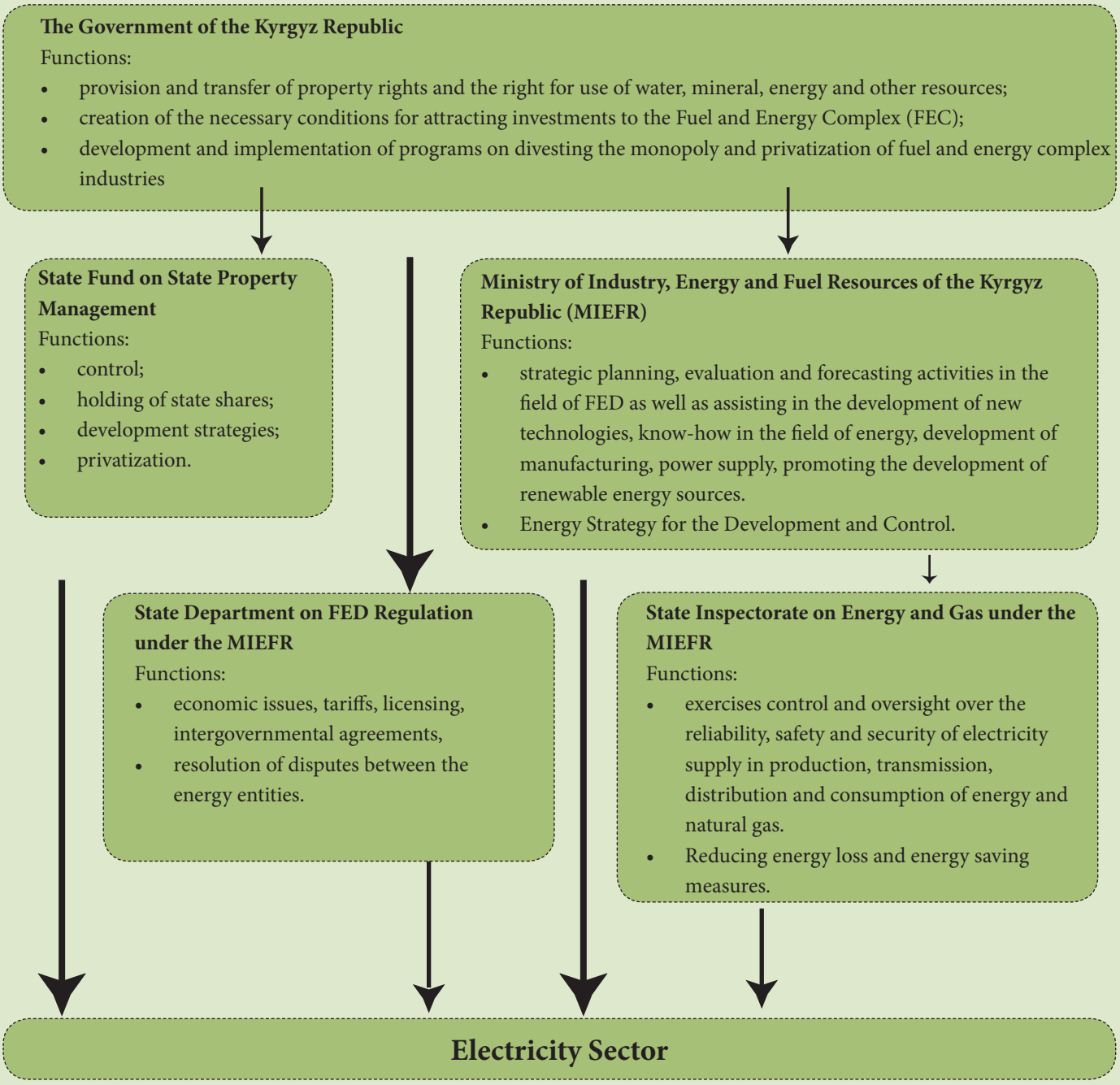
Policy to achieve these objectives consists of three components: institutional policy, tariff policy and investment policy.

4.1. The history of the electricity sector regulation

Regulation of the electricity sector was implemented with the aim of providing electricity and heat at economically sound, socially-acceptable and non-discriminatory prices in the territory of the Kyrgyz Republic as well as monitoring the reliability, security and continuity in the production and consumption of the energy (the Law of the Kyrgyz Republic "On power industry").

One of the key functions of the regulatory process is to balance the interests of producers and consumers of energy resources. The regulatory process implements key decisions and considerations including tariff setting; licensing for generation, transmission, distribution and sale of energy; developing standards for services; and adjudication of energy sector players.

Figure 5. The structure of electricity sector governance and regulation in the Kyrgyz Republic



On the basis of the relevant provisions of the Law "On Energy," the State Agency on Energy under the Government of the Kyrgyz Republic was established.

In October 2005, state regulation was transferred to the National Agency of the Kyrgyz Republic on Anti-Monopoly Policy and Promotion of Competition. This agency was a public antimonopoly body implementing a unified state policy mandated to protect and develop competition and control monopolistic activity and unfair competition, (see Figure 10).

Since March 2007, regulation of the electricity industry has been transferred to the newly established Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic (MIEFR). MIEFR is a specially authorized body of the executive power that controls and supervises the consumption of electricity, heat and natural gas by energy enterprises and all consumers, regardless of the form of ownership, and is responsible for providing energy security.
The regulatory body (the State Department for the Regulation of Fuel and Energy Complex) is within the structure of the MIEFR and there is no separation of functions and powers between the regulatory body and the Ministry. However, the regulatory body is a separate legal entity that has its own settlement account, staff and structure. According to Article 9 of the Law "On Energy", the regulatory body is empowered to establish mechanisms to address complaints and resolve disputes between consumers and energy companies as well as between energy companies. The Government may repeal the regulatory body's decision only if the decision leads to a deterioration of the socio-economic situation of the Kyrgyz Republic.

In accordance with the Article 6 of the Law of the Kyrgyz Republic "On natural and permitted monopolies in the Kyrgyz Republic" the State Department regulates and controls the activities of organizations of FEC implementing industrial and economic activity regardless of the form of ownership, in order to provide consumers with the electricity, heat energy, natural gas and fuel resources on economically reasonable prices in the Kyrgyz Republic.

The State Department is guided by the Constitution of the Kyrgyz Republic, the laws of the Kyrgyz Republic, regulatory legal acts of the President of the Kyrgyz Republic, the Government of the Kyrgyz Republic and other regulatory legal acts, as well as by international agreements which came into effect according the established procedures of the legislation of the Kyrgyz Republic.

The Law "On Energy" entrusts the regulatory body with the following main functions and authorities:

- to issue licenses for generation, transmission, distribution and sale of electricity, heat energy and natural gas in accordance with the legislation of the Kyrgyz Republic.

4.2. Tariff Policy

The basic principles of tariff policy in the Kyrgyz Republic were formed on the basis of the article 9 of the Law "On Energy":

- tariffs should reflect the full cost of production, transmission and distribution of electricity and heat energy including the costs of operation and maintenance as well as reimbursement of the invested capital;
- tariffs for each group of consumers should reflect all the costs of electricity and heat energy for this category of consumers;
- existing cross-subsidies from one group to another group of consumers should be gradually excluded;
- subsidies should be addressed directly to low income consumers through government social protection programs.

At the same time, there is no existing methodology for determining tariffs following the method of "cost plus" or a ceiling for tariffs. Tariffs are oriented to cover the cost value; cross-subsidization of tariffs for electricity and heat energy still exists where the high tariffs for industrial consumers and corporate clients are used for cross-subsidization of tariffs for households while tariffs for heat energy to the population are subsidized by the state through revenues from electricity exports.

However, such policies create the wrong market signals to market actors by establishing an inefficient allocation of resources. It is clear that the industrial users, who cross-subsidize low income consumers, shift the costs of electric power to the cost of their products that consequently affects the inflation rate. The value of subsidies from exports is variable and depends on the required volume of water to neighboring countries. Such conditions create instability in financial flows and create risks for the sustainability of energy companies.

Tariffs for electricity and heat have not changed since 2002. In 2006, the two-part tariff for electricity was replaced by a single tariff, which in fact was the statutory average tariff at the average consumption of 300 kWh, while tariffs for other categories of

consumers (industry, state-financed organizations and others) were not changed from December 20, 2001 i.e. for more than 6 years. However, over the period of 2001-2008, there was a significant increase in the costs of all energy companies in connection with general inflation and rising prices for supplies, fuel, spare parts, etc. In this regard, there was a need to develop a new medium-term tariff policy for the Kyrgyz Republic for electrical and heat energy from 2008 to 2012, subject to the situation in the electricity sector and current economic environment, which would provide for the gradual increase in tariffs to the level of cost recovery.

This tariff policy was developed by the State Department for the regulation of Fuel and Energy Complex and approved by the Regulation No. 164 dated April 23, 2008. In accordance with this tariff policy the electricity tariffs were increased starting from July 1, 2008. In particular, the residential tariff was raised from 62 to 70 tyiyn for 1 kWh.

It is important to note that the Kyrgyz Republic holds last place for electricity generation per capita in Central Asia. The same picture is observed in payments for the electricity. Electricity consumption per capita in 2007 made up 2,379 kWh, maintaining the level of 2005 (2,380 kWh) which according to the tariffs of 2007 (62 tyiyn per 1 kWh) equaled the value of 1475 Kyrgyzstani som (KGS)[4] per year, or 122 KGS per month. Energy costs account for 5.4% of the average wage (3270.0 KGS/month), for people employed in rural areas - 14% of their average monthly salary (1259.1 KGS/month), and for retirees - almost a fifth - 19.4% of the average monthly pension (906.0 KGS/month). It should be noted that at this level of per capita income of the population, the minimum basket of goods amounted to 3083 KGS per month in 2007. The same trend continues at the present moment. As we can see, pensioners and rural residents live on incomes below the cost of the minimum of basket of goods.

Over the past 15 years the structure of consumption has substantially changed. Inadequacy of networks built during the Soviet period with the existing load leads to an increase in technical losses of electricity, and lack of funding does not allow companies to undertake improvement of systems for accounting and billing which leads to an increase in commercial losses, and in fact to the theft of electricity.

At the same time, the value of the loss of electricity also has a significant impact on the tariff for the end consumers of electricity. For 2007, the loss of electricity within the system amounted to 2.1 billion kWh, or 38.2% of production.

In sum, the energy system loses almost a third of energy produced. Energy companies do not have enough funds to repair and maintain the networks and equipment, and consumers face enormous inconveniences due to interruptions in the supply and rotational power cutoffs.

4 The currency of Kyrgyzstan is the som (KGS). The Kyrgyzstani som can then be subdivided into 100 tyiyn. The conversion rate to USD is USD 1 = KGS 43.81, and USD 1 = 4,381 tyiyn.

5. Financial state of the electricity sector

5.1. The significance of the electricity sector to national economies

The electricity sector has some influence on the current state and prospects of economic development. The sector accounts for about 5% of GDP, 16% of industrial production[5], 10% of state budget revenue (Tables 2, 3).

According to the GDP structure the share of production and distribution of electricity, gas and water had a declining trend in economic activity. Thus, the contribution of the sector has declined in the GDP structure from 3.6% in 2003 to 3.1% in 2006. The result is that the electricity sector currently does not make a contribution to the development of the economy and is not a source of growth. This has an impact on the investment environment in the electricity sector.

5.2. Financial status of the electricity sector

The financial status of energy companies in recent years has not improved. The collection of payments for energy consumption in 2006 amounted to 72.3%, including cash.

Accounts receivable for electricity as of 01.10.2007 was 3,341.0 million KGS, including residential debts of 2,421.5 million KGS (72%), with the remainder of the debt (28%) being from other consumers.

As of 01.07.2007 the debt of the distributing companies for the purchase of electricity totaled 3,790.7 million KGS; for transportation – 2,305.9 million KGS. Overall - 6,106.6 million KGS. As of 01.10.2006 the annual arrears of JSC "Electric Stations" only on foreign loans before SFED[6] totaled 776 million KGS, JSC "NENK" – 1,140 million KGS. In respect of an internal tax, the arrears totaled to 1,073 million KGS for JSC "Electric Stations" and 913 million KGS for JSC "NENK."

It is worth noting that the accounts payable of energy companies were twice that of receivables, indicating a path to bankruptcy. Accounts receivable from energy companies has an impact on their financial relationships with other economic entities and the implementation of credit and tax liabilities before the budget, thus creating a dangerous chain of mutual non-payments.

System losses in energy networks exceed 40%, including 25% through commercial losses and theft. In addition, these losses were virtually unabated over 2002-2007.

As a result, a quasi-fiscal deficit in the energy sector by the end of 2006 amounted to 5.4% of GDP and has an adverse impact on macroeconomic stability and sustainability of the country's budget[7]. Besides, the main requirement of functioning of the power industry – providing a reliable, secure and uninterrupted supply of electric and heat energy and improving the quality of services provided to all consumers, established by law "On power industry" – is not met.

5.3. Investments into the energy sector of Kyrgyzstan

In order to create favorable conditions for attracting investments, the Law of the Kyrgyz Republic "On investment in the Kyrgyz Republic" dated March 27, 2003, No. 66, was enacted.

The Law is designed to provide investors with safeguards for national treatment of economic activity, applicable to legal persons and natural persons of the Kyrgyz Republic. On the Naryn River and its tributaries alone, 22 hydroelectric power stations with an annual electricity production of more than 30 billion kWh can be built. However, if new power stations are not built, the Kyrgyz power system has a tendency to turn into deficit as has been seen over the past years and the republic will be forced to import electricity from neighboring countries at prices that far exceed national rates in order to provide electricity to consumers.

The fact that electricity tariffs have not changed virtually within 6 years has lowered the attractiveness of the sector for investors, (see figures 10, 11).

As the energy sector is both loan and capital-intensive, the investment attractiveness of the industry is very important. The total amount of investments required for the development of the energy sector in the medium term is around 2.5 billion US dollars. The investment policy of the state is aimed at attracting private capital to the development of the sector.

Bringing Kambarata HPS 1 and 2 into service with the total capacity of 2260 megawatts and an average annual generation of electricity of more than 6 billion kWh would allow using the Toktogul hydropower unit in the energy and irrigation (regimes).

5 http://www.mpe.gov.kg/ru/?d=branchs/energy

6 State Fund for Economic Development under the Ministry of Economy and Finance of the Kyrgyz Republic

7 Message from 25.09.2007, on approval of mandatory reporting on indicators of financial and economic performance in the energy sector, http://www.24.kg/oficial/2007/09/25/63023.html

The Government has budgeted 3.5 billion KGS for 2007-2009 to continue the construction Kambarata HPS-2.

However, there is a risk of disruption while putting the first unit of Kambarata HPS-2 into operation (22 December 2009), due to the slow rate of development of the allocated funds. Initial calculations show that the rehabilitation of the Bishkek HPP-1 will require funding of about 2.0 billion KGS, and the modernization of Uch-Kurgan HPS will require 615 million KGS.

In order to develop a national backbone transmission network, investments amounting to 45.56 billion KGS will be needed, including:

- 10.25 billion KGS for construction of 500/220 kV substation "Kemin" and overhead high-voltage power lines (HVL 500 kV) North-South;
- 2.25 billion KGS for construction of substation 500/220 kV "Datka" and HVL 220 kV;
- 20 billion KGS for construction of HVL 500 kV "Datka – Khudzhand";
- 410 million KGS for improvement of power supply in Batken oblast";
- 300 million KGS for reinforcing and carry-over of power transmission line routes;
- 2.1 billion KGS for technical retrofitting of high-voltage electric mains;
- 10.25 billion KGS for upgrading and technical retrofitting of distribution networks.

Attracting investments for installation of technologies that generate renewable power energy for sale to the distribution networks at a profitable price can serve as an attractive basis for the development of private power producers. The investments for development of RES can guarantee an economic potential in electricity of 1,107 GWh/year, (Table 5).

However, it should be noted that investments in the energy sector are not attractive to potential investors due to the unprofitability of the industry at present. As a result of the existing risks in the energy sector, attracting investments from strategic investors is very difficult.

Of $125 million of investments in the sector, only 4% (5.5 million USD) were allocated for the distributing companies. This led to a critical situation; decreased reliability of electricity supply resulting in 7,812 recorded accidents for the first half of 2007, 34% higher than during the same period of 2006.[8]

8 http://www.24.kg/economics/2007/08/10/59155.html.

The analysis shows that the level of electricity consumption in the industrial sector of the Kyrgyz Republic has fallen by more than 35% due to a reduction in the number of existing industrial enterprises and reduced demand for workers. At the same time, a significant drop in demand was balanced by an increase in electricity consumption in the residential sector.

According to the forecast, the demand for electricity by the population and economic entities will steadily grow. Currently, the winter load exceeds the summer peak by a factor of 3.2.

6. Restructuring the energy sector

The ***goals*** of the Program of denationalization and privatization of the joint stock company "Kyrgyzenergo" were:

- to improve the performance of the enterprises of national energy sector through divesting the monopoly and creating conditions for the development of a competitive environment in the domestic market of electric and heat energy manufacturers;
- to ensure the stable operation of energy sector facilities in terms of full satisfaction of consumers' electricity and heat needs;
- to attract domestic and foreign investments into the national energy system;
- to create conditions for the development of the energy sector with maximum use of the existing potential hydroelectric power resources;
- to identify the best management structure of JSC "Kyrgyzenergo" in order to achieve high economic efficiency and organization of strategic planning and management of production activities of the national energy system enterprises;
- to identify the main direction for the restructuring of JSC "Kyrgyzenergo" providing for its highest investment attractiveness in order to attract the maximum amount of domestic and foreign investments;
- to implement the state energy policy and state regulation of tariffs for electrical and heat energy.

The ***objectives*** of the Program of denationalization and privatization of the joint stock company "Kyrgyzenergo" were:

- the creation of a regulatory framework for the restructuring, modernization and development of the energy sector;
- the optimal regulation of the process of denationalization and privatization while retaining the basic technological ties between the enterprises of the energy sector;
- to ensure efficient governance over the energy sector in the process of implementing the objectives of

denationalization and privatization;

- the selection of optimal and efficient method of privatization on the basis of financial and economic diagnosis of JSC "Kyrgyzenergo";
- to ensure competitiveness in the domestic and foreign markets;
- to ensure the possibility of financial recovery through the conversion of uncollectible receivables into debtors securities or through writing-off the debts;
- to take preventive measures to avoid possible negative social, economic, technological implications as a result of restructuring of the energy sector, including the use of newly developed mechanisms for compensation for damage caused to the residents of Ketmen-Tebe valley (Toktogul and Uch-Terek rayons).

Over the past 10 years since the launch of the Program of Denationalization and Privatization (1998-2008), the objectives of reforming and restructuring of the power industry in the Kyrgyz Republic have not been achieved. The restructuring of the vertically-integrated, monopolistic energy company on a functional basis has provided for a certain liberalization of the energy sector and more attractive environment for investment9.

9 See the Country Development Strategy (2007-2010) approved by Presidential Decree No. 249 dated May 16, 2007

The functional restructuring has allowed a more transparent approach to determine the cost of production, transmission and distribution of energy and the formation of tariffs for electrical and heat energy. However, it has not provided the expected improvement in economic performance of the energy system which is related to the incomplete restructuring and privatization of the industry, lack of appropriate market mechanisms and appropriate legislative framework.

6.1. The most important events in the energy sector over the past 5 years (2003-2008)

The most important events in the energy sector over the past five years are linked to continued implementation of the Program of denationalization and privatization of the joint stock company "Kyrgyzenergo" approved by the Regulation of the Government of the Kyrgyz Republic dated April 23, 1997, No. 239, with the first three steps of the Program completed by 2002.

Over the past five years the following steps have been undertaken to further reform and develop the energy sector of the Kyrgyz Republic:

1. A decision on the implementation of the fourth stage of the abovementioned Program of denationalization and

TABLE 2. GDP structure – share of the industry in GDP, in percentage

	2003	*2004*	*2005*	*2006*
Agriculture, hunting, forestry and fishing	33.6	29.9	28.5	28.9
Mining industry	0.5	0.6	0.6	0.5
Manufacturing industry	13.3	15.3	12.9	11.3
Production and distribution of electricity, gas and water	**3.6**	**3.3**	**3.9**	**3.1**
Construction	2.9	2.5	2.7	2.7
Trade; repair of motor vehicles, household goods and consumer goods	15.2	16.0	17.8	19.3
Accommodation and food services	1.5	1.6	1.3	1.5
Transport and communication	5.4	6.4	6.6	6.2
Financing activities	1.5	1.9	2.2	0.5
Other	22.6	22.6	23.6	25.9
GDP	100.0	100.0	100.0	100.0

TABLE 3. The share of industries as a percentage of the total production

	2003	*2004*	*2005*	*2006*	*2007*
Mining industry	1.5	2.0	1.9	2.1	2.2
Manufacturing industry	77.6	79.9	78.3	78.1	77.2
Production and distribution of electricity, gas and water	**20.9**	**18.1**	**19.1**	**19.8**	**20.6**
GDP	100.0	100.0	100.0	100.0	100.0

privatization of JSC "Kyrgyzenergo" was adopted, the main provisions of which are set out in the Country Development Strategy (2007-2010).

2. The law "On introducing changes and amendments into the Law of the Kyrgyz Republic "On special status of the cascade of Toktogul hydroelectric power stations and national high-voltage power lines" dated July 30, 2007, No. 100 was adopted, according to which public stakes in joint stock companies "Electric Stations" (Bishkek HPP and Kambarata HPS 1 and 2 under construction) are subject to transfer (sell) to private companies.
3. Regulation of the Government of the Kyrgyz Republic "On urgent measures to attract investments into the fuel and energy complex of the Kyrgyz Republic" (2008) No. 84 approved a proposal to sell Bishkek HPP, OJSC "Bishkekteploset" and OJSC "Severelektro" in a single package to private ownership.
4. The National Energy Program for 2008-2010 and development strategy of Fuel and Energy Complex until 2025 was adopted.
5. The Government and the Parliament of the Kyrgyz Republic approved a medium-term tariff policy for electricity and heat energy for 2008-2012.

The main objective of the Country Development Strategy (2007-2010) in the energy sector is to achieve financial recovery and to create conditions for the balanced and integrated development of the energy sector and energy security of the Kyrgyz Republic in the long-term up to 2025. As part of this strategy, the following tasks must be solved:

- Provision of reliable and uninterrupted supply of energy, especially to domestic consumers;
- Establishment of institutional and regulatory frameworks needed to complete reforms initiated in 2001;
- Transfer into concession or privatization of energy distributing companies before the end of 2007;
- Legislatively, identify and evaluate assets and the value of energy sector facilities involving independent auditors;
- Legislatively, separate the Kambarata HPS and Bishkek and Osh HPPs with their assets from the composition of OJSC "Electric Stations" and invite strategic investors to continue joint construction and following operation until 2008.

Particular attention should be paid to the policies and measures that cause an improvement in corporate governance of energy sector players, a strengthening of commercial and financial discipline in the sector, the achievement of profitability by sector players along with an increase in revenue by improving collection of bills receivable, and the

FIGURE 6. The amount of receivables and payables of energy companies

FIGURE 7. Total electricity losses, as a percentage of the total generation

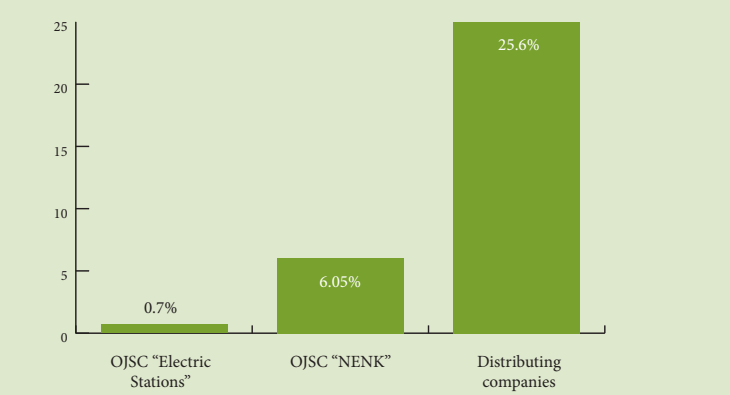


FIGURE 8. Funding levels for the power industry (in thousand USD)

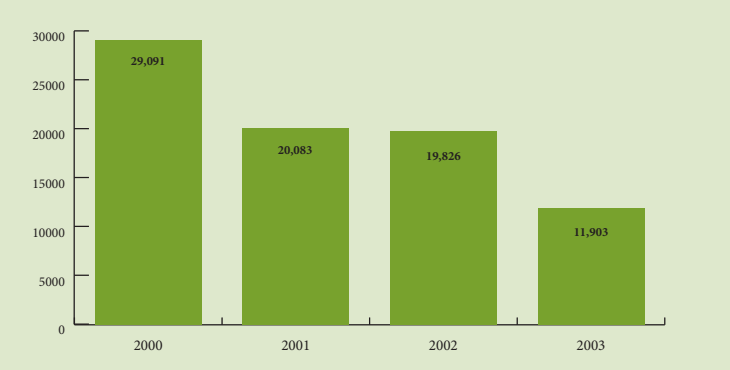


FIGURE 9. Comparison of the level of investments into the energy sector before and after 2002

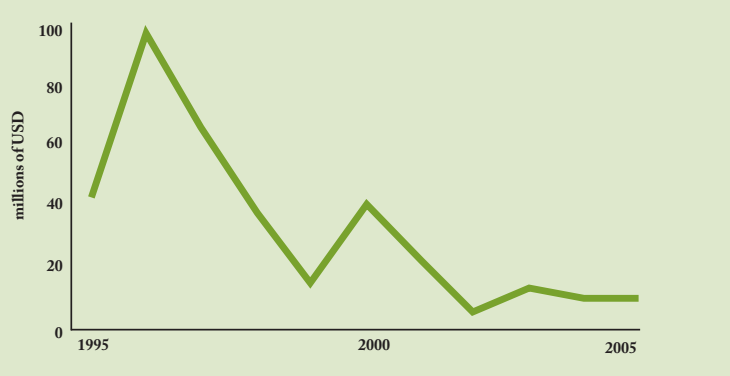


TABLE 4. Main sources of investment in the Energy Sector of Kyrgyzstan

Donor	Amount of Investment (in million USD)	Years of Investment	Types of Investment	Funding purpose
Northern Development Fund	0.360	2000	-	-
Asian Development Bank – 1	2.446	2000	-	-
Asian Development Bank – 2	0.400	2002	-	Construction of power transmission line "Naryn – Torugart"
	0.500	2003	-	
Government of Denmark	4.012	2000	Loan	-
	1.692	2001	Loan	-
World Bank	1.596	2000	Credit	-
	0.070	2001	Credit	-
	0.212	2001	Credit	-
	0.071	2001	Credit	-
European Bank for Reconstruction and Development	10.072	2000	Loan	Construction of the power transmission line, 220 kV "Alabel – Semetei"
Kuwait Development Fund	1.225	2000	Loan	Construction of substation 220 kV "Batken"
Islamic Development Bank	0.504	2000	-	Construction of power transmission line, 220 kV "Alai – Batken"
	1.672	2001	-	
	3.198	2002	-	
	3.887	2003	-	
	1.672	2001	-	

Source: State Department for Regulation of FEC, 2006

involvement of an independent, professional audit of oversight mechanisms and institutions.

