

Dominican Republic: Promoting the First Electric Cooperative Within an Existing Legal Framework

By National Rural Electric Cooperative Association (NRECA)

Project Summary

In the Dominican Republic, both the government and consumers see electric cooperatives as a possible option for resolving commercial and quality-of-service issues of electric supply in rural and “peri-urban” areas. These problems have proven resistant to the typical unbundling/ capitalization/ regulated private sector model. The organization of the Cooperativa Eléctrica Fronteriza is a test case for promoting electric cooperatives within the context of existing national laws and regulations that were not tailored for electric cooperatives.

The Need for Change

Beginning in 1959, the government-owned Corporación Dominicana de Electricidad (CDE) was responsible for generation, transmission, and retail distribution of electricity. Although CDE was successful in extending electric service to almost 85 percent of the homes in the country, it was unable to establish a sustainable commercial environment.

Under CDE management, there were thousands of unregistered consumers, many registered consumers who had no meters, and metered consumers who rarely paid their power bills. As a consequence of this commercial failure, the financial situation of CDE, and of the Dominican government which relied on electric revenues for its budget, deteriorated significantly. By 1997, power cuts resulting from deferred maintenance and inadequate investments resulted in blackouts that hobbled the economy.

The government’s first response to the crisis in the CDE was to restructure the electric sector along lines similar to other Latin American countries. The electric sector was unbundled into generation, transmission, and distribution business segments, with transactions between the segments regulated on an arms-length commercial basis. The generation business was subject to the competitive market, while the transmission business would operate as a government monopoly. In the distribution sector, three large distribution companies (discoms) were created and a controlling interest in each was sold to members of the private sector.

The introduction of private sector principles was expected to break the cycle of poor service, theft and non-payment, and to help reconstruct infrastructure, leading to improved service. But the planned improvements did not occur. The large discoms remain poorly situated with high levels of power theft and customers who refuse to pay their bills. Service quality has worsened due to the discoms’ inability to pay the generators. In 2003, the private operator of two discoms sold its shares back to the government, effectively renationalizing the bulk of the distribution system.



Reform Process

After the renationalization of two private discoms in 2003, a group of consumers began working with the National Rural Electric Cooperative Association (NRECA) to take over the concession in a third service area located along the Haitian border. This move would establish the first electric cooperative in the Dominican Republic and would also be the first instance of consumers taking over a nominally electrified, but non-performing utility service area.

The organizers of Cooperativa Eléctrica Fronteriza had to negotiate existing cooperative and electric laws. Each framework posed barriers to the development of the cooperative: (1) no electricity cooperative had ever been registered under the general cooperative law; and (2) the electric law prohibits a newly formed cooperative from acquiring an existing concession without going through a competitive bidding process.

While the government supported efforts to establish this electric cooperative, it was not willing to commit to immediate legal restructuring, preferring instead to consider the Cooperativa Eléctrica Fronteriza an experiment. Thus, the organizers focused their efforts on membership recruitment and the establishment of the cooperative within existing laws, leaving the task of specific regulatory modifications for later efforts.

Cooperatives in the Dominican Republic are registered with and monitored by the Cooperative Development Institute (IDECOOP). IDECOOP is a government agency that deals with cooperatives of all types and has no particular expertise in any business sector. Although there was no specific legal barrier to developing an electric cooperative under the general cooperative law, electric cooperatives had not been previously authorized under the law and therefore the registration officials had to be sensitized to this new form of business.

The process of establishing a cooperative is heavily politicized. IDECOOP staff may be replaced from top to bottom whenever a new

party assumes control of the government and all cooperative registrations must be personally approved by the President of the Republic.

While the idea of cooperative development has enjoyed the government's support, it was necessary to expend significant time and effort in educating IDECOOP staff and developing model by-laws for the electric cooperative. This effort then had to be repeated when the party in power changed in 2004 and the staff of the agency was transformed. Fortunately, the new government supported the cooperative concept. In September 2005, two years after initial organizing meetings, the Cooperativa Eléctrica Fronteriza obtained its organizational charter.

