Palestine Economic Policy Research Institute (MAS)

Roundtable (7)

Background Paper

The Implications of the Electricity Sector Dilemma between the Public and Private Sectors: The Case of the Jerusalem District Electricity Company (JDECO)

2019

This background paper looks into the dilemma of the Palestinian electricity sector (emanating from the policies of the Israeli occupation) as manifested at the domestic level. This dilemma comprises a set of factors arising from the financial problems of private electricity companies and their relations with the public treasury, the shortcomings in the legal/regulatory framework, the challenges associated with, and engendered by, the regime that classifies Palestine into different areas, and the failure of some electricity consumers to comply with laws and regulations. Due to the emergence of what has come to be known as the "Jerusalem District Electricity Company (JDECO) Crisis," the discussion will focus on the current state of JDECO, which provides electricity to around one million Palestinians, including in Jerusalem, the capital city.

Like all other economic sectors in Palestine, the electricity sector struggles with a wide array of challenges created by the Israeli occupation. This include Israeli control of the entire energy sector, the complexity associated with classifying Palestine into different areas, denying Palestinians the right to take advantage of their own natural resources for energy production, and even disallowing the use of land to install booster transformers in Area C. Israel denies the introduction of solar panels to Area C, and also administers a complex import system that makes it virtually impossible for Palestinians to import energy products and services from other countries, thereby increasing their dependence on Israel for energy. These restrictions fall within political disputes at the state level, and thus they are beyond the scope of this paper. Other issues are focused on, namely the financial problems affecting the Palestinian treasury owing to accumulating arrears in electricity purchases from Israel, which gave a pretext for the Israel Electric Corporation (IEC) to partially cut power supplies to Palestinians starting from September 2019. IEC has also threatened expanding cuts in the West Bank, including East Jerusalem, during the winter months, when consumption usually increases.

Due to its sensitive nature and wide-reaching implications for general public, the public sector and the private sector, the issue is introduced for discussion at a Roundtable organized by the Palestine Economic Policy Research Institute (MAS), which recognizes the necessity of finding a solution to energy issues, including those associated with alternative energy, which have been addressed in previous roundtables. The Institute also acknowledges that electricity as a commodity has far-reaching implications for civil peace, economy, and development, thus affecting all classes and categories of society. This understanding is the departure point for our discussion, in which we bring the issue to the attention of a group of decision makers, developers, and experts, with the aim of proposing practical ideas and recommendations that will help solve the problems of the electricity sector, including the crisis of JDECO.

General Background

The General Electricity Law No. 13 (2009) provides the legal and regulatory framework under which all components of the Palestinian energy sector operate. This sector comprises four main bodies emanating from the General Electricity Law: the Palestinian Energy and Natural Resources Authority (PENRA), the Palestinian Electricity Sector Regulatory Council (PESRC), the Palestinian Electricity Transmission Company (PETC)[1], and electricity

[1] The public sector has one transmission company established by the Council of Ministers' Resolution No. (16/01/10) in 2013 based on the General Electricity Law. The company is the intermediary/contracting party between power generating companies and distribution companies that buy and sell electric power from the transmission company. There is also another transmission company operating in the Gaza Strip.

distribution companies[2]. The General Electricity Law has delineated the functions and role of each body. The Energy Authority is entrusted with establishing public policies. The Electricity Regulatory Council (which was formed in 2010) carries out a regulatory role, including granting licenses (in accordance with the terms stipulated in the laws and regulations) to companies that generate and distribute power. The Palestinian Electricity Transmission Company is the sole contracting body between the power generating companies and distributors, and it is entrusted with developing, managing, and holding the electrical transmission system, as well as purchasing local and imported energy and selling it to distribution companies. The aim of establishing this company was purely organizational: creating a sole-purchaser model. On the other hand, the spread of renewable energy sources in recent years has made the Energy Authority aware of the advantages these sources provide. Therefore, it has built a legal framework (an independent system) for renewable energy (Law No. 14 of 2015) to keep pace with developments in the sector, stimulate the private sector to work in an enabling, investor-friendly legal environment, and reduce the problems of the energy sector through self-reliance.

