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## Regulating the water and sanitation sector: serving the poor

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REPOSITORY RECORD

Chanda, Oswald M.. 2019. "Regulating the Water and Sanitation Sector: Serving the Poor". figshare.  
<https://hdl.handle.net/2134/29303>.



## Regulating the water and sanitation sector: serving the poor

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ZAMBIA IS ONE of the most urbanized countries in sub-Saharan Africa, with about 45% of the total population of 9.3 million (1996) living in urban areas. Most of the urban population lives in high density, low-income settlements. 60–70% of the urban population live in these low-income urban settlements. They therefore constitute a significant social group in the urban areas with far reaching impacts on public health, politics, urban economy, labour relations and security.

The Water Sector in Zambia has been failing to increase access and improve services mainly due to weaknesses in the institutional, legislation and organizational framework. Access to water and sanitation during a study in 1996 stood at 69% and 46% for urban and rural water supply, while urban and rural sanitation coverage stood at 47% and 32% respectively.

The Government of the Republic of Zambia has commercialized water supply and sanitation service provision and devolved the responsibility to the local authorities and the private sector. The government has been implementing water sector reforms since 1994 and the result has been a clearly defined legal and institutional framework for providing water supply and sanitation services. Nine commercial utilities have been established. Water supply and sanitation service provision is a natural monopoly, therefore the Zambian government has established the National Water Supply and Sanitation Council (NWASCO) to regulate service providers in the country for improved efficiency and sustainability.

The mandate and working strategies are highlighted and how they are influencing service provisions to the low-income urban poor.

### The Mandate of NWASCO

The National Water Supply and Sanitation Council was established under the Water Supply and Sanitation Act No. 28 of 1997. It is a statutory body with a Board (Council) of fourteen whose membership by institution from both public and private is enshrined in the Act with the nominations from these institutions having to be adopted by Cabinet through the Ministry of Energy and Water Development.

The chief mandate of the Regulator NWASCO is to *ensure efficiency and sustainability of water supply and sanitation service provision*. To attain this goal, NWASCO, sets quality and service standards, regulating the levels of capital expenditure associated with meeting these standards, giving incentives for improved performance and penalizing defaulters for negligence.

The regulator is financed from the license fees levied on providers and a limited grant from the government. The government grants paid to the regulator in the set-up stage will cease once NWASCO becomes financially self-sustaining.

NWASCO is in the process of setting up substructures at the service provision (consumer) level. These will be voluntary **Consumer Watch Groups** set up to attend to consumers' concerns at the local level. These groups will receive consumers' outstanding complaints and make representations to the providers for action. Where the complaints are not resolved at that level, they shall then be brought to the attention of NWASCO.

### Instruments for regulating

The Water Supply and Sanitation Act, 1997, gives NWASCO powers to ensure that service providers comply with all the requirements of the law aimed at improving the efficiency and accessibility to water supply and sanitation services. NWASCO has within the provisions of the law four main ways to ensure that this objective is achieved:

- a) *License process*: All persons giving water supply and sanitation services to others besides the person's own use shall not operate except under the authority of a license issued by NWASCO. There cannot be a transfer or amendment of a license without prior approval of NWASCO.
- b) NWASCO will *set guidelines and standards* on tariff setting, investment, business planning, and minimum service standards. NWASCO will ensure that the tariff structure is according to the consumption, which allows for a social tariff.
- c) *Enforcement notices and Penalties*: Enforcement notices will be issued to all providers who are non-compliant. Failure to perform to agreed standards after two notices will result in penalties.
- d) *Publicity*: NWASCO will publicise the ratings of providers according to performance in the Annual Utility Performance Report. This transparency should coerce providers to improve for fear of bad publicity.

The Act provides for **Arbitration** where a provider is aggrieved with the decision of the Council, he can seek recourse from the Minister of Energy and Water Develop-

ment and if not satisfied could seek redress from the High Court and has possibility to appeal to the Supreme Court of Zambia.

### Service providers

The Water Supply and Sanitation Act, 1997 mandates local authorities to provide water supply and sanitation, and gives options in institutional arrangements in which the water supply and sanitation may be provided. The ultimate arrangement is regulated by NWASCO.

The commercial utilities are established under the Companies Act and are therefore private companies governed by a Board of Directors who are appointed in their individual capacity by the shareholders who are the local authorities for now.

### Service areas

All licensed providers have a service area boundary is defined and agreed upon by the local authority the provider and the regulator and is usually governed by municipal boundaries. Within the serviced area the licensed provider will have exclusivity.

The Act allows for other providers to enter areas that have not been serviced by the licensed provider within a given time frame to develop the service.

### Service to the low-income urban poor

Water supply and sanitation infrastructure to most low-income urban areas (that began as unplanned settlements and overtime have been regularized) is non-existent, or where it does exist is not adequate and highly vandalized. Service provision and user-charges collection using the conventional way is very difficult, due to characteristics of these areas.

Water supply services in the urban low-income settlements consist of public standpipes and privately owned shallow hand dug wells. Sanitation facilities consist mainly of ordinarily latrines, many of which are shared by more than one family. Central Statistics Office data of 1993 shows that in the low income areas 56% use unsafe water supplies and about 42% use a communal pit latrine or have no toilet facility at all. Even those who use their own pit latrines (about 47%), it is usually an ordinary pit latrine which is unsanitary.

The poor environmental conditions in the urban low-income settlements constitute an ever-present threat to public health. Water borne diseases, especially cholera and dysentery, occur frequently in the rainy season. In the 1998/99 rainy season, the Central Board of Health re-

ported that by 19<sup>th</sup> February 1999 there were over 1,500 reported cases of cholera in 14 districts country-wide. There were 43 deaths, 19 of them in Lusaka alone.

### Interventions

NWASCO will ensure increased access of water supply and sanitation services to people in the low-income urban areas, which are within the jurisdiction of a local authority, by directing providers to extend services to these areas. Infrastructure development to the low-income urban areas will have to be an integral part of the commercial utilities (CUs) investment plan. Appropriate technologies and service levels, from successful experience within the country, will be employed.

The Act empowers NWASCO to establish a Devolution Trust Fund to support the CUs. This support is meant to act as an incentive to enable CUs to go into the peri-urban areas. The fund managed by NWASCO will be in the form of grants to providers meeting set criteria.

### Conclusion

NWASCO has been mandated to ensure that there is improved service delivery and coverage of water supply and sanitation in the country, through regulating the service providers. This means there is an acceptable minimum service level, increased efficiency in service delivery and acceptable tariff policies. Monopolistic tendencies are removed.

NWASCO will ensure the urban poor benefit from the improved service delivery, by making providers extend services to the low-income areas and give a service level they can afford.

### References

- <sup>1</sup>Water Sector Reform Support Unit, 2000, Peri-urban Water Supply and Sanitation Strategy, Final Report, Zambia.
- <sup>2</sup>Government of the Republic of Zambia, 1997 – Water Supply and Sanitation Act No. 28 of 1997.
- <sup>3</sup>Central Statistical Office, The Social Dimensions of Adjustment Surveys, PSI – 1991 and PS2 – 1993.
- <sup>4</sup>Water Sector Reform Support Unit 1998, National Investment Register for Water Supply and Sanitation (Water Supply), Lusaka.

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