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2009

# Benchmarking Best Practices and Promoting Accountability in the Electricity Sector

## Executing Organizations

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# CREDITS

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## Electricity Governance Initiative (EGI)

### INTERNATIONAL COORDINATION AND SECRETARIAT OF THE EGI

#### World Resources Institute (WRI)

The World Resources Institute (WRI) is an environmental think tank that goes beyond research to create practical ways to protect the earth and improve people's lives. WRI meets global challenges by using knowledge to catalyze public and private action:

- To reverse damage to ecosystems in order to protect their capacity to sustain life and prosperity.
- To expand participation in environmental decisions. WRI collaborates with partners worldwide to increase people's access to information and ability to influence decisions pertaining to natural resources.
- To avert dangerous climate change. WRI promotes public and private action to ensure a safe climate and sound world economy.
- To increase prosperity while improving the environment. WRI challenges the private sector to grow by improving environmental and community wellbeing.

In all of its policy research and work with institutions, WRI seeks to build bridges between ideas and action, meshing the insights of scientific research, economic and institutional analyses, and practical experience with the promotion of open and participatory decision-making processes in which various groups from the population can partake.

### THE INITIATIVE

#### The Prayas Energy Group (PEG) - India

The Prayas Energy Group (PEG) is an independent non-profit organization based in Pune, India. Its activities cover health, energy, learning and parenthood, and resources and livelihoods. The PEG works to protect and promote public interest in energy sector, including the interests of disadvantaged sections and the long-term interests of society. Based on multi-disciplinary analysis and conceptualization, the Group engages in policy analysis, advocacy, awareness building and public education.

## **SPECIAL PARTICIPATION**

### **National Institute of Public Finance and Policy (NIPFP) - India**

NIPFP is a centre for applied research in public finance and public policy. It aims to contribute to policy-making in spheres relating to public economics. NIPFP's work on electricity governance is supported by a program that focuses on governance concerns in infrastructure.

## **COORDINATION OF THE PROJECT IN BRAZIL**

The Brazilian Institute for Consumer Defence – Idec

## **EXECUTING ORGANIZATIONS**

### **Brazilian Institute for Consumer Defence – Idec**

The Brazilian Institute for Consumer Defence, Idec, is a non-profit consumers association, founded in 1987. It has no ties with companies, governments or political parties. Idec raises funding for the development of its activities through annual membership fees, sale of subscriptions to the Idec Magazine (*Revista do Idec*) and other publications and courses offered. Another source of resources is support received from international funding agencies that provide aid to civil society entities. Idec's accounts are audited by independent auditors.

### **International Energy Initiative - Latin American Office – IEI**

The IEI was formally incorporated as a non-profit organization with tax-exempt status in the United States in September 1991. The organization initiated its activities in September 1992. The founding of IEI was the result of the publication of the book entitled *Energy for a Sustainable World* by Professor Jose Goldemberg (Brazil), Professor Amulya Reddy (India), Professor Thomas Johansson (Sweden/UNDP) and Dr. Bob Williams (United States). The IEI was created with the goal of further developing analysis around sustainable energy development and to transforming these ideas into practice.

The IEI received initial funding from U.S. based foundations, including the Rockefeller, John Merck, Joyce-Mertz Gilmore and New Land Foundations. Other organizations that also support IEI are the Swedish Agency for Research Cooperation with Developing Countries (SAREC), NORAD from Norway and DGIS from the Netherlands.

### **Institute for Postgraduate Studies and Research in Engineering at the Federal University of Rio de Janeiro - COPPE / UFRJ**

The **Environmental Sciences Interdisciplinary Laboratory (LIMA)** is part of the Federal University of Rio de Janeiro's Center for Technology. Its objective is to strengthen the work of professors and students at the Alberto Luis Coimbra Institute for Postgraduate Studies and Research in Engineering (COPPE) in the area of Environmental Engineering, by allowing them to conduct joint studies and projects and contributing to the consolidation of interdisciplinary lines of research in this area.

The LIMA was created in December 1997 with the help of the Environmental Sciences department of the Support Program for Scientific and Technological Development (PADCT/CIAMB) and resources from the World Bank and the

Ministry of Science and Technology. The founding of LIMA was one of the results of the integrated studies program held in 1995/97, that involved research on environmental auditing methodologies and the consolidation of Master and PhD courses in the Interdisciplinary Area of Environmental Engineering at COPPE/UFRJ, namely those focussed on: Environmental Planning, Environmental Geotechnics, Environmental Management of Production, Environmental Technology, Environmental Modelling, Management of Coasts and Hydrographical Basins, Environmental Acoustics, and Transportation and Environment.

## **SUPPORT**

### **WWF - Brazil**

Since 1996, WWF-Brazil is a truly Brazilian non-governmental organization that is part of the largest international nature conservation network.

## **IDEC EXECUTIVE COORDINATION**

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## **TECHNICAL COORDINATION OF EGI IN BRAZIL**

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## **SPECIAL COLLABORATION**

WWF Brazil, represented by Andre Tavares and Karen Suassuna

## 1. INTRODUCTION

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The Electricity Governance Initiative (EGI) is a collaborative initiative of civil society, companies, the academic community, policymakers, regulators and other actors related to the electricity sector that seeks to promote social participation, transparency and accountability in decision-making processes in the energy sector in order to ensure a socially and environmentally sustainable future. The EGI is a partnership registered with the United Nations Commission on Sustainable Development. The project is a joint undertaking of the World Resources Institute (WRI-EUA) and the Prayas Energy Group (PEG - India), in collaboration with the National Institute of Public Finance and Policy (NIPFP - India). Similar studies have been carried out in India, Indonesia, Thailand and the Philippines, and research is currently being conducted in South Africa.

The initiative is based on the assumption that policymakers, regulators, politicians, companies and citizens throughout the world are attempting to deal with the challenge of guaranteeing access to electricity in a stable and financially sustainable way while addressing, at the same time, environmental problems such as climate change. It is our understanding that one way to help meet this challenge is to contribute to the improvement of governance<sup>1</sup> in the sector, which requires increasing transparency and public participation in the definition of policies and regulations. Transparent and participatory governance can help to establish a balance between environmental, social and financial aspects and to identify points of convergence between various public interests. Obstacles to achieving social goals and sustainable development can be understood – and overcome – differently when studied with governance in mind.

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<sup>1</sup> Governance is understood here as decision-making processes and the processes through which the decisions are implemented.

Often, important decisions affecting the lives of the population are made through closed political processes influenced by powerful political groups that do not always give due importance to sustainable development. We know, however, that in order for a reform to be successful politically, the public must have confidence in its benefits. This confidence can be built through more transparent processes. Furthermore, more open procedures reduce the risk of interference, which often results in decisions that benefit the few.

With these objectives in mind, the EGI developed a toolkit that serves as a reference to help those involved understand the decision-making process in this complex sector from a technical point of view and to seek ways to improve governance. Learning from EGI's experience in Asia, we used EGI's indicator toolkit to identify weaknesses in political processes and regulation in Brazil.

## 2. METHODOLOGY

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Based on the premise that the electricity sector is vital in today's society and that it is valid to want to understand "how" decision-making is structured in different contexts, EGI developed a "toolkit" consisting of questions developed during preliminary qualitative surveys conducted in a collaborative way and whose responses generate indicators that evaluate the decision-making process and assess good governance in the sector.

