

Regulating Water Services Provision in MENA

Summary Report



Center for Mediterranean Integration, Villa Valmer, Marseille, July 28-30



Agenda at a glance

Tuesday, July 28	
9:00-12:00	Regulation of Water Utilities – A Primer
<i>12:00 – 13:00</i>	<i>Lunch</i>
13:00 – 14:15	Establishing a Water Regulatory Authority: Experiences from Palestine and Albania
14:15 – 17:00	Benchmarking Water Utilities: Nuts and Bolts, Activities and Case Studies
<i>17:00 – 19:00</i>	<i>Light dinner reception and Meet and Greet</i>
Wednesday, July 29	
9:00 – 11:30	Cost Recovery and Financial Sustainability, and the MENA Experience
11:30 – 12:15	Case Study: Australia – Regulation, Scarcity, and Desalination
<i>12:15 – 13:15</i>	<i>Lunch</i>
13:15 – 17:00	Pro-Poor Regulation, View from Civil Society, Regulation in Fragile Situations and Cost Recovery Team Activity
<i>19h</i>	<i>Dinner in Marseille</i>
Thursday, July 30	
9:15- 10:30	Utility Perspective: Public-Private Partnerships Under the French Contractual Model: Marseille Metropole, SEM -Veolia
10:30 – 11:00	Regulatory resources
11 – 11:30	Wrap up of workshop, collection of evaluations
<i>Noon</i>	<i>End of workshop</i>

Introduction

Scarce and unevenly distributed water resources have made water a key economic and social development issue in the Middle East and North Africa region. More than three quarters of the population of World Bank client countries in MENA have access to clean water and improved sanitation, but service is often not continuous, and access to water in rural areas often lags behind, as do access to sanitation and wastewater treatment.

Balancing cost-recovery and affordability concerns are recurrent priorities for service providers and policy-makers in MENA World Bank client countries, as well as improving environmental sustainability and water resources management, given the scarcity of water resources in the MENA region.

The World Bank and the Center for Mediterranean Integration (CMI) in partnership with GIZ and the Public-Private Infrastructure Advisory Facility (PPIAF), organized the first regional workshop on Regulating Water Services Provision in MENA in Marseille, France, on July 28-30th, 2015.

The workshop brought together water and sanitation service providers, regulatory authorities and policy-makers from several countries of the MENA region (Egypt, Morocco, Palestine and Tunisia) as well as Albania, Australia, France, the Netherlands and the US. Development partners and civil society representatives also participated in the workshop, with the objective of discussing the potential for regulation of water services as an instrument to reach sustainable water and sanitation services for all in the region.

This workshop looked at the potential of regulation for improving these aspects of water and sanitation services provision, by considering the experience of developing and developed countries alike. As well as this summary report on the proceedings of the workshop, this event has sparked interest in the creation a formal or informal Community of Practice on the topic of the regulation of water and sanitation services in the MENA region.

Opening session: A Primer on Regulation
Day 1: Tuesday, July 28 2015
09:00-12:00

8:30 – 9am	Registration	
9:00 – 10:00	Welcome and Participants' Introduction	Mourad Ezzine, Director, CMI, and Yogita Mumssen, Senior Infrastructure Economist, World Bank
10:00 – 10:45	Regulation of Water Utilities – A Primer, followed by Q&A	Mark Jamison, Director, Public Utility Research Center (PURC), University of Florida
10:45 – 11:00	Coffee Break	
11:00 – 12:00	Institutional Arrangements and the Political Economy of Regulation, followed by Q&A	Mark Jamison, PURC

Opening

The session began with participants describing their objectives and expected outcomes from the workshop. The **Palestinian** delegation described their current situation working on regulatory and institutional reform of the water sector and developing an independent regulatory council. **Tunisia** and **Egypt** were particularly interested in comparing their experience with that of other Mediterranean countries working in similar conditions; Tunisia was particularly interested in strategic planning for Water Supply and Sanitation. Finally, **Morocco** was interested in the potential application of a regulatory framework as part of an ongoing national water sector reform.

The organizers thanked the participants and encouraged them to think about staying in touch with each other and keeping abreast of future developments in the water sector in the region via a formal or informal Community of Practice, which could be supported by the World Bank. Dr. Jamison also pointed out to a number of key references for further reading.¹

¹ Including the PURC and PPIAF resource: regulationbodyofknowledge.org

1. Regulation of Water Utilities - A Primer - Mark Jamison

The session began with participants prioritizing their regulatory objectives in the Water Supply and Sanitation sector. Balancing **cost-recovery and affordability concerns** were recurrent priorities, as well as improving **environmental sustainability** and water resources management, given the scarcity of water resources in the MENA region. **Customer satisfaction and the provision of equitable services to all** was also a priority concern.