The Electricity Regulatory Council confirms that 99.9% of the population in Palestine have access to electricity.[3] Households consume 80% of the energy produced, the commercial sector consumes 17%, 1% is attributed to the industrial sector while the remaining share is consumed by other sectors. In the West Bank, distribution companies manage and supply more than 65% of total electricity, while the remainder is managed and supplied through local authorities. In Gaza, the Gaza Electricity Distribution Company is the sole company responsible for electricity distribution.

The following figures show the actual consumption of the Palestinian electricity sector and JDECO’s share of the overall consumption. West Bank and Gaza (WBG) annual average purchase of electricity from Israel was about USD540 million for the last three years– the figure does not, however, include Jerusalem. Electricity is almost entirely purchased from Israel, in addition to a small quantity from Jordan and Egypt. Electricity imports represent around 8% of Palestinian imports, or about 72% of service imports, which totaled USD 766.1 million in 2018. On the other hand, purchases by JDECO reached about USD 280 million annually in the last three years. Adding this figure to WBG imports results in an annual purchase of USD 865 million for the last three years, with JDECO's share at 38%. According to the Palestinian Central Bureau of Statistics and JDECO, around 22% of annual imported power (or USD 168 million) is lost in transmission and theft.

Efforts have been made since the formation of the Palestinian National Authority (PNA) to regulate the sector, which resulted in the General Electricity Law of 2009, and its administrative bodies and regulatory instructions. Within this system, four companies were set up in the West Bank: Northern Electricity Distribution Company, Jerusalem District Electricity Company, Southern Electricity Company, and Hebron Electric Power Company, in addition to the electricity company that operates in Gaza. These are private companies regulated by PENRA and PESRC. Granting licenses for several companies is intended to prevent monopoly, as the electricity companies and their prices are controlled by the regulators of the electricity sector. For this purpose, the PESCRC encourages rural communities to create their own companies within this established regulatory framework (MAS, 2017, Energy Authority Reports, 2016).

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2 There are five private sector distribution companies in the West Bank: Jerusalem District Electricity Company, Northern Electricity Distribution Company, Southern Electricity Company, Hebron Electric Power Company and Tubas District Electricity Company.

3 Palestinian Electricity Regulatory Council, Annual Report 2015-2016.

Electricity is supplied within the Palestinian territory based on two types of contracts. First, there are contracts between JDECO and IEC covering the central area of the West Bank, (Jerusalem, Ramallah/Al-Bireh, Bethlehem, Jericho and the Jordan Valley), as well as contracts between the other four companies and IEC. The second kind are contracts are directly between local authorities and IEC, and these constitute 35% of the total value of electricity purchases from Israel.

Problems of and challenges to the electricity sector

There is a myriad of challenges faced by Palestinian electricity sector, from a variety of sources. First, the high default rate of some local authorities exacerbates the problem of net lending. Second, power loss is very high at 22% (10% in technical losses and 12% in theft, or “black loss”). Other problems include the unwillingness of some local authorities to join regional distribution companies preferring to maintain their direct commercial relations with IEC, weak enforcement of laws and sanctions, the public treasury's burden of footing the electricity bill for the refugee camps, and problems of maintaining networks and the high additional costs that accompany this. Moreover, a new problem has recently emerged, the "JDECO crisis," the ensuing PA accumulated debts to Israel Electric Corporation, and what ensued when Israel started recovering those debts from the clearance revenues.

The following is a summary of the problems with which the energy sector grapples:

First: Refrain of some local authorities from joining the Electricity Regulatory Council

Significant progress has been made in regulating the sector, where now around 70% of local bodies have already joined electricity production and distribution companies that are regulated by the Electricity Regulatory Council. However, the remaining 30% of local authorities still refuse to join or comply with Instructions No. 2/2010 regarding regulating in accordance with the provisions of Decree Law No. 13 of 2009 on the General Electricity Law, issued by the President of the Energy Authority and President of the PNA. These instructions have been circulated across the West Bank, and particularly addressed to the local authorities that have yet to join the Council. The instructions also covered the Gaza Strip. Failure to join Palestinian electricity companies would perpetuate many pre-existing issues, including:

1. Incomplete regulation of the sector and disparity between different local authorities in terms of commitment to paying dues and providing appropriate services to residents, as well as the inability of residents to benefit from net lending.
2. High costs borne by distribution companies due to the low number of subscribers, as the increase in subscribers reduces the cost for both consumers and distribution companies. With a high subscription rate, infrastructure and maintenance services are more cost-effective, and service delivery becomes more efficient. Local authorities incur additional costs and higher prices compared to the regulated sector if they do not join the Council.
3. Absence of a fair, systematized price: a fair price determined by the government applies to everyone, while prices by local bodies are usually inequitable, and often higher than the price set by the government.