The indicators are based on four basic elements of good governance: (1) transparency; (2) public participation; (3) accountability; and (4) capacity of decision-makers and agents involved. The indicators were designed in a way that allows one to verify to what extent these aspects are present in the sector's political processes and regulations.

1. Transparency and Access to Information: is understood here as the process of revealing information so that outsiders can scrutinize it. Comprehensiveness, timeliness, availability, comprehensibility and measures adopted to ensure that information reaches all groups affected by decisions in the sector are important attributes of this element.
2. Participation: is the ability to listen to different groups and incorporate this content in the decision-making process. This element also includes the ability to formally engage these groups in the process through participation in committees, forums, etc.
3. Accountability and Redress Mechanisms: refers to access to justice and redress. The role of various actors and institutions responsible for decisions in the sector must be clear. Operations and processes in the sector must be monitored systematically. In addition to decisions being monitored, legal systems must be in place to defend public interests.
4. Capacity: Refers to the government's social, educational, technological, legal, and institutional ability to practice good governance, and the ability of civil society to participate actively in decision making. With regards to the government, this includes the capacity of government and official institutions to act autonomously and independently and the availability of human



and financial resources. From civil society's point of view, particularly NGOs and the media, this means the ability to analyze issues and interact effectively with public decision-makers.

The toolkit consists of a baseline survey of key attributes of the electricity sector and 68 indicators that deal with governance in the sector. These indicators are divided into two large groups: indicators related to the political process (PPs) and indicators related to the regulatory process (RPs). This allows for the verification of how governance works in decisions made regarding both the policies and regulation of the sector.

Each indicator can be assigned the following values: Low; Low-Medium; Medium; Medium-High; or High. Each indicator is divided into "elements of quality", which are criteria that must be examined in order to assign a value to the indicator. Each element of quality is evaluated based on a documented explanation of the extent to which the criteria has been met. This structure seeks to minimize the scope for arbitrary or inconsistent conclusions.

It is important to note that the elements of quality are more important than the classification of an indicator, as the elements represent real opportunities to improve the governance of the sector.

Information required for the process of evaluating indicators was gathered through interviews with key actors and a review of bibliographical information, documents and legislation.

The set of proposed indicators aims to establish a balance between the need to capture in the most comprehensive way all dimensions of governance and to keep the number of indicators to a small yet reasonable level so as to simplify the management of the tool.

In Brazil, the Initiative is being lead by the following organizations:

- Idec – Brazilian Institute for Consumer Defence

Person responsible: Marcos Vinicius Po (project coordination)

- LIMA – Environmental Sciences Interdisciplinary Laboratory

Institute of Postgraduate Studies and Research in Engineering – COPPE/UFRJ

Person responsible: Dr. Emilio Lebre La Rovere

- IEI – International Energy Initiative Latin America

Person responsible: Gilberto M. Jannuzzi, State University of Campinas (UNICAMP)

Also, revisions and the literature review are being supported by:

- WWF-Brazil

Persons responsible: Andre Tavares and Karen Suassuna

The National Network of Civil Society Organizations for Renewable Energy – RENOVE, through the participation of Roberto Devienne Filho, also supported the development of the project's initial activities.

The EGI project is supported, in each country, by an Advisory Panel composed of government officials from the sector, representative bodies, academics and experts. The Panel's role is to provide input to ensure that indicators are evaluated properly. It is also to initiate a dialogue to advance solutions for the issues identified by the indicators as opportunities to improve governance in the sector. The Panel helps to enhance the results from the study; however, it is in no way responsible for the results of the indicators. This responsibility lies solely with the team that executed the project.

The list of organizations that participated in the Panel and the individuals who attended the Panel's meetings can be found at the end of this report.

## CASE STUDIES

In its review of empirical data, the project team analyzed the way institutions function and the legislation and regulations of the Brazilian electricity sector. The team also evaluated some specific cases and programs in order to illustrate and verify the way the general rules function. The following cases were analyzed:

- Legal rulings on the Pernambuco Energy Company's (Celpe) tariff adjustments in 2005
- The debate over the new model for the energy sector in the newspapers
- Elaboration of the 10-Year Energy Expansion Plan
- The Jirau and Santo Antonio Hydroelectric Dams Project
- Program to Foster Alternative Sources of Electric Power – PROINFA
- Light for All (Luz para Todos) Program
- Energy efficiency: policies and regulations, including changes, law proposals and the actions of the Energy Efficiency Level and Indicators Management Committee.

### **3. THE BRAZILIAN ELECTRICITY SECTOR**

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Until the mid-1990s, the Brazilian electricity sector was composed mainly of state enterprises. Generators and transmission companies were owned primarily by the federal government, with some involvement of state-level governments. In the area of energy distribution, however, the situation was the opposite: it was the states that dominated these companies. The participation of the private sector was low.

Following the adoption of Law n° 8.987/1995 (the Concessions Law), a process of granting concessions to the private sector for the operation or management of state enterprise activities in the area of infrastructure began. In the electricity sector, another law (Law n° 9.074/1995) was adopted to complement this legislation by establishing more detailed rules for concessions in the sector, which mainly affected the distribution companies. In terms of regulation, Law n° 9.427 of 26/12/96 created the Brazilian Electricity Regulatory Agency (Aneel), which was only effectively put into place after Decree 2.335 of 06/10/1997 was emitted. Four companies were privatized prior to the establishment of the Agency and another seven, during its first three months of operation.

In recent years, two major events have marked or altered the way the Brazilian electricity sector functions: energy rationing in 2001 and changes made to the sector's regulatory framework in 2004.

In 2001, the government was forced to emit a decree obliging both residences and companies to reduce their energy consumption by 20%. The event led to changes in a series of rules in the sector. Thanks to an extraordinary reorganization of the tariff structure, companies in the sector received financial compensation for energy that was not commercialized due to decreases in consumption levels. Residential consumers, however, were penalized by the changes to the tariff system, being forced to pay new taxes to finance thermoelectric generators, such as the emergency capacity tax (ECE) created in February 2002 and eliminated in December 2005. Rules were also changed to encourage large consumers to become "independent consumers".

Rules were also changed to encourage large consumers to become “independent consumers” and the process of eliminating the cross-subsidies system in which residential consumers subsidized industrial tariffs was initiated.

In 2003, the debate over a new model for the electricity sector began. The process culminated in the proposal of provisional measures n°. 144 and 145, edited on December 11, 2003, which later became Law n° 10.847 and Law n° 10.848, respectively, on 15/03/2004. The first one created the Energy Research Company (EPE), linked to the Ministry of Mines and Energy (MME). The EPE’s mandate was to oversee energy planning for the country.

As for Law n° 10.848, it dealt with the rules, criteria for operation and guarantees for the commercialization of electricity. This law also resulted in important institutional changes in the sector, such as transferring the power to define and award concessions from Aneel back to the MME and creating the Board of Electric Energy Commercialization (CCEE).

In terms of the universalization of access to services, Law n° 10.438/2002 established criteria for the provision of services to low-income consumers and made Aneel responsible for regulating subsidization mechanisms. Another legislative measure along the same line was the creation of the “Light for All” Program, whose objective is to universalize access to energy among the low-income rural population, by expanding the “Light in the Country” program that already existed. This decision was consolidated by Law n°. 11.099, of 14/01/2005.