Dr Jamison highlighted the importance of not considering regulation in a vacuum: the quality of the organizations of the water sector goes a long way in determining the quality of the regulation. There are several overarching considerations for regulators in the water sector: (i) credibility (ensuring that stakeholders have confidence in the regulation of the water sector); (ii) legitimacy (consumers must be convinced that the regulatory system will protect them from the exercise of monopoly power, whether reflected in high prices, poor service, or both); (iii) transparency (the regulator is held accountable by customers, politicians and utilities); and (iv) efficiency. Below are the main regulatory functions in the water sector; note that these may be (and often are) split between different institutions or regulatory authorities, and may be informal (e.g. decision-making processes) or formal (laws, decrees):

- Issuing licenses,
- Setting performance standards,
- Monitoring performance standards,
- Establishing price levels and rate structure,
- Establishing a uniform system of accounts,
- Arbitrating stakeholder disputes,
- Performing management audits (and evaluating business plans),
- Developing human resources,
- Coordinating activities with other agencies, and
- Reporting sector performance and commission activities to appropriate government authorities.

During the Q&A, Morocco explained that it was in the process of regionalizing water supply and sanitation and wondered whether it would be better to establish regional water regulators. Responses from various regulatory experts included that a national or a regional regulator would both be possible; but a national regulator may present additional benefits, in terms of capacity/ human resources as well as benchmarking. Participants also wondered how regulators were established and selected. It was discussed that the advantage of a commission or a panel of regulators is that it decreases the risks of the regulator becoming corrupt. It also allows for a range of skills and expertise, as regulators often need to have legal, technical and economic/financial skills as well as political awareness. Some independent regulators have a corporate structure, with a board of directors who hires a CEO to do day-to-

day operations. Regulators that are elected tend to focus more on 'populist' issues and are less independent.

Dr. Mark Jamison is the director of the Public Utility Research Center (PURC) at the University of Florida and serves as its director of Telecommunications Studies. He provides international training and research on business and government policy, focusing on utilities and network industries. He co-directs the PURC/World Bank International Training Program on Utility Regulation and Strategy, and is working with the Bank and its Public-Private Infrastructure Advisory Facility (PPIAF) on regulation in low-income and fragile states. Dr. Jamison's current research topics include leadership and institutional development in regulation, competition and subsidies in telecommunications, and regulation for next generation networks. He has conducted education programs in numerous countries in Asia, Africa, Europe, the Caribbean, and through the Americas. Dr. Jamison has served as special academic advisor to the chair of the Florida Governor's Internet task force and as president of the Transportation and Public Utilities Group. Previously, Dr. Jamison was manager of regulatory policy at Sprint, head of research for the Iowa Utilities Board, and communications economist for the Kansas Corporation Commission. He has served as chairperson of the National Association of Regulatory Utility Commissioners Staff Subcommittee on Communications, chairperson of the State Staff for the Federal/State Joint Conference on Open Network Architecture, and member of the State Staff for the Federal/State Joint Board on Separations. He serves on the editorial board of Utilities Policy.

2. Institutional Arrangements and the Political Economy of Regulation

The regulator's role is to safeguard the public interest, by ensuring the sustainability of the resource, ensuring accountability for consumers who are not on the system and future consumers, as well as mediate between customers, service providers and the government. However, vested interests can destroy the value of regulation: for instance, favored consumers like prices that are too low, but powerful labor groups and input suppliers benefit from inflated prices. It is particularly important, when establishing a regulatory authority, to clarify each sector institution's role and avoiding overlaps, as well as define the key principles of regulation:

- Defining the scope of regulation
- Ensuring stakeholder participation, transparency and accountability
- Defining and prioritizing public service obligations
- Designing and implementing of performance incentives for service providers, based on benchmarking studies
- Developing regulatory agency leadership and professional support staff.

The regulator may be led to deal with conflicts between stakeholders, which may stem from (i) a lack of clarity on roles ("authority conflicts"), (ii) disagreements over

current/ historical facts and causal linkages ("cognitive conflicts"), (iii) conflicting priorities and different weights on outcomes ("value conflicts") and/or (iv) the fact that stakeholders benefit differently ("interest conflicts").

Several case studies highlighted the various issues tied to the political economy of water which a regulator could run into, and the way countries around the world have dealt with them. Uganda's regulator has experimented with a performance indicator with weighted priorities (e.g. access, efficiency, Non-Revenue Water, etc) in order to help operators focus on investing in priority areas. The case of Rio de Janeiro, which filed a lawsuit and negotiated an agreement with Sao Paulo over the allocation of water resources in the country, highlighted the adaptive capacity of the sector in dealing with pressures on water resources. Finally, in response to concerns over how to ensure the consumers do pay their water bills, Albania shared its model contract between service provider and consumers, which is available on its [website](#).