In the second half of 2004, the Government of the Kyrgyz Republic introduced to the Parliament a proposal for implementing the fourth stage of the program on denationalization and privatization of JSC "Kyrgyzenergo", according to which part of the facilities of OJSC "Electric Stations" (Bishkek Heat Power Plant, Kambarata HPS-1 and 2 under construction, JSC "Bishkekteploset", and power distributing companies, "Severelektro", "Vostokelektro", "Oshelektro", and "Jalalabatelektro" would be transferred to private ownership for long-term lease (concession), or subject to sale.

Discussion on this subject between the Government and the Parliament lasted almost 3 years. After the enactment of the law "On introducing amendments and changes to the Law of the Kyrgyz Republic "On special status of the cascade of Toktogul hydroelectric power stations and national high-voltage power lines" (No. 100, dated July 30, 2007), the fourth stage of denationalization and privatization of the energy sector facilities was launched, according to which public stakes in JSC "Electric Stations" (Bishkek HPP, Kambarata HPS 1 and 2 under construction), JSC "Bishkekteploset" and JSC "Severelektro" were to be transferred (sold) to private companies.

As mentioned in the review of the energy sector of Kyrgyzstan (see section 2.1), the total capacity of the power plants in Kyrgyzstan is 3,640 MW, or 99% of the installed capacity of all generating sources of electrical energy of the country. The high-voltage power network (110-500 kV by voltage) connects these power plants to load centers (consumers) through distribution networks, forming the national power grid, which can be considered the "backbone" of the state. Given this circumstance,

TABLE 5. Summary of potentials of renewable energy sources in Kyrgyz Republic				
	Economic potential RES, GWh/ year	Installed capacity, MW	Investment cost, M €/ MW	Total, M €
Wind energy	36	9	1.1	9.9
Biomass	195.2	80	0.06	4.8

Source: Potential of Renewable Energy Sources (RES) in Kyrgyz Republic, 2006

the Jogorku Kenesh adopted the abovementioned law, which prohibited the alienation of any form of main and auxiliary facilities of this part of the energy system of Kyrgyzstan, keeping public property that was created within the past 50 years under state ownership. However, based on the initiative of the representatives of business and governmental officials, part of the facilities (Bishkek HPP, Kambarata HPP-1, 2) were later withdrawn from the application of the law.

In May 2008, the National Energy Program for 2008-2010 and strategy for the development of fuel-energy complex of the Kyrgyz Republic until 2025 was adopted. The process of denationalization and privatization of the energy sector (Stage 4) has gained new impetus, despite the fact that the goals of the first 3 stages have not been met: the financial and economic situation has deteriorated in the energy sector; and the reliability and continuity of the power supply to consumers has similarly worsened.

In the same year, the Medium tariff policy of the Kyrgyz Republic on the heat and electrical energy for period of 2008-2012 was adopted. In a set of priority actions, the new tariff policy provides for an increase of fees (in stages, until 2012) for electricity by up to 250% and an increase in fees for heat by up to 400%. However, until the reasons for the huge loss of electricity in power grids that exceeds acceptable levels by a factor of 3-4, (resulting in loss of nearly one third of the produced energy in the country) are eliminated, tariff boosts for electricity and heat energy will serve as a recovery measure for electricity loss at the expense of its payment by law-abiding consumers.

6.2. The most controversial events in the energy sector over the past 5 years

Implementation of the fourth stage of the Program for Denationalization and Privatization of JSC "Kyrgyzenergo" are giving rise to tensions in society in the context of the lack of positive results from the implementation of its first three stages. The most acute points of debate revolve around the sale of energy facilities, as well as the electric energy supply to consumers (residential and commercial).

At present, very controversial issues in the energy sector are:

1. Decision on selling of Bishkek HPP, OJSC "Bishkekteploset and OJSC "Severelektro" to private ownership;
2. Assessment of the assets of Bishkek HPP, OJSC "Bishkekteploset and OJSC "Severelektro";
3. Tariff increases for electrical and heat energy;
4. Forced restrictions on power supply to consumers;
5. Effectiveness of energy sector governance.

The decision to privatize energy companies, whose assets were established by generations of citizens of the Republic, caused a negative reaction among the population. However, the results of the asset evaluations of the above-mentioned entities, which initially were valued at only $ 84 million, gave rise to especial indignation. Subsequently, the Government of the Kyrgyz Republic with the assistance of CJSC "Slavyanskiy Vostok", conducted a revaluation, the results of which were as follows: OJSC "Severelektro" - $ 137 million, "Bishkekteploset" - $ 48 million, Bishkek HPP - $ 335 million.

However, other independent experts, in particular, Nurlan Abdyshev (expert from Business AKI press) gave other figures of the cost of these facilities, namely: OJSC "Severelektro"-$168 million; OJSC "Bishkekteploset" - $ 92 million; Bishkek HPP- $ 353 million. These figures exceed the previous ones by $93 million or 20 percent.

The significant increase in tariffs for electricity and heat energy (by a factor of 2.5-4), in the absence of underlying reasonable justifications, provoked a mood of protest mood in the society, especially on the part of poor and socially vulnerable populations. Construction of Kambarata HPS-2 (capacity 360 megawatts) is being carried out at the expense of public funds of the Kyrgyz

Republic with a delay of 8 years, and the construction of Kambarata HPS-1 (capacity 1900 megawatts) has not even started. Attempts to attract investments into the energy sector for putting new facilities into operation have not achieved the desired results, except for small amounts of capital investments within the public investment program framework and companies' own funds. The production of electrical energy in the cascade of Toktogul hydroelectric power stations decreased in 2008 as a result of the low-flow period of the Naryn River and poor management of water resources in previous years (2006-2007). The expected deficit is 2.6 billion kilowatt-hours for the autumn-winter period of 2008/2009. The energy sector governance system was not ready to work under such conditions, and as a result, timely actions on the import of electricity and natural gas from neighboring countries were not taken. Therefore, starting from May 2008, a regime of forced restrictions on the use of electric power was imposed on all customers by disconnecting three-phase power systems including heating and meal preparation on electric energy, as well as through daily "rotational power cutoffs" of settlements' areas for 8-12 hours a day. Regarding industrial enterprises, reduction of tax payments to the state budget for 2008 was valued at 600-800 million KGS, and the gross domestic product (GDP) declined for almost 6%, according to Minister of Economic Development and Trade.

This forced restriction of power supply to consumers violates the Law "On Power Industry" as well as energy companies' own commitments, provoking legitimate doubt in the ability of industry management and the state to implement effective governance in the country's energy sector. This point is particularly evident given the background of the natural reduction in the generation of electricity from hydroelectric power stations of Kyrgyzstan, when the management of the industry and the state were unable to take timely necessary steps to compensate for the impending shortage of electricity in the country.

Statements by senior officials in Kyrgyzstan to the effect that privatization is the solution to ineffective state management are not supported by global experience. For example, in France the energy sector is fully owned and operated by the state. Moreover, the French state energy company recently bought up shares of the two largest energy companies of Spain, including FENOSA. Incidentally, FENOSA is a company which holds concessions to most of the power networks of Moldova. Thus, France has become the owner of the Spanish energy sector and the concessionaire in Moldova. The Norwegian Government has also decided to strengthen state property. "The main purpose of the new provision is that the hydro resources of the country should belong to the people and managed for the common good. We are strengthening the state and municipal property, thereby ensuring the right in perpetuity of HPS owners" - said Odd Roger Enoksen, the Minister of Petroleum and Energy. Today, the state ownership of Norway incorporates approximately 40% of power stations; 50% of facilities - owned by the municipalities and only 10% - in private possession. Norway ranks first in the world for the production of energy per capita producing 120 billion kilowatt-hours per year, with 99% of the country's energy generated by hydroelectric power stations[10].

Poor management is present in private companies too, for example: 3 years ago in the United States one of the largest energy companies ENRON went bankrupt, leaving their shareholders with nothing. A sad experience of neighboring Kazakhstan on sale of South-Kazakhstan energy system to a Belgian company can be mentioned as well. Incidentally, according to Sh. Samiev, head of the Tajik state energy holding Barki Tajik: "according to the program of restructuring of state enterprises and natural monopolies, "Barki Tajik" should be restructured during 2009-2015. However, this process should take place gradually, very gently, so that after the reform it would not raise chaos and sharing out positions, so that the people would really feel the improvement from the reform, rather than vice versa. In Kazakhstan and Kyrgyzstan, such reforms have passed. Industry was divided. And it did not have a positive result. Look at the neighbors: the Kyrgyz have 45-50% loss in the networks, while we have only about 14%[11]."

Based on the foregoing, it is possible to say with a high degree of certainty that the State as a subject of management is not the one to blame for the poor results in the energy sector of Kyrgyzstan, but rather the existing system of governance in the energy sector. The formation and functioning of the system occurs in a closed space that is inaccessible to the public, with limited and inconsistent public awareness of the processes occurring in the system.

10 www.expert.ru, 31.08.2007
11 http://win.mail.ru/cgi-bin

II. ASSESSMENT OF ELECTRICITY SECTOR GOVERNANCE

Introduction

Uninterrupted and reliable power supply is a fundamental component of a prosperous state. Decisions made in the energy sector have a fundamental impact on society and its interests, so it is very important to understand how decisions are made in this sector. Improved **decision-making processes** can enhance the **quality of decisions**.

Politically influential groups authorized to prepare and adopt decisions fundamental to society often pay little attention to sustainable development or social interests, particularly during the implementation of sector reform. In order to implement politically sustainable reforms, it is necessary to ensure the confidence of society. Ensuring the transparency in decision-making process is the best way to do this.

Part II of this document consists of three sections and aims to assess energy sector governance in Kyrgyzstan in terms of transparency, accountability, and the ability of the public to participate in decision-making. The initiative analyzed the process of energy sector governance in the context of the most important activity in the energy sector in the last 10 years: the restructuring and privatization of JSC "Kyrgyzenergo" and subsequent draft legislations and actions related to it.

The methodology of assessment and analysis of the energy sector governance is based on the electricity governance indicator toolkit developed by the Electricity Governance Initiative (EGI) which consists of 68 indicators of the basic attributes of the electricity sector.

The first set of EGI indicators considers the **policy process (PP)** of the legislative and executive bodies that carry out governance functions in the energy sector. All participants of the process relating to the energy sector governance such as Parliament, the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic (MIEFR) are considered, as well as the role of international donors and civil society organizations.

The second set of indicators considers the **regulatory process (RP)**, the processes of decision making and decision implementation by the regulatory body that determines the regulatory functions in the energy sector. Indicators on the regulatory process (RP) study the jurisdiction and powers of the regulatory body (the State Department for the Regulation of FEC), the implementation of its authority in practice, and also the level of participation of civil society in regulatory decision-making.

The **environmental and social aspects** of the decision-making process, capacity of the executive body, the quality of reporting, and the possibility for participation of the public in the discussion of solutions are assessed in both processes.

14 policy and 17 regulatory indicators were identified as a "priority" for Kyrgyzstan in the framework of this study, which is a pilot project to explore the usefulness of the EGI methodology in Central Asia. Regulatory processes are analytically separated from policy processes even though at this time both the policy and regulatory functions are performed by the state, represented by the Government and MIEFR.

The indicators present a set of research questions that enables civil society to assess sector governance against a series of benchmarks. The toolkit also allows assessing the institutional capacity and compliance with the requirements of well-established process. Understanding the chain of decision-making will help to identify the underlying dynamics that have shaped sector reform.
The research is organized around the four basic elements of good governance: *public participation, transparency, accountability and capacity*, in the context of drafting and implementing of electricity sector policies and regulations.

Transparency and Access to Information: Transparency is the process that allows scrutiny of actions and information by stakeholders. Attributes of transparency include the comprehensiveness, timeliness, availability, comprehensibility of information, and whether efforts are made to bring the information to concerned and vulnerable groups.

Participation: Diverse and meaningful public input helps decision-makers to consider different issues, perspectives and options when defining a specific problem and its solution. Elements of participation include formal space for participation in relevant forums, the use of appropriate mechanisms to mobilize participation, the accessibility and openness of such a process, and the extent to which the gathered information/recommendations are taken into account.

Accountability and Redress Mechanisms: Access to justice and redress are necessary to hold governments and actors in the private and public sector accountable. Accountability also incorporates clarity about the role of various institutions in decision-making process; a systematic monitoring of sector operations and processes; the clarity and justification of the substance of key decisions; and the capacity of the legal system to uphold public interests.

Capacity: Capacity signifies the social, educational, technological, legal and institutional abilities to apply the principles of good governance, as well as the ability of civil society to engage in decision making. This element includes the capacity of government and other institutions to act independently, the availability of resources (both human and financial) to provide access, and the capacity of civil society (particularly NGOs and the mass media) to conduct analysis of issues and effectively participate in governance process.

EGI indicators allow researchers to reconstruct an entire picture of energy sector governance and identify key gaps. Table 1 exemplifies a completed indicator, Policy Process (PP) 10: "Annual Reports of the Electricity Ministry/Department. The indicator is assigned a value ranging from low to high based on four elements of quality: whether financial reports are produced; whether the annual report includes detailed progress reviews; whether the report is available to the public, and whether it is available in local languages. Data sources are documented and a narrative explanation provides additional information.

TABLE 6. Sample completed indicator

PP 10 Annual reports of the electricity ministry / department

Elements of quality		Explanation
Financial reporting	Y	Financial reporting is provided in accordance with applicable law, the usual procedure for accountability of public bodies. This reporting shall be made according to the accounting forms, reflecting all the information about cash flow, payroll, etc., may include information about the subsidies and grants, if they were made available, and submitted to the Ministry of Finance on the use of budgetary funds within the allotted limit.
Review of progress	Y	All the structural units of the Ministry prepare an annual report on the activities and submit them to the Ministry. Ministry, on the basis of these reports and annual progress reports, forms and submits an annual report to the Government which then conducting a board meeting on the annual results early next year for the Government of the Kyrgyz Republic.
Easy availability	N	Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic did not publish its report either on the website or in printed form.
Local languages	N	Reports are not available in local languages.

Continued Explanation:

Classified information of the executive body on their work leads to a misunderstanding of its regulatory policy in the sector and individual activities to explain the decisions do not help to increase transparency and accountability of the Ministry. Legislation to ensure the transparency of energy companies and government agencies in the energy sector is in place, but it has no effective mechanisms of enforcement. Without the designation of specific mechanisms for implementing these standards, as well as clear penalties for failure to comply with the legislation, these regulations become a mere formality and do not provide the possibility for civil society to exercise effective control over the industry.

VALUES	SELECT
Not applicable / Not assessed	
The electricity department / ministry do not prepare annual report or the report does **not** satisfy any element of good quality in reporting	Low
The electricity department / ministry prepared annual report that meets **one** element of quality in reporting	Low-Medium
The electricity department / ministry prepared annual report that meets **two** elements of quality in reporting	**Medium** - ✓
The electricity department / ministry prepared annual report that meets **three** elements of quality in reporting	Medium-High
The electricity department / ministry prepared annual report that meets **all four** elements of quality in reporting	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials from the Ministry of Industry, Energy and Fuel Resources; the State Department for Regulating FEC

Interview with Aigul Sultankulova, Department of Regulating FEC

Any Additional Information:

7. Policy process in energy sector governance

The policy process determines governance functions in the energy sector. In order to study the ***formation of energy policy and the mechanisms of decision-making,*** 14 indicators have been selected from the toolkit of the project "Electricity Governance Initiative" project (see, Annex 5), which includes 8 indicators on political process and 6 indicators on social and environmental aspects.

7.1. Transparency, accountability and public participation in political processes

(a) Mechanism of decision-making in policy process

The process for considering legislative drafts submitted to the Parliament by the law making bodies is regulated by the law "On Jogorku Kenesh Regulations." In accordance with this law, voting for the adoption or rejection of a specific legislative draft is preceded by a discussion at the relevant Parliamentary Committee meeting and at a meeting of Party factions.

There are no specific time limits in the regulations for debates due to the differential approach to the objectives set. At meetings of relevant committees and party factions, a quorum is defined by "a simple majority", (50% + 1 vote).

In most cases, legislative drafts submitted by the Government are introduced to the Parliament 1-2 months prior to their consideration in plenary session, which is considered sufficient to fully examine the legislative draft and make a substantial decision on it.

Although the decision-making procedure is broadly respected, important steps are not always followed. For example, detailed analysis of documents attached to the legislative draft is not always carried out, even though multiple consultations are required. At times, even expert opinion is not considered. Discussion of the legislative draft at a meeting of the party faction is usually more open than the plenary, including the involvement of experts. At the same time all members of the faction have a chance to question the initiator of a legislative draft, as well as to discuss the responses received. However, in the plenary where the ruling party, which has an absolute majority (79%) in the Parliament, the influence of MPs from other factions has no effect on the result of the voting.

In accordance with the Constitution of the Kyrgyz Republic (Article 64), legislation can be initiated by the President, the deputies of the Parliament and the Government of the Kyrgyz Republic, as well as a by a "people's initiative" requiring 30,000 votes. It should be noted that the most complete discussion in the relevant committees of Parliament and party faction takes place regarding those legislative drafts that were introduced by the Government or MPs from the non-ruling party. But, if a legislative draft is introduced by President or MPs from the ruling party, then usually it is not widely discussed. In accordance with Parliamentary regulations, a decision or conclusion on the legislative draft under discussion should be announced by the head of the relevant committee at the plenary meeting of the chamber. In this case, the requirement for discussion of the introduced legislative draft is virtually ignored by deputies at a plenary meeting.

At present, a definite step forward has been taken - it is a mandatory implementation of **Analysis of regulatory impact** according to the established methodology approved by the Regulation of the Government of the Kyrgyz Republic dated December 20, 2007 No. 603. According to this methodology, at the drafting phase of regulatory legal act, a working group of experts should be formed consisting of economists, lawyers and specialists who are the staff members of the rulemaking body or attracted to its development, as well as representatives of business-associations. At the discussion stage, drafts of regulatory legal acts directly affecting the interests of citizens and legal persons, as well as drafts of regulatory legal acts governing business activities should be disclosed for public discussion on a mandatory basis by posting on the official website of the rulemaking body.

(b) The quality of disclosure of policy and reforms in the energy sector

The current legislation of the Kyrgyz Republic gives the public the right to receive information. However, the laws are subject to fairly broad interpretation, and there are almost **no procedures** governing their implementation. PP 17 "Public disclosure of information on the basis and goals of policy reform" indicates a lack of procedures for providing information to the public at the stage of policy development, and this hinders the implementation of the legitimate opportunities for public participation in decision-making. In practice, public discussions are held only after decisions have been made.

At the same time, the quality of information that *is* provided often does not meet the request, is incomplete or is inaccurate. In many cases, the answer to the same inquiry in different departments contains different data. In this case, interdepartmental inconsistency results in the dissemination of inaccurate information.

Regarding access to information and the availability of public documents, it should be noted that not all of the major institutions have web pages or information-resource centers accessible to the public. Information regarding the privatization process in the energy sector was not published in any of the abovementioned media sources. Information on the decisions of public authorities on issues of policy and reforms in the energy sector are published in the form of short notices by the news agencies (IA "24.kg", "AKIpress", "Kabar").

Several years ago, companies such as OJSC "Electric Stations" and OJSC "NENK" used to post information on their websites, which to some extent gave an idea on the work of these companies. Over the past 3 years, information on the activities of energy companies has become more closed. While the website of MIEFR contains information about the Ministry, and there is a page on the regulator, the site content does not meet the requirements of information value as it does not provide a notion of the decisions taken in the energy sector which affect the public interest.

The media tends not to provide balanced coverage, presenting mainly the view of state structures and information is limited and under strict control. Articles or comments on decisions made are published without a thorough analysis of the energy sector status and without the proposed measures for its improvement. Of all the newspapers in Kyrgyzstan, only the newspaper "Delo No." has published 7 detailed interviews and articles over the past 7 months where the assessment is provided on the state of the energy sector of the Kyrgyz Republic as a result of policies and reforms including tariff policy in respect of electric and heat energy.

The participation of mass media in policy processes is not strong enough. Indicator PP 15 "Quality of media coverage of energy sector policy and reforms" (see, Annex 5) indicates that publications on the issues of the energy sector and energy supply are superficial. If the information about the policies or reforms in the energy sector appears in the newspapers, then it is to inform the public about decisions that have already been made rather than to propose options for public discussion. Tariff policy is an example: in the above mentioned newspapers over the period from May 29 to June 4, 2008 only one report was published that the *Government of Kyrgyzstan approved a decree to raise tariffs on electricity and heat energy. This is reported by the press service of the Cabinet of Ministers.* The report also includes rates for electricity and heat energy for different categories of consumers without any justification and discussion. The media did not publish the nature of the discussion of the increase of mentioned tariffs at the meeting of the Government of the Kyrgyz Republic.

(c) Accountability in political process

Financial reporting is provided as per existing legislation, the usual procedure for accountability of public bodies. This reporting is made according to the accounting forms; reflects all the information about cash flows, payrolls, etc.; may include information about the subsidies and grants if they were made available, and is submitted to the Ministry of Finance on the use of budgetary funds within the allotted limit.

The Ministry of Industry, Energy and Fuel Resources prepares a progress report on annual basis. An extended board meeting is held with the involvement of representatives from other ministries and agencies, MPs, mass media and energy companies to discuss the report. In 2008, the board was conducted with the participation of the Prime-Minister of the Government of the Kyrgyz Republic I. Chudinov and in addition to the report of Ministry, many other issues concerning the overall situation in the energy sector were discussed, in particular the passage of the autumn-winter period, shortage of water, searching for ways out from the situation of a power deficit. Unfortunately, this report, as well as questions to the governing body of the Ministry and the Prime Minister's answers stayed behind-the-scenes. The annual report was neither posted on the website, nor published in the media, nor available in printed form as a separate publication.

(d) Public participation in policy decision-making

Legislation to ensure the transparency of operation of energy companies and government agencies in the energy sector is in place, but has no effective mechanisms of enforcement. Concrete mechanisms should be identified that will ensure effective implementation of the active component of informing as well as feedback loops. First of all, the participants of the process must have access to information - specific, clear, complete and timely. However, simply informing is not enough - it is necessary to take public input into account. Without the designation of specific

CASE STUDY 1: Draft Law on Restructuring the Debt of Major Energy Suppliers

The assessment team selected the legislative draft "On restructuring the debt of major energy suppliers on principal debts, accrued interest, penalties, financial and penalty provisions on tax and customs payments and loans" as a case-study. This draft law is important, because it changes the financial relationships between the government and energy supply companies – JSC «Elektricheskie stanzii» (Electric Power Stations) and the National Electric System of Kyrgyzstan.

The bill was introduced by the Government of the Kyrgyz Republic and discussed at the meetings of a designated committee and parliamentary fractions in accordance with the Procedural Rules of the Jogorku Kenesh. Of the three parliamentary fractions two, (social-democratic and communist) were against adopting the law. Only the ruling party members expressed their opinion in favor of passing the law. It was approved by the Government of the Kyrgyz Republic on 05.11.2008, № 613 and submitted to the Parliament the same day. The entire procedure of consideration, starting from the date it was submitted to the Parliament to the day it was approved, took 20 days.

One of the most important tasks for reform of the Kyrgyz energy sector — energy security and the possibility of financial recovery—has not been resolved even after 7 years of sector reform. The growth in accounts receivables and payables of these companies within the last 8 years, given the numerous asset write-offs in the past, gives rise to serious concern about incentives to energy companies provided by the law. The law will also hinder a timely fulfillment of the earlier intergovernmental agreements in the area of energy.

At the plenary session of the Parliament the delegates of the Social Democratic Party of Kyrgyzstan (SDPK) suggested the following:

- Analysis of the reasons behind the formation of the principal debt of the JSC «Elektricheskie stanzii» (Electric Power Stations) and «Nazional'naya elektricheskaya set' Kyrgyzstana» (National electric power lines of Kyrgyzstan), and to study all the cases of asset write-offs;
- Analysis of the reasons behind a growth of the debt within the last 2-3 years;
- Scrutiny of all electricity supply contracts, especially those that serve large customers, for the purpose of uncovering any «shadow» channels, or cash payments.

According to the delegates of the SPDK, it is only after these measures are taken that the Jogorku Kenesh has a right to decide whether to write-off or restructure the debt the energy companies owe to the national budget. However, the delegates of the ruling party, which comprise a majority of the Parliament, ignored these suggestions and eventually adopted the law. The cursory nature of the debate and the absence of a documented exchange of views for which parliamentarians can be held accountable has meant that concerns about proposed legislation remain unexplored, and solutions to the financial crisis of the sector are elusive. This draft law, among others, was not put out for public discussion. Several representatives of organizations of civil society learned about it from unofficial sources but had insufficient time to organize a public campaign to raise awareness of its main provisions. But even given these time constraints, some support was given to deputies of Parliament to prepare argued comments, which were pronounced during the plenary session.