Currently, then, the main institutions in the Brazilian electricity sector are:

Institution	Main attributes
<b>Ministry of Mines and Energy</b>	Definition of policies for the sector and establishment of concession contracts in the sector.
<b>Energy Research Company</b>	Conduct research and studies that support the planning of the Brazilian energy sector, for all types of energy sources.
<b>National Energy Policy Council</b>	Advisory body to the Office of the President of the Republic on policies for the sector.
<b>Brazilian Electricity Regulatory Agency</b>	Regulation of the electricity sector, which includes defining rules, ensuring compliance and imposing penalties.
<b>Monitoring Committee of the Electricity Sector</b>	Ongoing accompaniment and evaluation of continuity and safety of the electric power supply throughout the national territory.
<b>Board of Electric Energy Commercialization</b>	Management of the purchase and sale of electric energy, registration and administration of contracts signed between generators, commercialization agents, distributors and independent consumers.
<b>Eletrobrás</b>	Manage and act as shareholder in various companies in the sector, provide support for government programs, such as the Program to Foster Alternative Sources of Electric Energy, the Light for All Program and the National Electricity Conservation Program.

At the state level, there are 13 state agencies in operation, all of which have agreements with Aneel. There are also Energy Secretaries that act at both the state and municipal level.

## 4. RESULTS OF THE ANALYSIS OF GOVERNANCE INDICATORS

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In this section, we present a qualitative evaluation of information gathered by the team for the purpose of assessing the indicators' elements of quality.

The project team did not analyze nine of the 68 indicators either due to the researchers' lack of experience in specific items, such as independent producers, or because these indicators were considered to be less relevant for the current context in Brazil.

To organize the analysis of the research results, we regrouped the indicators into six areas that the project team considers most relevant to the improvement of governance in the Brazilian electricity sector. They are:

- Legislative Power
- Executive Power
- Regulatory Agency
- Transparency and accountability
- Public participation in debates and processes in the electric energy sector
- Social and environmental issues

It is possible that the elements of quality of a given indicator are relevant to more than one key area, due to their crosscutting nature. Therefore, for each area, we will list all relevant indicators, so that one may compare them with the table of indicators and elements of quality included at the end of this report.

#### **4.1. LEGISLATIVE POWER**

*(Indicators: PP1; PP2; PP3; PP4; PP14)*

These indicators focused on the review of the activities of the legislative committees that deal most directly with issues related to electric power. This led the project team to concentrate its efforts on the Chamber of Deputies' Committee on Mines and Energy and the Federal Senate Committee on Infrastructure. The team did, however, take into consideration elements related to other commissions, when pertinent.

It was found that commission members often did not have experience in or specialized knowledge of environmental and social issues raised during discussions on the electricity sector. Knowledge of the electricity sector is generally quite limited and only a few members have previous experience or are active in the sector.

In the committees studied, the team did not identify specific allocations of budgetary resources to research or studies on sector-related issues, despite the fact that both legislative chambers possess teams of technical experts.

The team did identify, however, initiatives of the committees to foster the accumulation of knowledge through the promotion of seminars and public hearings in which specialists and those interested in debating and broadening knowledge on issues participated. However, the lack of availability of documentation presented during these events ends up hindering the accumulation of knowledge. Furthermore, one deficiency in the hearings observed was that only specialists in the sector – both from private companies and public authorities – were consulted, leaving little space for civil society groups and interests in the debate.



## **4.2. EXECUTIVE POWER**

*(Indicators: PP5; PP6; PP7; PP8; PP9; PP10; PP11; PP12)*

The assessment of institutions in the sector linked to the Executive concentrated mainly on the Ministry of Mines and Energy (MME). The indicators focussed on the capacity of the institutions, efforts to coordinate work on environmental and social issues, and transparency and accountability in relation to information, discussions and the monitoring of the sector.

In general, it was noted that Brazil is well equipped with competent institutions that have clearly delineated tasks.

One of the areas needing improvement, as identified by the indicators, was the availability of information on discussions and the decision-making processes of the electricity sector. Access to information was limited to specialists from governmental institutions and occasionally to representatives of companies that are active in the sector. This was the case with Laws 10.847/2004 and 10.848/2004. The same problem was detected during the assessment of public participation in sector-based councils, as we will describe shortly, in the “Social Participation” section of this report. The openness and transparency of these discussions are key elements for improving governance in the sector.

## **4.3. REGULATORY AGENCY**

*(Indicators: RP1; RP2; RP3; RP4; RP5; RP6; RP7; RP8; RP9; RP10; RP11; RP15; RP16; RP17; RP18; RP19; RP26; RP27)*

A large proportion of the indicators refer to the regulation of the sector, as this is a fundamental activity of the State, which becomes even more important when private service providers are present in the area of electric energy. In Brazil, the Brazilian Electricity Regulatory Agency (Aneel) regulates the sector.

The majority of the indicators for Aneel were assessed positively, mainly because of its well-defined mechanisms for social participation and interaction with the public, and its clear and transparent decision-making procedures. The holding of public consultations and hearings, transparency in dealing with contributions submitted and the qualified feedback provided by the agency in response to requests weighed positively in terms of governance. Also, the public is able to gain access to the information and arguments upon which the agency basis its decisions and proposals.

Based on the indicators, we identified as opportunities for improvement the need for the Agency to increase its operational autonomy, which is limited by budget restraints. Also, the Agency lacks the flexibility it requires to control its human resources, which could compromise the quality of its work. This factor was identified by the Agency in its 2006 and 2007 annual reports.

With regards to consumers, we observed that the agency still needs to improve its procedures for handling consumer complaints and to integrate its work with other institutions active in this area.

#### **4.4. TRANSPARENCY AND ACCOUNTABILITY**

*(Indicators: PP4; PP6; PP7; PP10; PP11; PP12; PP16; PP17; PP19; PP24; PP26; PP28; PP30; PP31; PP32; PP34; PP35; PP36; RP4; RP5; RP14; RP16; RP18; RP19; RP21; RP27; RP28; RP31)*

A large number of indicators analyzed by the team included elements of quality that referred to transparency and accountability. This was to be expected, as the project's indicators deal with governability and accountability is one of its main elements. The availability of documents, easy access to them and to the basis for claims, and adequate responses to requests presented by different actors are indispensable - yet alone, insufficient – conditions that must be met in order for governance of the sector to reach high quality levels.

On this aspect, we noted that both the Executive (MME and EPE) and the regulatory agency made reports and sector information widely available.

Aneel proved to be more advanced in terms of transparency and accountability than institutions linked to the Executive. The basis for decisions and response to demands made during public hearings constituted the main difference. More importantly, it was observed that not only does the Agency hold hearings and provide access to the basis for its decisions, but it also effectively incorporates elements from the process into its decisions.

For the Executive, information was available on the outcome of political discussions, but not on the debates themselves. This reinforces the impression that decisions are made in a closed environment in which participation is restricted to government officials and specialists.

We also observed a gap in terms of the availability of reports on the social and environmental impacts of policies and regulation in the sector. The indicators, when they exist, only touch upon superficial aspects of these issues, which makes it difficult for civil society to verify and monitor them.