Establishing a Water Regulatory Authority: Experiences from Palestine and Albania

Day 1: Tuesday, July 28 2015

13:00 – 14:15

3. Keynote Speech by Minister of Water, Palestine and Head of Palestinian Water Authority - Honorable Minister Mazen Ghunaim

Water in Palestine is subject to resources constraints and political and human pressures, as well as service provision constraints due to the weak state of the infrastructure, which impedes economic and human development. The Minister highlighted that most of the catchment area in Gaza cannot be used due to salinization and sewage contamination. The Palestinian government is trying to find solutions to this problem, including desalination; its focus is on trying to build strong, transparent institutions to manage the sector.

Since 2009, it has been implementing a plan for the reform of the water sector, which prioritizes cost recovery, strategic planning and awareness raising efforts. The planned water sector reform would entail (i) a new law on water to determine regulation, policy, the sustainable use of water resources and water allocation issues; (ii) a new national water company to supply water to the 3 main operators and provide technical support to the 226 small water services providers current operating in Palestine, which under the reform process will be reduced to few number of regional water and sanitation utilities, as well as (iii) a new regulatory authority to provide permits, regulate tariffs, and deliver licenses to water operators.

Palestine is keen to understand the experience of other countries, including those that are leading a water sector reform plan. In particular, there is a need to learn more from other countries on how consumers can be encouraged to pay their water bills, when there has been a culture of avoiding payment (which contributes to low cost recovery for operators).

Minister of Water, Palestine, Mr. Mazen Ghunaim, was born in Amman, Jordan in 1966. He graduated from Paris University XI in 1993. He is specialized in electrical and industrial engineering. His work experience began as industrial engineer in Jordan, and in energy generation in Tunisia. In 1997, he was nominated as a deputy to the Director General of the Palestinian Energy Authority until 2003. In 2003 he became the Director General of the Ministry of Energy and Nature Resources for two years and Director General of Nature resources Sector for another two years. In 2008, he was nominated as a Deputy Minister of the Ministry of Local Government, in charge of the development of the Palestinian local governmental sector. The Ministry under

his leadership is developing strategic plans, infrastructure and capacity building development projects for all Palestinian LGUs. Currently, Mazen Ghunaim is the Head of Palestinian Water Authority, and Head of the committee on negotiation of the permanent status of the water with Israel and also a member of the Arab Council of water ministers.

4. Case Study: Albania: Establishing a Water Regulatory Authority - Avni Dervishi

After briefly introducing the audience to the water resources and water sector in Albania, Mr. Dervishi outlined the reasons for establishing an independent regulator in Albania. These included (i) the protection of consumer interests; (ii) ensuring the financial sustainability of the utilities; (iii) encouraging competition within the sector; and, (iv) protecting water resources and the environment. There were political and logistical challenges associated with the transfer of regulatory competencies in the first year, and the need for government support (particularly budgetary) in the first year of establishment.

The National Regulatory Commission (composed of 5 members) regulate the water sector, through the following instruments:

- Licensing of utilities: at the moment, there is only one license, but there are discussions for separating bulk and retail water utilities licensing;
- Tariff regulation, including tariff approval: this competency was initially disputed by local governments. This has now been clarified: utilities submit a plan to local governments for approval, and final approval rests with the regulator. There are tariff for 3 categories of consumers for water, as well as bulk water tariff, which now covers 113% of O&M costs and 80% of total costs on average. Some utilities cover all their costs from their own revenue.
- Performance monitoring: The regulator has established performance contracts with the municipality, and with the regulator. Tariffs and performance are reviewed yearly, and the regulator has defined 10 KPIs. Utilities are grouped based on the number of water connections and ranked every year. The National Commission assigns a weighing to each KPI every year. Next year, they plan on adding more KPIs (16). In particular, one of the KPIs is 'regulator perception', which measures the compliance of utilities with the regulator in terms of licensing, responsiveness, participation with training, etc.
- The regulator also carries out studies on customer satisfaction, which have shown that there is a willingness to pay more for better services, and a need to improve water quality as 80% of consumers buy bottled water for drinking.
- Transparency and customer protection: the regulator has put in place mandatory service contract, setting the rights and obligations of both parties

as well as complaint resolution mechanisms; it has also instituted public hearings as part of the tariff-setting process.

The National Regulatory Commission also measures its efficiency, and has calculated that their services 'cost' 52 cents per customer. The budget for the Commission comes from regulatory fees, which are collected from the utilities. The main budget items for the Commission have to be approved by the government.

Mr. Avni Dervishi is the Chairman of the National Regulatory Commission of the Water Regulatory Authority in Albania since May 2008. As a Civil Engineer, he has over 30 years of experience in research, design, supervision, management of water supply and sewerage systems and water regulatory sector. He has been a leader of sector reform in Albania, such as his participation in the development and implementation of the water sector strategies, especially, in regulatory terms. He has participated in many national and international Conferences representing the Water Regulatory Authority and its current achievements and challenges. Under Mr. Dervishi's direction, the WRA has made significant steps forward by expanding and strengthening the role of regulation in the water sector.

