



BURKINA FASO
Unité-Progrès-Justice

SHARING ARSE'S EXPERIENCE IN MONITORING AND REGULATING RURAL ELECTRICITY UTILITIES

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INTRODUCTION

The availability of electricity and access to it are invariable prerequisites for solid economic and social development, because electricity "enlightens" all aspects of society. In Burkina Faso, while urban centres are well off in terms of access to electricity thanks to investment by SONABEL, the same cannot be said of rural areas, where State investment, particularly in distribution, is low, and local authorities, which are responsible for the public electricity service, lack the financial and technical resources to develop infrastructure and manage the service.

The limits on resources call for the introduction of monitoring and regulation systems to track, control and measure the performance of the efforts already being made in the field in terms of infrastructure and delegated management of the public electricity service. The challenges of rural electrification and the conditions for the success and performance of the management methods adopted as winning strategies have always been central to the concerns of decision-makers. These include mechanisms for monitoring and regulating the rural electricity utility.

This paper will address three main points: reforms concerning rural electrification (I), the institutional framework for controlling and monitoring the performance of the rural electricity utility (II), and monitoring and regulation tools (III).

I. PUBLIC ELECTRICITY SERVICE REFORMS IN RURAL BURKINA FASO

In Burkina Faso, reforms in rural electricity supply have followed one another since 1998 and have substantially affected the market, the responsibility of the public service and regulation.

1. The market

The first major reform of the electricity sector was enacted by Law no. 060/98/AN of 17 December 1998 regulating the supply of electricity to Burkina Faso. This law opened up production to independent producers. Similarly, distribution was opened up to competition for localities not yet electrified by the Société nationale d'électricité du Burkina (SONABEL). These localities were mainly in rural areas. It should be noted that SONABEL was already having difficulty covering its real costs and satisfactorily financing its investment programme. In addition, as tariffs were uniform throughout the country, the distance of rural areas from the network made electrification of these areas unprofitable for both SONABEL and private investors. As a result, SONABEL's field of action was essentially the major urban centres and sometimes peri-urban areas. Rural electrification (RE) remained on the sidelines and was barely developed.

Thus, notwithstanding the provisions of the law, which stipulate that the public electricity service is provided by the State and the concessionaires, SONABEL has remained the quasi-monopolist in the sector.

Law no. 016-2005/AN of 12 May 2005 on the general regulations governing the supply of electricity in Burkina Faso, which stemmed from the broad guidelines of the Lettre de politique de développement du secteur de l'énergie (LPDSE) of 30 December 2000, established the national segmentation of the electricity market into a First Segment and a Second Segment, with the First Segment devolved to SONABEL, with a monopoly on transmission and distribution, and the Second Segment actually covering

rural areas. This "geographical compartmentalisation" of SONABEL's and the private sector's areas of intervention was supposed to make it easier for the private sector to attract substantial investment to electrify rural areas. Successive reforms in 2007 and 2012, in the form of Law No. 027-2007/AN of 20 November 2007 and Law No. 053-2012/AN of 17 December 2012, both containing general regulations for the electricity sub-sector, have maintained this segmentation of the electricity sub-sector, but the results in terms of investment in rural areas have still not been forthcoming. It was therefore abolished by the current law no. 014-2017/AN of 20 April 2017 on general regulations for the energy sector.

2. Infrastructure and public service management

It was really the Lettre de politique de développement du secteur de l'énergie (LPDSE) adopted in December 2000 that highlighted rural electrification as part of the strategy for developing the electricity sector. With a view to a new reform, strong measures have been announced to encourage the development of rural electrification. The most salient of these measures are: (i) the introduction of simplified regulatory procedures for small rural electrification operators; (ii) the introduction of tariffs adapted to the local context to enable private and community operators to fully cover their costs; (iii) the creation of a rural electrification development fund; (iiii) the creation of a rural electrification agency to support and enable the harmonious implementation of the various rural electrification initiatives.

The government's new approach to rural electrification was put into practice in 2003 with the creation of the Fonds de développement de l'électrification (FDE), which was also entrusted with the responsibilities of the rural electrification agency that had been announced, and also with the electrification, between 2003 and 2005, of the first localities to be managed

by electricity cooperatives (COOPEL). Since then, with the support of several technical and financial partners (TFPs), the FDE (now ABER) has built several electricity infrastructures and set up COOPELs to manage them. Since 2003, some 200 COOPELs have been set up throughout the country. These COOPELs benefit from rural electrification concessions issued by the ministry responsible for energy.

Subsequently, Law No. 055/2004/AN on the General Code for Local Authorities of 21 December 2004 and its implementing Decree No. 2014-932 of 10 October 2014 transferred powers and resources in the electricity sector to the local authorities within their territorial jurisdictions. Taking account of this new situation, the reform of the electricity sector carried out in 2017 and embodied in Act 014-2017/AN of 20 April 2017 on the regulation of the energy sector, took over this responsibility from the local authorities, expressly making them delegating authorities and therefore with the power to delegate the management of the public electricity service in rural areas, by issuing concessions and authorisations.

3. Regulation

The adoption and implementation of reforms are pointless if they are not accompanied by mechanisms for monitoring and evaluating performance and regulation to arbitrate between the interests involved, in this case in an area of commercial public service such as electricity.

The idea of regulation by an independent body first appeared in law 060/1998/AN of 1998, before the Electricity Sub-sector Regulatory Body was created in 2005 by law n°016-2005. Since that law, regulation has featured prominently in successive reforms. It is central to the provision of a high-quality public service in a sector that is open to competition and private intervention. Its main role is to provide stakeholders, including political

decision-makers, with accurate information about the sector and to arbitrate the behaviour of market players.