#### **4.5. PUBLIC PARTICIPATION IN DEBATES AND PROCESSES IN THE ELECTRIC ENERGY SECTOR**

*(Indicators: PP6; PP13; PP16; PP18; PP30; PP31; PP34; PP35; PP36; RP4; RP5; RP10; RP20; RP21; RP22; RP23; RP25; RP29)*

Participation of social groups representing and voicing their interests in debates in the electricity sector is indispensable in order for there to be effective governance in the sector. The EGI project's emphasis on governance indicators that focus on this aspect arises from the observation that these groups are often forgotten or left out of the process of defining the sector's policies and regulations, which means that their demands are not presented and possible solutions for them are not found. Dialogue is fundamental for good governance.

Therefore, public participation can not be treated merely in a formal and passive way by the forces and authorities in the sector, especially when one considers the asymmetries that exist between the human and material resources at the disposition of the overwhelming majority of social organizations and those available to business organizations or government institutions. A simple

lack of resources for transportation can make it impossible for social groups to participate in an important discussion. Social participation requires investments, which are largely compensated by the stability that effective governance builds.

The indicators and elements of quality related to public participation indicate that there are elements in the legislation that guarantee popular participation and ensure that information and the procedures necessary for such participation be either made available electronically or published in official government journals. Moreover, we observed few efforts on behalf of authorities to ensure that the public does indeed participate.

In the political processes studied, similar yet more severe problems were observed. At both the Executive and Legislative level, the discussion of sectoral policies was confined primarily to the communities of public, private and academic specialists.

The same can be said for participatory bodies. The advisory board of the Energy Research Company (EPE), which has space that allows for a broader range of interest to be represented, does not have clear criteria for selecting representatives and information on discussions held is not made available to the public.

The same occurs in relation to the regulatory process, although the situation here is somewhat mitigated by the fact that there are more opportunities to participate in public hearings held to discuss the elaboration of regulations. The RP 20 and the RP 22 indicators show the need for improvement, especially in relation to weaker and underrepresented stakeholders, as shown by the RP 23 indicator.

Therefore, the EGI project team considers the strengthening of public participation to be one of the principal aspects requiring improvement in the governance of the electricity sector.

#### **4.6. ENVIRONMENTAL AND SOCIAL ISSUES**

*(Indicators: PP8; PP9; PP19; PP29; PP30; PP32; RP4; RP12; RP13; RP16)*

Obstacles to public participation are also reflected in the way social and environmental issues are dealt with when defining public policies and when regulating and evaluating the impacts of the sector.

The team noted that each institution's attributes are clearly defined in terms of its responsibilities on these issues, even if the social aspects are often stated in generic terms. We also observed that, while the Executive has the full capacity to evaluate environmental issues, this is not clearly reflected in discussions on public policies for the sector. Integration has failed and needs to be perfected. Public participation could become a catalyser for integration.

Regulation has shown to be weak in terms of incorporating social and environmental issues. The guidelines are vague and we observed the need to build the agency's capacity in these issues in order to improve its regulatory actions.

## 5. RECOMMENDATIONS

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Based on our analysis of the indicators and discussions with the Advisory Panel, the EGI project team in Brazil considers that there is considerable room to improve governance in the Brazilian electricity sector. Therefore, we recommend that authorities and actors in the sector consider the following actions:

### 1. Transparency and Access to Information:

- 1.1. Improve communication, highlighting the benefits and the possible onuses for different segments of society in regulations and policies;
- 1.2. Promote access to information during the process of discussion and debate that precedes the adoption of decisions so the public may become aware of what alternatives there are.

### 2. Accountability and Redress Mechanisms:

- 2.1. Monitor processes involving social and environmental issues, both within the Agency and the Executive.
- 2.2. Establish and publicize the procedures for monitoring these processes.
- 2.3. Establish and publicize the procedures for monitoring the accountability of debates and decisions.

### 3. Capacity Building:

- 3.1. With regards to the Executive branch, the Ministry of Mines and Energy should promote the exchange of information and the discussion of topics related to environmental and social issues, including consumer-related matters, with other ministries.

3.2. The Brazilian Electricity Regulatory Agency should promote training on social and environmental issues with the goal of improving its actions.

3.3. In relation to the Legislative bodies, strengthen the thematic commissions and reinforce technical assistance and public participation in the debates.

#### 4. Participation:

4.1. Broaden public consultation and information sharing mechanisms, namely on environmental and social issues, in order to facilitate the access of the directly affected and most vulnerable groups.

4.2. Guarantee that contributions to public consultations are publicized, identifying the ones whose content has been incorporated into decisions made.

4.3. Select appropriate venues for in-person consultations in order to make them accessible to various interest groups.

4.4. When planning processes for defining public policies, ensure that adequate time for public participation is incorporated into plans.

4.5. Provide the resources required to make public participation – especially that of the most vulnerable groups – viable.

4.6. Create Committees, with civil society participation, to monitor documents that are published regularly, such as the Expansion Plans.

## 6. INDICATORS OF POLICY PROCESS

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments	
			U = unsatisfactory S = satisfactory							
<b>INSTITUTIONS</b>										
PP1	Capacity of legislative committee	Access to knowledge	S						The Chamber of Deputies Commission on Mines and Energy and the Federal Senate Committee on Infrastructure Services were evaluated. The main problem identified was the lack of resources to broaden knowledge in the sector.	
		Knowledge enhancement	U			X				
		Financial Resources	U							
		Authority	S							
PP2	Capacity of legislative committee to assess environmental issues	Relevant expertise	U		Not Apply		Not Applicable		The Federal Senate Committee on the Environment, Consumer Defense, Auditing and Control (CMA) and the Chamber of Deputies Commission on the Environment and Sustainable Development (CMADS) were evaluated.	
		Designated point person	U			X				
		Dedicated financial resources	U							
		Knowledge enhancement on environmental issues	S							
PP3	Capacity of legislative committee to assess social issues	Relevant expertise	U		Not Applicable		Not Applicable		The Committee on Mines and Energy (CME) and the Committee on Science, Technology, Communications and Information Technology (CCTCI) were evaluated. Both are from the Chamber of the Deputies.	
		Designated point person	U			X				
		Dedicated financial resources	U							
		Knowledge enhancement on social issues	S							
PP4	Effective functioning of the legislative committee on electricity	Disclosure of interests	S						The Chamber of Deputies Commission on Mines and Energy and the Federal Senate Committee on Infrastructure were assessed.	
		Active committee	S							
		Reasoned reports	U							
		Proactive committee	U							
		Public consultations	U		X					
		Transparency of submissions to committee	U							
		Transparency of committee reports	S							
Reporting by executive	U									



	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>INSTITUTIONS</b>									
<b>PP5</b>	Staffing policies of electricity ministry/ department	Clear criteria	S		X				The Ministry of Mines and Energy were evaluated. References: Federal Constitution
		Predictable tenure	U						
		Disclosure of interests	U						
		Conflict of interest rules	U						
<b>PP6</b>	Clarity and transparency of the executive's environmental mandate	Environmental responsibilities defined	S					X	Informational materials available on the websites of the Presidential Office, Ministry of the Environment (MMA) and the Ministry of Mines and Energy (MME) were used, as well as Law n° 8.422/1992 and Decree n° 5.267, of 09/11/2004.
		Cooperation with other authorities	S						
		Available on website and local offices	S						
		Regular reporting	S						
		Outreach to weaker groups	S						
<b>PP7</b>	Clarity and transparency of the executive's social mandate	Social responsibilities defined	S			X			In the MME, there is a specific area for social issues. No references to cooperation with other institutions (with the exception of the Light for All Program), regular reports or efforts to inform more vulnerable groups were found.
		Cooperation with other authorities	U						
		Available on website and local offices	S						
		Regular reporting	U						
		Outreach to weaker groups	U						
<b>PP8</b>	Capacity of executive to evaluate environmental issues	Dedicated financial	U		Not Applicable		Not Applicable	X	Information on collaboration with other areas of the Executive, training sessions and the existence of a person responsible for dealing with issues related to environmental performance and policy.
		Access to expertise	S						
		Designated point person	S						
		Knowledge enhancement on environmental	S						