Second: Net lending

The problem of net lending emerged in 2009 as a result of local authorities' failure to pay their utility bills, particularly electricity. Also, the fact that 30% of local authorities remain outside the regulated electricity sector has increased this debt, which has become an additional burden for the public budget. A large part of local authorities does collect bills, with VAT included, but do not transfer these collections to the Ministry of Finance. A large part of this debt is owed to IEC, which in turn deducts it from the Palestinian clearance revenues. The result is that this debt becomes part of current expenditure within the Palestinian public budget. In recent years, the average figure for this debt has been around US USD 220 million per year (this problem was addressed in a previous roundtable that MAS held in cooperation with concerned bodies).[4]

Third: High loads with few resources mean high maintenance costs, a disjointed electricity network, and high transmission loss

Degradation of electricity infrastructure and lack of periodic service mean more maintenance burdens, and thus higher costs. Further, with 30% of local authorities outside the Palestinian regulatory system geographical disparities arise, which disrupts the electricity network, forcing redistribution of power loads across different areas, hampering necessary maintenance, and restricting companies' abilities to manage power transmission loss.
Power transmission loss in Palestine is very high (at 22%). Two reasons explain this figure: the first being deterioration of the electricity network. The second is theft (12%), especially in Area "C", where laws cannot be adequately enforced due to the occupation's control over this area. This is equivalent to a USD 168 million loss that electricity companies incur annually.
To address this problem, four transformer stations were built in Ramallah (Qalandiya area, which also supplies Jerusalem), Nablus (Sarra area), Jenin (Jalameh area) and Hebron (Tarqumiya area). The Jenin station has been operated under an interim agreement. The others have been ready for operation for two years, and when they operate, they will be able to resolve the load capacity deficit. To date, however, the occupation authorities deny their operation, making it contingent on solving the problem of electricity debts owed by various Palestinian parties, with such dues totaling NIS 1.7 billion (AMAN, 2019, an interview with Engineer Ali Hammouda, Assistant Director General for Development and Strategic Planning at JDECO).

Fourth: JDECO Crisis[5]
In general, the electricity crisis is as old as the occupation, which controls energy and all its sources (oil and gas).This means that Palestine has no power plants, and even if such plants were built, their operating cost will be very high as gas or diesel will have to be Israel. Therefore, purchasing electricity from abroad for distribution via local substations and running them by public and private Palestinian bodies may be cheaper than setting up generating plants. For this reason, the PNA has refrained from building power plants, while the issue is still under consideration by PENRA and the private sector. However, Israel remains the de facto controller of electricity supply to the Palestinian population, unless Palestinians are allowed to tap into their own resources and import freely from neighboring countries power and the resources, and generate electricity.

JDECO operates in occupied East Jerusalem under Israel's direct control, making the company subject to a multitude of restrictions formulated to extend Israeli control over the electricity

[4] Palestine Economic Policy Research Institute (MAS), Roundtable on “The Dilemma of Net Lending and the Way Ahead", May 2015.
http://www.mas.ps/files/server/20052015-RT3/Round%20Table%203%20arabic.pdf

[5] JDECO is a limited shareholding company, which has been distributing electricity under concession contracts since 1914. It has about 1000 employees (60% of whom hold Jerusalem ID) and covers the central West Bank and a segment of the Palestinian population living inside the Segregation Wall. The company purchases electricity from Israel Electric Corporation in accordance with 21 purchase contracts covering all its concession areas.

provider, and to eventually liquidate it, according to JDECO chairman and general manager, Hisham Al-Omari.

The JDECO crisis is a matter for public concern rather than a problem of a single company. First, the crisis has a direct impact on the Palestinian Ministry of Finance and its treasury , which affects the Palestinian public budget, and thus all Palestinians– as pressure on the treasury means cuts in allocations to residents and public institutions. Second, JDECO is a Palestinian Jerusalem-based company that provides electricity as an effective "public good", covering most of the areas in the central West Bank. A third, and equally important, reason is the political factor based on the premise that the Palestinians have the right to work and operate in occupied Jerusalem, and to provide Palestinian services to the Palestinian population there. West Bank companies do not have access to Jerusalem, thereby making JDECO a strategic asset for the national economy. All these reasons together have made the JDECO crisis a public concern.