The lack of reliable exchange of views and analysis mirror poor media coverage of the reform. Newspapers "Vecherniy Bishkek" (weekly circulation is 82,000 copies), "Slovo Kyrgyzstana", "Delo №" (weekly circulation is 21,000 copies) are most widely distributed newspapers in the Kyrgyz Republic. But in these newspapers, materials (information) concerning discussion of conducting policy and reforms in energy are actually never published, nor are alternative options of accepted decisions presented. As for draft law "About Conversion of Liabilities of Main Power Supplier …", only informational agencies "AKIpress" and "24kg" published information about passing the draft law and also a declaration of parliamentary group of Social Democratic Party of Kyrgyzstan.

Indicators PP14-18 from the EGI toolkit were used to develop this case study and the related discussion of legislative processes.

mechanisms for implementing these rights, as well as penalties for failure to comply, these legislative regulations become a formality and do not provide the possibility for civil society to exercise effective monitoring of the industry. The lack of clear procedures ensuring the implementation of the right to access to information and the right to participate in taking important decisions means that, in practice, that implementation of the right to participate becomes complicated.

Equally important is the wide dissemination of procedures for accessing information. People and organizations often do not know how to correctly make a request for information and do not know who is authorized to answer their questions. However, those CSOs which have sufficient capacity to work professionally do analyze and provide constructive comments. Many of the active NGOs are already leaders in shaping the views of society and are actively supporting efforts to build communities. As a rule, their members have high levels of education and additionally have received training on the development of communication skills. They easily understand complex connections, and can play an active role in information processes.

Currently, many CSOs take an interest in being actively involved in the processes occurring in the energy sector. It should be noted that today civil society in Kyrgyzstan is cooperating with government bodies in such forms as information dissemination, consultation and cooperation. However, this cooperation has been shaped owing to individual initiative rather than a focused effort from the state side and is directly dependent on the persistence of CSOs and their ability to competently use the existing legislation. The possibility to make contacts is always there, but they are often severely limited by the government bodies and all the more complicated by the energy companies**' corporatized structure.** Being a joint stock company with private investors, they are accountable to the Board of Directors. There are departments on working with consumers, but they do not provide for close contacts with the CSOs.

Indicator PP 18 "The effectiveness of public participation process" showed that the participation of civil society organizations in discussion of solutions is insignificant because the solutions are not open to debate. In those few cases when documents come into the possession of the individual representatives of civil society organizations, it is almost impossible to influence the adoption of the prepared decision.

The above mentioned example of public debate on a legislative draft related to the energy sector with the involvement of civil society is rather an exception than the rule in the relationship between the state and society. Work in collaboration with the state authorities is not carried out systematically, and this affects the quality of the documents adopted. This affected, in particular, discussions of the Country Development Strategy for 2008-2010 (section "Energy"); the National Energy Program for 2008-2010 and the Strategy of Development of Fuel and Energy Sector until 2025.

The lack of a mechanism to respond to alternative opinion when making decisions related to the formation of the national and regional energy policies, as well as preparation of relevant programs and projects does not allow objective monitoring of the submission of proposals and ensuring transparency.

(e) Transparency of donor engagement

International donor agencies play an important role in the energy sector, as they may stimulate new policy initiatives and influence outcomes through their contribution to knowledge. Indicator PP 24 estimates the transparency of donor engagement through technical assistance.

Many donor agencies have assisted in the development and reform of the energy sector of Kyrgyzstan. These include the World Bank, IMF, USAID, ADB, KFW, EBRD, TACIS, DFID, and many others.

Coordination with donors and the harmonization of external assistance is carried out by the Donor Coordination Council and its Secretariat in Bishkek. A joint Country Assistance Strategy (CAS) was developed by five partners (ADB, DFID, Swiss Cooperation Bureau, the UN and the World Bank) in order to align donor programs in the Kyrgyz Republic. The EC and Germany joined the CAS in the second half of 2007. The IMF has announced its intention to join the process of developing the CAS in the first quarter of 2009. USAID has also expressed interest in joining the CAS during 2009.

The existing legislative framework in the energy sector and many internal documents regulating the activities of the regulatory body were developed through the USAID project "Reforming the Energy Sector of Kyrgyzstan" implemented in 2006.

The DFID "Tariff Policy" project (2001-2004) also provided technical assistance to Kyrgyzstan in partnership with the Ministry of Finance, Ministry of Labor and Social Protection, and the regulatory body of the energy sector of Kyrgyzstan. The result of this project was two fundamental documents on the tariff policy of Kyrgyzstan: the medium-term policies for electric and heat energy. This project was characterized by transparency in working with stakeholders, including trainings for journalists working in the energy sector, and was very useful and effective for the objective assessment of changes occurring in the sector.

The Natural Resources Management Project in Central Asia (NRMP) implemented by the USAID has done a great deal of work on dissemination of the results of the project. Many documents were sent by the network to all organizations; a large number of seminars on working with consumers were conducted; the first public hearing and the review of the conducted hearings with the participation of the governing body of the regulator were organized.

However, these projects were active in Kyrgyzstan more than 5 years ago. Projects implemented more recently have been closed in nature: technical analyses carried out in the energy sector are provided mainly to the Government of the Kyrgyz Republic and the governing body of the industry.

Some details of the donor activity are posted on the website www.donors.kg (a resource on the activities of international organizations in the Kyrgyz Republic) where those interested can read the description of the project; terms of reference for technical assistance, the recipient and the person responsible are indicated. However, draft feasibility studies or other technical assistance documents are not made available.

In addition, while detailed information for Requests for Applications (RFAS) can be found on web pages in English and Russian languages, electronic dissemination of information can constitute impassable barriers to the civil society organizations located outside of the capital. Thus, in terms of Kyrgyzstan, availability of data on the activities of international projects on the websites is rather relative.

CASE STUDY 2: Public Participation - Legislative Process

In 2008, the Ministry of Industry, Energy and Fuel Resources presented the draft law "On Energy" for the discussion of stakeholders, including civil society organizations. Six civil society organizations participated in the discussion of the legislative draft. The reaction of representatives of civil society organizations was critical of the main provisions of the proposed legislative draft. The draft was withdrawn and dispatched to the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic for further elaboration. Over 60 comments and suggestions to 35 basic articles of the legislative draft (out of a total of 106 articles) were submitted by participants of the event, mainly by representatives of the civil society organizations. These are recorded in the transcript of the discussion.

(f) Corporate management and selection of private sector service providers

Systematic reforms of the energy sector undertaken by many countries around the world include the restructuring of energy holdings based on their functional features (separation of generation, transmission and distribution). Often, this process is accompanied by privatization of a portion of the unbundled enterprise, or a hand-over of control to a private operator through management contracts. The process through which the terms of private involvement are reached is of considerable importance. Transparency of these processes is an important tool to limit possibilities for corruption and bribery, and to ensure that the public receive a fair price for assets (in the case of full privatization) or does not pay unnecessarily high amounts (in the case of a management contract).

The EGI methodology incorporates an indicator reflecting the transparency of the selection of private sector service providers, PP 26.

Involvement of private enterprises in the system of distribution of electric energy to consumers in Kyrgyzstan is taking place. For example, OJSC "Vostokelektro" and "Severelektro" have attracted private companies to provide electricity supply services to consumers (businesses and population). Concessions for three feeders, including power equipment of different voltage, have been awarded as part of a pilot project. There are also a few firms of resellers (agents) of electricity such as "Abigal" Ltd

and "Cityholding" Ltd. However, in all cases, information on the terms of attracting the private enterprises was not disseminated or publicly discussed. It is not clear on what terms private enterprises are engaged to provide electricity supply services to consumers, or how the tender was conducted and the results assessed.

The same situation exists with private companies engaged in export of electric power from Kyrgyzstan. For instance, such activity has been carried out by 12 foreign companies from the Republic of Kazakhstan in 2005. At present, these companies do not operate due to the reduction in energy generation. In 2008 a shortage of electric power of more than 2.5 billion kilowatt hours was felt. At the same time, private companies did not prove themselves in the issues of replenishment of the energy deficit in Kyrgyzstan through import from neighboring states (Kazakhstan, Russia, Uzbekistan, and Turkmenistan).

7.2. Summary

EGI analysis of policy processes for the electricity sector has shown that according to most of the indicators it is at the low-medium level of valuation. Table 6 provides an overview of the selected indicators considered in this section along with their values.

The process of decision-making and implementation of energy sector governance policy is not transparent; it is carried out without public involvement or extensive coverage. There is no lawful regulation on the participation of interested groups of civil society in the energy sector governance. However, the example considered on the basis of the law "On restructuring the debts of energy suppliers…" showed that CSOs have the necessary capacity and knowledge to prepare reasoned proposals and comments, and can make a constructive contribution to the formation of a balanced solution.

All energy companies, except for 2 private companies JSC "Tran-selektro" and JSC "Chackan HPS," are joint stock companies with a controlling stake belonging to the State. However, they are accountable to the Board of Directors being a joint stock company with private ownership, rather than accountable to Kyrgyz citizens. The companies have departments of consumer relations but they do not provide for close contacts with the CSOs. Poorly defined lines of accountability create many contradictions and interdepartmental inconsistencies, complicating the work of the executive body in the field of public availability of documents and public involvement.

The value of the indicator on annual reporting (PP 10) is "Medium", but there is a significant difference between the existing legislation and its implementation. Qualitative indicators of EGI show a gap on this issue: operating and financial accountability is in place; there is an obligation prescribed by legislation on access to information, but practical implementation is absent.

Operating efficiency of the donor community technical assistance in the energy sector is difficult to assess. While this study assessed transparency of donor engagement through technical assistance, it would be necessary to conduct further analysis of donor loan and credit support to have a complete picture of the involvement of donors in the political process of the energy sector of Kyrgyzstan.

The EGI assessment shows that in recent years, sector governance has become more closed, and coverage of information is one-sided and analytically thin. Against the backdrop of the fact that the key shareholder of the energy companies is the state, the secret nature of the accountability of the key structures leads to a public suspicion of unfair sector governance and the diversion of financial resources. Non-transparent procedures of appointment of "handy" company managers based on the political will of the ruling elite leads to a conflict of interest.

7.3. Recommendations for improvement of institutional frameworks and policy processes

The working group recommends reforming the procedures of decision-making and implementation of the following commitments to ensure better energy sector governance:

1. Develop procedures to implement the right of access to information from legislative and executive bodies making electricity sector policy
2. Develop procedures to facilitate the right to participate in key policy-making processes
   - define procedures and timelines for policy debates and decisions
   - ensure wide-spread dissemination of draft laws
   - conduct open hearings
   - consider alternative opinions
   - provide reasoned reports include that alternative opinions
3. Support unbiased media coverage of the energy sector, including representation of alternative views (freedom of speech);

4. Provide access to the annual and financial reports of the key institutions to increase transparency of the sector governance and to reduce corruption schemes and unprofessional management;
5. Clarify and align the governance implications of energy companies registered as Open Joint Stock Companies with respect to (i) criteria for confidentiality and (ii) eligibility for government subsidies
6. Ensure transparency of donors and consultants' technical assistance, by means of the mandatory publication of feasibility studies and wide dissemination of reports prepared by consultants.
7. Ensure transparency of selection procedures for service providers by providing easy access to tender documents, selection criteria and terms of implementation.
8. Consolidate the efforts of CSOs active in the energy sector and create a structural network in order to: increase the capacity of CSOs, support communication, information dissemination and exchange; public monitoring and strengthening at the local levels.

8. Regulatory Process in Electricity Sector Governance

Regulatory Process is an important component of energy governance: it reviews interrelated aspects of economic, financial, social and environmental issues. An important function of regulatory process is balancing the interests of stakeholders, including investors, producers and consumers and it covers important spheres of interests such as tariff settings, licensing, appeals and attracting investment.

17 out of 32 indicators from the EGI indicator toolkit have been prioritized for reviewing energy sector regulation of Kyrgyzstan, of which 2 investigate the capacity of the regulatory body with respect to social and environmental issues.

8.1. Autonomy of the Regulatory Body

The main object of the study is the State Department on Regulation of Fuel and Energy Complex (FEC), which functions as the Regulatory Body in the energy sector of the Kyrgyz Republic. The State Department is a self-sufficient legal entity with a separate bank account, seal, etc. However, the Regulator is financed from the state budget rather than from regulated enterprises and companies as is accepted in world practice. Since declaring the independence of Kyrgyzstan, the structure of the regulatory body has been changed several times, but it has never had the status of an independent institution.

Indicator RP1 "Institutional structure for regulatory decisions" assesses the independence of Regulatory Body of the Kyrgyz Republic (see Annex 5). Although the regulatory body - the State Department on Regulating FEC – currently performs almost all functions of regulator, it does not have sufficient independence in making decisions. The State Department is an institution under the jurisdiction of the MIEFR, and decisions are made by the Committee - Executive Council. The Council is responsible for all decisions taken. Moreover, its personnel policy, which is approved by the Law "On Energy", absolutely denies independence to the regulatory body. Formerly, an appointment of members to the Executive Council would be approved by the President of the Kyrgyz Republic on the basis of the Prime Minister's proposal, but according to recent changes, this appointment is realized by the Government. Currently 3 persons are designated as comprising the Executive Council – the Minister of MIEFR, the Director of State Department on Regulation and the Deputy Minister of Economics and Trade of KR.

Hence, despite the wide range of authority and clearly defined mandate, the State Department of Regulation is not isolated from undue political and ministerial interference; the decisions of the department may be forced both by other members of the Executive Council and the Government.

Improving the energy sector and minimizing the costs associated with corruption is possible if there is a full and powerful Regulator that is governed according international best practice. In order to have such potential, the regulatory body should be independent from government bodies and transparent in its activities. Moreover, the regulatory body should implement its activities according to certain principles and methods of government oversight.

8.2. Transparency, Accountability and Public Participation in Regulatory Processes

For the purpose of effective sector governance and the development of the energy sector there should be a mechanism for involving stakeholders such as customers, local authorities and NGOs with respective tasks into the discussion process. The absence of different stakeholder representatives and the exclusion

of civil society in particular, might limit support from critical stakeholder groups, including power engineering specialists and social movements which would weaken the potential for successful program implementation. Regulatory processes, as well as policy processes, should be implemented in accordance with principles of good governance: transparency, accountability, capacity and participation of civil society.

(a) Mechanism of Decision Making and Accountability

RP15 "Clarity about Regulatory Procedures and Substantive Basis of Decisions" and RP 26 "Orders and Decisions of Regulatory Body" show the legal basis for the regulatory body's decision making procedures (see Annex 5). Assessments on these indicators were "high" and "medium" respectively. However, deeper analysis shows that the procedure of many regulatory processes is frequently a formality: regulations are registered, authority is clearly divided, and penalty provisions are specified on a paper, but these rules are rarely implemented in reality.

The legal document which determines the order and procedures of cases for fixing tariffs and issuing licenses is the Law of Kyrgyz Republic "About Electricity"[12]. The State Department has developed a number of other documents about procedures of conflict resolutions, norms on electricity and heat use, instructions on customer service provision for the purpose of streamlining dispute resolution.

Indicator RP 26 assesses the transparency of regulatory decisions. It is shown that a justification for each decision is prepared by the State Department, but it is not easy to understand by the ordinary citizen, nor is it physically accessible. Justification of decisions for the critical social issues (subsidies) is provided to the public. However up to this moment there is no justification for tariff forming, which essentially lowered the assessment grade on accountability of the Regulator.

(b) Transparency in Regulatory Process

Indicator RP18 assesses transparency of procedures for access to documents of the Regulator as medium-high. Legislation of the Kyrgyz Republic on transparency is sufficiently progressive, giving the right of access to documentation and information: all documents in the possession of the regulatory body, according to legislation and also according to regulations of the regulatory body, are considered to be open, unless classified as "confidential." However, there are no well-defined procedures and rules for determining "confidentiality".

Indicator RP19 assessed the availability of a data base and public access to documents in possession of the regulator at low-medium (RP19, Annex 5). This indicator reviews the technical capacity of the Regulator to operationalize procedures for providing public access to information. Qualitative attributes such as procedures for obtaining documents, the existence of a data base, affordability of documents, and wide information dissemination of procedures for access were considered. Decrees, orders and directions of the Regulator are stored according the approved Government codes. However, searching the data base is complicated without knowledge of the coding system. The Department officers are acquainted with the data base, but there is no public access system. The procedures for information access are specified in the Law "On information". However, due to low awareness of the population about information request procedures within the legislation, in practice there is no free flow of information. The State Department does not raise public awareness of information access procedures, nor is there an estimated pricelist of the accessible documents.

Transparency with respect to the use of consultants was rated low (see RP14, Annex 5). While information on hiring consultants is published on the web-site of Ministry or in newspapers, the technical reports prepared by consultants within international projects on energy sector are submitted mainly to the Ministry. They appear in the mass media only in the form of articles, notes or interviews, but to fully get acquainted with prepared analytical reports is difficult even for officers of ministry and regulatory body. The State Department on Regulating FEC under the MIEFR has the right to involve specialists, experts, scientific and other organizations to establish expert groups from Kyrgyz civil society. But despite having such rights, the regulatory body does not involve representatives from civil society organizations to review actual issues, nor have they developed a mechanism to register interveners or recognize alternative suggestions during the decision-making process.

As for accountability, each year the State Department on Regulating FEC prepares an annual report on executed plans of activities for the previous year. The report reflects all decisions taken by the Executive Board of the regulatory body on the tariffs both for all consumer groups and between the companies, on decisions to introduce charges for power, and on guidelines, regulations and bylaws that have been developed. Financial reports are provided in accordance with current legislation, in the frame of the usual procedures of accountability of state structures.

12 The Law of KR "On Energy", October 28, 1997.

This accounting is composed on fixed accounting forms and contains all information on flows of cash resources, wage payment, etc. It may include information on subsidies and grants, if they have been provided. In addition, all the activities specified in the plans of the Ministry which involved the regulatory body as a structural unit of the Ministry should be reflected as well. However, this reporting is submitted only to a higher authority - the Ministry of Industry, Energy and Fuel Resources. The State Department for the Regulation does not provide its annual reports to the media – newspapers, internet, or other publications.

Lack of transparency on the work of the regulatory body leads to misunderstanding of its policy on regulating the sector, and activities informing the public about tariffs decisions already taken do not increasing transparency and accountability. Although there is legislation to ensure the transparency of energy companies and government agencies involved in the energy sector, there are no effective mechanisms of enforcement. Without the designation of specific mechanisms for implementing these standards as well as stipulated penalties for failure to comply with the legislation, these regulations become formality and do not give civil society the possibility of exercising effective oversight of the industry.

(c) Public Participation in Regulatory Process

Further public involvement – in conjunction with access to the documentation upon which decisions are being based – would enhance the acceptability of the decisions of the State Department even if they are unpopular. In addition, the active involvement of the public appears to be useful from the standpoint of improving the quality of decision-making of the regulatory body.
Civil society organizations were almost never involved in the development of the tariff policy. In most cases, representatives of civil society organizations and population are only invited to review the decisions already taken by state authorities.

Preparation of decisions is not made public before approval, while in international experience a draft decision is delivered for public discussion one-two months prior to approval in order to allow for consideration of a broader range of opinions.

Indicators RP20 and RP24 assess public participation in regulatory processes. The legal framework giving the public the right to participate in regulatory proceedings is in place, and there are two public organizations on consumer rights protection -- “Ustin” and “Vigens” -- which actively work in Kyrgyzstan on solving of disputes between consumers and energy providing companies.

During 2007-2008 numerous appeals were sent to the regulatory authority in various forms by consumers and civil society organizations for the protection of “private” and “public interest”:
Private interest:

- suppression of unlawful actions by representatives of electricity supplying organizations (distorted meter accounting, wrongful accusation of consumers of theft of electricity and other actions);
- assisting the consumer in reimbursement of the damage caused by electricity supplying organization as a result of its violation of electricity supplying regime.

Public interest:

- demanding cancellation of the regime of forced restrictions on electricity supply to consumers, including the disconnection of three-phase input and the practice of “rotational cut-offs”;
- demanding notice to the consumers of schedules of power cut-offs;
- demanding cancellation of the two-tier tariff to all categories of electricity consumers;
- request for a public justification of electric energy tariffs.

There is thus both a legal framework for public participation and a small but active number of organizations that attempt to use this space, giving ratings of high and medium high to these two indicators. However, RP 26 provides a fuller picture: in practice, the submissions of civil society organizations have little impact, as regulators are not obliged to make the justifications for their decisions accessible to the public.

The principal issues, especially those which have social impact – tariff issues, forced limitation of electric power – have been taken to Court for resolution, but in practice the rulings have almost never been on the side of the consumer.(see RP 9) In reality, then, many mechanisms for public participation do not work.

Indicator **RP29** assesses public participation in the process of decision making on affordable electricity pricing (see Annex 5). The price of electricity has an important social impact. It defines what proportion of the household budget will be spent on electricity, has further impact on whole economy by making industrial production more or less costly, and also may lead to the decision to take energy saving measures. The level of electrification of Kyrgyzstan is sufficiently high: a legacy of the Soviet period is that more than 99% of population has access to electricity independent of income level. Due to the social importance and political sensitivity of the issue, attention to affordability by the Government is implemented through the political decision to delay economical price increasing and

TABLE 7. Summary assessment of the policy process			
Indicator EGI	**Assessment**	**By law**	**In practice**
PP10 Annual Reports of the Ministry / Department of Energy	Medium	Legislation mandates preparation of annual reports	Reports are submitted regularly to upper levels of government only. There is no public accountability.
PP14 Quality of legislative debate in the electricity sector	Low medium	Legislative procedure (process, the quorum) is observed	Unspecified timeframe for debate. Breadth of discussion depends on the sponsors of the bill. Detailed analysis of the attached documents are rare.
PP15 Quality of media coverage of policies and reforms in the energy sector	Low	Law on mass media guarantees freedom of speech	Although the energy sector is covered in the popular newspapers, these publications most often reflect the views of state structures, with no representation of alternative views. Analytical articles are not published.
PP17 Informing the public about the basis of political reform and its objectives	Low	The public has the right to receive information about the reform agenda	Procedures to provide information to not exist. Most often, decisions are declared to the public once they have already been taken. Policy making is not transparent, and no procedures for public participation exist.
PP13 Capacity of civil society	Low medium	NGOs may participate in political life.	Although NGOs have the capacity to analyse, act, generate recommendations and are ready to implement them, they are few in number. There is no systematic interaction between NGOs active in the energy sector. NGOs lack access to information and knowledge.

provide a reduced rate for vulnerable groups. However, the tariff rate decision is taken without public participation and public informing is about the approved tariff when there is no opportunity to influence the decision.

8.3 Tariff Policy

One of the main qualitative characteristics of competent regulation is identifying the optimal ratio of tariffs of electricity and heat carriers to the income level of consumers. Reasonable tariff policy, assuming accessibility of electricity for all groups of population and also ensuring industries stable existence, helps to attract investment to energy sector and become the solid guarantor of the population.

Indicator **RP28** assesses transparency of tariff philosophy**.** Despite the similarity of term, tariff philosophy, tariff strategy and tariff policy do not always mean the same thing. Currently in the Kyrgyz Republic, long-term tariff philosophy does not exist and the special concept of «tariff philosophy» does not appear in any legal act of the Kyrgyz Republic. An understanding of these terms in the context of the indicators is provided below:

- ***Tariff philosophy*** is a long-term detailed plan of actions on tariffs settings for energy, which ensures predictability and accuracy of regulatory process, which is an important point for future investors.
- ***Tariff strategy*** *is* general, not detailed, plan of tariff setting procedures, which covers a long period of time and is corrected further according to changed conditions. Strategy relays to practical activities and reflects in practical implementations.
- ***Tariff policy*** is series of political measures related to tariff setting and formation.

A first step toward stable regulation of the energy sector was the "Medium-term Tariff Policy on Heat Energy for 2008-2012" and "Medium-term Tariff Policy on Electricity for 2008-2012" , developed by State Department on Regulation of FEC.

This tariff policy is based on the following basic principles:

- Tariffs should cover all costs of energy companies on production, transmission, distribution and sale of electric energy.
- Tariffs for each group of consumers in the long term should reflect all costs of electricity supply to consumers in this category;
- All subsidies must be sent directly to low income consumers of electricity through governmental social protection programs.

The essence of the new tariff is to establish a more effective tariff structure and gradually bring rates in line with the real inputs of energy companies. This level of tariffs may be revised following the review of the investment obligations of energy companies, as well as other deviations from the calculated parameters laid down in the tariff policy. In cases of deviation of the actual level of the basic parameters and assumptions of the values embodied in the calculation of the tariff policy, the levels of tariff and rate of their increase must be also adjusted. Moreover, such adjustment shall be made both to increase and to reduce tariffs.

The tariff rate is influenced by the economical index QFD (quasifiscal deficit), introduced in 2003 according to a Memorandum between the Government of the Kyrgyz Republic and the International Monetary Fund for assessing the situation in electricity sector. Using this methodology means accounting for extra normative systematic electricity losses and consumer debt through increased tariff, to cover the lack of financial resources. In general, the formula for calculating QFD in money terms is the following:

Q = KEL + KTL + KCC, where:

KEL is extra normative systematic electricity losses, expressed in money terms;
KTL is low tariffs on electricity in money terms;
KCC is incomplete collections for consumed electricity in money terms.

According to the calculations of the IMF, the QFD of electricity in 2002 was 9.7 billion KGS or 12.9% GDP (gross domestic product)[13]. At the same time, step-by-step reduction of QFD level of 1.3% each year from country GDP[14] was the obligation of the Kyrgyz Republic and rates of increasing tariffs for electric power for consumers are only one variable influencing the decreasing level of QFD.