Benchmarking Water Utilities: Nuts and Bolts and Case Studies
Day 1: Tuesday, July 28 2015
14:15 – 17:00

14:15 – 15	Benchmarking Water Utilities, followed by Q&A	Bill Kingdom, Global Program Lead, World Bank
15 – 16h	Practical exercise on Benchmarking (Coffee Break included)	Group work
16 – 16:30	Case Study: Regulation and Benchmarking in the Netherlands, followed by Q&A	Ben de Ru, Waternet

5. Benchmarking Water Utilities - Bill Kingdom

Performance improvements can derive from management initiatives within the operator (internally motivated) as well as from incentives developed by oversight agencies (externally motivated). In both instances, the purpose of benchmarking is to develop an understanding of relative performance and possible ways for meeting improved performance targets. Mainly two types of benchmarking methodologies are used by service providers and sector regulators:

- Metric benchmarking, which is when service providers are ideally grouped into business units that face similar operating conditions, and the use of input resources to deliver outputs are compared. There are four most commonly used methods for data analysis in order to assess relative performance: regression analysis; average input/output ratios; sophisticated ratios (based on more stratified samples); and data envelopment analysis.
- Process benchmarking, which aims to provide a means of achieving best possible performance based on the detailed analysis of operating systems. Regulator may take a role in identifying best practices and sharing them.

A set of Key Performance Indicators (KPIs) are used by many regulatory authorities to identify trends, evaluate performance, and establish targets. It may be difficult to get a 'like per like' comparison, so the evolution of KPIs per se and comparisons between utilities and between countries may not tell the full story. Sometimes these core indicators are given specific weights and aggregated into an aggregated Performance Indicator (as is the case in Uganda). The assessment of relative performance is a mix of art and science and practitioners should make their assessments using multiple tools, and be cognizant of factors that are outside the control of management but impact on use of resources.

No matter what methodology is used, a solid data collection and analysis system, and quality data is necessary for benchmarking. Improved data quality can be achieved by using data verifiers (e.g. consulting engineers, independent from engineering activities); error bars can also be assigned to each data point. A quick benchmarking exercise demonstrated that uncertainties in data points can have a wide variation in the final performance ratios. A good resource for benchmarking at the regional or international level is [IBNET](#).

Benchmarking can be a powerful tool to influence utility management, but there are different ways to apply it. Some regulators apply peer pressure through so-called "sunshine regulation", in which the regulator sheds some light on the performance of the sector. The model of writing an annual 'State of the Water Sector' report is a good way to start demonstrating what the regulator is trying to achieve, which can then help civil society pick up on the performance of services. Some regulators also apply incentives and penalties to low-performing utilities; but in this case, enforceability is key.

Mr. Bill Kingdom is the Global Lead for Water Supply and Sanitation in the World Bank. During his career in the water sector he has worked extensively in the UK, USA, Canada, South Asia and East Asia. Bill has led many urban and rural water supply investment projects, supported regulators, provided policy advice and implemented a number of innovative PPP projects including small town design build lease contracts in Vietnam, wastewater operations contracts in Canada, city-wide concession contract in Romania and performance based leakage contract in HoChiMinh City. He is currently leading a project in India to deliver 24/7 water supplies in three cities in Karnataka. Bill has undertaken, and provided advice to, benchmarking studies in many countries including UK, USA, Canada, Vietnam, Indonesia, Saudi Arabia, India and Bangladesh. He set up the IBNET system in the World Bank which is now the world's largest database of water utilities.

6. Case study: Regulation and Benchmarking in the Netherlands with Public Sector Providers - Ben de Ru

Ben briefly introduced the audience to the water sector in the Netherlands, which is composed of 26 water boards (a board is elected every 4 years, which sets the guidelines for the next 5 years, as well as the budget and the tariffs on wastewater treatment and flood protection) as well as 10 (public) drinking water companies.

Waternet promotes and implements a voluntary "sunshine" benchmarking system, in order to learn and improve overall efficiency. All water boards and water companies have joined this benchmarking exercise, even though it is not mandatory. The fact that Waternet promotes voluntary comparisons between utilities/ water boards

ensures that the quality of the data is quite high; it is available through open data on their [website](#). Waternet operates several types of benchmarks, including a national benchmark for wastewater treatment every 3 years, which assesses over 75 KPIs related to wastewater treatment, financial sustainability, environmental sustainability, energy consumption and innovation.

Mr. Ben de Ru has been working with Waternet in Amsterdam since 2009 as Team leader Program Management within the Waste Water department. Waternet is responsible for drinking water, wastewater and surface water (flood control) in the Amsterdam area. As team leader and program manager, Ben is responsible for the wastewater treatment investment program, which contains multiple wastewater projects such as new wastewater treatment facilities and the optimization of the wastewater treatment facility. Since 2012, Ben has been working part-time with World Waternet as a Program manager for the Sanitation Program in the province of Banten Indonesia. World Waternet is part Waternet and a non-profit organisation that supports developing countries in their efforts to improve Sanitation, Drinking water supply and Water management. World Waternet is active in amongst others Africa, Suriname and Indonesia.