Characterization and ramifications of the crisis

The JDECO crisis differs from those of other power service providers. JDECO used to pay bills directly to IEC, and reschedule or freeze debts under arrangements with the Israeli company. Therefore, Israel did not deduct the company's debts from the PA clearance revenue. However, following the agreements between the PNA and Israel that made the PA exclusively responsible for the electricity sector, in 2016 JDECO liabilities (i.e. debts) were transferred to the Palestinian Authority, and therefore such debts became subject to deductions from clearance revenues.

This arrangement involves two things. First, JDECO repays its accumulated debt to the PNA in accordance with a specific arrangement between the two parties. Second, the PNA bears JDECO’s financial liability to IEC, as well as the electricity bill for 13 refugee camps located within the JDECO service area, and also the cost of subsidizing the electricity price for communities within the JDECO service area. Right after the arrangements, Israel started deducting the bill of electricity purchase from clearance revenues in accordance with the arrangements between the Palestinian Ministry of Finance, IEC, and the Israeli Ministry of Finance (under what came to be known as the Agreement of Principles concluded by the Palestinian Energy Authority and Israel in 2016[6], which brought the issue of JDECO's accumulated debts to the wider Palestinian-Israeli financial dispute.)

The onset of the crisis

This crisis was not surprising, and it could have easily been predicted given the occupation's history of extortionate behavior, renunciation of agreements, and violation of Palestinian rights. The crisis began when the occupation took advantage of accumulated debts owed by the Palestinian electricity sector (including JDECO) and partially cut off the electricity supplied to JDECO concession areas, and threatened to expand the scope of power cut if the debt remained outstanding.

For illustration, we break the crisis into two parts:

First, a crisis surfaced between JDECO and the Palestinian government over the payment of 2018 debts. Each party defended its financial responsibilities towards the other, and blamed the other. In the end, an agreement was reached between the two parties, according to which JDECO had to pay real-time outstanding amounts, while accumulated debts were scheduled for 48 payments. In return, the PNA would pay the bill of refugee camps' consumption of

[6] An agreement signed by Israel and the Palestinian Energy Authority in 2016, described by the Palestinian side as a historic agreement because it provided for establishing electrical substations and allowed the purchase of electricity from Israel at reduced prices (AMAN, 2019).

electricity and bear the costs of electricity subsidiaries. With this, that phase of the crisis was almost over.

Second, in September 2019, the occupation escalated its extortion when it announced potential electricity cuts in the West Bank, including JDECO concession areas. This triggered a new crisis between the Palestinian government and JDECO over debt arrears, with the figure owed by the Palestinian electricity sector reaching NIS 1.7 billion, according to a report by AMAN published in October 2019, based on figures from IEC. As of October, Israel started cutting power to 23 JDECO-supplied lines, alternating 2 hours each, which forced JDECO to distribute the loads across lines to avoid technical faults and ensure continuous power supply to East Jerusalem, which might, otherwise, be taken by Israel as a pretext for further blackmailing. However, IEC threatened to cut all the lines to stop JDECO from distributing loads across the grid, in what amounts to a collective punishment against both those who pay bills and those who do not, which has brought JDECO back into the broader crisis in the energy sector. The plan by IEC is to cut power off 3-4 lines at a time.

Ramifications/consequences of the crisis and size of the sector's debt burden

The following figures summaries the financial position of the Palestinian electricity sector:
• Debt prior to September 12, 2016 (i.e. the date the PNA and the Israeli government signed the Memorandum of Understanding) was NIS 2.03 billion, which was the total debt of the electricity sector, including NIS 236 million in interest for delay. The current accumulated total debt decreased to about NIS 1.7 billion following deductions from the clearance revenues.
• The debt owed by JDECO until 2016 was NIS 1794 million, or 88% of the sector's total debt. The rest is owed by the Palestinian Ministry of Finance on behalf of other companies and local government bodies.