II. INSTITUTIONAL FRAMEWORK FOR MONITORING AND REGULATING THE PUBLIC ELECTRICITY SERVICE IN BURKINA FASO

The Ministry in charge of energy, responsible for defining national policies and strategies, strategic planning and regulations relating to electricity, as well as "control of electricity infrastructures" (Art. 7 law 014-2007 and art. 54 Decree 0255-2023 on the organisation of the MEMC).

Local authorities: the State has transferred responsibility for electricity to the regions and communes within their territorial jurisdiction (CGCT and implementing legislation). The provisions are taken up by law 014-2017, which recognises the powers of local authorities, in particular to create and manage electricity infrastructure and public lighting, and of the regions, to issue acts delegating public electricity services in rural areas.

Local and regional authorities, as the bodies responsible for supplying electricity in rural areas and therefore the authorities delegating the public service (contracting authorities), have a right and even a duty to monitor, control and regulate the management of this service by the delegates (where applicable).

The Burkina Faso Rural Electrification Agency (ABER): It is responsible for monitoring and evaluating the performance of electricity system managers in rural areas. More specifically, ABER's articles of association (art. 3 of Amending Decree 2021-0462) stipulate that it is responsible for :

- Supervising rural electrification and the use of electrical energy in rural areas undertaken by public service delegates in the areas covered by their concessions;
- to ensure the implementation and contribute to the improvement of accounting rules and procedures, as well as technical and financial regulation rules set out in the operation of public electricity services or activities granted, leased or authorised in rural localities;
- to act as delegated project manager, at the express request of the rural localities granting the concession or the State, within the limits set by law;
- monitor and evaluate rural electrification activities and projects throughout the country.

The Autorité de régulation du secteur de l'énergie (ARSE): in rural electrification, the regulator is responsible for monitoring and controlling the activities of operators. In particular, it issues a simple opinion on their investment programmes, gives its assent to the awarding and withdrawal of public service delegations, monitors the quality of service, the application of tariffs, compliance with regulations and rules on disputes arising between operators or between operators and consumers.

III. MONITORING AND REGULATION TOOLS

ARSE uses both legal and practical operational tools to monitor the activities of electricity utility operators.

1. Legal tools for monitoring and regulation

These are, on the one hand, the potential powers and prerogatives granted to the ARSE by the regulations as an independent regulator of the electricity sub-sector and, on the other hand, the performance indicators and accountability mechanisms for the players, including the operators (operators, delegates), provided for in the applicable contracts and specifications.

a. The powers and prerogatives of the regulator

Under the regulations, the ARSE has certain powers and prerogatives that enable it to monitor the situation of electricity utility operators in terms of their obligations to achieve certain results in terms of service quality and accountability.

These are essentially powers of investigation, information, self-referral, the taking of appropriate or precautionary measures and the settlement of disputes.

The powers of investigation and information enable ARSE to request information and data of all kinds from stakeholders in order to form an accurate opinion of the situation in the required area in relation to a given issue.

ARSE may also, on referral or self-referral, take any useful measure in the interests of the public electricity service.

Finally, the settlement of disputes between stakeholders (users-operators, delegators-delegates, operators-operators) is an important tool for controlling and monitoring the obligations of stakeholders in the management of the public electricity service.

b. Contracts and specifications

In addition to legislative and regulatory texts, the rights and obligations of electricity utility managers, in particular those delegated by the competent authorities, are set out in delegation agreements to which specifications are attached. In the field of public electricity services in rural areas, the main delegates are electricity cooperatives (COOPEL) set up during the electrification process in the localities concerned, and which are issued with "*decentralised rural electrification concessions*" that describe their general rights and obligations in the delegated management of the service.

The delegation contracts are supplemented by specifications. There are specifications applicable to producers and specifications applicable to electricity distribution concessionaires. These specifications, which are set out in regulations (decree 2017-1013 and decree 2018-0569), lay down specific technical, economic, quantitative and qualitative obligations. The technical obligations relate to service quality standards, in particular the quality standards for installations, electricity delivered to consumers, and customer services (connection, deadlines, estimates, remedial work, etc.). As for economic obligations, these relate to the volume of investment, tax obligations, tariff and compensation conditions, etc.

2. Operational tools

On an empirical level and to implement the legal tools of regulation and monitoring, ARSE uses on-site and documentary inspections, complaint handling, consultation and dialogue.

On-site inspections provide an opportunity to see the physical state of the service in person and to discuss certain issues with the service managers.

Documentary checks are the most common. In particular, this involves requests for information (collection templates are implemented for this purpose), transmission of documents such as reports, programmes (maintenance, activities), etc.

Consumer complaints or reports of malfunctions are an important source of information on various aspects of service provision.

Finally, stakeholder consultation and dialogue are key tools used by ARSE. These consist of physical (or virtual) meetings with the delegates, delegators and beneficiaries of the service, on issues relating to the operation of the service.

CONCLUSION

Creating public service infrastructures and setting up mechanisms to manage them is one challenge, while monitoring and evaluating service performance by introducing monitoring and regulation tools is another. In the electricity sector, despite the existence of an independent regulator, access to information through reliable data at the level of the players is not easy, which makes it difficult to assess the performance of the players responsible for managing the public service. Monitoring tools and techniques have been developed and implemented, but they are proving inadequate. However, measuring performance is essential to improving the service and, to this end, it must be pursued using increasingly innovative and appropriate monitoring and regulation tools.