**Cost Recovery and Financial Sustainability and MENA Water
Day 2: Wednesday, July 29 2015
8:30 – 11:30**

8:30 – 9am	Recap of Day 1	Yogita Mumssen and Mark Jamison
9 – 9:45am	Approaches to Rate-Setting, Cost, Incentives and Prices	Mark Jamison
9:45 – 11:30 am	MENA experience with cost recovery and financial sustainability (including Coffee Break)	All Participants – Moderated by Bill Kingdom and Mark Jamison

Opening

The participants reflected on the purpose of regulation, which is one of the many tools available to improve the performance of the sector. It is important to bear in mind that the expected outcome is to reach sustainable, equitable and affordable access to WSS for all, and that regulation is not an end in itself. A formal regulator is not always necessary (e.g. in the Netherlands, there is no regulator, as there is adequate human and technical capacity), but it can help strengthen the sector, provided other aspects are working too (e.g. systems for mediation and arbitration).

7. Approaches to rate-setting, cost, incentives and prices - Mark Jamison

The water sector is known for having prices that do not cover the costs of the service. Typically, if prices do not cover the costs of providing the service, someone else has to pay for the shortfall; it could be the users, the people in the service area, or the government, which is ultimately the citizens. In order for services to be technically and commercially viable, regulators must first estimate the cost of the service provided by the utilities. It is important to understand that prices need to cover the costs of investment, not just the costs of O&M; otherwise this will discourage future investment. The basic formula to calculate the **Cost of Service** (i.e. revenue required by the service provider) was discussed.

Another form of calculating allowable cost recovery or revenue which regulators use is **Price Cap Regulation**, which allows for regular change in prices based on the rate of inflation, minus an expected productivity factor (other adjustments can be taken into account too). Price cap regulation generally provides greater incentive to be efficient and reduce cost, but is not as widely used in systems which require heavy

investment and where the emphasis is on greater investment and increasing tariffs. There are also **Hybrid Schemes**, where operator and customers share efficiency gains and which provides additional incentives for efficiency.

Since data may be imperfect or change over time, the regulator will need to re-evaluate the estimated revenue required by the utility regularly. The frequency of the revisions will depend on the degree of confidence of the price calculations – and is often seen as one of the differences between cost of service and price cap regulation. A good accounting system that is the same over time and across operators is necessary so that the regulator can compare unit costs across service providers and be more efficient. The regulator also needs to put in place methods for reporting key information, and procedures for audits on key information. Cross-checking different sources of information may also help, as operators may report accounting costs for different government authorities, which can help the regulator gain a better understanding of the financial health of the utility.

Tariff categories (e.g. social tariffs) and **rate structures** (e.g. increasing/ decreasing block, flat fee, connection fee, seasonal fee, wastewater pricing) can be designed in order to maximize cost-recovery as well as ensure affordability of services. Improving technical and commercial efficiency can improve cost recovery independently of tariff levels.

8. MENA experience with cost recovery and financial sustainability

The participants shared their current and planned sector performance with regards to cost recovery and financial sustainability.

Egypt explained that tariff reform for water is current underway, with a resolution adopted by the Council of Ministers in June 2015. By 2020, O&M, rehabilitation as well as depreciation will be fully covered by utilities, with the state providing subsidies to recover costs in the meantime.

Palestine outlined its vision for cost recovery of the sector, which is based on the following pillars:

- Proper management of fixed assets
- Implementation of accrual accounting
- Proper financial treatment of grant fund
- Effective regulation
- Utilize economies of scale
- Efficiency of O&M
- Socio-Economic Factors
- Staff optimization and HR development
- Proper costing and tariff setting

Palestine's 2014 Water Law 2014 stipulates that tariffs must guarantee cost recovery for service providers (costs include O&M, asset depreciation on real costs, loans and interest and development investments). The next steps for Palestine lies in designing an incentive program to help municipalities to join the reform process, as well as strengthening the sanitation network and dealing with the culture of non-payment for water and sanitation services.

Morocco has a complex set of institutional checks and balances for tariff setting, which involves the Ministry for Energy, Mines, Water and Environment, the Ministry of Finance, the Ministry of General Affairs which has set up an interministerial council for tariff approval, as well as the Ministry of the Interior which looks after tariffs at the 'commune' level. There are public and private operators involved in Morocco, with ONEE managing both bulk production and most of the water distribution, as well as a number of private operators (essentially in cities) and multi-sector service providers. A performance contract has been established between ONEE and the Moroccan government, which includes planned tariff reform. Cross-subsidies from energy to water and related to bulk water services were described.