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory						
INSTITUTIONS									
PP9	Capacity of executive to evaluate social issues	Dedicated financial	S		Not Applicable		Not Applicable	X	There is a budget for the Light for All Program and areas dealing with social issues and environmental management in the MME. There was no information found on systems for inter-agency collaboration (with the exception of the Light for All Program), or on capacity-building on social issues.
		Access to expertise	U						
		Pessoa encarregada	S						
		Designated point person	S						
		Knowledge enhancement on social issues	U						
PP10	Annual reports of the electricity ministry/department	Financial reporting	S					X	The MME makes reports on compliance with budgetary restraints, activities and brief results evaluations available. The reports on the National Energy Evaluation also contain information on the development of the electric energy and energy sector.
		Review of progress	S						
		Easy availability	S						
		Local languages	S						
PP11	Advisory committees to the electricity ministry / department	Clear mandate	S					X	The National Energy Policy Council (CNPE), the Electric Sector Monitoring Committee (CMSE) and the Energy Research Company's (EPE) Advisory Council were evaluated. Only the EPE Advisory Council allows for the participation of a wider range of interests, including consumer representatives.
		Balanced composition	U						
		Financial resources	S						
		Regular meetings	U						
		Public disclosure of minutes	U						
		Public disclosure of documents	U						
		Transparent feedback from executive	U						

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>INSTITUTIONS</b>									
<b>PP12</b>	Effective functioning of distinct planning / policy agency	Requirement to consult planning agency	U						The EPE was evaluated and, when applicable, the CNPE is responsible for the approval of planning guidelines elaborated by the MME/EPE. We did not note any obligation to consult the people affected or the public in general, but even so, seminars and public consultations are held occasionally.
		Mechanism to evaluate executive response	U			X			
		Authority to seek information	S						
		Adequate resources	S						
		Transparency in functioning	S						
		Consultation procedures	U						
<b>PP13</b>	Capacity of civil society organizations	Techno-economic analytic capacity	S						More consistent action from CSOs working on environmental issues was noted. Proactive actions are more sporadic, whereas most actions tend to be more reactive in relation to proposals from public bodies. It was also observed that CSOs lack the necessary structure to be able to carry out systematic and permanent monitoring work in relation to public policies in the electric energy sector, even within the existing networks.
		Proactive engagement and strategic capability	U						
		CSO analysis of environmental and social impacts	S			X			
		Support for weaker groups and grass roots	U						
		Ongoing learning capacity	U						
		Networking	U						
		Broad credibility	U						

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>POLICY FORMULATION</b>									
<b>PP14</b>	Quality of legislative debate on electricity laws	Duration of debate	U						The debate over the new model for the energy sector was assessed. The discussion took place mainly within the Executive Power and its forums; it spent little time in the Congress (less than three months) and all political parties participated.
		Attendance of members	S				X		
		Composition of speakers	S						
		Availability of transcripts	S						
<b>PP15</b>	Quality of media coverage of electricity policy and reform	Volume of coverage	U	X	Not Applicable		Not Applicable		Debates on issues related to energy efficiency were evaluated.
		Quality of coverage	U						
		Balance of coverage	U						
<b>PP16</b>	Clarity of process for public participation in policy-making	Responsibility for decision	S						Information is publicized via the Internet, but it was noted that the time period for submitting contributions was sometimes short. Also, we did not observe any major and deliberate efforts to ensure that information on a public consultation process being held to discuss a law reached groups that would be affected.
		Clear time frame for decision	S						
		Clear time frame for input	S						
		Accountability for input	U						
		Documentation of consultation process	S				X		
		Timely distribution of information about	U						
		Broad distribution of information about process	U						
Targeted distribution of information about process	U								

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>POLICY FORMULATION</b>									
<b>PP17</b>	Public disclosure of information on the basis and goals of policy reform	Breadth of documentation availability	U		Not Applicable	X	Not Applicable		It was observed that the proposals and interventions of various groups involved in the elaboration of law proposals are not available to the public. Information on the law proposal in discussion is accessible, but for a short period of time.
		Ease of access	S						
		Timeliness of availability	U						
		Accessible by a range of stakeholders	S						
<b>PP18</b>	Effectiveness of public participation process	Quantity of participation	U	X					There was no evidence to confirm that invitations to participate in the political process studied (Bill 6164/2005) were sent and there was no direct participation from society.
		Breadth of participation	U						
		Summary of public participation	U						
		Response to public participation	U						
<b>PP19</b>	Consideration of environmental issues in sector reform law and policy	Addressed in background documents	U	X					Law nº 10.848/2004 was evaluated. In this process, environmental issues were not explicitly addressed in official documents, nor were officially included in the law.
		Included in reform policy and laws	U						
		Mitigating direct impacts of power sector	U						
		Global and economic effects of environmental	U						

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>POLICY FORMULATION</b>									
<b>PP20</b>	Assessment of job losses linked to policy changes or sector reforms in the electricity sector	Assessment of unemployment impacts was carried out	-						<b>Not applied</b>
		Assessment was conducted before reforms were implemented							
		Adverse impacts were mitigated	-						
		Redress mechanisms were created	-						
<b>PP21</b>	Transparent formulation of policy on independent power	Legislative approval	-						<b>Not applied</b>
		Public consultations during policy	-						
		Competitive bidding	-						
		Adequate demand analysis	-						
		Disclosure of the PPA	-						
		Analysis of financial impact	-						
		Adequate public consultations prior to project approval	-						

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>POLICY FORMULATION</b>									
<b>PP22</b>	Public disclosure regarding use of consultants	Details of consulting arrangement	-						<b>Not applied</b>
		Details of final report	-						
		Comment period on consultant report	-						
		Revision requirement in response to public comment	-						
<b>PP23</b>	Transparency of donor engagement through policy loans	Transparency on policy position	-						<b>Not applied</b>
		Transparency on conditions	-						
		Transparency on conditions	-						
		Transparency of evaluation mechanisms	-						

	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory	S = satisfactory						
<b>POLICY IMPLEMENTATION</b>										
<b>PP24</b>	Transparency of donor engagement through technical assistance	Transparency on details of technical assistance	-		Not Applicable		Not Applicable			<b>Not applied</b>
		Transparency on outputs	-							
		Wide dissemination of effort	-							
<b>PP25</b>	Transparent and accountable implementation of IPP policy/legislation	Competitive bidding	-						<b>Not applied</b>	
		Disclosure of the PPA	-							
		Adequate demand analysis	-							
		Analysis of financial impact	-							
		Adequate public consultations prior to project approval	-							
<b>PP26</b>	Transparent selection of private sector service providers	Transparency in request for proposals	-						<b>Not applied</b>	
		Information provided to bidders publicly available	-							
		Transparency in decision criteria and process	-							
		Justification for decision	-							



