



Energy Security Strategy, Policy and Public Participation in China

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2.1 Public participation in enacting comprehensive or special energy plans

- ❖ **Energy comprehensive plan:** 2013 <Twelfth Five-Year Plan for Energy Development>. it is the guideline of energy development from 2011-2015.

- ❖ **Special plans related to energy industry, renewable energy and energy conservation.** For example:
 - < Twelfth Five-Year Plan for Oil and Chemical Industry Development>;
 - < Twelfth Five-Year Plan for coal industry development>;
 - < Twelfth Five-Year Plan for renewable energy development>;
 - < Twelfth Five-Year Plan for energy conservation and emission reduction>

❖ **Laws and regulations:**

- ❖ **<Several Opinions of the State Council on Strengthening the Administration of Enacting National Economic and Social Development Plan>** (State council, October 22, 2005): establishes the public participation system and expert consultation system.

❖ **Public Participation System:**


- the department in charge of enacting plan should open the draft to public or held a hearing for comments, except involve the state secrets.
- For example: when drafting Eleventh Five-Year Plan, National Development and Reform Commission (NDRC) expose the draft to public and openly solicit public comments from October to December 2010, anybody can submit advices to NDRC by website, email or mail.

❖ **Expert consultation system:**

- The development and reform department under the State Council and Province (Autonomous Region, Municipality) should set up Plan Expert Committee which includes experts from different area and take their comments seriously in the process of enactment. After finish the draft, the development and reform department should arrange experts study the draft in depth.
- For example: National Development and Reform Commission (NDRC) built National Development Plan Expert Committee in 2005. It includes 46 experts from different area now and they played important role by consultation during enacting Twelfth-Five Year Plan.

2.2 Public participation in EIA of plans and construction projects

- ❖ According to <Environmental Impacts Assessment Law>, all energy plans and construction projects need to comply with EIA Public Participation procedure.
- ❖ EIA Public Participation Procedure include Plan EIA Public Participation and Construction EIA Public Participation

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- ❖ **Laws and regulations** stipulate EIA public participation system includes:
 - <Environmental Impacts Assessment Law> (EIAL) ; 2002
 - <Environmental Protection Law> (EPL) ;2014
 - <Regulation on Environmental Impact Assessment of Planning> (REIAP);2009
 - <Temporary Measures on Public Participation of Environmental Impacts Assessment> (TMPPEIA)2006

❖ Energy Plan EIA Public Participation:

- Article 11 of EIAL stipulates, “In case a program may cause unfavorable environmental impacts or directly involve the environmental interests of the general public, **the organ that works out the special programs** shall seek the opinions of the relevant entities, experts and the general public about the draft of the report about the environmental impacts by holding demonstration meetings or hearings or by any other means, except it is provided by the state that it shall be kept confidential. **The drafting organ** shall take the opinions of the relevant entities, experts and the general public about the draft report of environmental impacts into careful consideration, and shall attach a remark whether the opinions are adopted or refused to the report of environmental impacts to be submitted for examination and approval.”

❖ Energy Construction EIA:

- Article 21 of EIAL stipulates, “Unless it is provided by the state that it is necessary to keep confidential, for the construction projects which may impose significant environmental impacts and for which it is necessary to work out a report of environmental impacts, **the construction entity** shall, before submitting the construction project for examination and approval, seek the opinions of relevant entities, experts and the general public by holding demonstration meetings, hearings or by any other means. The report of environmental impacts submitted by the construction entity for examination and approval shall include an explanation of why the opinions of relevant entities, experts and the general public is accepted or rejected.”

- **Information disclosure obligation for the department** : Article 21 of EPL stipulates, “After receiving the environmental impact report for a construction project, the department approving the environmental impact assessment documents for construction projects shall disclose the full text of the report, except the part involving any state secret or trade secret; and if it discovers that public opinions have not been fully solicited regarding the project, the department shall order the construction employer to solicit public opinions.”

2.3 Public participation in administrative licensing in energy area

- ❖ Considering huge sums investment and economic safety, all energy projects in China need to comply with licensing system

❖ <**Administrative License Law**> stipulates hearing procedure for public participation:

- Where an administrative license is of direct significance to the interests of the applicant or others, before the administrative organ makes a decision, it shall inform the applicant or the interested party of the right to request for a hearing. Where the applicant or interested party applies for a hearing within 5 days from the day when it is informed of such right, the administrative organ shall organize a hearing within 20 days.

2.4 Public participation in pricing and price adjustment of energy products

- ❖ Energy products are of great importance to development of the national economy and the people's livelihood. As a result, some of the energy products, such as electric, natural gas, gasoline, execute government-set or guided prices in China.
- ❖ According to Article 23 of <**Price Law**>, when pricing or adjusting price of energy product, the government should hold hearing to solicit views from consumers, business operators and other quarters to explore the necessity and feasibility.

❖ Regulation:

❖ <Measures for Hearing on Government-fixed Prices> (2008)

❖ **Object of a hearing:** The fixing of the prices of public utilities, public welfare services, commodities under natural monopoly and other government guiding prices or government-fixed prices that concern the vital interests of the people shall be subject to pricing hearing.

❖ **Subjects of a hearing includes:**

- department of a government (Organizer);
- **three to five hearing examiners** who are specially assigned to hear the hearing opinions **on behalf of the price department**;
- The participants is composed of **consumers, business operators, other interested parties** in the item under pricing hearing, **experts and scholars** in the relevant fields and **government departments, social organizations and other persons necessary**. The number of consumers shall not be less than two fifths of the total number of participants;

2.5 Public interest litigation

- ❖ When energy construction project injure public interest by environment pollution or ecological damage, a NGO can commence a public interest suit in the court in China Now.

- ❖ 2012 <**Civil Procedure Law**> added **public interest civil litigation**. Article 55 stipulate:
 - For conduct that pollutes environment, infringes upon the lawful rights and interests of vast consumers or otherwise damages the public interest, an authority or relevant organization as prescribed by law may institute an action in a people's court.

- ❖ 2014 <Environmental Protection Law>. Article 58 stipulates:
 - For an act polluting environment or causing ecological damage in violation of public interest, a social organization which satisfies the following conditions may institute an action in a people's court: (1) It has been legally registered with the civil affairs department of the people's government at or above the level of a districted city.(2) It has specially engaged in environmental protection for the public good for five years or more without any recorded violation of law.

- ❖ According to the provisions of CPL and EPL:
- Supreme People's Court, Ministry of Civil Affairs and Ministry of Environmental Protection issued **<Notice of the Supreme People's Court, the Ministry of Civil Affairs and the Ministry of Environmental Protection on Implementing the Environmental Civil Public Interest Litigation System>** on December 26, 2014.
- Supreme People's Court issued **< Interpretations of Supreme People's Court on Several Issues concerning the Application of Law in the Trail of Cases involving Environmental Civil Public Interest Litigation>** on January 6, 2015.
- These two judicial interpretations stipulate the concrete procedures of public interest litigations.

According to the law and Legal Interpretation, Friends of Nature, a Beijing environmental NGO, filed the first environmental civil public interest suit against four people in Nanping Intermediate people's Court in January 2015. It declared that those four people destroyed the forest on the top of Hulushan Mountain by mining. It required them take the responsibility to clean the mining site and repair the forest.

- ❖ The case has been accepted by the court and is processing. We are looking forward its latest development.



Thanks for your attention!

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