Tunisia gave a snapshot of the sector, including its water resources constraints. SONEDE provides water 24/7 in densely populated areas and currently has a coverage rate of 83%. The tariff system is complex, with 7 categories of consumers with an 8-fold increase in tariffs between the first and the last category. There are cross-subsidies between categories of consumers, and between service areas. As there is no mechanism in place for reviewing tariffs, cost-recovery for SONEDE has been steadily declining due to inflation and other incidences on the costs of labor, electricity, etc. ONAS (Sanitation) only recovers 63% of their costs and benefits from an annual government subsidy. Finally, cost recovery (when measured as a percentage of opex and depreciation) for drinking water supply in rural areas is low at 67%; the government again provides a subsidy as tariffs are capped at 1 dinar per cubic meter. Tunisia is engaging a discussion on potential reform for the 2016-2020 development plan.

Case Study on Water Regulation in Australia: Sydney Water
Day 2: Wednesday, July 29 2015
11:30 – 12:15

9. Key Messages: Regulation in the Water Sector (Case Study: Australia)

- Regulation is an economic and political process
- Better regulation can contribute to better outcomes, if accompanied by sector and governance reform
- Regulation evolves - you don't have to solve every problem at once.
- The regulator has to have its own business plan with its own objectives and priorities
- There are a lot of challenges in building up institutional capacity; capacity-building needs to go not just to the regulator, but also the utility.

IPART was established in 1992 as an independent transparent regulator of Sydney Water, a Government-owned corporatized water utility, in order to deal with issues linked to the pricing of water: cost recovery (low profits), inefficient delivery and pricing of services, and cross-subsidies. The entrenched cross-subsidies reflected the politicization of pricing with impacts on consumers and the environment, political control, as well as the lack of efficiency and prices benefiting those with political power. IPART's approach evolved over time. It initially focused on removal of cross-subsidies. It set tough efficiency targets and used this to unwind the cross-subsidies while avoiding large increases in prices for some customers. After 2000 it focused on commercial returns and investment incentives as the cross-subsidies had been largely eliminated. .

IPART has used weighted average price caps in regulating electricity but in water it has set specific individual prices. This is because Sydney Water wanted the regulator to take responsibility for changes in price structure. However this system may be inefficient and some consider it heavy-handed, so a move to a Weighted Average Price Cap is overdue.

What has been achieved after 20 years of regulation? There are no longer any cross subsidies: tariffs reflect the costs of service. Efficiency has increased, and the profitability of Sydney Water has also improved. Residential bills have remained constant or decreased in real terms for most of the period, but when costs rose due to a new desalination plant to increase reliability, IPART achieved a 40% real increase in prices in 4 years. Investment in desalination was linked to water security issues during a long-term drought in the 2000's; in 2011, the Government decided to

privatize its desalination plant. IPART established a price path that underpinned the privatization. The prices reflect the efficient costs of the plant and allow for recovery of shutdown costs and fixed costs when the plant is shutdown.

The regulator had to ensure that the removal of cross-subsidies between different categories of consumers did not affect affordability. IPART collected a lot of data on the effects of change in tariff structures on households, and put that information in the public domain. The Australian State Government provides a rebate for pensioners and people on social benefits. During the major initial major price reforms Sydney Water also set aside some funds to cope with households who find it difficult to deal with increase in charges.

Mr. Eric Groom has been a significant contributor to the development of regulation in Australia since 1992 when he joined the Independent Pricing and Regulatory Tribunal of NSW on its establishment. IPART was the first independent multi-sector utility regulator established in Australia and has had responsibility for the regulation of energy, water, public transport and, more recently, local government in NSW. Eric worked with IPART as Chief Economist and then Principal Adviser for 1992-2004 and then 2007-2014. During this period he was also an advisor to the South Australian Government, the Tasmanian, ACT and Northern Territory regulators, and, most recently, the Australian Energy Regulator on the development of regulatory frameworks. In 2015 he was awarded the Australian Public Service Medal for his outstanding contribution to the development of regulation in Australia and, through the Greenhouse Gas Abatement Scheme and Energy Savings Schemes, the reduction in greenhouse gas emissions. From 2004-2007 Eric was a Senior Regulatory Specialist with World Bank. During this period he led a program of research on the regulation of the water sector and contributed to the review and development of energy regulation and energy efficiency frameworks in a number of countries in East Asia and the Pacific, Middle East and North Africa, and Eastern Europe. Before joining IPART Eric worked with the NSW and New Zealand Treasuries, primarily on the governance of government-owned businesses tax policy and social impact modelling. Since 2014 Eric has been an independent advisor on regulation and sector reforms. His clients have included the energy regulators of the Philippines and Vietnam, the Australian Energy Market Commission, Sydney Water, the Department of Premier and Cabinet, and the NSW Department of Industry. In 2015 he was appointed to an expert panel on regulation for PPIAF/World Bank.