Using this procedure means imposing an extra regulatory system of electric losses and also imposes a burden on law-abiding payers through increasing tariffs in order to cover the gap in financial resources, formed because of the indicated reasons. However, tariff calculation on the basis of QFD has no justification in electricity production costs. It depends only on the level of uncollected payments and is aimed at balancing the inflow of resources and uptake of tariff.

The issue of tariff policy is the most social sensitive decision in the electricity sector. However, the Regulatory Body has organized a public hearing prior to decision making only once: in December 2004. In 2008 number of public meetings to explain the Mid-Term Tariff Policy were held. However, the purpose of these, meetings was to justify decisions already taken.

In 2008, the MIEFR and regulatory body conducted a number of events to explain the Mid-Term Tariff Policy. These included large-scale meetings and round tables with representatives of Pensioners Party of the Kyrgyz Republic, civil society organizations on social protection, representatives of business structures, the chairmen of house committees, and representatives of trade unions of the Kyrgyz Republic. Representatives of the mass media were invited to this meeting. In addition to regulatory body staff, these meetings were attended by the representatives of energy companies engaged in supplying electricity to consumers, representatives of the Ministry of Labor and Social Development, Ministry of Finance, and Social Fund. As a result of these meetings, some changes to improve support to vulnerable populations were made. However, the critiques of the policy itself were not considered.

The new tariff policy provides for increases in the fee (in stages, until 2012) for electricity up to almost 2.5 times, and the fee for heat up to almost 4 times, even though there is no method of calculating and setting the tariff for electricity and heat, as well as natural gas, which has yet to be developed and legislatively approved. At the same time, consumers have a right to understand what revenues pay for, and it is the responsibility of the regulatory body is to provide a comprehensive statement on tariff formation. Availability of this document would clarify the situation and increase the accountability of the regulator in the tariff setting process.

13 Medium-term Tariff Policy of the Kyrgyz Republic on Electric Power and Heat Energy for 2003-2006, approved by Regulation of Government of the Kyrgyz Republic N279 from May 13, 2003.

14 Medium-term Tariff Policy of Government of the Kyrgyz Republic on Electric Power for 2008-2012, approved by Regulation of the Kyrgyz Republic N164 from April 23, 2008

Concurrent with the development of tariff policy, measures to support vulnerable groups were developed and the budget for the compensation of preferential categories and pensioners was estimated in cooperation with the Ministry of Labor and Social Development and the Social Fund of the Kyrgyz Republic. As a result, retirees will receive an allowance in the amount of the difference in tariffs for electricity; the residents of Bishkek with low income receive support in payment of utility services through the Center for Housing Subsidies of Bishkek, and citizens entitled to benefits under the current legislation still have discounts on payments. However, the impact of increased tariffs on the cost of goods and services is not considered.

8.4. Licensing

Issuing licenses for the production, transmission, distribution and marketing of electric power, heat energy and natural gas is one of main functions of regulatory body- State Department on Regulating FEC.

Companies involved in production, transmission, distribution and marketing electricity– power stations, substations and transmission facilities – are specialized enterprises and are subject to specific regulatory norms. Only entrepreneurial activity, targeted on profit earning, is subject to licensing. General norms on licensing are determined in law "About Licensing"; these norms are described in more detail in "Regulations on Other Types of Entrepreneurial Activity"[15].

Indicator RP30 "Licensing" assesses general elements of licensing procedure by the State Department on Regulating FEC (see Annex 5). Well defined procedures for issuing licenses, processing applications, reasons for refusal, and temporary suspension and withdrawal of license do exist.[16] With respect to monitoring and compliance, the process of collection and data analysis is clearly articulated: every month and every quarter the information from licensed companies is requested by the State Department, data are analyzed, and control is carried out locally as necessary. Some of templates for data request for each kind of licensable activity are elaborated by the regulator. These requests clarify what kind of data and documents should be submitted to the State Department for purposes of monitoring, and also make clear a dynamics of data collection.

However, it is important to note that there is a gap between the legal framework for licensing and its implementation. In reality, it is difficult to effectively monitor the activities of licensed companies because the licensing document that is issued is a patent than licensing contract. The document does not have conditions of a licensing agreement or fix specified obligations of licensees, implementation of which is possible to monitor and regulate. Measures of administrative pressure and penalty provisions are determined by Legislation of KR (Law "About Licensing", article 19). During 2008, the State Department only twice applied measures of administrative pressure in licensing, and there were not other cases of withdrawals or suspension of licenses.

8.5 Consumer Services and Right to Appeal

One of the important functions of a regulatory body is establishing mechanisms for settling disputes between consumers and energy companies, and also between enterprises themselves. RP9 assesses the mechanism for appealing decisions of the regulatory body (see Annex 5).

The current legislation of the Kyrgyz Republic (Civil Code, the Law "On natural and permitted monopolies in the Kyrgyz Republic", "On Protection of Consumer Rights", "On Energy") provides for the possibility of appeal against the decision of public authority, including the regulatory body as well as to appeal for redress. The law "On Electricity" obligates the establishment of well-defined procedure for resolving conflicts between clients (that have no choice of electricity suppliers) and distributing companies. Several documents on procedures for settling controversies, rules of electricity and heat energy usage, instruction on customer service in case of law-breakdown, etc. have been developed by the State Department.

Any decision of the regulatory body can be appealed, including those filed on procedural grounds: failure to comply with procedures, abuse of administrative procedures, rules contradicting the provisions of the legislation and inconsistency with the objectives of the law. At the same time, it is quite difficult for the interested party to appeal the decision of regulators: in practice, courts in the Kyrgyz Republic are not guided by the existing legislation when considering cases of this kind. Decisions of the regulatory body are executed on behalf of the Executive Council, which in accordance with the Law "On Energy" (article 10) is not a legal entity. As a result, the court refuses to accept claims from applicants because of lack of proper defendant.

15 Approved by the Government Decree of KR N 260 from May 31, 2001.
16 Law of KR "About Licensing", March 3, 1997.

The level of consumer services and standards of quality of supply is estimated as "medium-high" (RP32, Annex 5). The quality of electrical energy supplied to the consumer must conform to interstate standard GOST 13109-97 "Quality standards of general-purpose electrical energy in the electricity systems." This requirement is reflected in a contract to supply electrical energy to household consumers approved by the State Agency on Energy of the Government of the Kyrgyz Republic, and the supplier of electric power has the responsibility for compliance with the above standard. According to the terms of use of electric energy, the State Energy Inspectorate oversees compliance with licensing requirements, requirements of Regulations and GOSTs, the organization of operation and the technical condition of electrical equipment, and compliance with norms and GOSTs.

Monitoring the quality of electricity services was set by Regulation "On the order of allegations of the Agreement breach (the contract) when providing electric power to Consumers and collection of debts for consumed electricity". However, the quality indicators of the electrical energy supplied to the consumer, such as voltage fluctuations and variations and the oscillation frequency of the voltage can be measured only with the special instruments and techniques of conducting appropriate measurements. Employees of line services of the electricity distribution companies do not have such devices and there is a lack of specialists. At the same time, conditions of power consumption change over time and it is rather difficult to register the deviations of the parameters of electric power from the established standard.

Reviews of the quality of electricity services provided are conducted sporadically, mainly upon the complaints of consumers, local self governments or organizations, including the public, and organizations on consumers' rights protection. However, it is very difficult to produce the evidence of electrical energy supplier's non-compliance with standards, confirmed with applications and appeals of citizens to State Energy Inspectorate.

8.6. Summary

Analysis of regulatory processes in the energy sector of Kyrgyzstan showed that by most of indicators the assessment is "medium-high". Table 7 gives a general overview of selected indictors reviewed in this section.

As shown in the table, legal frameworks are undermined by a lack of mechanisms for implementation. In the case of licensing, procedural elements do exist, but only two cases of imposing fines were registered during last the year. It should be noted that these examples in the report were studied as cases of general exercise of power by the regulatory body. Monitoring activities of energy companies is complicated by absence of specific terms of licensing agreement, fixed obligations of license holder, and also by corruption mechanisms.

Space for public participation is assessed as high because of the legal framework that guarantees a right to involvement in regulatory processes. In addition, there is a small number of civil society organizations that are actively engaged in advocating for public interests. But in fact, there is no public access to decision making processes. Decisions are made "at the top" and in spite of well-defined laws, they are presented to the population as directives without a real right of appeal or discussion.

There is no clear division of power between MIEFR and State Department, causing duplication of functions. Currently the Ministry is both the administrative and the regulatory body, and there is no clear responsibility for decisions taken. Contradictions are inherent to regulator's structure itself: the regulator is within the jurisdiction of MIEFR and staff of the Executive Council of Ministry, thus denying the independence of the regulator and its commitment to economical principles rather than political ones. As for accountability, the assessment on this point is composed from many indicators that study the main functions of regulation – tariff policy, licensing, and transparency of the document base. Public access to all required documents, simplicity of language and wide dissemination of procedures for access will increase accountability of regulator to Kyrgyz citizens and also increase public trust in the energy sector. Global best practice indicates that the activities of the regulator should be predictable and based on strong economical principles. However, realization of these practices is far in the future for the Kyrgyz Republic. However, a start has been made: short-term tariff strategies have been elaborated, and strong motivation and interest in the energy sector of the country have developed. It is expected that including mechanisms of transparency and accountability will result in improved regulatory decisions.

CASE STUDY 3: Public Participation - Regulatory Process

In December 2004, the State Agency on Energy under Government of the Kyrgyz Republic submitted the proposed increase in the electricity tariff for public discussion. This case was an exception in inviting public opinion. As a result of quite emotional discussions, the decision on increasing tariffs was not accepted.

TABLE 8. Summary assessment of the regulatory process			
Indicator EGI	**Evaluation**	**By law**	**In practice**
RP 9 Mechanism of appeal	Medium-high	Any interested party can appeal the decision of the regulatory body	Decisions of the State Department are issued on behalf of the Executive Council, which is not a legal entity (the law "On Energy", Article 10), and the court does not recognize it as a defendant.
RP18 Disclosure of documents in the possession of regulatory body	Low	The procedure to access information is in accordance with the Law "On information".	There are no clear rules for determining confidentiality of document, i.e. any request can be rejected on the grounds of confidentiality.
		Documents in possession of the regulator are assumed to be public unless marked as confidential.	The population does not know and is not informed about the methods and procedures for obtaining information.
RP20 Space for public participation	High	According to the law, the public has a right to participation and involvement in the regulatory process.	There is no system of informing and contacting the public regulator, public hearings often take place without public participation. Most often, the public is invited to consult about decisions already made.
RP 28 Tariff philosophy	Low	Tariff policy exists as a medium term document that takes into account both economic and social issues. The document is available for inspection and explains the principles of formation of the tariff.	The public is usually not involved in the discussion of tariffs for energy at the decision-making stage. There is no clear justification for the tariff. The system of benefits and compensation does not take into account the impact of increased tariffs on the cost of goods and services.
RP 32 Customer service and quality of supply	Medium-high	There is a standard for quality of delivered energy (G.S.13109-97), agreement on the electricity supply to domestic consumers, the rules of energy use. There is a mechanism for monitoring the quality of services provided.	No technical equipment for monitoring the quality of energy, and no regular review of the quality of energy. Accordingly, there is no verifiable data available to the public on the quality of supply, and it is not possible to provide proof of complaint.
RP 30 Licensing	Medium-high	The law "On licensing" contains the basic principles of the licensing process. It Determines the role of licensor and licensee, and the terms and conditions of monitoring.	Licenses do not specify the obligations of the licensee, which makes the document more expedient for a patent than a license.
RP 32 Customer service and quality of supply	Medium-high	There is a standard for quality of delivered energy (GOST 13109-97), agreement on the electricity supply to domestic consumers, the rules of energy use. There is a mechanism for monitoring the quality of services provided.	In 2008, there were only two cases of regulated companies being fined, and no cases of revocation or suspension of license.
RP 30 Licensing	Medium-high	The law "On licensing" contains the basic principles of the licensing process. It Determines the role of licensor and licensee, and the terms and conditions of monitoring.	

8.7. Recommendations on Improving Regulation of Electricity

In consideration of the reliability and security of energy supply to consumers, including the forced restrictions imposed on electricity supply, the quality of electricity sold and the tariff setting process, it is proposed to:

1. Establish the independence of the regulatory body with the purpose of ensuring quality execution of the functions entrusted to it
2. Increase transparency of documents in possession of the regulator by defining criteria for confidentiality
3. Develop a procedure for public access to documents in the possession of the regulator, including creation of an indexed database
4. Develop procedures for public participation in decision making by:
    - defining procedures and timelines for regulatory decisions
    - considering alternative opinions
    - providing reasoned reports that include submissions received and responses to them
5. Elaborate a methodology for calculating and fixing tariffs for electricity with participation of specialists and experts from civil society
6. Develop a template for licenses that specifies the obligations of the licensee
7. Simplify monitoring and compliance systems
8. Recognize a legal entity that can be accountable for regulatory decisions in a court of law
9. Consider the social impact of tariff increases, including on the costs of manufactured goods and services dependent on power supply.
10. Publish documents and processes pertaining to Environmental Impact Assessments on websites and in the media.

9. Environmental and Social Aspects of Energy Governance

The Electricity Governance Initiative pays special attention to the environmental and social issues in the energy sector. In total, the toolkit includes more than 14 indicators for evaluating these aspects. In this section of the document, we consider 8 selected indicators: 4 assess the capacity of the executive in consideration of environmental and social issues in decision-making processes; 1 explores the jurisdiction and powers of the executive body for addressing environmental issues; 2 indicators assess the extent to which environmental issues where considered in sector reform; 1 indicator explores the mechanisms for considering environmental impacts at the project level.

The concept of sustainable human development of the Kyrgyz Republic puts forth in the first place the solution of environmental problems, in the second place the struggle against poverty. In fact, economic priorities commonly prevail over environmental ones. Ultimately, all these lead to initiation of conflict of social interests expressed in the struggle between separate groups for gaining access to natural resources, as well as in opposing attitudes about the methods of their use.

9.1. Environmental aspects of governance

Relations in the field of environmental protection and natural resource use are regulated by the Law "On Environmental Protection" and other normative legal acts that establish a legal framework to protect the environment. Natural resources are the heritage of the Kyrgyz Republic, and one of the main factors in its sustainable social and economic development.
The capacity of the executive to evaluate environmental issues was valued as "low-medium" based on PP 8. Environmental issues are the jurisdiction of other bodies, particularly the State EPA and Forestry, but poor interdepartmental cooperation between the two departments is observed. Within MIEFR, there is no special body or designated person who directly oversees environmental issues related to the electricity sector, and there is no allocation of special funding to build this capacity. If there is a need to consider issues related to environmental protection, most often collection of data on these issues is carried out by the State EPA and Forestry while the regulatory body provides relevant information. Access to expertise is provided only in the framework of workshops which are organized as a rule by international organizations. Sometimes public organizations invite the staff of regulatory body to participate if the issues relate to the energy sector.

Indicator PP 19 deals with the consideration of environmental issues in sector reform law and policy, and is valued at the level of "medium-high". Environmental protection issues are incorporated in policies and laws "On Energy" (articles 14 and 16), "On the renewable energy sources", "On power industry" under the energy sector reform. However, despite the existence of more than 150 laws and regulations in Kyrgyzstan, there is no concrete strategy of environmental protection in the energy sector. It is necessary to note the weak capacity of state bodies and local government as well as public organizations that represent the interests of the environment in the energy sector; closed or limited access to

information, particularly at the planning stage; non-transparency of decision-making process; lack of clearly defined common objectives and measurable indicators, and the existing conflicts between sector interests and goals.

Indicator PP 32 which considers the inclusion of environmental issues in the National Energy Plan (NEP) for 2007-2011. The assessment shows that the NEP attempts to incorporate international obligations under the agreements ratified by the Kyrgyz Republic. The NEP improves the regulatory framework for environmental protection in accordance with the international agreements ratified by the Kyrgyz Republic, and primarily, the UN Framework Convention on Climate Change (New York, 1992) and the Kyoto Protocol to the UN Framework Convention (Kyoto, 2001). The NEP framework provides for development and strengthening of regulatory legal acts; improving energy efficiency in the use of all forms of energy; introduction and implementation of innovative energy-saving technologies and activities; widespread use of clean renewable energy sources in the territory of the Kyrgyz Republic; improving production processes and equipment in existing power enterprises, as well as in the coal and oil and gas industry in order to reduce pollution and other violations of the state of environment. However, the process for developing NEP again shows gaps in consideration of stakeholder views, lack of a systematic mechanism to harmonize with the public and the provide feedback on as well as disclose the comments and inputs of stakeholders.

Indicator PP33 examines policies and regulations on environmental impact assessment. Legislation of the Kyrgyz Republic obliges business entities to carry out project level environmental assessments. This obligation was brought in order to prevent possible negative consequences of the implementation of the planned economic and other activities on public health and the environment. The assessment must be carried out prior to the licensing decision.

The regulatory body in the energy sector issues licenses for activities in the energy sector under its authority, including licenses for building energy facilities. However, all issues that relate to the execution of EIA procedure and state ecological expertise fall under the jurisdiction of the State EPA and Forestry (SEPAF) in accordance with the Law of the Kyrgyz Republic dated June 16, 1999 "On Ecological Expertise" (last amended on February 26, 2007).

CASE STUDY 4: Application of regulatory authority

In 2008, the State Department to regulate FEC applied its powers to penalize only twice:

1. JSC Electric Power Stations, (the joint stock generating company created from the unbundled Kyrgyzenergo), did not apply for the annual tariff approval according to procedure and was continuing work with old settled tariff. The Department on Regulation applied administrative penalties to the company;
2. A heating company filed a late petition for tariff approval. The State Department made a decision to impose penalties on managers of companies in accordance with the Administrative Code.

In accordance with the regulations on nature protection, all licensees are required to bear the expenses related to the prevention or minimization of pollution arising from their activities. When deciding on the location for a new electric or hydroelectric power station, an assessment of its impact on the environment (EIA) is carried out before the issuance of permits for construction. Reports on EIA should be disclosed to the public and a public opinion study should also be carried out in accordance with the laws of the Kyrgyz Republic, but in practice these provisions of law do not work or do not work in full.

On the basis of the constitutional rights of citizens, it should be noted that environmental assessment is based on the principle of presumption of potential environmental danger of any planned activity. This imposes an obligation on the applicant to predict the impact of the planned activity on the environment, to justify the admissibility of this impact and provide for the necessary mitigating actions. It is at the stage of the project documentation that the client must prove the environmental safety of the proposed activity.

It should be noted that the posting of information about the implementation of the EIA on the website of the department and in the media is not carried out. Information is available only on the basis of an official request from other ministries and agencies, as well as from public organizations or individuals. The answer to the request is granted in the prescribed manner within 1 month according to the order for public organizations and individuals. Earlier in the State EPA and Forestry, there was an archive of permits issued. However, over time, this archive was destroyed for lack of space for storage.

9.2. Social aspects of governance

Regarding the social issues, there is a clear separation of powers between the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic and the body responsible for social protection, the Ministry of Labor and Social Development (MLSD) of the Kyrgyz Republic (see, Annex 5, PP 9). Both Ministries are in the structure of the Government of the Kyrgyz Republic. The Ministry of Labor and Social Development is responsible for the social protection of the population with low income through payments for utility services, including the services of energy companies. MIEFR, in turn, determines the policy in the energy sector, but the issues of social protection are addressed by FEC in tandem with MLSD and the Ministry of Finance, as the issues of social protection are closely linked to energy tariffs.

The Ministry of Labor and Social Development calculates the subsidy budget for the Ministry of Finance based on data submitted by the State Department for the Regulation of FEC. The Ministry of Finance provides funds for the compensations after the joint calculation with the Ministry of Labor and Social Development and the regulatory body. MIEFR considers the issues of social protection when developing programs and policies, but does not directly deal with these issues. In MIEFR, there is no department which would be deeply engaged in these issues and there is no designated person in charge of this segment. All data on related to social protection is provided by the State Department to MIEFR, i.e. MIEFR indirectly monitors the situation because the Minister of MIEFR is a member of the Executive Council (one of the representatives).

While consideration of social issues is not under the mandate of the regulatory body, the existing legislation on tariffs requires consideration of standard of living, purchasing capacity and other factors. Therefore, staff is well informed about the issues of social protection in the Kyrgyz Republic, as the work on complaints and appeals of citizens requires a certain knowledge and competence in this matter. Due to the fact that there is cross-subsidization in the structure of tariffs both for electricity and heat, the targeting of benefits to pay for energy often is lacking, so the regulatory body must get to the heart of social issues to build an adequate tariff policy. Staff of the regulatory body may work with the Ministry of Labor and Social Development and the Social Fund of the Kyrgyz Republic as part of joint working groups, and therefore they participate in the seminars and training programs conducted by these structures.

9.3. Summary

Analysis of the energy sector governance on the indicator of the environmental component has shown that a clear jurisdiction of separation of powers of government bodies is in place, but there is no well-established process of interdepartmental collaboration to ensure the timely, comprehensive and quality sharing of information. Due to social tensions, and responsibilities of the Government of the Kyrgyz Republic for the decisions that affect the socio-economic conditions in the country, regulatory capacity to evaluate social issues is assessed higher than capacity to evaluate environmental issues. The analysis shows that issues of economic benefits prevail over the environmental safety in Kyrgyzstan. Global, economic and social aspects of environmental development are poorly understood. Kyrgyzstan is a party to numerous international conventions on environmental protection, as well as a party to Aarhus Convention on access to environmental information. Synergy to implement the country's international obligations is reflected in the basic documents such as the Country Development Strategy, the National Energy Program. However, the practical implementation of these standards has big gaps.

9.4. Recommendations to improve social and environmental aspects of electricity governance

Building and strengthening the capacity of the executive body, energy companies and the regulatory body on environmental issues and social security by:

1. Mandatory inclusion of issues of environmental and social issues of ongoing reforms to ensure sustainability.
2. Strengthening the interdepartmental collaboration between the State EPA & Forestry and MIEFR (Department for regulation of FEC) on consideration of environmental issues in regulatory legal acts and national programs in the energy sector.
3. Ensuring the observance of regulations and procedures of environmental impact assessments, including widespread information dissemination of the obtained results.
4. Definition of powers of executive body in the timely provision of necessary information to stakeholders in accessible format.

CONCLUSION

The research carried out under the pilot project "The Electricity Governance Initiative: Generating dialogue on the public interests in the energy sector in Kyrgyzstan" aimed at studying the system of energy governance in the sector reform process. The research focused on two interrelated sets of processes:

- Policy Process (preparation and adoption of legislative and policy decisions);
- Regulatory Process (rule making and implementation).

Analysis of these processes was carried out by applying the indicators proposed by the Electricity Governance Initiative that allowed a governance assessment on the basis of three principles: involvement (participation) of civil society organizations in the decision-making process, transparency of decision-making and public accountability of the state energy governance bodies for decisions (actions) taken. This approach to the governance system is topical for the energy sector of Kyrgyzstan since energy has a special place in society as a basis for the functioning and development of other sectors of the economy, as well as for livelihood of the population, including health, education, science and culture.

The objective of electricity sector reform was to ensure stable functioning of enterprises in order to meet the needs of consumers for electricity and other forms of heat energy. However, mistakes committed in the restructuring process come dear to society. In this regard, the involvement of civil society in the development of electricity sector policy is a key component in achieving the stated objectives of reforming the industry, as well as increasing transparency and accountability of the state governance bodies. Development of constructive dialogue requires transparent work of the state bodies, professional and active participation of civil society in decision-making as well as an aware population that knows and understands the specificity of the system of the energy sector in general and that applies knowledge and skills to assert their rights for uninterrupted power supply and quality electric power.

Changes in the relationship of participants in the decision-making process are required in the context of electricity sector reform. Transparency and involvement of CSOs enables balancing the interests of the parties, producers and consumers of the electrical energy, minimizing the potential for conflict in the sector and therefore avoiding social tension.

The working group, on the basis of research performed following the EGI methodology, has developed key recommendations for improving the quality of decision-making based on identified gaps in governance of the electricity sector.

These recommendations were sent to all participants involved in governance in the electricity sector, since the aim of the project "The Electricity Governance Initiative" is the development of a dialogue that implies involvement of all stakeholders: the Government represented by the Ministry of Energy and the State Department, the energy companies, the civil society sector, and the international donors.

Overall recommendations:

Strengthening the legal framework:

1. Define the clarity of the governance of Joint Stock Companies
2. Determine the clarity of procedures and time frames in the discussions and decision-making
3. Enhance the transparency of decision-making by holding public hearings, providing performance reports, and taking into account alternative opinion
4. Establish the independence of the regulatory body for purposes of ensuring the quality performance of functions entrusted on it
5. Strengthen interdepartmental cooperation between the State Agency for Environmental Protection and Forestry (SEPAF) and the MIEFR (SDFEC) on incorporation and integration of the environmental issues into the regulatory acts and national programs in the energy sector

Specifically on the functions of the regulatory body:

6. Institute an independent regulator with clear jurisdiction and authority
7. Develop a methodology for calculation and formation of tariffs for electrical energy with the involvement of specialists and experts drawn from civil society organizations;
8. Recognize a legal entity that can be accountable for cases on protection of consumer's rights to receive electrical energy in a court of law

Promoting dialogue among stakeholders:

9. Promote unbiased coverage of the electricity sector in the media, including the alternative views. Cover more broadly the activity of the donor community as well as private sector involvement in the energy sector
10. Consolidate the efforts of CSOs that are active in the energy sector and create a structural network in order to increase the capacity of CSOs and share experiences, disseminate and share information, establish and strengthen public monitoring on the local level.

This research assessing the process of decision-making in the electricity sector using an international methodology implemented in Kyrgyzstan for the first time. The research begins to reveal the gaps between the Kyrgyz legal framework on the one hand and the reality of governance practice on the other. More comprehensive research is needed in order to deepen the analysis, as well as follow on assessments that will track changes in the system of decision-making and the impact of these changes on the quality of decisions and governance of the electricity sector.
We seek to develop a constructive dialogue between all stakeholders and hope the document that we have prepared will enable us to provide a picture of the structure of the electricity sector and identify the existing gaps in governance and barriers for ensuring the three principles considered under our research: involvement, accountability and transparency.