A key element in the successful organization of the Cooperativa Eléctrica Fronteriza was an alliance with the successful savings and



While the government supported efforts to establish this electric cooperative, it was not willing to commit to immediate legal restructuring, preferring instead to consider the Cooperativa Eléctrica Fronteriza an experiment.

loan cooperative movement in the Dominican Republic. The Cooperativa Central, a large savings and loan cooperative located in the town of the proposed Cooperativa Eléctrica Fronteriza, actively supported the organization of the electric cooperative, allowing itself to be identified with the new cooperative in membership drives. Once organized, the Cooperativa Eléc-

trica Fronteriza benefited from the participation of many experienced Cooperativa Central employees on its board of directors.

Existing electric law has posed further challenges. It does not allow a newly formed cooperative to acquire a concession as an electric service provider. While the law allowed for the abandonment of a concession, the regulator is required to competitively bid the territory among organizations, pre-qualified based on financial solvency and technical experience, to operate the concession. The existing power system within the Cooperativa Eléctrica Fronteriza's territory was in shambles, and the cooperative struggled to develop financing mechanisms for the construction of facilities and an independent power supply.

Outcome

Although organizing the cooperative was a significant milestone, the task of obtaining an electric concession lies ahead. The strategy that has been developed to date is for the existing concessionaire to return the relevant portion of the concession and facilities to the government, which would subcontract the operation of the facilities to the cooperative for a period of three years. After meeting a series of goals for loss reduction, consumer service reliability, and bill collections, a final concession would be issued to the cooperative. The government hydroelectric facilities will supply power at cost,



freeing the cooperative from the need to attempt to negotiate a power supply agreement on the open market.

The contract implementing this approach will involve many parties, including the existing concession holder, the electricity regulator, the government, Cooperativa Eléctrica Fronteriza, and NRECA as a technical assistance supplier to the cooperative. A separate agreement has been signed between the government and NRECA to reconstruct the area's electric facilities. In this reconstruction agreement, both parties agree to invest in a system reconstruction effort and transfer control of the facilities to the cooperative.

Lessons Learned

Cooperativa Eléctrica Fronteriza's story is one of meeting legal and regulatory challenges in creative and novel ways. Early in the process, it became clear that the new electric coop-

Cooperativa Eléctrica Fronteriza's story is one of meeting legal and regulatory challenges in creative and novel ways.

erative would have to demonstrate its capacity to organize, and ultimately operate the utility, before the legal framework would be amended to facilitate similar projects in the future. The cooperative movement accepted that any attempt to lobby for modifications of cooperative law or electric sector laws in advance of demonstrating the successful operation of the Cooperativa Eléctrica Fronteriza would have failed. Having accepted this point, the organizers were able to work with a supportive government to craft creative solutions to legal barriers, such as having the government take direct ownership of the utility and subsequently subcontract its operation to the cooperative.

The schedule might have been accelerated had the entire package... been formulated from the beginning rather than crafted in sequential fashion as individual hurdles were crossed.

A key lesson learned from the process of organizing the Cooperativa Eléctrica Fronteriza was the importance of associating with a successful cooperative movement in a related field. Without support from the Cooperativa Central, a respected, solvent, successful cooperative, the recruitment of membership and the navigation of registration procedures with the government would have been much more difficult.

Another lesson from the project was the importance of maintaining government support. Given the political nature of IDECOOP and the need for government support during the cooperative's construction and initial operation, it would not have been possible to arrive at the point of registration if two successive Dominican governments had not both supported this idea. The cooperative worked to give both governments credit for the project's success.

In retrospect, the schedule might have been accelerated had the entire package – organization and certification of the cooperative, negotiation of facility reconstruction agreements, and establishment of a mechanism for obtaining a franchise – been formulated from the beginning rather than crafted in sequential fashion as individual hurdles were crossed. ■

For more information, please contact Paul Clark and Jim VanCoevering, NRECA, at (703) 907-5500.