Pro-Poor Regulation, Civil Society and Fragile Situations
Wednesday, July 29 2015
13:15 – 17:00

13:15 – 14:00	Pro-poor regulation: Tariff structures, subsidies, citizen/pro-poor engagement, followed by Q&A	Mark Jamison (PURC) and Roland Werchota (GIZ)
14:00 – 15:00	Team activities on cost recovery/tariffs (Coffee Break included)	All Participants
15:00 – 15:30	View from Civil Society, followed by Q&A	Hachmi Kennou, Executive Director, Institut Méditerranéen de l'Eau (IME)
15:30-16:30	Special End of Day Wrap-Up: What is missing, and Fragile States?	Mark Jamison, PURC, and Roland Werchota, GIZ

10. Pro-poor regulation - Roland Werchota and Mark Jamison

Including the poor in the regulation of WSS services is the only way to ensure universal service provision. But how to we (i) identify (ii) reach sustainably and (iii) monitor the provision of services to the poor? There are several ways to identify the poor: by location, by asking communities or local governments to identify its poorest members themselves, or by using consumption/ standard of living as a proxy. The latter is usually less challenging. Tariffs have to recover the costs of water services provision - otherwise, the poor will ultimately lose out. There are ways to ensure the affordability of tariffs for the poor, by modifying the tariff structure to ensure a distribution of the costs of service between consumer categories for instance.

The challenge lies in the fact that WSS service providers tend to ignore low-income areas. If the poor already have access to WSS services, the regulator can collect data on the quality of services, and ensure there have appropriate feedback mechanisms in place for the utility to engage with them. If they do not have access to WSS services, the regulator must ensure that there are participation systems in place so that the poor are heard and plans are made for them to be reached with services. There is nothing wrong with different service standards (e.g. house connections/ communal taps) as long as the minimum service standards (as mandated by national law or WHO) are respected.

During the Q&A session, countries shared their experience of juggling the tradeoff between affordability and cost-recovery. Tunisia noted that their current tariff categories subsidizes people who are better off than the poor, but also that the tendency to make the rich pay more can also have negative externalities as they can choose to dig their own wells, thereby lowering the revenue of the utility and posing additional environmental risks. In Morocco, consumers who use less than 12 cubic meters per month get subsidies. The presenters highlighted that it is important to engage civil society and the poor in a dialogue with the service provider, rather than having illegal connections. It is the regulator' and civil society's job to accompany the service provider in this process.

Mr Roland Werchota is a trained civil engineer (public works) and economist and has been working in the water and sanitation sector for the last 25 years. His professional work engaged him mainly in Africa and the Middle East where he spend over 30 years. He started his carrier in the private construction business with water resource management and water and sanitation related infrastructure development. Thereafter, he was working for consultants from several countries and GIZ in the development cooperation heading programs for restructuring of service providers and designing and implementing water sector reform. With his works on reforms he concentrated on policy and legal framework development, regulatory frameworks and up-scaling of access for water and sanitation through pro-poor financing mechanism. He was also engaged in the international and national dialogue on human rights to water and sanitation and good governance in the sector. Presently, he is senior advisor in Kenya for the technical cooperation GIZ as part of a joint German Program with KfW, the German agency for financial cooperation, both in the framework of the Kenyan – German Bilateral Cooperation.

11. View from Civil Society - Hachmi Kennou, Institut Mediterranen de l'Eau

Prior to 1992, civil society engagement in the water sector was mostly limited to measures to protect consumer rights. Since then, civil society has evolved to include organizations concerned with sustainable development as well as the protection of consumer rights. In the MENA region, civil society is implicated in the water sector through bottom-up approaches (particularly in governance, awareness-raising) and top-down approaches (e.g. Mohamed VI Foundation for Environmental Protection). There are differences between some organizations, which focus on the preoccupations of the North (particularly on water quality and environmental sustainability) and the South (focus on sustainable access to WSS services). Partnership with civil society could be improved in the water sector, particularly as it could help mobilize financial services. Regional approaches to networking in the water sector have emerged recently, and include the Euro-Mediterranean Partnership, Plan Bleu, FIEA, IME, CMI and others.

During the Q&A, Morocco explained that they have started to include civil society representatives in the water sector, particularly in the river basin agencies. Egypt noted that there are around 3000 NGOs in the water sector, with whom they try to work. Palestine looks at CSOs as partners that may know information that they do not have.

Mr. Hachmi Kennou started his career working on water pollution issues in France, modelling water resources management in the basins of the “Garonne and Adour” rivers. Afterwards, in Tunisia, he worked in the Urban Hydraulic Division of the Public Works Ministry and started his career in urban sanitation and the protection of cities against floods, before becoming Director and subsequently Chairman of the National Sanitation Authority (ONAS) as well as General manager of two urban development societies. Since 2002, Mr Hachmi Kennou is in charge of the General Secretary of the Mediterranean Water Institute (IME), one of the most active professional water networks in Mediterranean region. Mr Kennou was also elected Governor to the World Council in 2003.