Annex 1. List of abbreviations

ADB	The Asian Development Bank
CAS	Country Assistance Strategy
CDS -1	Country Development Strategy for 2007-2010
CDS -2	Country Development Strategy for 2009-2011
CSO	Civil Society Organization
DFID	Department for International Development
EBRD	the European Bank for Reconstruction and Development
EGI	Electricity Governance Initiative
EHVEN	enterprise of high-voltage electrical networks
EIA	Environmental Impact Assessment
EPA	Agency for Environmental Protection
FEC	Fuel and Energy Complex
GDP	gross domestic product
Gosstroi	the State Agency for Architecture and Construction under the Government of the Kyrgyz Republic
GWh	Gigawatt
HPP	Heat Power Plant
HPS	Hydroelectric Power Station
IA	information agency
IMF	International Monetary Fund
JSC	joint stock company
KGS	Kyrgyzstani Som, or the official currency of Kyrgyzstan
KR	the Kyrgyz Republic
KfW	Kreditanstalt für Wiederaufbau
Ltd	Limited
MIEFR	the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic
MLSD	the Ministry of Labor and Social Development of the Kyrgyz Republic
MW	Megawatt
NEP	the National Energy Program for 2008-2010 and the Strategy of Development of Fuel and Energy Sector until 2025
NGO	non-governmental organization
NENK	National Electric Network of Kyrgyzstan
NRMP	Natural Resources Management Project
OJSC	Open Joint Stock Company
PA	Public Association
PD	Presidential Decree
PF	Public Foundation
PP	the policy process
QFD	quasifiscal deficit
RES	Renewable Energy Sources
RP	the regulatory process
SEPAF	the State Agency for Environmental Protection and to a Forestry of the Kyrgyz Republic
SPDK	
State Department	State Department on Regulating Fuel and Energy Complex
TACIS	Technical Assistance for the Commonwealth of Independent States
UNDP	United Nations Development Program
USAID	United States Agency for International Development
WB	The World Bank
WRI	World Resources Institute

Annex 2. The main legislation framework related Energy Governance of Kyrgyzstan

Law of the Kyrgyz Republic "On guarantees and freedom of access to information"

The legislation on freedom of access to information includes the Constitution of the Kyrgyz Republic, the Law of the Kyrgyz Republic "On guarantees and freedom of access to information" and other legislative acts. This Law ensures everyone's the right to freely seek, receive, investigate, produce, transfer and disseminate information and guarantees the right of access to information. Features associated with the request for information administered by state and local authorities are regulated by the Law of the Kyrgyz Republic "On access to information administered by public bodies and local self-government of the Kyrgyz Republic."

Action or inaction of state bodies, local self-government, public associations, enterprises, institutions, organizations and officials that infringes on the right of citizens to obtain information may be appealed by the person requesting the information to a superior officer, the Ombudsman of the Kyrgyz Republic, or in court in accordance with the laws of the Kyrgyz Republic.

The regulatory-legal framework in the field of the energy incorporates the following main legal documents:

The Law of the Kyrgyz Republic "On energy"

Regulatory-legal framework of the reform in the power industry started with the adoption of the Law of the Kyrgyz Republic "On Energy" dated October 30, 1996, No. 56, which for the first time determined that "enterprises of the fuel and energy complex may be of any organizational-legal form of activity and types of ownership (public, communal and private)[1]." However, the law retains state governance in the electricity sector, which is implemented by the Government of the Kyrgyz Republic both directly and through delegation of authority to other government bodies. The Law "On Energy" has been amended to identify the public body authorized by the Government of the Kyrgyz Republic for the control and regulation of the sector. "On Energy" was also amended to set forth the regulation that electricity is a special type of product, superseding electricity's previous status as a public service that created difficulties in applying a criminal penalty for theft and illegal connections.

1 The Law of the Kyrgyz Republic "On energy" dated October 30, 1996, No. 56 – article 5.

The Law of the Kyrgyz Republic "On power industry"

The Law "On power industry" dated January 28, 1997, No. 8, secured the market principles of the sector through the "creation of a competitive environment and the formation of an energy market, encouraging the private sector and attracting investment." In accordance with the provisions of this law, any public or private legal entities and individuals may be involved in the import, export and sale of electricity, but they must obtain a license from the regulating body.

The law provides for the rights and responsibilities of the national transmission networks and distribution companies. One of the basic provisions of the law is that a national network of power transmission has no right to restrict access to their networks as it transits electricity.

The law also secured the rights and responsibilities of consumers and their contractual relationships with suppliers. An important point in the adoption of the law was that it secured, not only administrative, but also criminal liability for the theft of electricity and heat energy as well as other actions related to the illegal use of electricity. However, this provision has not yet been widely applied in practice.

The Law of the Kyrgyz Republic "On the special status of the cascade of Toktogul hydroelectric power stations and national high-voltage power lines"

The law of the Kyrgyz Republic "On special status of the cascade of Toktogul hydroelectric power stations and national high-voltage power lines" dated January 21, 2002, No. 7, defines the special status of joint stock companies formed on the basis of the cascade of Toktogul hydroelectric power stations (OJSC "Electric Stations") and high-voltage transmission lines (OJSC "National Electric Network of Kyrgyzstan").

Under this law, a minimum of 93.72% of state shares in these companies cannot be "sold, mortgaged, exchanged in the repayment of external debt of the Kyrgyz Republic or handed over in trust to anyone, and the issue of new shares cannot be carried out without the consent of both houses of the Jogorku Kenesh of the Kyrgyz Republic." It should be noted that in contravention of the laws of the Kyrgyz Republic on joint stock companies, the provisions of this law shall prevail.

The Law of the Kyrgyz Republic "On renewable energy sources"

This law was signed on 13.01.2009 by the President of the Kyrgyz Republic. The law establishes the legal, institutional, economic and financial frameworks; the mechanisms of regulation of the relations between the state, producers, suppliers and consumers of renewable energy; equipment for the production and installations for the use of RES.

The purpose of the law includes the development and use of renewable energy; improvement of the energy structure; diversification of the energy sources; improvement of the social status of the population; ensuring energy security; environmental protection and sustainable development of the economy.

It should be noted that the law provides for important principal provisions for the development of RES, particularly the exemption from customs duties of the installations and equipment for the production of RES and that the tariffs for energy from RES should ensure cost recovery and reimbursement of investments made in a period not exceeding 8 years.

However, for practical implementation of the law, bylaws need to be developed and a mechanism for the implementation of concrete steps including the calculation of tariff for different manufacturers of green electricity subject to cost-effectiveness and environmental benefits.

The Decree of the President of the Kyrgyz Republic dated April 27, 2006, No. 188[2]

All energy companies are joint stock companies, with the main shares of stock[3] owned by the state. Their activities are regulated by the Law of the Kyrgyz Republic "On joint stock companies"[4] dated March 27, 2003, No. 64. The major shareholder of energy companies is a state institution - the Fund for the Management of State Property (FMSP); by virtue of ownership of controlling stock, its vote is decisive in any decision being considered at a general meeting of shareholders. Therefore, the state can control all of the work of energy companies including decisions on personnel.

However, in accordance with the Law "On joint stock companies" shareholders and members of the Board of Directors are prohibited[5] from interfering with the current management of the company since it is the prerogative of the executive bodies of companies through their boards and general directors.
Several other laws also refer to issues of competition in the electricity sector such as the Law "On Protection of Consumers' Rights" dated December 10, 1997; the Law "On Advertising" dated December 24, 1998 or Law No. 27 "On Trade Secrets" dated March 30, 1998.

2 The Decree of the President of the Kyrgyz Republic dated April 27, 2006, No. 188 "On some issues to improve the management of joint stock companies with state shares and state-owned enterprises."

3 Totaling to 93.72 %

4 Concurrently, features of the legal status of JSC "Electric Stations" and JSC "NENK" are defined by the legislation on the special status of these enterprises. Peculiarities of the legal relationship of distribution companies associated with their transfer to the concession are determined by the concession contract to be approved by the Jogorku Kenesh of the Kyrgyz Republic.

5 Article 65 (item 2)

DOCUMENT NAME	APPROVED	
Country Development Strategy 2009—2011 *(replacing* «Country Development Strategy for 2008-2010», adopted 16.05.07, Decree of the President of the KR #249)	Decree of the President of the Kyrgyz Republic (KR)	05.15.2009
the National Energy Program for 2008-2010 and the Strategy of Development of Fuel and Energy Sector until 2025 *(instead of the «Energy Program of the KR until 2005 », adopted 16.07.01, Resolution of the Government of Kyrgyzstan (GoK) #343)*	Approved by the Resolution of the Jogorku Kenesh (JK) of KR #346-IV	04.24.2008
ENERGY		
Law "On Energy"	Signed by the President of the KR	10.30.1996
Law "On introducing changes and amendment to the Law of KR "On Energy"	Signed by the President of the KR	05.26.2008
Law "On Power industry"	Signed by the President of the KR	01.23.1997
Law "On Energy savings"	Signed by the President of the KR	07.07.1998
On energy consumption	Resolution of the State Agency on Energy #11-p	07.27.1998
On heat energy consumption	Resolution of the State Agency on Energy #4-p	01.26.1999
Terms of Use of electric energy	Order of the MIEFR #55	06.21.2007
Law "On renewable sources of energy"	Signed by the President of the KR	01.13.2009
On a phased transfer to the use of solar energy of recreational facilities of Issyk-Kul oblast	Resolution of the GoK #176	03.20.2006
GOST 13109-97 "Standards of quality of electrical energy in power systems, of general-purpose."		
GOVERNANCE AND REGULATION		
The Law of the Kyrgyz Republic "On Licensing"	Signed by the President of the KR	02.24.1997
Regulations on licensing of certain types of businesses	JK of the KR #260	05.31.2001
On regulation of the electricity market in the KR	Ordinance of the GoK #187	04.06.2000
Law "On standing orders of the Jogorku Kenesh"	Signed by the President of the KR	03.05.2009
On the method of the Regulatory Impact Analysis (RIA) of normative legal acts on the activities of business entities	Resolution of the GoK #603	12.20.2007
Law "On Investments in the KR"	Signed by the President of KR	10.27.2003
The medium-term tariff policy of the Kyrgyz Republic for the electricity over the period 2008-2012	Resolution of the GoK #164	04.23.2008
The medium-term tariff policy of the Kyrgyz Republic for the heat energy over the period 2008-2012	Resolution of the GoK #165	04.23.2008
ENVIRONMENTAL AND SOCIAL ASPECTS IN ENERGY		
Regulation on State Environmental Review	Resolution of the GoK #212	04.12.1994
The Law "On Protection of Consumer Rights"	Signed by the President of KR	12.10.1997
Code on Administrative Liability	JK of the KR #144	08.04.1998
Law "On environmental protection" with amendments	Signed by the President of KR	06.16.1999
Law "On Ecological Expertise"	Signed by the President of KR	06.16.1999
On bills for the electricity and heat energy and penalties for payment delays	Directive of the GoK #438	07.01.1999
Regulation on permits issued to the subjects of entrepreneurship by the state bodies	Resolution of the GoK #386	07.30.2001

On approval of the Rules of providing municipal utility services to the population of the KR	Resolution of the GoK #783	12.11.2001
On approval of provision on the determination of prices (tariffs) for goods (works, services) of the state-regulated economic entities	Resolution of the GoK #445	07.17.2003
On electricity tariffs	Resolution of the GoK #191/2002	11.25.2002
On procedure for registering complaints of violations of conditions of the Agreement (contract) for the power supply to consumers of electricity and the collection of debt for the consumed electricity	Resolution of the State Agency on Energy #2-p	01.19.2005
On monetary compensation to pay for housing and communal utility services and energy resources	Resolution of the GoK #536	07.24.2006
On providing social subsidies in the KR	Resolution of the GoK #605	08.23.2006
The concept of ecological security of the Kyrgyz Republic	Decree of the President of KR #506	11.23.2007
ENERGY REFORMS		
On the program of denationalization and privatization of the Kyrgyz state joint stock holding company "Kyrgyzenergoholding"	Resolution of the GoK	04.23.1997
On the reorganization of the "Kyrgyzenergoholding" into a joint-stock company "Kyrgyzenergo"	Resolution of the Property Fund of the KR	05.23.1997
On approval of the Charter of the joint-stock company "Kyrgyzenergo"	Resolution of the GoK	05.31.1997
On additional measures to ensure the participation of socially vulnerable layers of population in the privatization of strategic enterprises of the republic	Decree of the President of KR	06.07.1997
On financial model of restructuring of the JSC "Kyrgyzenergo"	Resolution of the GoK #212	04.22.1998
Program for denationalization and privatization of the JSC "Kyrgyzenergo"	Resolution of the GoK #333	06.05.1998
On restructuring of the JSC "Kyrgyzenergo"	Resolution of the GoK #38	01.21.2000
Law on the special status of the cascade of Toktogul hydroelectric power stations and national high-voltage power lines	Signed by the President of KR	01.21.2002
Law on introducing changes and amendments to the Law "On the special status of the cascade ..." and the Law of the KR "On the construction and operation of Kambarata-1, 2 HPS"	Signed by the President of KR	07.30.2007
Law "On the construction and operation of the Kambarata-1,2 HPS	Signed by the President of KR	07.31.2007
Program for privatization of the state property of the KR over 2008-2012	Signed by the President of KR	04.24.2008
On the restructuring of the arrears of main suppliers of energy on the capital debt, accrued interest, fines, financial and penalty measures on payments for tax, customs and credits	Resolution of the GoK #613	11.05.2008

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26. Ministry of Finance of the Kyrgyz Republic - www.minfin.kg
27. Ministry of Justice of the Kyrgyz Republic - www.minjust.gov.kg
28. State Committee of the KR on State Property Administration (Goskomimushestvo) – www.spf.gov.kg
29. State Agency for Antimonopoly Policy and Development of Business Competition under the GoK www.antimonopolia.kg
30. Agency of KR on Civil Services Administration – www.csa.gov.kg
31. National Statistical Committee of the Kyrgyz Republic- www.stat.kg
32. Bishkek single information center - www.e-bishkek.kg
33. Bishkek city Kenesh of deputies - www.gorkenesh.kg
34. Public Information Center under the Executive office of the President of the Kyrgyz Republic www.govservices.kg
35. State Agency on Environmental Protection and Forestry - www.nature.kg
36. Environment and Sustainable Development in Central Asia - www.caresd.net
37. Project for the Kyrgyz tariff policy, partnership of DFID and IPA, www.kyrgyztariff.org
38. Environmental Information Service, Kyrgyzstan - www.ekois.net
39. Public fund to promote the legal infrastructure and legal education in the KR – www.law.kg

Annex 4. Overview of completed indicators

POLICY PROCESS				
No.	***Indicator***	***Elements of quality***		***Value***
PP8	Capacity of executive to evaluate environmental issues	Dedicated financial resources	N	Low-medium
		Access to expertise	N	
		Designated point person	N	
		Knowledge enhancement on environmental issues	Y	
PP9	Capacity of executive to evaluate social issues	Dedicated financial resources	N	Medium
		Access to expertise	Y	
		Designated point person	N	
		Knowledge enhancement on social issues	Y	
PP10	Annual reports of the electricity minister / department	Financial reporting	Y	Medium
		Review of progress	Y	
		Easy availability	N	
		Local languages	N	
PP13	Capacity of civil society organizations	Techno-economic analytic capacity	Y	Low-medium
		Proactive engagement and strategic capability	N	
		CSO analyses of environmental and social impacts	N	
		Support for weaker groups and grass roots links	N	
		Ongoing learning capacity	Y	
		Networking	N	
		Broad credibility	N	
PP14	Quality of legislative debate on electricity laws	Duration of debate	N	Low-medium
		Attendance of members	Y	
		Composition of speakers	N	
		Availability of transcripts	N	
PP15	Quality of media coverage of energy policy and reform	Volume of coverage	N	Low
		Quality of coverage	N	
		Balance of coverage	N	
PP17	Public disclosure of information on the basis and goals of policy reform	Breadth of documentation availability	N	Low
		Easy of access	N	
		Timelines of availability	N	
		Accessible by a range of stakeholders	N	
PP18	Effectiveness of public participation process	Quantity of participation	N	Low
		Breadth of participation	N	
		Summary of public participation	N	
		Response to public participation	N	
PP19	Consideration of environmental issues in sector reform law and policy	Addressed in background documents	Y	Medium - high
		Included in reform policies and laws	Y	
		Mitigating direct impacts of power sector	Y	
		Global and economic effects of environmental impacts	N	

PP24	Transparency of donor engagement through technical assistance	Transparency on details of technical assistance	Y	Low
		Transparency on outputs	N	
		Wide dissemination of effort	N	
PP26	Transparent selection of private sector service providers	Transparency in request for proposals	N	Low-medium
		Information provided to bidders publicly available	N	
		Transparency in decision criteria and process	N	
		Justification for decision	N	
PP29	Clarity of authority and jurisdiction to grant environmental approvals for power sector projects	Provisions on authority and jurisdiction	Y	Medium
		Clarity on how authority is shared	Y	
		Timely disclosure of approvals	N	
		Comprehensive disclosure	N	
		Ease of access	N	
		Accessible format	N	
PP32	Inclusion of environmental considerations in the national plan for the electricity sector	Environmental considerations addressed	Y	Medium
		Comprehensive consideration of impacts	N	
		Multiple public participation mechanisms	N	
		Systematic efforts to seek input from range of stakeholders	N	
		Comments disclosed	Y	
		Explanation of how input incorporated into decision	N	
PP33	Comprehensiveness of EIA laws, policies and procedures	Requirements for EIA	Y	Medium
		Comprehensive consideration of impacts	N	
		Strategic impact guidelines	Y	
		Strategic assessment conducted	N	

REGULATORY PROCESS				
No.	***Indicator***	***Elements of quality***		***Value***
RP1	Institutional structure for regulatory decisions	Through executive process		Medium
		Unit within Ministry	Y	
		Independent regulatory body		
RP2	Authority of the regulatory body	Information and evidence	Y	Medium-high
		Investigation	Y	
		Enforce compliance	Y	
		Penalties for breach of order	Y	
		Exercise of authority	N	
RP3	Jurisdiction of the regulatory body	Functions defined		Medium-high
		Not entrusted with 3+ functions		
		Not entrusted with 2+ functions		
		Not entrusted with 1 function	Y	
		Entrusted with all functions		
RP9	Appeal mechanism	Any affected party can appeal a decision	Y	Medium-high
		Appeals can be filed on procedural grounds	Y	
		Appeals can be filed on substantive grounds	Y	
		Appeal mechanism impacts decision in at least one case.	N	
RP12	Regulator's capacity to evaluate environmental issues	Dedicated financial resources	N	Low
		Access to expertise	N	
		Designated person	N	
		Knowledge enhancement on environmental issues	N	
RP13	Regulator's capacity to evaluate social issues	Dedicated financial resources	N	Medium-high
		Access to expertise	Y	
		Designated person	Y	
		Knowledge enhancement on social issues	Y	
RP14	Information available to public regarding use of consultants	Details of the consulting arrangement publicly available	N	Low
		Reports and recommendations of the consultants publicly available	N	
RP15	Clarity about regulatory procedures and substantive basis of decisions	Procedural certainty	Y	High
		Clarity about substantive basis of decisions	Y	
RP18	Disclosure of documents in the possession of the regulatory body	All documents confidential		Medium
		Regulator has authority to make documents public		
		No clear provisions about which documents are public	Y	
		No well defined rules and provisions to determine confidentiality		
		Regulator has authority and there are clear rules and provisons of confidentiality		
RP19	Procedure for public access to regulatory body documents	Well-indexed database of documents	N	Low
		Simple, well-defined procedure for inspecting/obtaining documents	N	
		Reasonable cost	N	
		Wide dissemination of information	N	
RP20	Space for public participation in the regulatory process	Proceedings are closed and public has no right to participate		High
		Regulator can open proceedings to the public but they may not participate		
		Laws do not specify		
		All proceedings are open, but public may not participate		
		All proceedings are open and public may participate	Y	

RP24	Interventions by civil society in the regulatory process	No cases filed by civil society		Medium-High
		1 or more private interests cases		
		1-3 public interest cases		
		3+ public interest cases	Y	
		3+ public interest cases from more than 2 CSOs		
RP26	Orders and decisions of the regulatory body	No legal requirement for reasoned response		Medium
		Legal requirement, but response is inadequate	Y	
		Legal requirement and response is adequate		
RP28	Tariff philosophy	Detailed analyses	N	Low
		Mitigating adverse impacts	N	
		Easy to understand	N	
		Recent tariffs reflect the philosophy / principles	N	
RP29	Participation in decision-making related to affordability of electricity prices	Attention to affordability in tariff principles / philosophy	N	Low
		Public participation in revisions	N	
		Educating low income groups	N	
RP30	Licensing	Well defined procedure for consideration of license applications	Y	Medium-high
		Well defined criteria for consideration of license applications	Y	
		Clarity about the basis for amendment /revocation / suspension of licenses	Y	
		Dispute resolution	Y	
		Compliance and performance-monitoring	N	
RP32	Consumer service and quality of supply	Standards for consumer service and supply quality	Y	Medium-high
		Supply standards are mandatory	Y	
		Monitoring performance	Y	
		Compliance reviews	N	
		Compliance review information / results publicly available	N	
		Consumer grievance	Y	

Annex 5. Completed Indicators

PP8 CAPACITY OF EXECUTIVE TO EVALUATE ENVIRONMENTAL ISSUES		
Elements of quality	**-**	**Explanation**
Dedicated financial resources	**N**	The National Energy Program provides for an entire block on the issues of environmental protection which is obligatory to perform as a policy document and MIEFR is obliged to report on all items. However, specifically in the plans of the Ministry, all the activities for environmental assessment and impact are not reflected, moreover, there are no special funds and human resources to implement them.
Access to expertise	**N**	The members of the executive body do not receive regular input of proffesional information as a matter of routine.
Designated point person	**N**	There is no department which would deal with the issues of ecology and the impact of the energy sector on the environment under the MIEFR, nominally, the deputy minister carries the duties of assessment over the ecology issues.
Knowledge enhancement on environmental issues	**Y**	Obtaining knowledge is related to the provision of information from international organizations dealing with environmental protection.

Continued Explanation:

The environmental impacts from the construction of hydroelectric power stations, main transmission lines and substations are poorly understood in the energy sector. In the construction of power lines, activities for environmental protection are virtually non-existent, regulatory criteria for their implementation are inadequate. The harmful effects of electromagnetic fields from high voltage transmission lines and substations to people under conditions of the high altitude are studied insufficiently.

VALUES	SELECT
Not applicable / Not assessed	
The executive meets **none** of the elements of capacity to assess the environmental issues in the energy sector	Low
The executive meets **one** element of capacity to assess the environmental issues in the energy sector	**Low-medium** ✓
The executive meets **two** elements of capacity to assess the environmental issues in the energy sector	Medium
The executive meets **three** elements of capacity to assess the environmental issues in the energy sector	Medium-high
The executive meets **all** elements of capacity to assess the environmental issues in the energy sector	High

Researcher Name and Organization:

PF "UNISON"

Sources of Information:

Materials from MIEFR; the State Department for Regulating FEC

Any Additional Information:

PP9	CAPACITY OF EXECUTIVE TO EVALUATE SOCIAL ISSUES	
Elements of quality		**Explanation**
Dedicated financial resources	**N**	Dedicated financial resources are not provided for
Access to knowledge	**Y**	There is a clear separation of powers between the MIEFR and the body responsible for social protection, the Ministry of Labor and Social Development (MLSD) of the Kyrgyz Republic. Both Ministries are in the structure of the Government of the Kyrgyz Republic. The Ministry of Labor and Social Development of the Kyrgyz Republic is implementing the social protection of the population with low income through the payments for the utility services, including the services of the energy companies. MIEFR, in turn, determines the policy in the energy sector, but the issues of social protection are addressed by FEC in tandem with MLSD and the Ministry of Finance, as the issues of social protection are closely linked to the tariff for energy.
Designated point person	**N**	There is no specifically designated person; in the course of incoming correspondence on issues of social protection and benefits, employees of various departments provide response to letters by segments - electricity, gas, and heat.
Knowledge enhancement on social issues	**Y**	During the thematic workshops, training programs on poverty and the poor, if power issues are touched upon. At the same time, there are no relevant professionals on the tariff issues in MIEFR.

Continued Explanation:

Provision of benefits and compensation of benefits for the payment of energy is carried out by the Ministry of Labor and Social Development of the Kyrgyz Republic which calculates the budget for the Ministry of Finance based on data submitted by the State Department for the Regulation of FEC. The Ministry of Finance provides for funds for the compensations after the joint calculation with the Ministry of Labor and Social Development and the regulating body. MIEFR takes into account issues of social protection in developing programs and policies, but does not directly deal with these issues. In MIEFR, there is no department which would be deeply engaged in these issues and there is no responsible person in charge of this segment, but all data on the social protection is provided by the State Department to MIEFR, i.e. MIEFR indirectly monitors the situation because it is a member of the Executive Council (one of the representatives).

VALUES	SELECT
Not applicable / Not assessed	
The executive meets **none** of the elements of capacity to assess the social issues in the energy sector	Low
The executive meets **one** element of capacity to assess the social issues in the energy sector	Low - medium
The executive meets **two** elements of capacity to assess the social issues in the energy sector	**Medium** ✓
The executive meets **three** elements of capacity to assess the social issues in the energy sector	Medium- high
The executive meets **all** elements of capacity to assess the social issues in the energy sector	High

Researcher Name and Organization:

PF "UNISON"

Sources of Information:

Materials - Quarterly Integrated Household Budget Survey and Labor Force (2002-2006.) MIEFR, the State Department for the Regulation of FEC, Ministry of Labor and Social Development, DFID

Any Additional Information:

PP10	ANNUAL REPORTS OF THE ELECTRICITY MINISTER / DEPARTMENT	
Elements of quality		**Explanation**
Financial reporting	**Y**	Financial reporting is provided in accordance with applicable law, the usual procedure for accountability of public bodies. This reporting shall be made according to the accounting forms, reflecting all the information about cash flow, payroll, etc., may include information about the subsidies and grants, if they were made available, and submitted to the Ministry of Finance on the use of budgetary funds within the allotted limit.
Review of progress	**Y**	All the structural units of the Ministry prepare an annual report on the activities and submit them to the Ministry. Ministry, on the basis of these reports and annual progress reports, forms and submits an annual report to the Government, thereto, conducting a board meeting on the annual results early next year for the Government of the Kyrgyz Republic.
Easy availability	**N**	MIEFR did not publish its report either on the website or in printed form.
Local languages	**N**	Publications on the local languages are not done as well.