	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>POLICY IMPLEMENTATION</b>									
PP27	Transparency of asset valuation / balance sheet restructuring	Disclosure and justification of methodology	-						<b>Not applied</b>
		Explanation of method application	-						
		Independent scrutiny	-						
		Public disclosure of review	-						
PP28	Transparency and accountability in the design and implementation of subsidies	Transparent criteria	S						Funding for the universalization of access to energy and the Light for All Program was evaluated. Data was found on progress in reaching universalization targets and on annual revenues from tax collection were found, but it was not possible to verify details on the use of these resources.
		Justification of allocation decisions	U						
		Monitoring and reporting	U						
		Evaluation	S						
PP29	Clarity of authority and jurisdiction to grant environmental approvals for power sector projects	Provisions on authority and jurisdiction	S						<b>X</b>
		Clarity on how authority is shared	S						
		Low cost or web access	S						
		Accessible format	U						
		Available in public office or library	S						
		Comprehensive disclosure	U						

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments	
			U = unsatisfactory S = satisfactory							
<b>ENVIRONMENTAL AND SOCIAL ISSUES</b>										
<b>PP30</b>	Public participation in setting minimum environmental performance standards	Basis for standards	U						The Energy Efficiency Level and Indicators Management Committee, Aneel and Conama were evaluated. It was noted that mechanisms for participation and public consultation are in place. However, documents explaining to the general public the basis for the performance standards in effect were not found. Data on compliance with these standards were not found, with the exception of information on the Procel website.	
		Evidence of public consultation	S							
		Diversity of public participation mechanisms	S			X				
		Explanation of use of public input	U							
		Reporting on utility compliance	U							
<b>PP31</b>	Public participation in developing policies to reduce environmental impacts	Consideration of multiple approaches	S					X	One of the principals of the PROINFA is that various actors be involved, yet no documents were found that specify requirements or indicate that the consultations are being held. In the case of the Ten-Year Plan, it was observed that consultations with specialists, academics, companies and unions, as well as a public consultation via the MME web site were held. Also, for the hydroelectric projects, efforts to involve the affected communities in the initial planning activities were observed.	
		Evidence of consultation	S							
		Systematic efforts to consult affected communities	S							
		Multiple mechanisms for public participation	S							
<b>PP32</b>	Inclusion of environmental considerations in the national plan for the electricity sector	Environmental considerations addressed	S					X	The socio-environmental variable and impacts related to the generation and transmission projects were treated in a systematic way. Public consultations and seminars to publicize the results are held, yet we did not observe systematic efforts to include the opinion of the most vulnerable groups and the affected population. Neither comments received nor final deliberations on its incorporation are available to the public.	
		Comprehensive consideration of impacts	S							
		Multiple public participation mechanisms	U			X				
		Systemic efforts to seek input from range of stakeholders	U							
		Comments disclosed	U							
		Disclosure of how input incorporated into decision	U							
<b>PP33</b>	Comprehensiveness of environmental impact assessment laws, policies and procedures	Requirements for EIA	S					X	The Federal Constitution and legislation establishes requirements for EIA. There are guidelines for the inclusion of a social impact study in an environmental impact assessment. The guidelines for strategic assessments are defined by Conama Resolution 01/86 and some have already been carried out.	
		Comprehensive consideration of impacts	S							
		Strategic impact guidelines	S							
		Strategic assessments conducted	S							

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>ENVIRONMENTAL AND SOCIAL ISSUES</b>									
<b>PP34</b>	Public participation in environmental impact assessments	Public participation at scoping	S			X			To build this indicator, the case of the construction of the Jirau and Santo Antonio hydroelectric dams was selected. Six hearings were held, as well as several public meetings
		More than one public participation mechanism used	S						
		Adequate comment period	U						
		Public release of EIA reports	S						
		Public consultation guidelines	U						
		Disclosure of public comments on EIA	-						
		Public comments addressed in final EIA report	S						
<b>PP35</b>	Scope for project-affected people to exercise their rights in project licensing/approval	Consultations adhered to required procedures/guidelines							<b>Not applied</b>
		Systematic efforts were made to educate potentially project-affected people			Not Applicable		Not Applicable		
		More than one participation mechanism was employed							
		Principle of free, prior and informed consent guided consultation efforts							
<b>PP36</b>	Participation in decision-making on access to electricity services	Evidence that more than one consultation was carried out	S						Consultations with communities are held with regards to specific actions of the Light for All Program, but they are not systematically held for all actions. Also, it was not possible to evaluate to what extent public opinion is taken into consideration after the consultations.
		Systematic efforts were made to consult more vulnerable socio-economic groups	N		X			Not Applicable	
		More than two mechanisms of public participation existed	N					Not Applicable	
		Public comments were considered	N						
				35					

## 7. INDICATORS OF REGULATORY PROCESS

	Indicators	Elements of Quality	Rate					Comments		
			U = unsatisfactory	Low	Low-medium	Medium	Medium-high		High	
<b>REGULATORY STRUCTURE</b>										
<b>RP1</b>	Institutional structure for regulatory decisions	An independent regulator exists	S		Not Applicable		Not Applicable	X	The Brazilian Electricity Regulatory Agency (Aneel) was established by Law n° 9.427, of 26/12/1996 and set up by Decree n° 2.335, de 06/10/1997. It has the autonomy to make decisions, its Board of Directors is nominated by the President and approved by the Federal Senate for a 4-year fixed term and it has its own budgetary revenue.	
<b>RP2</b>	Authority of the regulatory body	<b>Authority</b>							X	The Agency's authority is defined by Law n° 9.427/1996, which promotes the prerogative to request information, audit activities and impose fines. In 2007, the Agency imposed more than R\$ 8.5 million in fines on agents in the sector.
		Information and evidence	S							
		Investigation	S							
		Enforce compliance	S							
		Penalties for breach of order	S							
		<b>Practice</b>								
Exercise of Authority	S									
<b>RP3</b>	Jurisdiction of the Regulatory Body	Clarity about jurisdiction	S						X	The following elements were analyzed: approval of tariff adjustments; guarantee of just competition; prevention of the formation of monopolies in the energy market; definition of service standards; protection of consumer interests; license emissions and appeals; approvals of contracts for the sale and purchase of energy and fuel prices. Aneel does not fully assume the last two items, as it shares this authority with the MVE ANP.
		Regulator entrusted with all critical functions	U							

	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory	S = satisfactory						
<b>REGULATORY STRUCTURE</b>										
<b>RP4</b>	Scope and transparency of the environmental mandate of the regulatory body	<b>Scope of Mandate:</b>								Environment is included in the law that created Aneel and responsibilities and priorities are clearly defined. Information is published in the Official Journal of the Federal Government, on the Agency's and government's websites, and is available in print form at the Agency's head office. Efforts were recently initiated to encourage companies to adopt environmental measures and policies.
		Environment included in mandate	S							
		Specific responsibilities	S							
		<b>Information Disclosure:</b>								
		Published in government journal	S							
		Available on website	S							
		Low cost	S							
		Available in a range of formats	S							
<b>RP5</b>	Scope and transparency of the social mandate of the regulatory body	<b>Scope of Mandate:</b>								The law that created Aneel clearly defines responsibilities on social issues. Information is publicized in the Official Journal of the Federal Government, on the Agency's and the government's website and is available in print form at the Agency's head office. We argue that the publication of information via Internet does not reach all sectors of the population. There was no indication of systematic efforts made by the Agency to publicize information on its social responsibilities to weaker or marginalized groups.
		Social issues included in mandate	S							
		Specific responsibilities.	S							
		<b>Information Disclosure:</b>								
		Published in government journal	S							
		Available on website	S							
		Low cost	S							
		Available in a range of formats	S							
<b>RP6</b>	Selection of regulators	Independence of the selection process	U							Selection criteria for nominees are not clear. Composition and differing tenures are defined by law.
		Well-defined process	U							
		Transparency about candidates	U		X					
		Criteria for composition and eligibility	S							
		Differing tenures	S							