As of September 12, 2016, the PNA came to bear the total debt burden pursuant to the memorandum of understanding it signed with the Israeli government.Accordingly, four [7] months later, the PNA and JDECO reached an agreement to settle the JDECO debts. Based on that agreement, JDECO transferred the Palestinian Ministry of Finance NIS 707 million (in part obligations by the PA, and other claims of NIS 707 million). JDECO has agreed to pay the remaining debt in 48 payments, and the two parties also agreed that deductions in interest for delay by JDECO shall be settled in accordance with the agreement between the PNA and Israel. Through this, JDECO has made a comprehensive financial settlement by which it rescheduled its debts, transferring the burden of payment to Israel to the Palestinian Ministry of Finance. According to IEC, JDECO owes IEC NIS 539.8 million (of which NIS 303.2 million has not been repaid by the Palestinian Ministry of Finance, and NIS 236.5 million in deductions usually applied by IEC to JDECO’s bill that have yet to be deducted).

This debt, coupled with Israel's deduction of the JDECO debt from clearance revenue, has triggered a crisis between the Palestinian government and JDECO. The company has held the Palestinian government accountable for not paying IEC, as per the agreement between the two

[7] According to the head of the Energy and Natural Resources Authority, no agreement has been signed with the Israeli side. He says it was only a memorandum of understanding until the negotiations on the electricity file reach an agreement. Negotiations, he adds, have stumbled over 77 points of disagreement, which were later reduced to 34 points, and efforts are still underway to find satisfactory solutions through negotiation (AMAN, 2018, a discussion session on JDECO crisis).

disputing parties. JDECO maintains that it has yet to be compensated for the loss it incurred from the outstanding bills of refugee camps and the commercial sector, which totaled NIS 508 million and NIS 100 million, respectively. JDECO also reasons that it cannot bring the dispute into court on political grounds.[8] On the other hand, the Palestinian government holds JDECO responsible for not settling deductions and paying all of its dues, arguing that what it reached with the Israeli side was merely a memorandum of understanding, and that the agreement is still in its negotiating stages.

Additionally, the Palestinian government has been placed in an unenviable position, where it has to deal with a multitude of challenges: the financial burdens of net lending with all its components, the imperative of covering the cost of electricity supplied to the refugee camps, the burden of covering the difference in the price of electricity (subsidies), the accumulated debts resulting from non-payment of bills by some consumers, refrain of some local authorities from joining the Electricity Regulatory Council, and the interest on late payments claimed by IEC.

A final issue that should be brought to light is the electricity sector regulatory framework. All bodies within the sector suffer "black losses", i.e. losses incurred from theft, non-payment of bills, and the fact some industrial facilities taking advantage of the exemptions granted to refugee camps as a cover to avoid paying bills. If anything, such behaviors signal disregard of the public interest, weak enforcement of laws, and lenient penalties for offenders. Addressing such issues could lead to improved collection and decreased loss of revenue channeled to pay arrears, as such losses are the main cause behind debt accumulation.

Conclusion

Regardless of who is responsible for the crisis, and apart from the debt figures and/or who is to blame for such figures, these problems exist, so does a host of reasons that have led the electricity sector to accumulate debts, which have affected every Palestinian and weighed down on the public and private sectors. Therefore, it is necessary to establish the facts about these responsibilities and raise relevant questions which prompt and candid answers, that lead to addressing the problems with which the electricity sector is struggling.

Questions for discussion

1. To what extent can the PA tolerate the state of disorganization in the electricity sector, especially in the non-adherence of local authorities?
2. What practical solutions have so far been taken and will be taken to solve the problem of net lending?
3. Are there deterrent sanctions that have yet to be applied? Or is there a need to amend the laws to incorporate deterrent sanctions for black loss?
4. Does removing electricity subsidies and setting a fair price reduce indebtedness? How can the PNA control the consumption of industrial facilities that hide behind the refugee camps?
5. In order to avoid interrupting the power supply to East Jerusalem because of its special status in the confrontation with the occupation, is it possible to allocate the bulk of deductions from clearance revenue for the payment of JDECO debts?
6. What are the obligations of both the Palestinian Ministry of Finance and JDECO against these debts? How can both parties reach an agreement about those debts?

[8] [8] Should JDECO bring the case to court and cut electricity to camps, it would destabilize civil peace and create chaos. Earlier cases of power cut had created unrest (according to JDECO Director General).