Continued Explanation:

MIEFR prepares a progress report on annual basis. As mentioned above, an extended board meeting is held with the involvement of representatives from other ministries and agencies, MPs, media and energy companies. On the results of 2008, the board was conducted with the participation of the Prime-Minister of the Government of the Kyrgyz Republic I. Chudinov; in addition to the report of Ministry, many other issues concerning the overall situation in the energy sector were discussed, in particular the passage of the autumn-winter period, shortage of water, searching a way out from the situation of a power deficit. But unfortunately, this report, questions to the governing body of the Ministry, the Prime Minister's answers stayed behind-the-scenes. The annual report was not posted on the site, nor published in the media; neither was available in printed form as a separate publication. Although, it should be noted that in previous years the report of the Ministry of Industry and Commerce used to be posted on the website. However, these are rather the individual episodes than a trend.

VALUES	SELECT
Not applicable / Not assessed	
The electricity department / ministry do not prepare annual report or the report does **not** satisfy any element of good quality in reporting	Low
The electricity department / ministry prepared annual report that meets **one** element of quality in reporting	Low-Medium
The electricity department / ministry prepared annual report that meets **two** elements of quality in reporting	**Medium** ✓
The electricity department / ministry prepared annual report that meets **three** elements of quality in reporting	Medium-High
The electricity department / ministry prepared annual report that meets **all four** elements of quality in reporting	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials from MIEFR; the State Department for Regulating FEC

Interview with Aigul Sultankulova, Department of Regulating FEC

Any Additional Information:

Classified information of managing and governing body on their work leads to a misunderstanding of its regulatory policy in the sector and individual activities to explain the decisions do not help to increase transparency and accountability of the Ministry. Legislation to ensure the transparency of energy companies and government agencies in the energy sector is in place, but it has no effective mechanisms of enforcement. Without the designation of specific mechanisms for implementing these standards, as well as stipulated penalties for failure to comply with the legislation, these regulations become a mere formality and do not provide possibility for the civil society to exercise effective control over the industry.

A mechanism of involvement in the process of discussion by representatives of stakeholders in society, such as representatives of consumers, local authorities and NGOs with relevant tasks should be used for the effective implementation of the governance and development of the energy sector. The absence of representatives of different stakeholders, including representatives of civil society may lead the program and the concept of energy development not to be supported neither by energy sector players, nor the society. Although, this kind of support and acceptance are required for the development and successful implementation of these programs.

PP13 CAPACITY OF CIVIL SOCIETY ORGANIZATIONS

Elements of quality		Explanation
Techno-economic analytic capacity	Y	The energy sector in the economy of Kyrgyzstan is a specific object, the management of which requires specialized knowledge, including in the formulation of policies, programs and projects. In an environment of civil society organizations, there are those who are actively involved in the energy sector and give reasoned comments on them, make comments and suggestions that deserve attention. National Association of Producers, Association of Power Engineering Specialists of the Kyrgyz Republic, Public Association of Consumer Rights Protection "Ustin".
Proactive engagement and strategic capability	N	It should be noted that the engagement of civil society organizations in the processes associated with the reform of the energy sector of the Kyrgyz Republic is not systematic; it is rather episodic in nature and manifests itself only when the results of reforms directly affect the interests of certain segments of society.
CSO analyses of environmental and social impacts	N	Regarding this issue, many environmental organizations in Kyrgyzstan are actively working in the fields of many environmental problems, but the energy sector is virtually closed to the analysis of environmental impacts. With respect to the social impact of tariffs and rising prices, many CSOs often raise these issues; PA on social protection of population named after Fomova and Party of Pensioners of Kyrgyzstan could be noted among them, which have been active for many years.
Support for weaker groups and grass roots links	N	Over 98 percent of the Kyrgyz population has access to electricity and the quality of electricity provided, is the main issue of concern to the population. There are two public associations on protection of consumer rights in the sector, these are "Yustin," and "Vigens" they have enough qualification and experience. However, there is no large-scale support by the population because of the disbelief in the opportunity to change the situation, which is connected to a high level of corruption in energy sector.
Ongoing learning capacity	Y	Some organizations have sufficiently high potential education-wise, as leaders of civil society organizations specializing in energy sector, who also possess professional technical education and maintain network with academic institutions and state bodies, they also maintain contacts with their colleagues from other countries as Armenia, Tajikistan, Kazakhstan and Russia.
Networking	N	Until now, civil society organizations have not yet consolidated their efforts for collective protection of public and state interests in this sector. At the same time civil society organizations independently express their attitude towards policies, programs and projects, which are being realized within the energy sector.
Broad credibility	N	The government and administrative bodies responsible for the energy sector in Kyrgyz Republic are rather unwilling to cooperate with civil society organizations over the issues of preparation of state development programs, reforms of the sector and preparation of normative and legal acts in this sector. Moreover, in many cases well-reasoned criticism and suggestions are being ignored.

Continued Explanation:

Activation of civil society organizations in the field of energy occurred during the period of reforms implementation in this industry, especially when the program of privatization of the energy sector has started. It should be noted that the process of activation of civil society organizations is commensurate with the growing expansion of the reform process in the industry. In the early stages of reforming the visible reaction of civil society organizations was not observed, but with the advent of the first and subsequent results, that were negative, the activity has started growing, especially in a time when tariffs for electricity have become very tangible to all categories of consumers.

VALUES	SELECT
Not applicable / Not assessed	
CSO, active in the policy making, do not meet **any** of the elements of quality	Low
CSO, active in the policy making, meets **one-two** elements of quality	**Low-Medium** ✓
CSO, active in the policy making, meets **three-four** elements of quality	Medium
CSO, active in the policy making, meets **five-six** elements of quality	Medium-High
CSO, active in the policy making, meets **all seven** elements of quality	High

Researcher Name and Organization

PA "Ustin"

Sources of Information: Interview with the Director of Public Fund "Kalys Consult" Tashbolotov M. and the independent expert Baktygulov Sh. On the newspaper "Vecherniy Bishkek" No. 219 (9639) dated 19.11.2008

Activity analysis of public associations "Vigens" and "Yustin"

Any Additional Information:

PP14 QUALITY OF LEGISLATIVE DEBATE ON ELECTRICITY LAWS

Elements of quality		Explanation
Duration of debate	N	The examination procedure of a bill is regulated by the law on "Jogorku Kenesh regulation", the project is examined during the session of responsible committee, further it is discussed during the sessions of parliamentary factions and the Parliament. There is no timeframe in examination of the bill. The examination procedure of the bill on "Debt Restructuring…" took 20 days from the time it arrived to the parliament until the legislative body made a decision over the bill. Practically the decision-making procedure is being observed, however a detailed analysis of the documents enclosed with the bill (in this case it is substantiation reference), which require numerous consultations or even expert's report, was not conducted.
Attendance of members	Y	Quorum during the discussion of the legislative draft, as at a meeting of relevant committee and at meetings of the parliamentary factions, as well as at the plenary session of Parliament was secured.
Composition of speakers	N	In discussing the legislative draft "On the debt restructuring of major suppliers of electricity for principal debt, accrued interest, penalties, financial and penalty provisions on tax and customs payments and loans", representatives of all parliamentary factions have passed an opinion at a meeting of relevant committee and in plenary meeting. However, the view of the MPs, not belonging to the ruling party, was not taken into account.
Availability of transcripts	N	Access to copies of meeting minutes of parliamentary committees and plenary sessions, as well as to the relevant transcripts is closed to civil society organizations.

Continued Explanation:

VALUES	SELECT
Not applicable / Not assessed	
The legal framework was put in place without legislative approval (through means such as ordinance / presidential decree etc.)	Low
The legal framework was enacted through the legislature but the process meets **only one** elements of quality for effective legislative debate	**Low-Medium** ✓
The legal framework was enacted through the legislature but the process meets only **two** elements of quality for effective legislative debate	Medium
The legal framework was enacted through the legislature but the process meets **three** elements of quality for effective legislative debate	Medium-High
The legal framework was enacted through the legislature but the process meets only **all four** elements of quality for effective legislative debate	High

Researcher Name and Organization:

PA "Ustin"

Sources of Information:

-Secretariat of Communist parliamentary faction in Jogorku Kenesh of Kyrgyz Republic;

-The faction of Social-Democratic Party of Kyrgyzstan.

Interviews with parliament deputies of Kyrgyz Republic: Beshimov B.D., Otunbaeva R.I., Baylo N.I., and also with the Prime-Minister of Kyrgyz government Chudinov I.V., deputy minister of industry, energy and fuel resources Tyumenbaev A.R., director of fuel and energy complex under the ministry of industry, energy and fuel resources of Kyrgyz Republic Abdykalykov E.E.

Any Additional Information:

At the moment, there is a decisive progress, as during the development of normative and legal acts it is obligatory to conduct the analysis of regulatory impact according to the established procedure, which was approved by the decree of the government of Kyrgyz Republic on December 20, 2007, N 603.

PP15 QUALITY OF MEDIA COVERAGE OF ENERGY POLICY AND REFORM

Elements of quality		Explanation
Volume of coverage	N	The most widely read newspapers in the Kyrgyz Republic are "Vecherniy Bishkek" (weekly circulation of 82,000 copies), "Slovo Kyrgyzstan", and "Delo No" (weekly circulation of 21,000 copies.) However, these newspapers almost never publish materials (information) regarding the discussion of policies and reforms in the energy sector; do not provide alternative options for decisions. The legislation "On the debt restructuring of major suppliers of electricity for principal debt, accrued interest, penalties, financial and penalty provisions on tax and customs payments and loans" has not been published on the newspapers.
Quality of coverage	N	Most newspapers, including the "Vecherniy Bishkek" and "Slovo Kyrgyzstan", publish decisions taken by public authorities with the selected comments in their support. Informational agencies "24.kg," "AKIpress," and "Kabar" publish short reports on accepted decisions over the issues of policy making and conducted reforms in energy sector. The information, provided by the mass media, does not provide alternatives of accepted decisions. In depth articles and commentaries over the accepted decisions are published without thorough analysis of the energy sector.
Balance of coverage	N	Generally, mass media publishes solely the opinion of state structures. At the moment, the civil society organizations do not have their own joint, constructive and well-grounded platform. Consequently the coverage of the policies is disproportional. One of the widely read newspapers of Kyrgyz Republic, "Delo No" has published seven in depth interviews and articles, in course of seven months; however, this is not enough to influence the processes, which are taking place in energy sector of the country.

Continued Explanation:

VALUES	SELECT
Not applicable / Not assessed	
Media coverage does not meet even one element of quality	**Low** ✓
Media coverage meets **one-two** elements of quality	Medium
Media coverage meets **all three** elements of quality	High

Researcher Name and Organization:

Public Association for Consumer Rights Protection "Ustin"

Sources of Information:

Archives of «**Vechernii Bishkek»,** « Slovo Kyrgyzstana», and «Delo No» (published on 4.06.08, 17.09.08, 8.10.08, 29.10.08, 5.11.08, 26.11.08, 3.12.08) newspaper materials

Any Additional Information:

Information on the decisions of public authorities on issues of policy and reforms in the energy sector are published in the form of short messages by the news agencies (IA "24.kg", "AKIpress", "Kabar"). A detailed article and comments for the decision are published mainly in their support without a thorough analysis of the energy sector as well as the proposed measures for its improvement. Of all the newspapers in Kyrgyzstan, only the newspaper "Delo No." has published 7 detailed interviews and articles (published on 4.06.08, 17.09.08, 8.10.08, 29.10.08, 5.11.08, 26.11.08, 3.12.08) over the past 7 months where the assessment is provided on the state of the energy sector of the Kyrgyz Republic as a result of policies and reforms including tariff policy in respect of electricity and heat energy.

PP17	PUBLIC DISCLOSURE OF INFORMATION ON THE BASIS AND GOALS OF POLICY REFORM	
Elements of quality		**Explanation**
Breadth of documentation availability	**N**	Considering all the stages of privatization process of energy sector of Kyrgyzstan, it is apparent that the level of public participation in the process of realization of previous three stages is practically zero. The decision to conduct restructuring of energy sector was made by the state executive structures and representatives of economic management entities of the energy sector. There is no fundamental documentation concerning the process of privatization and substantiation of decision-making. Official web pages have no information on privatization.
Ease of access	**N**	The present legislation of the Kyrgyz Republic guarantees the right for information access to the society. However in order to receive the information it is necessary to competently fill an inquiry and act within the existing regulation. Very few non-governmental organizations possess the necessary knowledge and skills. Only separate NGOs by virtue of their persistence, knowledge of legislation, ability to fill inquiries and demand for the response, availability of personal contacts within the state bodies were able to receive access to some documents concerning the issues of energy sector reform. Information on privatization is not published on official web pages and hard copies are inaccessible.
Timeliness of availability	**N**	There are no procedures of providing information to the society on the stages of agreement approval over the planned activities, which hampers the realization of legal participation of society in decision-making. In reality, discussions with the public are conducted already after the decision was made, in other words the public does not participate in the process of decision-making.
Accessible by a range of stakeholders	**N**	During the structural reforms in energy sector, the public did not have free access to the documents, which have defined the course of these reforms. It also includes the decrees of the Kyrgyz government on conducting restructuring of the sector and division based on functional attributes of "Kyrgyzenergo" JSC, and approval or disapproval of restructuring stages by the Jogorku Kenesh. Primarily all the information was provided by the mass media.

Continued Explanation:

The existing legislation of Kyrgyzstan anticipates information access, the major part of laws has quite broad interpretation, but in reality there are no procedures that would regulate legal relations in this field. In some cases this situation is positive (something which is not prohibited is permitted), on the other hand sometimes the work of the executive body is being complicated and prevents from timely information access. The main issue is not even a timely obtainment of information on an inquiry, as informing of the public in order to make a balanced decision.

At the same time, the quality of information, which is received by the user often does not correspond to the inquiries, it is insufficient and inaccurate. In many cases, an answer by different departments to the same inquiry has different data. In this case, interdepartmental non-coordination is the reason for the spread of inaccurate information.

VALUES	SELECT
Not applicable / Not assessed	
No information is available on background documents that provide the basis for policy decision	**Low** ✓
Information available to the public meets **one - two** elements of quality	Medium
Information available to the public meets **three - four** elements of quality	High

Researcher Name and Organization:

PF "UNISON"

Sources of Information:

The legislation of Kyrgyz Republic, materials of Industry and Energy Ministry and State Department on regulating fuel and energy complex, materials of "REMAP," project "Transparency and Accountability of natural monopolies" Soros Foundation and others…

Any Additional Information:

PP18	EFFECTIVENESS OF PUBLIC PARTICIPATION PROCESS	
Elements of quality		**Explanation**
Quantity of participation	**N**	Generally, the Energy Ministry does not involve the public to discuss the proposed decisions over energy sector reforms. An exception was during the approval of the law on "Energy," but it was accepted before the restructuring reforms. The bill on "Debt restructuring…" was not submitted for public consideration.
Breadth of participation	**N**	In most cases, participation of civil society organizations to discuss proposed solutions to reform the energy sector in the Kyrgyz Republic is very low, due to the fact that decision-making of this kind, whether it is legislative drafts, draft resolutions of the Government or other public body, is not exposed to open debate. In the few cases when they become public to representatives of some civil society organizations, it is almost impossible to make a difference for the adoption of the decision taken by the authorities.
Summary of public participation	**N**	Generally, the final political decision, due to the absence of public discussion, does not have public opinion.
Response to public participation	**N**	Comments to the legislative draft "On the debt restructuring of major suppliers of electricity for principal debt, accrued interest, penalties, financial and penalty provisions on tax and customs payments and loans" was used by the MPs of parliamentary faction SDPK to reject it. However, the parliamentary majority from the ruling party has ignored the comments and proposals of their opponents by corps of MPs, including civil society organizations.

Continued Explanation:

So, for example, the legislative draft "On the debt restructuring of major suppliers of electricity for principal debt, accrued interest, penalties, financial and penalty provisions on tax and customs payments and loans", initiated by the Government of the Kyrgyz Republic, like many other drafts, were not brought to public debate. Some representatives of civil society organizations have learnt about it from informal sources and, of course, could not organize a public company to reverse its main provisions. However, even under conditions of limited time, they were able to prepare argued remarks to the legislative draft for the individual members of Parliament that had been voiced out at the plenary meeting.

This attitude of the governing body of the executive and legislative powers, including the parliamentary relevant committee on energy, has been observed in consideration of other legislative drafts and normative legal acts.

VALUES	SELECT
Not applicable / Not assessed	
The policy process met **no** elements of quality	**Low** ✓
The policy process met **one** element of quality	Low-Medium
The policy process met **two** elements of quality	Medium
The policy process met **three** elements of quality	Medium-High
The policy process met **all four** elements of quality	High

Researcher Name and Organization:

Public Association for Consumer Rights Protection "Ustin"

Sources of Information:

Materials from the Ministry of Industry, Energy and Fuel Resources; Social Union "Taza Tabigat," "Interbilim" Centre, Bureau on human rights and legality (Bishkek.)

Any Additional Information:

PP19 CONSIDERATION OF ENVIRONMENTAL ISSUES IN SECTOR REFORM LAW AND POLICY

Elements of quality		Explanation
Addressed in background documents	Y	Background documents establish the right of the citizens for favorable environment, holds liability for licensing of energy objects, and evaluations of the influence on the environment of all types of expected activities, it has also established the responsibility of license holders, fines were also defined, (Kyrgyz Constitution, page 35, the law on "Energy" of Kyrgyz Republic pages 14, 16, the law on "Licensing" page 9.)
Included in reform policies and laws	Y	After the reforms, ecological issues were reflected in the laws, mainly some other bodies develop these laws. Within the framework of National Energy Program for 2007-2011 it is anticipated to modernize normative and legal base on protection of environment and development of mechanisms of its realization with consideration of international agreements, ratified by the Kyrgyz Republic.
Mitigating direct impacts of power sector	Y	The law on "Renewable energy sources" was accepted in Kyrgyz Republic, it gives an opportunity to develop RES in the country; it also gives definite preferences in terms of taxation and customs legislations, anticipates tariff decisions for RES considering the terms of payback and return of investments and other opportunities to attract private investors. There is also a system of nature conservation permits, which is implemented by the responsible bodies within the environmental protection sector (State Agency on Environmental Protection and Forest Management.) Permissions for discharge and allocation of wastes are issued without coordination with any other bodies, except environmental protection agencies. The goal of providing permits is the protection of atmosphere, water resources, soil and environmental protection from pollution in general; normalization of environmental quality, regulation of restricted discharge and pollutants and allocation of wastes. Article 28 of Kyrgyz law on "Electricity" holds liable the owners of licenses to bear expenses connected with prevention or minimization of wastes, which have emerged during their activities.
Global and economic effects of environmental impacts	N	The policy document of Kyrgyz National Energy Program for 2007-2011 does consider the global and economical results of ecological influence. However in general, these issues are not being evaluated on proper level.

Continued Explanation:

Although the legislation of the Kyrgyz Republic on energy prescribes for performance of many parameters on environment protection, heat power plants and boiler rooms are equipped with virtually no modern instruments for emission control of hazardous substances into the atmosphere and discharges of waste water that does not allow for reliable control of quantitative and qualitative composition of waste.

Environmental impacts from the construction of new hydroelectric power stations and main power lines in the energy sector are poorly understood. In particular, even the construction of overhead lines without appropriate environmental protection measures, results in the mountains not only to the excessive withdrawal of the land, but also to subsequent water and wind slope erosion, initiating formation of gullies, landslides and screes along the HVL. However, the measures for protection of nature during the construction of power lines virtually non-existent and regulatory criteria for their implementation are inadequate. Therefore, despite the existence of laws and regulations that declare commitment to environmental protection in energy sector, there are actually only individual projects in this direction which are carried out with the assistance and initiative of international and public organizations. That is, public policy remains weak with regard to environmental and conservation activities in the energy sector.

However, it is necessary to note the weak capacity of state, local and community organizations that protect the environment in the energy sector; closed or limited access to information, particularly at the planning stage, non-transparency of decision-making process; lack of clearly defined common objectives and measurable indicators, and the existing conflicts between sector interests and goals.

VALUES	SELECT
Not applicable / Not assessed	
Consideration of environmental impacts in sector reform meets **no** elements of quality	Low
Consideration of environmental impacts in sector reform meets **one** element of quality	Low-Medium
Consideration of environmental impacts in sector reform meets **two** elements of quality	Medium
Consideration of environmental impacts in sector reform meets **three** elements of quality	Medium-High
Consideration of environmental impacts in sector reform meets **more than four** elements of quality	**High** ✓

Researcher Name and Organization:

PF "UNISON"

Sources of Information:

Materials from PF "UNISON", State Department for the Regulation of FEC, the Government of the Kyrgyz Republic, NEP, the legislation of the Kyrgyz Republic (the laws "On "Energy", "On Electricity", "On Renewable energy sources", "On Environmental Protection", "On Clean air Protection", "On Industrial and Consumer Waste" , "On ecological expertise"), International Conventions (UN Framework Convention on climate change, Kyoto Protocol to the UN Framework Convention)

Any Additional Information:

Fuel and energy complex has a significant negative impact on the environment during extraction and processing of hydrocarbons, in transportation and storage of energy carriers, in electricity production at hydro and heat power stations and in transmission of electricity through overhead lines.

In order to improve the efficiency of environmental protection in the Republic, systematic works on improving environmental legislation are in progress. On the basis of Legislation on environmental protection, National Energy Program and institutional development, priorities in the power industry of FEC were defined.

PP24 TRANSPARENCY OF DONOR ENGAGEMENT THROUGH TECHNICAL ASSISTANCE

Elements of quality		Explanation
Transparency on details of technical assistance	**Y**	All the detailed information on sponsorships are displayed on the web page (resource on the activities of international organizations in Kyrgyz Republic – www.donors.kg), it indicates project characteristics, technical support applicant, recipient and person in charge. The completed projects in energy sector within the last few years include (Energy Sector Reform of Kyrgyzstan – USAID, Tariff Policy – DFID, and others.) they have provided technical aid, were quite transparent, conducted seminars for journalists, who specialize in energy sector. This was very beneficial and effective for objective evaluation of the changes that are taking place in the sector.
Transparency on outputs	**N**	The results of the "Tariff Policy" project, implemented upon the support of DFID between 2001 and 2004 are accessible as other documents, developed within the framework of technical aid project on energy sector. The accessibility of the documents is based on the right of the public for these documents, which defines its social status. Projects, which are being realized in the last few years, have a closed nature, whereas the groundwork and results of conducted analysis in energy sector are mainly provided to the government of the country and the leadership of the sector.
Wide dissemination of effort	**N**	The information on the web pages of sponsors and executives is not accessible for the general public, as internet resources are not widespread in Kyrgyzstan. Moreover, often the information is provided in English or Russian, which represents a substantial barrier for information distribution. The quantity of printed in Kyrgyz language newspapers is insufficient.

Continued Explanation:

Often the technical aid represents minor part from the loans and credits. According to the Initiative on Power Supply Management Program, the transparency of sponsors' participation via credits is evaluated according to PP23 indicator, which was not included into the list of indicators for Kyrgyzstan. This particular research has evaluated the results, whose primary amount represents technical aid and which aimed at improvement of energy sector policies. The work group thinks that it would be appropriate to extend the research, examine the transparency of sponsors through loans and credits and also examine the technical projects over the energy sector in general.

VALUES	SELECT
Not applicable / Not assessed	
Transparency of donor technical assistance meets **one** element of quality	**Low** ✓
Transparency of donor technical assistance meets **two** elements of quality	Medium
Transparency of donor technical assistance meets **all three** elements of quality	High

Researcher Name and Organization:

International Public Foundation "Institute for Research on Issues of Water Management and Water-Energy Resources of Central Asia"

Sources of Information:

Materials of the Program NRMP, DFID, State Agency on Energy under the Government of the Kyrgyz Republic, www.donors.kg, mass media.

Any Additional Information:

PP26 TRANSPARENT SELECTION OF PRIVATE SECTOR SERVICE PROVIDERS

Elements of quality		Explanation
Transparency in request for proposals	**N**	The civil society organizations are familiar with several cases of engagement of private enterprises for provision of power supply services to the consumers., in all the cases the information concerning the conditions of engagement of private enterprises was not circulated or publicly discussed. The cases of engagement were examined by the public already as a fact.
Information provided to bidders publicly available	**N**	The conditions of tender for private enterprises are also unknown. There is no information neither on evaluation criterion nor evaluation process.
Transparency in decision criteria and process	**N**	There was not any information provided to the public about the bidding for the right to provide electricity services to consumers, because there was not any bidding.
Justification for decision	**N**	Justification on the decision-making is not provided

Continued Explanation:

An open joint stock company "Vostokelektro" providing services to customers in Naryn and Issyk-Kul oblasts, has attracted two private companies - "AKSEL" Ltd and "KUN Energo" Ltd. Joint Stock Company "Severelektro" providing services to consumers of Chui and Talas oblasts, has attracted one private company – "Kyrgyzenergoresurs" Ltd. Besides, there is a private electricity distributing company - closed joint stock company (CJSC) Transelektro operating in Bishkek.