	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments	
			U = unsatisfactory	S = satisfactory							
<b>REGULATORY STRUCTURE</b>											
<b>RP7</b>	Preventing conflicts of interests on the part of regulators	Financial interests	S							Members of the Regulatory Agency can not have invested financial interests in the electricity sector and directors can not perform remunerated work for the electricity sector in the 12-month period following the end of their mandate (quarantine).	
		Cooling off period	S								
		Re-appointment prohibited	U								
		Regulatory representation prohibited	U								
<b>RP8</b>	Autonomy of regulatory body	Fixed tenure	S							The directors have fixed mandates guaranteed by law. Aneel has administrative and financial autonomy and control over its property, but its resources can be restricted. The Agency does not have autonomy	
		Financial autonomy	U								
		Discretion over human resources	U								
<b>RP9</b>	Appeal mechanism	Any affected party can appeal a decision	S							Public interest groups and others affected can participate or appeal decisions, as there is a superintendent in charge of receiving and processing demands from interested parties. It is common for Aneel to incorporate the positions of interested parties in regulations.	
		Appeals can be filed on procedural grounds	S								
		Appeals can be filed on substantive grounds	S								
		Appeal mechanism impacts decisions in at least one case	S								
<b>RP10</b>	Quality of the judicial or administrative forums that address environmental and social claimsS	Binding decisions	S							Tribunals are independent and have authority in Brazil, and allow for the participation of all those involved. There is a need for more training on the evaluation of the impacts of decisions and the technical aspects of regulations. Decisions referring to the CELPEs (Electricity Company of Pernambuco) tariff adjustments were evaluated.	
		Independence	S								
		Capacity to address sector-specific issues	U								
		Access to information for all parties	S								
		Clear basis for claims	S								
		Standing of affected parties	S								

	Indicators	Elements of Quality	Rate	Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory S = satisfactory						
<b>REGULATORY STRUCTURE</b>									
RP11	Training of regulatory body members and staff	Certainty	S						The Agency holds regular training and capacity-building sessions for its staff, but they are restricted to the more technical aspects of the regulation and therefore, lack a multidisciplinary approach.
		Multi-disciplinary training	U			X			
		Diversity	U						
RP12	Regulator's capacity to evaluate environmental issues	Dedicated financial resources	U		Not Applicable		Not Applicable		There was no evidence of financial resources being designated specifically for environmental issues, nor was a group of people involved specifically with these issues identified. Aneel has taken some measures and is building its capacity in this area.
		Access to expertise	S			X			
		Designated point person	U						
		Knowledge enhancement on environmental issues	U						
RP13	Regulator's capacity to evaluate social issues	Dedicated financial resources	U		Not Applicable		Not Applicable		There was no evidence of financial resources being designated specifically for addressing social issues. No information was found on the social aspects of Aneel's internal norms or on areas with explicit responsibilities in the field, nor was there any indication that social issues are being targeted in capacity-building.
		Access to expertise	S			X			
		Designated point person	U						
		Knowledge enhancement on social issues	U						
RP14	Information available to public regarding use of consultants	Details of the consulting arrangement publicly available	S		Not Applicable		Not Applicable		Substantial details on the hiring of consultants and external auditors are available to the public, but are not in the final report.
		Reports and recommendations of the consultants publicly available	U			X			

	Indicators	Elements of Quality	Rate					Comments	
			U = unsatisfactory	S = satisfactory	Low	Low-medium	Medium		Medium-high
<b>DECISION-MAKING PROCESSES</b>									
<b>RP15</b>	Clarity about regulatory procedures and substantive basis of decisions	Procedural certainty	S		Not Applicable		Not Applicable	X	Aneel has a rule that for every decision made, it will hold public consultations and hearings and make available technical notes that are the basis for the proposal. At the end of the process, a report is prepared in which all contributions sent are commented.
		Clarity about substantive basis of decisions	S						
<b>RP16</b>	Regulator's response to environmental and social claims	Explanation provided for response to claim	U	X	Not Applicable		Not Applicable		No examples were found in which the Agency dealt with these issues adequately. However, we were informed that the Agency is seeking to resolve the cases that are brought before it.
		Exercise of stated environmental and social mandate	U						
<b>RP17</b>	Proactive initiatives of the regulator	Self initiated cases (Suo-motu petitions)	S			X	Not Applicable	Not Applicable	Aneel acted proactively on the problems in the sector that fell under its jurisdiction.
		Discussion papers, studies, conferences	S						
<b>RP18</b>	Disclosure of documents in the possession of the regulatory body	Presumption that documents publicly available unless stated to be confidential	S				X		Aneel's specific legislation does not address issues on interested parties' access to documents. However, this right is recognized in the Federal Constitution and specific laws that apply to all public services. Therefore, legal measures exist that guarantee the right to information, but there is some margin of discretion for public bodies.
		Clear procedures and rules to define 'confidentiality'	U						
<b>RP19</b>	Procedure for public access to regulatory body documents	Well-indexed database of documents	U						Aneel's website has detailed information on the energy sector and a search engine, but we did not find a catalogue system that facilitates the search for documents that contain specifications on how to solicit specific information.
		Simple, well-defined procedure for inspecting / obtaining documents	U		X				
		Reasonable cost	S						
		Wide dissemination of information	U						



	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory	S = satisfactory						
<b>DECISION-MAKING PROCESSES</b>										
<b>RP20</b>	Space for public participation in the regulatory process	Proceedings open to the public by law	-						<b>X</b>	The law that created Aneel and the decree that established it foresee, in generic terms, space for participation in public hearings and in Board of Directors meetings, but in practice, the Agency holds public hearing on all regulations emitted.
		Public has the right to participate	-							
<b>RP21</b>	Public access to regulatory documents and hearings	Number of public requests for documents	-						<b>X</b>	Aneel makes the large majority of information required available on the Internet and also responds to the specific requests of interested organizations. There is public participation in its hearings and consultations.
		Participation in public hearings	-							
<b>RP22</b>	Institutional mechanisms for representing the interests of weak groups	Consumer representatives	U						<b>X</b>	Consumer representatives can participate in Aneel's hearings and meetings of its Board of Directors, but there are no actions or legal or regulatory provisions that provide support in order to increase participation. There are consumer councils in the regulated companies, but they are dependant on the companies in terms of resources.
		Submissions on behalf of weaker groups	U							
		Government representation	U							
		Representation by executive branch for social development	U							
		Other mechanisms	U							
<b>RP23</b>	Building the capacity of weaker stakeholders to participate in the regulatory process	Information targeting weaker stakeholders	U						<b>X</b>	There are educational materials on some issues, but we consider them to be insufficient to build the capacity of weaker stakeholders in deeper or more complex discussions. Capacity-building sessions for consumer councils are held sporadically, but there is no special support for increasing the participation of these groups.
		Support for weaker stakeholders to represent themselves	U							
<b>RP24</b>	Interventions by civil society in the regulatory process	Number of civil society organizations involved	-						<b>X</b>	We did not find at the Agency or through contact with the National Forum of Civil Entities for Consumer Defence evidence of efforts of civil organizations to bring cases of public interest before the agency, as normally these cases are brought before the courts.
		Nature of cases filed	-							
		Number of cases filed	-							