12. Conclusion: What does it take to set up regulation?

- What are the sector's strengths to leverage when establishing a regulatory authority: a supportive line ministry? Strong political will? Civil society? All this will help decide what institutional configuration will work best for the country.
- The regulator should be backed by a coalition to manage change, which includes allies and engages opposition in a meaningful way.
- The regulator will need to overcome both systemic opposition, as well as opposition from people who may lose out from its establishment.
- The regulator should look for some short-term wins
- Don't finish setting up your regulatory authority too soon! Make sure you have a good system of checks and balances in place.
- Change sector culture so it accepts the system.
- Practice adaptive management: Think of next steps, reflect on what works well and what does not, and change focus if needs be.

The Utility Perspective: Public-Private Partnerships Under the French Contractual Model
Thursday, July 30 2015
13:15 – 17:00

9 – 9:15	Recap of Day 2	Mark Jamison and Yogita Mumssen
9:15-10:30	Utility Perspective: Public-Private Partnerships Under the French Contractual Model	Jean-Marc Mertz, Marseille Metropole, and Alain Meysonnier, SEM-Veolia, moderated by Bill Kingdom, World Bank
10:30 – 11 am	Regulatory resources	Mark Jamison
11 – 11:30	Wrap up of workshop, collection of evaluations	Mourad Ezzine, Bill Kingdom and Yogita Mumssen
<i>Noon</i>	<i>End of workshop</i>	

13. The Utility Perspective: Public-Private Partnerships Under the French Contractual Model

Bill Kingdom, Global Water Sector Lead at the World Bank, moderated the discussion between two panelists operating under the French model of delegated contracts for services in the City of Marseille.

The first panelist, Jean-Marc Mertz, described the City of Marseille’s role as the “maître d’ouvrage” in monitoring the various PPP contracts into which it has entered. He explained that the Community of "Marseille Provence Metropole" (MPM) approved, on the 8th of July 2011, the principle of delegating the exploitation of both the drinkable water and the sanitation services through “leasing”. There are four contracts of public delegation : one concerning the public water service and three for the public sanitation (East, Central, West). There were several main selection criteria, including price, security of the resource, and service quality. He explained that there is a “dedicated legal structure for each contract”. He described the key Performance Indicators (KPIs), and how sanctions are applied in the case of breach of contract, e.g. penalties in case of non-achievement of the fixed objectives. An audit is performed once a year, by an external and qualified auditor, based on the values production process related to the previous year's data.

Mr. Meyssonier followed by describing the 15-year water contract (recently renewed) between his company, Societe des Eaux de Marseille (SEM) of the Veolia Group, and the City of Marseille. He described it as embodying the following characteristics:

- Performance based
- A new type of governance with more transparency and control for the city
- Technological innovations and higher service commitments
- Social development and sustainable development targets
- A shorter duration and a dedicated company

Questions from the participants centered on:

- Who implements/ executes the audits? Are they truly independent from the provider? How is the data verified?
- How are disputes handled?
- According to the OECD, prices in France are relatively higher than elsewhere in the OCED, and is this related to the risk in the contractual arrangements and the duration of the contracts?
- What type of competition is there for the contracts in the first place?

Mr. Jean-Marc Mertz, technical engineer, began his career at the Ministry of Finance. In 1984, he joined the technical services of City of Marseille where he held various key positions notably in the following areas: climate engineering, fleet manager and managing director for safety and prevention. In 2004, he joined the "Urban Community of Marseille Provence Metropole" where he served as Deputy Director in charge of urban ecology, Deputy Director in charge of waste management, General Inspector and Deputy Director in charge of urban services. He now serves as Deputy Director for water and yacht harbors management.

Mr Alain Meyssonier joined the Marseille Water Company as Director of Foreign Affairs and spent 20 years developing the activities of the Marseille Water Group at the international level. He then was appointed Director of the Marseille Provence Area in charge of the proper execution of the concessionary public-services contracts for drinking water and sanitation signed with various Marseille Provence Métropole municipalities until March 2014 when he took the position of Deputy General Director in charge of the group's development in France and internationally. He is also Chair of the Corsica Provence Committee of Foreign Trade Advisors of France. He holds a MBA in Business Administration and Management from ESSEC Business School.

14. Regulatory resources

Mark Jamison described the Body of Knowledge on Infrastructure Regulation (BoKIR) on which PURC is working jointly with the World Bank and PPIAF. He provided a history of how the BoKIR was created and its purpose, as well as its latest initiative to provide expertise on regulation in low-income and fragile / conflict states.

Body of Knowledge on Infrastructure Regulation

Home About Introduction Overview Glossary Frequently Asked Questions

Foundations of Regulation Market Structure and Competition Financial Analysis Price Level Regulation Tariff Design Quality, Social, Environmental Issues Regulatory Process

NEW NEW TRANSLATED GLOSSARIES

NEW RENEWABLE ENERGY AND ENERGY EFFICIENCY: EIGHT FAQs

NEW LEADERSHIP IN REGULATION

RECENT ADDITION REGULATION OF STATE-OWNED ENTERPRISES

PPIAF Enabling Infrastructure Investment **NTFPSI** **World Bank** **UF** Public Utility Research Center Warrington College of Business Administration UNIVERSITY of FLORIDA