It is not clear to public which criteria were followed in engaging private enterprises to provide electricity supply services to consumers, how the tender was conducted and assessment of tender results. Such information is not disseminated and not to be discussed. The same situation exists with private companies engaged in export of electric power from Kyrgyzstan. For instance, in 2005, such activity has been carried out by 12 companies, including: Limited Liability Companies (Kazakhstan) "Mol-Kuat", "Kazenergoresurs", "Kyzylordaenergo", "Tarazenergoholding", "EC Transenergo", "Almaty Power Consolidated", "Aktivenergo", "Kazfosfat" and JSC "Zhambylenergo", as well as the companies "Romard Productions LTD", "Troyer Consulting Inc", and "Birgert Management Inc."

VALUES	SELECT
Not applicable / Not assessed	
The private participation process satisfies **no** elements of quality	**Low** ✓
The private participation process meets **one** element of quality	Low - medium
The private participation process meets **two** elements of quality	Medium
The private participation process meets **three** elements of quality	Medium-High
The private participation process meets **four** elements of quality	High

Researcher Name and Organization:

PA "Ustin"

Sources of Information:

Staff of the Government and the Jogorku Kenesh, OJSC "Vostokelektro" and "Severelektro", Central Asian forum on reducing the loss of electricity (Bishkek, June 7-8, 2007)

Any additional information:

PP29	CLARITY OF AUTHORITY AND JURISDICTION TO GRANT ENVIRONMENTAL APPROVALS FOR POWER SECTOR PROJECTS	
Elements of quality		**Explanation**
Provisions on authority and jurisdiction	**Y**	Relations in the field of environmental protection and rational use of natural resources are regulated by the Law of the Kyrgyz Republic "On Environmental Protection" and other normative legal acts that establish a legal framework to protect the environment, its components, which are the heritage of the Kyrgyz Republic, and one of the main factors in its sustainable social and economic development.
Clarity on how authority is shared	**Y**	Currently, the State Agency for Environmental Protection and to a Forestry of the Kyrgyz Republic acts as the public authority for environmental protection of the Kyrgyz Republic on the basis of the Law of the Kyrgyz Republic dated June 16, 1999 "On Environmental Protection" (as last amended on August 6, 2005). However, a license for an activity on the construction of energy facilities is issued by the MIEFR. All other permits are under the responsibility of the State Agency for Architecture and Construction under the Government of the Kyrgyz Republic (Gosstroi). The NEP, which is a government program to carry out, provides for the activities to be implemented by the Ministry and its subordinated bodies.
Timely disclosure of approvals	**N**	The State EPA and to a Forestry does not carry out mandatory public informing on environmental protection issues within 30 days.
Comprehensive disclosure	**N**	Only in some cases - carrying out public relations campaigns; some of the information is provided to public organizations by the State EPA and to Forestry on their own initiative. In fact, earlier there was an archive in the SEPAF containing issued permits and the projects that passed the state ecological expertise. This archive was destroyed simply for lack of space for storage with the appointment of the new management.
Ease of access	**N**	Information is available only upon request, i.e. official request from other ministries and departments, from public organizations or from individuals. The answer to the request is granted in the prescribed manner in accordance with the regulations within a one-month period, both for public organizations and individuals. The request is sent to the head, then to the appropriate departments.
Accessible format	**N**	Publication of the information on the site or in the media is not carried out. No brochures, pamphlets, or other publications are made available.

Continued Explanation:

VALUES	SELECT
Not applicable / Not assessed	
There is **no** clarity about authority and jurisdiction for environmental approvals for power sector projects	Low
One element of quality for authority and jurisdiction is met	Medium-Low
Two elements of quality for authority and jurisdiction are met	**Medium** - ✓
Three elements of quality for authority and jurisdiction are met	Medium-High
Four and more elements of quality for authority and jurisdiction are met	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials of the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic.

Interview with Director of PA "Independent Ecological Expertise", Oleg Pechenjuk

Any Addition Information:

Solution of environmental problems is in the first place in the concept of sustainable human development of the Kyrgyz Republic, and the struggle against poverty in the second place. In fact, most economic priorities take precedence over environmental ones. Ultimately, all this leads to a clash of social interests expressed in the struggle between some individual groups for access to natural resources, as well as confrontation by positions on the methods of their use.

Their main characteristics depend on the scale of environmental problems (local - global); on the type of social forces responsible for environmental violations (social and political system, the system of economic relations, specific level of government, individual businesses or corporations, private small and medium-sized businesses, and etc.); on the initiators of the resolution of problems (environmental NGOs, the local population, authorities, specific part of the political system, certain social strata or any other society groups).

PP32	INCLUSION OF ENVIRONMENTAL CONSIDERATIONS IN THE NATIONAL PLAN FOR THE ELECTRICITY SECTOR	
Elements of quality		**Explanation**
Environmental considerations addressed	**Y**	The issues of ecological safety are one of the strategic guidelines of long-term energy policy along with energy security, energy and budget efficiency. Within the framework of National Energy Program for 2007-2011 it is anticipated to modernize normative and legal base on protection of environment and development of mechanisms of its realization with consideration of international agreements, ratified by the Kyrgyz Republic and first of all the UN Framework Convention on Climate Change (New York, 1992) and Kyoto Protocol to the UN Framework Convention (Kyoto 2001).
Comprehensive consideration of impacts	**N**	Scientists were involved in the development of the National Energy Program, members of MIEFR, several civil society organizations, expressing their opinion. However the analysis of influence on precise projects was not conducted.
Multiple public participation mechanisms	**N**	Discussions were organized with invited interested sides, but the format of these meetings was limited and due to the absence of coordination procedure civil society organizations provided no concrete proposals.
Systematic efforts to seek input from range of stakeholders	**N**	The activities on cooperation with different layers of society that could possibly experience the negative influence are practically not conducted.
Comments disclosed	**Y**	The National Energy Program contains detailed description of primary directions of perspective development of the fuel and energy complex of Kyrgyzstan and forecasts on the development of the sector.
Explanation of how input incorporated into decision	**N**	The National Energy Program does not contain explanations and substantiations to the proposed decisions.
Continued Explanation:		

VALUES	SELECT
Not applicable / Not assessed	
Environmental considerations are **not** explicitly included in the most recent electricity sector development plan	Low
Attention to environmental issues in the electricity plan meets **one** element of quality	Low-Medium
Attention to environmental issues in the electricity plan meets **two** elements of quality	**Medium** ✓
Attention to environmental issues in the electricity plan meets **three** elements of quality	Medium-High
Attention to environmental issues in the electricity plan meets **four or more** elements of quality	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials from the Ministry of Industry, Energy and Fuel Resources; the State Department for Regulating FEC

Any Additional Information:

PP33	COMPREHENSIVENESS OF EIA LAWS, POLICIES AND PROCEDURES	
Elements of quality		**Explanation**
Requirements for EIA	**Y**	Environmental Impact Assessment (EIA) is the procedure of legislation of the Kyrgyz Republic for registration of the environmental requirements in the preparation and adoption of socio-economic decisions. "Regulation on EIA" establishes the need to consider alternatives to the proposed activity as well as organization of public hearings or other forms of liability involvement.
Comprehensive consideration of impacts	**N**	In the political process governance over the energy sector of the Kyrgyz Republic, there are no regulations and instructions which detail the requirements and rules of social impact assessment for the projects carried out (implemented) in the energy sector.
Strategic impact guidelines	**Y**	EIA is organized and carried out in preparing the grounds for: concepts, programs and plans of the sector and regional socio-economic development; schemes of complex use and protection of natural resources; master plans of cities, settlements and other urban planning documentation; new construction, reconstruction, expansion and rehabilitation of the existing business and other facilities that provide or may have an impact on the environment.
Strategic assessment conducted	**N**	The EIA procedure that meets these requirements is most often for projects undertaken by large companies caring about their international image, for larger projects involving foreign capital as well as for projects funded by international institutions - ADB, EBRD, World Bank, etc. Over the past 5 years, this procedure was carried out in respect of mining and gold mining industry.

Continued Explanation:

Regulations on EIA are registered in the Ministry of Justice and are effective for all agencies, enterprises and organizations irrespective of form of ownership. Project documents can not be accepted at the state environmental expertise without materials on the EIA. The procedure of environmental impact assessment is provided by an initiator of the project in accordance with applicable laws and regulations.

VALUES	SELECT
Not applicable / Not assessed	
National or electricity sector laws and policies are in place that specify or require EIAs for electricity sector activities, and meet **one or less** elements of quality	Low
National or electricity sector laws and policies are in place that specify or require EIAs for electricity sector and meet **two - three** elements of quality	**Medium** ✓
National or electricity sector laws and policies are in place that specify or require EIAs for electricity sector and meet **four** elements of quality	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials from the Ministry of Industry, Energy and Fuel Resources; the State Department for Regulating FEC

Any Additional Information:

RP1 INSTITUTIONAL STRUCTURE FOR REGULATORY DECISIONS

Continued Explanation:

At the moment the State Department on regulating the fuel and energy complex under MIEFR, represents the regulative body in energy sector of Kyrgyz Republic. During the years of Kyrgyzstan's independence the structure of the regulative body has changed several times, however it has never possessed the status of an independent body.

The functions and credentials of the regulative body are secured by the legislation (law on "Energy," and "Natural and permitted monopolies in Kyrgyz Republic.") The State Department follows the Constitution of the Kyrgyz Republic, the law of the Kyrgyz Republic, the normative and legal acts of the Kyrgyz President, Kyrgyz Government, and other normative and legal acts of the Kyrgyz Republic, it also follows international agreements, which came into force in determined order by the legislation of the Kyrgyz Republic.

Even though at the moment, the regulative body – the State Department on regulating the fuel and energy complex practically carries all the functions of the regulator, it does not have enough independence in decision-making. The State Department is dependent on the Ministry of Industry, Energy and Fuel Resources, the decisions are made by a collegiate body – the Executive Council, it is also responsible for all the decisions; however its personnel policy, which is established by the law on "Energy" absolutely, disclaims the independence of regulative body. Previously the appointment of the member of the Executive Council were proposed by the Prime Minister and approved by the President of Kyrgyz Republic. At the moment the Minister of Industry, Energy and Fuel Resources and Deputy Minister of Economy and Trade of Kyrgyz Republic hold membership in the Executive Council.

VALUES	SELECT
Not applicable / Not assessed	
Regulatory decisions are made through normal executive decision-making processes within the ministry	Low
Most regulatory decisions are made through normal executive decision-making processes within the ministry. BUT there is a separate unit within the ministry tasked with critical, predefined decisions (such as tariff revision or licensing), a separate cell or group with specific responsibility is created within / by the ministry).	**Medium** ✓
An independent / separate regulatory body is responsible for regulatory decision-making and oversight	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Legislation of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC.

Any Additional Information:

RP2 AUTHORITY OF THE REGULATORY BODY

Elements of quality		Explanation
Authority		
Information and evidence	Y	The State Department has the right to access to all documents of FEC, according to the Law "On Energy", article 12, "Access to Information". The Law "On Energy" also provides the regulatory body (the State Department for the Regulation of FEC) the power to issue recommendations, instructions, manuals and other general acts for the purposes of its activities. Regulator has adopted a number of templates for data requests for each type of licensed activity. These requests clarify which data and documents must be provided to the State Department for monitoring purposes, as well as the dynamics of collecting such data.
Investigation	Y	The Law "On Energy" also empowers the regulatory body to establish a mechanism to review customer complaints and resolve disputes between consumers and enterprises providing energy services, as well as among enterprises, as well as to adopt, publish and monitor the proper implementation of regulations, rules, guidelines, instructions and other normative acts necessary for the exercise of its powers.
Enforce compliance	Y	Orders, instructions, templates for data collection are binding on the regulated energy sector enterprises.
Penalties for breach of order	Y	The State Department has the right to make decisions (rulings) on the imposition of fines and economic sanctions on the executive authorities and local governments and their officials, businesses, organizations and institutions and their governing bodies, and individuals for violating the legislation of the Kyrgyz Republic in the established order. Fines are imposed in accordance with the Code on Administrative Responsibility. If the company or enterprise of FEC do not provide or knowingly provides false information, then in accordance with the "Code of Administrative Responsibility", it falls under article 450 "... the submission of knowingly false (untrue) information necessary for the implementation by the authorized state body of its functions, entails imposition of administrative fines on citizens – up to five, the officials – up to ten estimates." In cases of non-removal of the violations after the order given by regulating body, it has the right to revise tariffs or lower rates of return in response to violations, as well as to suspend, revoke or modify the license.
Practice		
Exercise of authority	N	In 2008, the State Department for the Regulation of FEC has taken measures of administrative punishment i.e. penalties in 2 cases to regulated companies involved in electricity supply and companies involved in heat supply. Regulatory body after considering the circumstances of the cases, have issued and sent orders on the removal of violations; the reports on the violation were drawn up and the decision to impose a fine on the head of the company was taken in accordance with the Administrative Code.

Continued Explanation:

However, despite the existence of the rights and powers in part of revision of tariffs, suspension or revocation of licenses, in recent years only 2 cases of the imposition of fines for company executives have been observed. Earlier, the State Agency for Energy used to exercise more efficiently its mandate and powers; there were even the cases of the suspension of licenses, giving orders for revocation of licenses, consideration of issues of revision of tariffs for a company in the event of not giving or providing false information to the regulator. That is, a more realistic value would be 'Average', because virtually the rights and powers of the regulator are not being exercised sufficiently or in full.

VALUES	SELECT
Not applicable / Not assessed	
The authority of the regulatory body does **not** meet **any** elements of authority	Low
The authority of the regulatory body meets **one – two** elements of quality	Low - Medium
The authority of the regulatory body meets **three** elements of quality	Medium
The authority of the regulatory body meets **all four** elements of authority	**Medium – High** ✓
The authority of the regulatory body meets **all four** elements of authority, and it also meets the **element of quality for practice** of this authority	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Legislation of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC.

Any Additional Information:

RP3 JURISDICTION OF THE REGULATORY BODY

Explanation:

According to the law on "Energy" page 9, the regulative body is assigned with the following primary functions and responsibilities:

to issue licenses on the right for production, transmission, distribution and sale of electricity and heat energy and natural gas in accordance with the laws of the Kyrgyz Republic;

to establish an economically sound and socially acceptable mechanisms for pricing and tariffs and, to approve the tariffs for electricity, heating and natural gas.

to exercise a policy of divesting of monopoly of producers, to promote competition by providing equal opportunities and conditions of access for all competitors to power transmission lines and gas supply systems;

to implement the standards and normative documents on services provision to consumers of energy resources in accordance with the laws of the Kyrgyz Republic and control their implementation.

to establish a mechanism to review customer complaints and resolve disputes between consumers and businesses providing energy services, and between enterprises;

to coordinate with other governmental bodies the program of technical assistance and attract investments into the fuel and energy complex.

In accordance with Article 3 of the Law of the Kyrgyz Republic "On natural and permitted monopolies in the Kyrgyz Republic", functioning of certain antimonopoly authorities is defined, which are government bodies that regulate activities in **energy** and **communications** sectors. Scope of the given Law extends to matters arising in commodity markets of the Kyrgyz Republic, where the subjects of natural and permitted monopolies, consumers (subscribers), the executive authorities and local self-government take part in the performance of governance functions in these markets. In this regard, the powers of the State Department are limited by the scope of the Law.

However, despite the wide range of authority and clearly defined mandate, the State Department for the Regulation of FEC is not isolated from undue political and ministerial interference; the decisions of the department may be forced both by other members of the Executive Council and the Government. Many of the tariff decisions have both political and social load, not only addressing the economic requirements.

VALUES	SELECT
Not applicable / Not assessed	
Functions of the regulatory body **are not clearly defined** and there is considerable ambiguity about the jurisdiction of regulatory body	Low
Functions of the regulatory body are clearly defined but it is **not** entrusted with **three or more** critical functions	Low-Medium
Functions of the regulatory body are clearly defined but it is **not** entrusted with **two** critical functions	Medium
Functions of the regulatory body are clearly defined but it is **not** entrusted with **one** critical functions	**Medium-High** ✓
Functions of the regulatory body are clearly defined but it is **entrusted** with **all** critical functions	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

The Law of the Kyrgyz Republic "On energy", Regulations of the Government of the Kyrgyz Republic, normative legal acts, materials of the MIEFR and the State Department for the Regulation of FEC

Any Additional Information:

Currently, the regulatory body, in fact, carries out economic and legal regulation of the energy sector, and is a subordinate body of MIEFR.

At the same time, it is an independent legal entity with a separate bank account in the Treasury, seal, etc. Current legislation provides the regulatory body rather broad mandate of the rights and powers in part of tariff decisions, licensing, dispute resolution procedures and to the right to impose an adequate penalties in cases of violations of licensing conditions or other violations in the manner provided by legislation. However, taking this circumstances into account and the fact that the regulatory body is financed from the state budget rather than by regulated enterprises and companies, and members of the Executive Board are the Minister of MIEFR, Director of the State Department for the Regulation of FEC and the Deputy Minister of Economic Development and Trade, it is difficult to say the independence of the regulatory body's decision-making. If we consider the so-called **"official remedies"**, these measures are provided in the Regulation on the State Department for the Regulation of Fuel and Energy Complex:

There is a collegiate body at the State Department – the Executive Board, consisting of three members of the Executive Council appointed in accordance with the latest amendments to the Law "On Energy" of the Kyrgyz Republic by the Government of the Kyrgyz Republic (formerly the appointment of members of the Executive Board were to be approved by the President of the Kyrgyz Republic on the Prime-Minister's assignment).

RP9 APPEAL MECHANISM		
Elements of quality		**Explanation**
Any affected party can appeal a decision	**Y**	The current legislation of the Kyrgyz Republic (Civil Code, the Law "On natural and permitted monopolies in the Kyrgyz Republic", "On Protection of Consumer Rights") allows an interested party to appeal the decision of regulatory body.
Appeals can be filed on procedural grounds	**Y**	The current legislation of the Kyrgyz Republic provides for appeal against of the decision of the regulatory body on procedural grounds.
Appeals can be filed on substantive grounds	**Y**	The Civil Code of the Kyrgyz Republic, as well as the laws "On natural and permitted monopolies in the Kyrgyz Republic" and "On the limitation of monopolistic activity, development and protection of competition" provides the right to appeal the decision taken by public authorities, including the state anti-monopoly authority, for making material amends. It also provides for the right to sue for compensation for moral damages, the amount of compensation is determined by the court.
Appeal mechanism impacts decision in at least one case.	**N**	There have been no cases of appeal in the last year.

Continued Explanation:

Despite the fact that the current legislation of Kyrgyz Republic (Civil Code, the Law "On natural and permitted monopolies in the Kyrgyz Republic", "On Protection of Consumer Rights") allows an interested party to appeal the decision of regulatory body, it is very difficult to do so, because the decision of the regulatory body is executed on behalf of the Executive Council, which in accordance with the Law "On Energy" (article 10) is not a legal entity. As a result, the court refuses to accept claims from applicants because of lack of proper defendant. Such a situation existed as in the days when the function of regulatory authority was carried out by the State Agency on Energy under the Government of the Kyrgyz Republic, so there is at present, when these functions are carried out by the State Department to regulate the fuel and energy complex at the MIEFR.

VALUES	SELECT
Not applicable / Not assessed	
The orders or decisions of the regulatory body **cannot** be challenged in the form of review or appeal before another authority or in a court of law	Low
Review or appeal of regulatory decisions meets **one** element of quality	Low-Medium
Review or appeal of regulatory decisions meets **two** elements of quality	Medium
Review or appeal of regulatory decisions meets **three** elements of quality	**Medium-High** ✓
Review or appeal of regulatory decisions meets **all four** elements of quality	High

Researcher Name and Organization:

PA "Ustin"

Sources of Information:

Materials of the State Agency on Energy under the Government of the Kyrgyz Republic;

Ministry of Industry, Energy and Fuel Resources of Kyrgyz Republic;

The State Department to regulate the fuel and energy complex at the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic

Any Additional Information:

RP12 REGULATOR'S CAPACITY TO EVALUATE ENVIRONMENTAL ISSUES

Elements of quality		Explanation
Dedicated financial resources	N	Regulatory body has no dedicated funding for the consideration and solution of environmental issues.
Access to expertise	N	However there is an absence of a system on the involvement of personnel and professional skills of corresponding state bodies.
Designated person	N	There is no designated staff member in the regulatory body considering among the other issues, issues of ecology and environmental protection in the energy sector. If there is a need to consider an issue on environmental protection following the applications submitted from other ministries and departments, most often, the State EPA and to Forestry deals on these issues, and a regulatory body provides relevant information.
Knowledge enhancement on environmental issues	N	In recent years, trainings for the personnel of the regulatory body on environmental issues was not conducted

Continued Explanation:

Environmental issues are in the jurisdiction of other bodies, in particular, within the competence of the State EPA and to Forestry, but the regulatory body sometimes considers the environmental issues when creating new sources of energy, for example, these issues are reflected in the National Energy Program.

Although, in accordance with the Law "On Energy", Article 28, "Protection of Nature" and in accordance with the regulations of the Kyrgyz Republic on the protection of nature, all licensees are required to pay the costs of prevention or minimization of pollution arising from their activities and Article 29. Environmental Impact Assessment – in deciding on the choice of location for new power plants or hydroelectric power station, environmental impact assessment should be conducted before issuing a permit for the construction. Reports should be made available to the public, as well as a study of public opinion in accordance with the laws of the Kyrgyz Republic, in practice, these rules of law do not work at all or are not fully utilized.

VALUES	SELECT
Not applicable / Not assessed	
Regulatory body exhibits **no** elements of capacity to assess environmental issues	**Low** ✓
Regulatory body exhibits one element of capacity to assess environmental issues	Low-medium
Regulatory body exhibits **two** elements of capacity to assess environmental issues	Medium
Regulatory body exhibits **three** elements of capacity to assess environmental issues	Medium-high
Regulatory body exhibits **all** elements of capacity to assess environmental problems or issues	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Legislation of the Kyrgyz Republic, materials of the State Department for Regulation of FEC

Any Additional Information:

RP13 REGULATOR'S CAPACITY TO EVALUATE SOCIAL ISSUES

Elements of quality		Explanation
Dedicated financial resources	**N**	The regulative body does not have specific financial resources on examination and settling of social issues. The members work on evaluating social issues during decision-making over tariffs, over inquiries and complaints and inquiries from the parliament.
Access to expertise	**Y**	Employees of the regulatory body, who are also involved in issues of social protection in the energy sector, have the opportunity to work with the Ministry of Labor and Social Development and the Social Fund of the Kyrgyz Republic as part of joint working groups.
Designated person	**Y**	There are staff members, besides the performance of basic duties, dealing with issues of social protection in the calculation of tariffs, knowing the law and providing consultations on these issues, and working in close collaboration with relevant agencies.
Knowledge enhancement on social issues	**Y**	Although, a special training was not conducted, the staff are studying the changes in legislation, delivered with consultations, involved in joint work in the design of tariffs and the development of normative legal acts.

Continued Explanation:

While consideration of social issues is not within the competence of the regulatory body, when making decisions on tariffs, current legislation requires to take into account the population's standard of living, purchasing capacity and other factors. Therefore, staff members are required to keep abreast of all issues of social protection in the Kyrgyz Republic, as far as work on complaints and appeals of citizens requires a certain knowledge and competence in this matter. Since there is cross-subsidy in the tariff structure for the electricity and heat energy often lacking the targeting of benefits to pay for energy, the regulatory body must get to the heart of social issues to build an adequate tariff policy.

VALUES	SELECT
Not applicable / Not assessed	
Regulatory body exhibits **no** elements of capacity to assess social issues	Low
Regulatory body exhibits **one** element of capacity to assess social issues	Low-medium
Regulatory body exhibits **two** elements of capacity to assess social issues	Medium
Regulatory body exhibits **three** elements of capacity to assess social issues	**Medium-high** ✓
Regulatory body exhibits **all** elements of capacity to assess social problems or issues	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials of the State Department for Regulation of FEC

Any Additional Information:

RP14 INFORMATION AVAILABLE TO PUBLIC REGARDING USE OF CONSULTANTS		
Elements of quality		**Explanation**
Details of the consulting arrangement publicly available	**N**	In fact, information on hiring of consultants is published on the website of MIEFR (on the webpage of State Department) or in the media. However, this is more the exception, than the rule.
Reports and recommendations of the consultants publicly available	**N**	In recent years, reports prepared by international projects, working active in the energy sector are not available to public; they are provided mainly to the governing body of the industry and sometimes in the case of theme round tables they are provided as a presentation.

Continued Explanation:

When it comes to the hiring of local consultants to work in international projects, these ads are published in the media. However, the reports on the work of these projects may appear in the media only in the form of articles, notes, or a separate interview. It is difficult to learn analytical reports in full, even for employees of the Ministry and the regulatory body.

VALUES	SELECT
Not applicable / Not assessed	
No details of the consultants involved in assisting the regulatory body (other than the name of the firm) are made public on a routine basis	**Low** ✓
Public disclosure regarding use of consultants meets **one** element of quality	Medium
Public disclosure regarding use of consultants meets **two** elements of quality	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Materials of the MIEFR and the State Department for Regulation of FEC

Any Additional Information:

RP15	CLARITY ABOUT REGULATORY PROCEDURES AND SUBSTANTIVE BASIS OF DECISIONS	
Elements of quality		**Explanation**
Procedural certainty	**Y**	There is a certain order and procedure in consideration of cases on the formation of tariffs and the granting of licenses to operate in the energy sector. In accordance with the Law of the Kyrgyz Republic "On power industry", after the enterprises and organizations submit all necessary documents and calculations for consideration of tariffs, the State Department for Regulation of FEC should take decision within one month. Re-submitted documents on alteration of the tariff should be considered by the State Agency on Energy under the Government of the Kyrgyz Republic not earlier than six months. As the law "On power industry" commits to establish a clear procedure for the rapid resolution of conflicts arising between the clients, who have no choice, and distributing companies, the State Department has developed a number of documents on the resolution of disputes, Rules of Use of electricity and heat energy, instruction on servicing customers at detecting the violations etc.
Clarity about substantive basis of decisions	**Y**	As one of the most important indicators of the regulatory body's performance are the stability and predictability, decision-making in accordance with the certain principles and in accordance with clear procedures is critical. State Department adheres in its action to the principles set out by the Medium-term tariff policy, approved by the Government of the Kyrgyz Republic No. 164 dated April 23, 2008. All tariff decisions must be accepted in accordance with the principles set out in the tariff policy, the procedures of tariffs fixing, rate of tariff increase and the gradual elimination of cross-subsidization.