	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments
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<b>DECISION-MAKING PROCESSES</b>										
<b>RP25</b>	Electricity provider engagement with civil society organizations and potentially-affected populations	Designated department	S							The majority of the items of this indicator are made obligatory by law or regulation. Even so, we found scarce efforts on behalf of the companies to build relations with social groups.
		Corporate policy addresses community engagement	U							
		Creation and operation of a consultation group	S						X	
		Support for weaker groups	U							
		Information on how groups can file complaints	S							
<b>RP26</b>	Orders and decisions of the regulatory body	Legal requirement that orders include explanations / reasoning				Not Applicable		Not Applicable		There is no legal or regulatory disposition that obliges Aneel to justify or base its decisions. However, in practice, Aneel includes justifications for its decisions in the minutes from its Board of Directors meetings, in the voting reports of rapporteurs that accompany resolutions and
		Quality of reasoning in practice							X	
<b>RP27</b>	Dissemination of decisions	Easy availability	S							Decisions are published on the Internet in a reasonable amount of time. We did not find any indication that the Agency publicizes important decisions in other means of communication, other than its website. The Agency produces pamphlets to explain its regulations, which are available on its website.
		Timely availability	S							
		Local language	S							
		Use of multiple modes of dissemination	U						X	
		Help in understanding orders	S							

	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments
			U = unsatisfactory	S = satisfactory						
<b>OPERATIONAL ISSUES</b>										
RP28	Tariff philosophy	Detailed analysis	S							The documentation on tariff reviews is detailed and shows the basis upon which the decisions are made. These are expressed in clear and direct language and in the form of informational pamphlets. In the methodology used for the adjustments, no evidence of provisions for mitigating impacts on weaker groups or public utility
		Mitigating adverse impacts	U							
		Easy to understand	S					X		
		Recent tariffs reflect the philosophy /principles	S							
RP29	Participation in decision-making related to affordability of electricity prices	Attention to affordability in tariff principles / philosophy	U		X	Not Applicable	Not Applicable	Not Applicable		There are legal references to affordability, without relating it to purchasing power. The affected groups can participate in tariff reviews, but no evidence of systematic efforts to educate low-income groups on how to partake in this process were found.
		Public participation in revisions	S							
		Educating low-income groups	U							
RP30	Licensing	Well defined <b>procedure</b> for consideration of license	-							<b>Not applied</b>
		Well defined <b>criteria</b> for consideration of	-							
		Clarity about the basis for amendment / revocation / suspension of licenses	-							
		Dispute	-							
		Compliance and performance-monitoring	-							

	Indicators	Elements of Quality	Rate		Low	Low-medium	Medium	Medium-high	High	Comments	
			U = unsatisfactory	S = satisfactory							
<b>OPERATIONAL ISSUES</b>											
RP31	Periodic performance reports by licensees and utilities	Mandatory filing requirement	S							No reports on the performance of public utility companies were found, nor is there regulation to render their publication obligatory. The only ones found referred to economic and financial indicators.	
		Easy availability	-								
		Timely availability	-								
		Available in local languages	-			X					
		Consistency and clarity of reporting parameters	-								
		Comprehensive reporting	-								
RP32	Consumer service and quality of supply	<b>Existence of Standards</b>								Various regulations define standards and their mandatory nature; they are enforced by Aneel. Even so, we found no evidence of periodical revision of standards for consumer service, with the exception of standards on continuous energy supply, which are the only ones published on Aneel's website. No procedures for resolving consumer complaints were found. The statistics on this issue available on the Agency's website at the time of our research (March 2009) date back to 2006.	
		Standards for consumer service and supply quality	S								
		Supply standards are mandatory	S								
		<b>Quality of Standards</b>									
		Monitoring performance	S						X		
		Compliance reviews	U								
		Compliance reviews information / results publicly available	U								
Consumer grievance	S										

## **8. PARTICIPANTS OF THE ADVISORY PANEL FOR THE EGI-BRAZIL PROJECT**

Below is the list of individuals and institutions that confirmed their participation in the Advisory Panel for the EGI-Brazil Project and who were present in the meetings and contributed with their observations, criticisms and suggestions.

<b>Organization</b>	<b>Name</b>	<b>Charge</b>
<b>ABRACEEL – Brazilian Association of Reselling Agents of Electric Power</b>	Paulo Pedrosa	President
<b>ABRADEE - Associação Brasileira de Distribuidores de Energia Elétrica</b>	Jose Gabino Matias	Directory Advisor
<b>ANEEL - Brazilian Electricity Regulatory Agency</b>	Maria Karla Batista	Superintendent of Institutional Affairs
	José Augusto da Silva	Superintendent of Sectorial Administrative
	Hércio Ramos Brandão	
	Luís Carlos Carrazza	
<b>APMPE - Brazilian Association of Small and Medium Power Producers</b>	Fabio Sales Dias	Director
<b>Office of the Chief of Staff of the Presidency of Republic</b>	Jadir Proença	Pro-Reg Coordinator on Public Participation in regulatory agencies
	Luiz Alberto dos Santos	Advisor of Governmental Policies Monitoring and Analysis
<b>CNI - Brazilian National Confederation of Industry</b>	Augusto Jucá	Executive Manager – Industrial Competitiveness - COMPI
	Alexandre Barra Vieira	
<b>National Congress</b>	Paulo Teixeira	Federal Deputy
<b>EPE - Energy Research Company</b>	Denilvo Moraes	Presidency Chief of Staff
	Raymundo Aragão	Advisor of Studies of the Directory on Environmental, Energetic and Economical Issues
<b>(COPPE-UFRJ) Alberto Luiz Coimbra Post-Graduate and Engineering Studies Institute of Rio de Janeiro</b>	Luiz Pinguelli Rosa	Director

<b>Organization</b>	<b>Name</b>	<b>Charge</b>
<b>FBOMS - Brazilian Forum of NGOs and Social Movements for the Environment and Development</b>	Ivan Marcelo Neves	Executive Secretary
	Esther Neuhaus	Executive Secretary
<b>MMA - Ministry of Environment</b>	Cassia Barbosa Saretta	
	Osvaldo Ceotto	
	Núbia Silvia	
<b>MME – Ministry of Mines and Energy</b>	Dr. Paulo Augusto Leonelli	Projects Manager of the department of energy development of the MME
<b>MPF – Federal Public Prosecutors Office</b>	Paulo José Rocha Jr.	Federal Public Prosecutor
<b>Vitae Civilis</b>	Délcio Rodrigues	Researcher associated with Vitae Civilis and coordinator the Solar Cities Initiative
<b>WWF-Brazil</b>	Karen Regina Suassuna	Climate Change and Energy Program
	André Tavares	