Continued Explanation:

During the past year, the proposals for the revision of tariffs for heat providing organizations were considered. After receiving a written request for fixing tariffs with regard to changes in energy prices (gas, black oil, etc.), within one month, documents submitted in accordance with the patterns set by the regulatory body, including all accounting records, technical data on norm of losses, and other necessary data were reviewed. After relevant examination of all documents and analysis to substantiate the costs included in the tariff, a draft Regulation of the Executive Council, a regulatory body, was prepared, as well as substantiation reference, explaining the reasons for the decision-making; then the protocol of the Executive Board session was drawn up. After a collegiate decision-making, applicants received copies of regulations, with the tariffs set by regulatory body. Reapplication on the same subject may not be undertaken earlier than six months.

VALUES	SELECT
Not applicable / Not assessed	
The proceeding before the regulatory body did **not** meet any elements of quality	Low
The proceeding before the regulatory body meets **one** element of quality	Medium
The proceeding before the regulatory body meets **two** element of quality	**High** ✓

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Legislation of the Kyrgyz Republic, materials of the State Department for Regulation of FEC

Any Additional Information:

RP18 DISCLOSURE OF DOCUMENTS IN THE POSESSION OF THE REGULATORY BODY

Explanation:

The legislation of Kyrgyz Republic is quite progressive in terms of document access, it gives a right to receive any information: all the documents, which are kept by the regulative body (State Department on regulating the fuel and energy complex of Kyrgyzstan) according to the legislation, and also upon the clause on regulative body, are supposed to be accessible to the public. Previously all the hearings under the State Department were indeed conducted transparently, the upcoming hearings would be announced and the public was allowed to participate. At the moment this practice has stopped, information on the upcoming hearings is inaccessible, which no doubt sets definite barriers to the public to participate in energy sector regulation. The documents, under the State Department are meant for the public, due to its wide-range mandate and close connection with the population, including dispute settlement, socially-significant issue of tariffs and licensing. The State Department reserves the right to accept the document or case as confidential; however there are no concrete procedures on defining the confidentiality. At the same time it does not provide substantiation over the rejection in participation.

VALUES	SELECT
Not applicable / Not assessed	
A**ll** documents in the possession of the regulatory body are considered confidential, or the regulator is bound to keep all documents confidential if any stakeholder claims confidentiality	Low
All documents (or documents for which any party claims confidentiality) in the possession of the regulatory body are expected to be confidential, **but,** the regulatory body has the authority to make documents public (even if a party has claimed confidentiality)	Low - Medium
Decisions regarding whether the public can have access to documents are at the discretion of regulatory officials. There are **no clear provisions** about which documents in the possession of the regulatory body are public or confidential.	**Medium** ✓
All documents in the possession of the regulatory body are presumed to be available to the public unless they are classified as 'confidential' by the regulator, but **there are no welldefined procedures and rules** to determine 'confidentiality'	Medium – High
All documents in the possession of the regulatory body are presumed to be available to the public unless certain documents are classified as 'confidential' by the regulatory body, and **there are clear procedures and rules** to define such 'confidentiality'	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Regulation of the Government of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC

Any Additional Information:

RP19	PROCEDURE FOR PUBLIC ACCESS TO REGULATORY BODY DOCUMENTS	
Elements of quality		**Explanation**
Well-indexed database of documents	**N**	The State Department on regulating the fuel and energy complex makes decisions in the form of decrees, orders and instructions, which are kept under the government accepted indexation, but the search in the database without the number is troublesome. Only the State Department members have access to the information and they control the situation; there is no system of access for the public.
Simple, well-defined procedure for inspecting / obtaining documents	**N**	It is possible to receive information by compiling and sending an official inquiry to the agency. The documents could be enclosed in the reply. At the moment the system of feedback with the population is disorganized, the regulating body does not provide documents due to the absence of corresponding inquiries.
Reasonable cost	**N**	The cost of document access is not determined.
Wide dissemination of information	**N**	There is an absence of information campaigns on educating the public on how they are able to receive information access over the energy sector. The information over socially-significant issues as tariff policy is being distributed; large-scale educational programs are conducted over ecology and human rights issues to activate civil society organizations and the public.

Continued Explanation:

VALUES	SELECT
Not applicable / Not assessed	
Procedures for public access to regulatory documents meets **no** elements of quality	**Low** ✓
Procedures for public access to regulatory documents meets **one** element of quality	Low - Medium
Procedures for public access to regulatory documents meets **two** elements of quality	Medium
Procedures for public access to regulatory documents meets **three** elements of quality	Medium – High
Procedures for public access to regulatory documents meets all four elements of quality	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Regulation of the Government of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC

Any Additional Information:

RP20 SPACE FOR PUBLIC PARTICIPATION IN THE REGULATORY PROCESS

Explanation:

The hearings over the cases under the State Department on regulating fuel and energy complex according to the legislation and upon the clause on regulating body are supposed to be accessible for the public. Previously the hearings of all the cases under the State Department were indeed transparent – it would announce the upcoming hearings, and the public was never prohibited to attend the hearings. At the moment this practice has stopped, information on upcoming hearings is inaccessible, which no doubt sets definite barriers to the public to participate in energy sector regulation.

The Civil Society Organizations were practically never involved in the process of the decision making, in many cases it was considered that representatives of Civil Society Organizations and the public are invited just to ***familiarize*** with the decisions, which were already ***made*** by the state bodies.

It is also worth mentioning that the public is informed on the increase of tariffs, already after the approval and the population almost always accepts the rates of increase without an opportunity to question the decisions. The prepared decision is not announced until it is accepted; the international experience shows that decision over the project is put for discussion one month prior to the final decision, which achieves the absolute record of opinions.

VALUES	SELECT
Not applicable / Not assessed	
Laws states that regulatory proceedings are **not open** and the public has **no** right to participate	Low
Laws state that **unless** the regulatory body makes a special order, proceedings before the body are **not open** and the public **has no right** to participate	Low - Medium
Laws **do not specify** whether proceedings before the regulatory body are open to the public or if the public can participate in the proceedings	Medium
By law, all proceedings before the regulatory body are **open** to the public, but the public has **no right** to participate	Medium – High
By law, all proceedings before the regulatory body are **open** to the public, **and** the public **has the right** to participate	**High** ✓

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Regulation of the Government of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC

Any Additional Information:

RP24 INTERVENTIONS BY CIVIL SOCIETY IN THE REGULATORY PROCESS

Explanation:

Following numerous appeals for the protection of "private" and "public interest" sent to the regulatory authority in the energy sector (Department for the Regulation of Fuel and Energy Complex under the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic) in various forms by consumers and civil society organizations during 2007-2008:

- Private interest: suppression of unlawful actions of representatives of electricity supplying organizations (distorted meter accounting, wrongful accusation of consumers of theft of electricity and other actions); assisting the consumer in reimbursement of the damage caused by electricity supplying organization as a result of its violation of electricity supplying regime.
- Public interest: demand the canceling of the regime of forced restrictions on electricity supply to consumers, including the disconnection of three-phase input and the practice of "rotational cut-offs"; public presentation to the consumers of schedules of power cut-offs on the territories of settlements and individual objects; cancellation of the requirement to pay for power at electricity supply to all categories of consumers; request a public justification of applied tariffs for electric energy.

VALUES	SELECT
Not applicable / Not assessed	
During the last two years **no** cases were filed before the regulatory body by consumers or civil society organizations / groups	Low
During the last two years **one or more** cases pertaining to "private interests" were filed by consumers / groups	Low - Medium
During the last two years between **one and three** "public interest" cases were filed by civil society organizations / groups	Medium
During the last two years between **more than three** "public interest" cases were filed by civil society organizations / groups	**Medium – High** ✓
During the last two years, apart from meeting the above criteria (i.e. more than three public interest cases) **more than two** civil society organizations / groups were involved in the "public interest" cases / appeals	High

Researcher Name and Organization:

PF "Ustin"

Sources of Information:

Center for Consumer Rights Protection "Vigens", Private Enterprise "Mayak-2", Public Association "Ustin", Public Association "Decent Life", Public Association "Kyrgyztranskontrol", and Public Association for Social Protection of Population named after Fomova L.M.

Any Additional Information:

RP26 ORDERS AND DECISIONS OF THE REGULATORY BODY

Explanation:

State Department within its competence on the basis of the existing legislation and for the purpose of its implementation makes **decisions in the form of regulations, orders and instructions**. The Law "On power industry" obliges the regulatory body to report on the tariff increase on electricity a month before its entry into force. It should be noted that the "regulatory" body usually provides an explanation for its decisions after the decision has already been approved. That is, the approved decision is published in the mass media and the information provided on the new tariff amounts and timing of their introduction. This is a common practice.

However, in 2008, before the adoption of Medium-term tariff policy, the MIEFR and regulatory body have conducted a number of events to explain the tariff policy, starting in the Parliament of the Kyrgyz Republic, the Government of the Kyrgyz Republic, a large-scale meetings and round tables with representatives of Pensioners Party of the Kyrgyz Republic, civil society organizations on social protection, representatives of business structures, the chairmen of house committees, and representatives of trade unions of the Kyrgyz Republic. Representatives of the mass media were invited to this meeting. In addition to regulatory body staff, these meetings were attended by the representatives of energy companies engaged in supplying electricity to consumers, representatives of the Ministry of Labor and Social Development, Ministry of Finance, and Social Fund, which worked together on working out measures to support the vulnerable strata of population. Press releases and presentation slides were prepared for explanation. Anyone could get a presentation material, and press releases were sent to news agencies. Owing to such interaction with the public, tariffs increase in July 2008 have passed without signs of social tensions.

VALUES	SELECT
Not applicable / Not assessed	
There is **no** legal requirement that regulatory orders / decisions contain reasons or respond to public comments and objections	Low
There is a legal requirement **but** orders / decisions of the regulatory body **either lack sufficient** reasons **or** fail to respond to public comments and objections	**Medium** ✓
There is a legal requirement **and** orders / decisions of the regulatory body **contain sufficient** reasons and respond to public comments and objections	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Regulation of the Government of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC

Any Additional Information:

Effective public involvement should enhance the acceptability of the decisions of the State Department even if they are unpopular. In addition, the active involvement of the public appears to be useful from the standpoint of protecting the regulatory authority of the commission of mistakes, or in other situations to improve the quality of decision-making of the regulatory body. Earlier, before the institutional changes, the regulatory body had a certain degree of independence in decision-making, including the obviously unpopular ones. The following criteria were applied:

1) Openness of Information.

- Rules for open sessions of the Executive Board, which are sometimes carried out in the open with the participation of all stakeholders have been developed and approved with the assistance of international consultants.
- Rules for work with media were developed as well.

2) Availability of Information.

- Information was available on request for any interested person, other than information recognized as confidential and protected in accordance with the Law of the Kyrgyz Republic "On Trade Secret." Confidentiality of information was determined by the companies themselves, but the regulatory body had to verify the need for confidentiality and reliability and then announce the recognition or non-recognition of information to be confidential.
- Public hearings on tariffs were conducted regularly, and the announcements about these hearings were published in the most popular media (newspapers "Vecherniy Bishkek", "Slovo Kyrgyzstan"). In addition, when introducing a uniform tariff, such public hearings were held in all regions of Kyrgyzstan - the first one in 2004, then in 2006. This was due to the fact that the decision to introduce a uniform tariff which was taken by the regulatory body in 2004 and which was already registered with the Ministry of Justice was abolished for political reasons by the Government (the rules of President Akaev A.A.). Later, when introducing a uniform tariff in 2006, public hearing procedure was repeated in all regions of Kyrgyzstan.

RP28 TARIFF PHILOSOPHY		
Elements of quality		**Explanation**
Detailed analyses	**N**	The main strategic document for the State Department for the Regulation of FEC for setting tariffs in accordance with certain principles, is the "Medium-term tariff policy for 2008-2012," which was developed by a regulatory body and endorsed by the Government of the Kyrgyz Republic. Currently in the Kyrgyz Republic, long-term tariff philosophy does not exist and the special concept of "tariff philosophy" does not appear in any legal act of the Kyrgyz Republic.
Mitigating adverse impacts	**N**	Concurrently with the development of tariff policy, measures to support the vulnerable groups were developed, as well as the budget for the compensation of preferential categories and pensioners was estimated in cooperation with the Ministry of Labor and Social Development and the Social Fund of the Kyrgyz Republic. As a result, with increase in tariffs, retirees will receive an allowance to a pension in the amount of the difference in tariffs for electricity; the residents of Bishkek with low income receive support in payment of utility services through the Center for housing subsidies of Bishkek, and the citizens entitled to benefits under the current legislation still have discounts on payments. However, the mechanism does not consider the calculation of the costs related increasing of price for service and commodities because of tariff rise.
Easy to understand	**N**	Medium-term tariff policy was written quite accessible to perception, with a clear explanation of why there is a need to change the tariffs; the principles of their formation and the commitment to further changes are explained.
Recent tariffs reflect the philosophy / principles	**N**	In July 2008, in accordance with the tariff policy, new tariffs on electrical energy at a rate of 0.70 tyiyn/ kWh, and the new tariffs for heating and hot water were set, according the Medium Tariff Strategy. There are no tariff philosophy principles.

Continued Explanation:

A set of priority measures in the new tariff policy provides for increases in the fee (in stages, until 2012) for electricity up to almost 2.5 times, and the fee for heat up to almost 4 times, *even though there is no method of calculating and setting the tariff for electricity and heat, as well as natural gas, which has yet to be developed and legislatively approved*.

VALUES	SELECT
Not applicable / Not assessed	
There is **no** tariff philosophy or principles to guide the regulatory body's tariff determination process	**Low** ✓
Tariff determination is guided by predetermined tariff philosophy / principles, but meets **zero or one** element of quality	Low - Medium
Tariff determination is guided by predetermined tariff philosophy / principles, but meets **two** elements of quality	Medium
Tariff determination is based on / guided by predetermined tariff philosophy / principles, but meets **three** elements of quality	Medium – High
Tariff determination is guided by predetermined tariff philosophy / principles, and meets **all four** elements of quality	High

Researcher Name and Organization:

PF "Unison"

Sources of Information:

Regulation of the Government of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC

Any Additional Information:

Procedures for setting up the tariffs.

The essence of the new tariff set is to establish a more effective tariff structure and gradually bringing them into line with real inputs of energy companies.

The first such increase took place on July 1, 2008, and subsequently the change of tariff will be introduced on annual basis from April 1, in accordance with Annex 2. These dates for introduction of new tariff were chosen on the basis of the following purposes:

- to protect consumers from the increase of tariffs in the heating period;
- allow the consumer to get used to a new level of tariffs.

However, this level of tariffs may be revised following the review of the investment obligations of energy companies, as well as other deviations from the calculated parameters laid down in the tariff policy.

Tariffs for electricity to final consumers are established for the entire period of 2008-2012. Prior to February 1 of each year, the actual results of the energy sector activities for the previous year will be considered. As a result of such considerations, the level of the salaries and the rate of increase of tariffs for the next year will be adjusted and thereafter, until February 15, appropriate proposals will be submitted to the Government of the Kyrgyz Republic.

By 2012, a significant reduction in cross-subsidies between different categories of consumers is planned, with its ultimate goal to gradually eliminate cross-subsidies, and bring the level of tariffs for each group of consumers in line with the real costs for electricity supply. In this regard, by January 2011, a methodology for setting tariffs for electrical energy will be developed, differentiated by levels of supply voltage, which should be based on the distribution of costs of energy supplying company between the networks of different voltage under possession. This will mean that from 2012, the level of tariffs will vary depending on the level of voltage at the point of consumer connection to the electricity grid, and will not depend on the purpose of use of electricity by consumers (domestic, industrial, etc.).

Significant backlog of energy companies in carrying out repair works and reconstruction of power generating equipment, accumulated over recent years due to lack of funds, confirms that current levels of investments into the energy sector are insufficient. Therefore, it may be necessary to attract additional investment. Currently, the only possible source of the return of such investments is the tariffs for electric energy. Therefore, when setting future tariffs for electricity, it is necessary to adjust the tariff level and their rate of growth subject to the actual investments into the energy sector.

In cases of deviation of the actual level of the basic parameters and assumptions of the values embodied in the calculation of the tariff policy, in setting tariffs for electricity, the levels of tariff and rate of their increase must be also adjusted subject to such deviations. Moreover, such adjustment shall be made both to increase and to reduce tariffs.

RP29	PARTICIPATION IN DECISION-MAKING RELATED TO AFFORDABILITY OF ELECTRICITY PRICES	
Elements of quality		**Explanation**
Attention to affordability in tariff principles / philosophy	**N**	Current Law "On Energy" (article 9) provides that the authorized state body shall establish economically sound and socially acceptable mechanisms for pricing and tariff, which according to the National Energy Program for 2008-2011 and development strategy of fuel and energy sector until 2025 have yet to be developed and legislatively adopted.
Public participation in revisions	**N**	The society does not take part in discussing the prices for electricity. The policies are constructed in such a way, that when the tariff changes are introduced (increase of tariffs) the public is informed about the fact of increase, without the right for appeal or discussion.
Educating low income groups	**N**	There is no system of educating the price accessibility. The procedure of decision announcement anticipates the participation of the public and also the representatives that protect the interests of low income groups during the actual decision announcement, which also presents information concerning the undertaken activities in developing the mechanisms of benefits and compensations.

Continued Explanation:

The public has participated in the discussion of tariffs only once, which was an exceptional case. In December of 2004, the regulative body represented by the State Agency on Energy under the Kyrgyz Government has submitted the tariff increase issue for the electricity for the public discussion. As a result of quite an emotional discussion concerning the tariff increase, the decision was not made.

VALUES	SELECT
Not applicable / Not assessed	
No elements of quality for participatory decision-making to address affordability of electricity services were met in the tariff revision process	**Low** ✓
One-Two elements of quality for participatory decision-making to address affordability of electricity services were met in the tariff revision process	Medium
Three elements of quality for participatory decision-making to address affordability of electricity services were met in the tariff revision process	High

Researcher Name and Organization:
Public Association for Consumer Rights Protection "Ustin"

Sources of Information:
Public Association for Consumer Rights Protection "Ustin", Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic

Any Additional Information:

In 2008, the MIEFR and regulatory body have conducted a number of events to explain the tariff policy, starting in the Parliament of the Kyrgyz Republic, the Government of the Kyrgyz Republic, a large-scale meetings and round tables with representatives of Pensioners Party of the Kyrgyz Republic, civil society organizations on social protection, representatives of business structures, the chairmen of house committees, and representatives of trade unions of the Kyrgyz Republic. Representatives of the mass media were invited to this meeting. In addition to regulatory body staff, these meetings were attended by the representatives of energy companies engaged in supplying electricity to consumers, representatives of the Ministry of Labor and Social Development, Ministry of Finance, and Social Fund, which worked together on working out measures to support the vulnerable strata of population. Several changes were introduces into the project, taking into consideration the public opinion.

RP30 LICENSING		
Elements of quality		**Explanations**
Well-defined procedure for consideration of license applications	**Y**	The Law of the Kyrgyz Republic "On Licensing" sets out the main principles of licensing, the types of licenses, the authorities engaged in licensing, the forms of licenses, the types of activities subject to compulsory licensing, the conditions and procedure for issuing licenses, the application for licenses consideration timeframe, the necessary documents for obtaining a license, the grounds for refusal, appeal in cases of refusal, the list of required documents for obtaining a license, and the grounds for suspension or revocation of license.
Well-defined criteria for consideration of license applications	**Y**	Features of the licensing activities for the production, transmission, distribution, and sale of electricity and heat energy, natural gas; refining of petroleum and natural gas, construction of power stations, substations and transmission lines. Licensing is subject only to business activities, i.e. activities aimed at making a profit.
Clarity about the basis for amendment / revocation / suspension of licenses	**Y**	In the Article 17-2 of the Law "On Licensing," it is stated that the re-licensing is done in the case of conversion of a legal entity, changing its name or place of residence. According to the Article 19 of the law on "Licensing" the licensee receives a notice in case if he commits one-time mistake that results in minor loss, or in case if licensee fails to perform the requirements provided by the license. Licensor (regulative body) has a right to suspend the license of the subject, who previously received a notice, for the term of up to three months for failing to perform the requirements provided by the license. The license is renewed after the problem is eliminated.
Dispute resolution	**Y**	Based on the article 18 of the law on "Licensing" if the license is not issued within the terms provided by the existing law or other legal acts or in case if applicant receives unreasonable rejection, he has a right to appeal to the court.
Compliance and performance-monitoring	**N**	The State Department regularly monitors the activities of licensees, according to the existing legislation and the conditions of the licenses. The State Department inquires information from licensees on constant basis (annually, quarterly, and monthly.) The State Department observes and analyses the information received from licensees, and if necessary it interferes and conducts inspections on the spot. The monitoring activities are conducted according to the articles 22.1 and 23 of the law on "Licensing". In reality it is very hard to monitor the activities of licensees in full, as the license documents look more like certificates rather than license agreement. The document does not have conditions of license agreement, enclosed and defined responsibilities of licensee, the realization of which could be monitored.

Continued Explanation:

However the State Department in 2008 has used the measures of administrative influence only twice in licensing, other than that there were no registered cases of abandonment or suspension of license.

VALUES	SELECT
Not acceptable / Not assessed	
There are **no** clear rules regarding 'requirements' or 'exemptions' for licenses	Low
The licensing process meets **one - two** elements of quality	Low - Medium
The licensing process meets **three** elements of quality	Medium
The licensing process meets **four** elements of quality	**Medium – High** ✓
The licensing process meets **all five** elements of quality	High

Researcher Name and Organization:
PF "Unison"

Sources of Information:
Regulation of the Government of the Kyrgyz Republic, materials of the State Department for the Regulation of FEC

Any Additional Information:

P32 CONSUMER SERVICE AND QUALITY OF SUPPLY

Elements of quality		Explanations
Existence of Standards		
Standards for consumer service and supply quality	**Y**	The quality of electrical energy supplied to the consumer must comply with Interstate standards GOST 13109-97 "Standards of quality of electrical energy in power systems, of general-purpose."
Supply standards are mandatory	**Y**	In the contract for the supply of electrical energy to household consumers, approved by the State Agency on Energy under the Government of the Kyrgyz Republic, a supplier of electric power has the responsibility for compliance with the abovementioned standard.
Quality of Standards		
Monitoring performance	**Y**	According to Terms of Use of electric energy, approved by the order of the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic dated June 21, 2007, No. 55 (paragraph 12.1.), the State Energy Inspectorate implements the state control and supervision of compliance with licensing requirements, requirements of Regulations and GOSTs, the organization of operation and the technical condition of electrical equipment, and compliance with norms and GOSTs. Mechanism for monitoring the quality of electricity supply service was determined by the State Agency on Energy under the Government of the Kyrgyz.
Compliance reviews	**N**	Regular reviews of the quality of the electricity services provided for the assessment of conformity to standards of implementation are not carried out by a regulatory body
Compliance review information / results publicly available	**N**	There are no documents on correspondence overview and the public does not have an opportunity to provide comments and suggestions.
Consumer grievance	**Y**	The abovementioned contract on the supply of electrical energy to household consumers provides for a mechanism for dealing with consumer grievance on quality of provided electricity service according to which the regulatory body takes appropriate decisions.

Continued Explanation:

Monitoring the quality of provided electricity services was set by Regulation "On the order of allegations of the Agreement breach (the contract) when providing electricity power to Consumers and collection of debts for the consumed electricity» approved by the State Agency on Energy under the Government of the Kyrgyz Republic dated January 19, 2005, No.2. However, the quality indicators of the electrical energy supplied to the consumer, such as voltage fluctuations and variations, the oscillation frequency of the voltage can be measured only with the special instruments and techniques of conducting appropriate measurements. Employees of line services of the electricity distribution companies do not have such devices and there is a lack of specialists. At the same time, conditions of power consumption change in time and it is rather difficult to register the deviations of the parameters of electric power from the established standard.

Reviews of the quality of electricity services provided are conducted sporadically, mainly upon the complaints of consumers, local self governments or organizations, including the public, and organizations on consumers' rights protection. However, it is very difficult to produce the evidence of electrical energy supplier's non-compliance with standards. For example, residents of the house number 20 on Ayni street, Bishkek, in 2005, for about two weeks had to prove an excess of the permissible level of voltage fluctuations in the electric network resulted by connection of industrial equipment of the manufacturing company, to representatives of the State Inspectorate for Energy and Gas under the Government of the Kyrgyz Republic. In 2006, the commission of Bishkek City Kenesh of Deputies has considered an issue "On the performance of supply contracts with a population by JSC "Bishkekteploset", JSC "Severelektro", UC "Bishkekteploenergo", "Bishkekvodokanal", Bishkek department of gas supply facilities JSC "Kyrgyzgaz" to study the issue of the quality of energy supply services in Bishkek; after considering that the session had adopted a resolution No. 219 dated July 11, 2006.

VALUES	SELECT
Not acceptable / Not assessed	
There are **no** well-defined standards of performance for consumer service and quality of supply	Low
Consumer service and quality of supply standards exist, but they are **not** mandatory	Low - Medium
Consumer service and quality of supply standards are mandatory, but they meet **one** element of quality	Medium
Consumer service and quality of supply standards are mandatory, but they meet **two-three** elements of quality	**Medium – High** ✓
Consumer service and quality of supply standards are mandatory, they meet **all four** elements of quality	High

Researcher Name and Organization:
Public Association for Consumer Rights Protection "Ustin"

Sources of Information:
Bishkek city Kenesh of Deputies, Center for Consumer Rights Protection "Vigens", Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic

Any Additional Information: