The Electricity Act, 2003
Background

• Three erstwhile Acts that regulated the electricity sector:
  
  • The Indian Electricity Act, 1910
  • The Electricity (Supply) Act, 1948
  • The Electricity Regulatory Commissions Act, 1998
● The Indian Electricity Act, 1910
  ● Provided basic framework for electric supply industry in India.
  ● Growth of the sector through private licensees. Licence by State Govt.
  ● Provision for licence for supply of electricity in a specified area.
  ● Legal framework for laying down of wires and other works.
  ● Provisions laying down relationship between licensee and consumer.

● The Electricity (Supply) Act, 1948
  ● Mandated creation of SEBs.
  ● Need for the State to step in (through SEBs) to extend electrification (so far limited to cities) all across the country.
Main amendments to the existing Acts

- Amendment in 1975 to enable generation in Central sector
- Amendment to bring in commercial viability in the functioning of SEBs –
  - Section 59 amended to make the earning of a minimum return of 3% on fixed assets a statutory requirement (w.e.f 1.4.1985)
- Amendment in 1991 to open generation to private sector and establishment of RLDCs
- Amendment in 1998 to provide for private sector participation in transmission, and also provision relating to Transmission Utilities.
● The Electricity Regulatory Commissions Act, 1998
  ● Provision for setting up of Central / State Electricity Regulatory Commission to with powers to determine tariffs.
  ● Constitution of SERC optional for States.
  ● Distancing of Govt from tariff determination.
State Reform Acts

- Orissa (1995)
- Haryana (1997)
- Andhra Pradesh (1998)
- Uttar Pradesh (1999)
- Karnataka (1999)
- Rajasthan (1999)
- Delhi (2000)
- Madhya Pradesh (2000)
Common features of State Acts

- Independent Regulatory Mechanism
  - Constitution of SERC
  - Powers of tariff fixation, licensing, regulation or working of licensees, performance standards etc. to SERC

- Reorganisation of SEB
  - TRANSCO as successor entity
  - Single buyer model
  - Separation of generation, transmission & distribution

Contd..
● Powers of State Governments to give policy directions to SERCs.

  ● Policy directions also on subsidy

  ● State Governments to compensate licensee affected by direction regarding subsidy
Need for the new legislation

• Requirement of harmonizing and rationalizing the provisions in the existing laws to

  - Create competitive environment for benchmark competition which will result in enhancing quality and reliability of service to consumer.

  - distancing regulatory responsibilities of Govt.

• Reform legislation by several States separately.

• Obviating need for individual States to enact their own reform laws.

• Requirement of introducing newer concepts like power trading, open access, Appellate Tribunal etc.

• Special provision for the Rural areas.
Salient features of the Electricity Act, 2003

- Role of Government
- Rural Electrification
- Generation
- Transmission
- Distribution
- Consumer Protection
- Trading / Market Development
- Regulatory Commission / Appellate Tribunal
- Tariff Principles
- CEA
- Measures against Theft of electricity
- Restructuring of SEBs
Role of Government

- Central Government to prepare National Electricity Policy and Tariff Policy. *(Section 3)*
- Central Govt. to notify a National Policy for rural areas permitting stand alone systems based on renewal and Non-Conventional energy sources in consultation with States. *(Section 4)*
- Central Govt. to formulate a National Policy in consultation with the concerned State Govts. for bulk purchase of power and management of local distribution through Users’ Association, Cooperatives, Franchisees and Panchayat Institutions etc. *(Section 5)*
Rural Electrification

• Appropriate Govt to endeavor to extend supply of electricity to all villages/hamlets. *(Section 6)*

• No requirement of licence if a person intends to generate and distribute power in rural area. *(Section 14)*
Generation

• Generation free from licensing. (*Section 7*)

• Requirement of TEC for non-hydro generation done away with. (*Section 7*)

• Captive Generation is free from controls. Open access to Captive generating plants subject to availability of transmission facility. (*Section 9*)

• Clearance of CEA for hydro projects required. Necessary due to concern of dam safety and inter-State issues. (*Section 8*)

• Generation from Non-Conventional Sources / Co-generation to be promoted. Minimum percentage of purchase of power from renewables may be prescribed by Regulatory Commissions. (*Sections 61 (h), 86 (1) (e))
Transmission

• There would be Transmission Utility at the Centre and in the States to undertake planning & development of transmission system.  (Sections 38 & 39)

• Load despatch to be in the hands of a govt company/organisation. Flexibility regarding keeping Transmission Utility and load despatch together or separating them. Load Despatch function critical for grid stability and neutrality vis a vis generators and distributors. Instructions to be binding on both.  

(Sections 26, 27, 31, 38, 39)

• Transmission companies to be licensed by the Appropriate Commission after giving due consideration to the views of the Transmission Utility. 

(Sections 15(5)(b))

• The Load Despatch Centre/Transmission Utility / Transmission Licensee not to trade in power. Facilitating genuine competition between generators

(Sections 27, 31, 38, 39, 41)

• Open access to the transmission lines to be provided to distribution licensees, generating companies. 

(Sections 38-40)

This would generate competitive pressures and lead to gradual cost reduction.  

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Distribution

- Distribution to be licensed by SERCs.
- Distribution licensee free to take up generation & Generating co. free to take up distribution licence. This would facilitate private sector participation without Government guarantee/Escrow. (Sections 7, 12)
- Retail tariff to be determined by the Regulatory Commission. (Section 62)
- Metering made mandatory. (Section 55)
- Provision for suspension/revocation of licence by Regulatory Commission as it is an essential service which can not be allowed to collapse. (Sections 19, 24)
- Open access in distribution to be allowed by SERC in phases. (Section 42)

- In addition to the wheeling charges provision for surcharge if open access is allowed before elimination of cross subsidies, to take care of
  (a) Current level of cross subsidy
  (b) Licensee’s obligation to supply. (Section 42)
- This would give choice to customer.
Consumer Protection

- Consumer to be given connection within stipulated time. \((\text{Section 43}(1))\)

- Penalty in the event of failure to give connection \((\text{Section 43}(3))\)

- Payment of interest on security deposit. \((\text{Section 47}(4))\)

- Regulatory commission to specify Electricity supply code to be followed by licensees. \((\text{Section 50})\)

- No sum due from consumers recoverable after a period of two years unless the same was shown recoverable continuously. \((\text{Section 56}(2))\)

Contd…
Redressal forum for redressal of grievances of consumers, to be appointed by every distribution licensee within six months. **Ombudsman scheme (Section 42)**

- **Standards of performance**
  - Licensees required to meet standards of performance specified by Regulatory Commission. Failure to meet standards makes them liable to pay compensation to affected person within ninety days.
  - Licensee to furnish to the Commission periodical information on standards of performance *(Section 57)*

- **District level committee** - (a) to coordinate and review extension of electrification in each district; (b) to review quality of power supply and consumer satisfaction, etc. *(Section 166 (5))**
Trading/ Market Development

- Trading distinct activity permitted with licencing. *(Section 12)*

- Regulatory Commission may fix ceiling on trading margin to avoid artificial price volatility. *(Sections 79 (2) (b) & 86 (2) (b))*

- The Regulatory Commission to promote development of market including trading. *(Section 66)*
Regulatory Commissions/Appellate Tribunal

- State Electricity Regulatory Commission to be constituted within six months. *(Section 82)*
- Provision for Joint Commission by more than one State/UT. *(Section 83)*
- Provision for constitution of Appellate Tribunal consisting of Chairman and three Members. *(Section 110, 112)*
- Appellate Tribunal to hear appeals against the orders of CERC/SERC, and also to exercise general supervision and control over the Central/State Commissions. *(Section 111)*
- Appeal against the orders of Appellate Tribunal to lie before the Supreme Court. *(Section 125)*
- Appellate Tribunal considered necessary to-
  - *Reduce litigation and delay in decisions through High Court.*
  - *Provide technical expertise in decision on appeals.*
Central Electricity Authority

• CEA to continue as the main technical Advisor of the Govt. of India/State Government with the responsibility of overall planning. *(Section 70)*

• CEA to specify the technical standards for electrical plants and electrical lines. *(Section 73)*

  • CEA to be technical adviser to CERC as well as SERCs. *(Section 73)*

  • CEA to specify the safety standards. *(Section 53)*
Tariff Principles

● Regulatory Commission to determine tariff for supply of electricity by generating co. on long/medium term contracts. *(Section 62)*

No tariff fixation by regulatory commission if tariff is determined through competitive bidding or where consumers, on being allowed open access enter into agreement with generators/traders.

● Consumer tariff should progressively reduce cross subsidies and move towards actual cost of supply. *(Section 61 (g), (h))*

● State Government may provide subsidy in advance through the budget for specified target groups if it requires the tariff to be lower than that determined by the Regulatory Commission. *(Section 65)*

● Regulatory Commissions may undertake regulation including determination of multi-year tariff principles, which rewards efficiency and is based on commercial principles. *(Section 61 (e), (f))*

● Regulatory Commission to look at the costs of generation, transmission and distribution separately. *(Section 62 (2))*
Measures Against Theft of Electricity

- Focus on revenue realisation rather than criminal proceedings. *(Sections 126, 135)*
- Penalties linked to the connected load and quantum of energy and financial gain involved in theft. *(Section 135)*
- Provisions for compounding of offences. *(Section 152)*
- Assessment of electricity charges for unauthorised use of electricity by the assessing officer designated by the State Government. *(Section 126)*
- Theft punishable with imprisonment. *(Section 135)*
- Punishment provision for abetment of theft. *(Section 150)*
- Special Courts *(Sections 153-158)*
Restructuring of SEBs

- Provision for transfer scheme to create one or more companies from SEB. *(Section 131)*

- Provision for continuance of SEBs *(Section 172)*

- States given flexibility to adopt reform model/path.
New Central Law *vis a vis* State Reform / Amendment Laws

• All licenses, authorisations, permissions, approvals, clearances issued under the repealed laws are saved for a maximum period of one year. (*Section 172(b)*).

• Action taken under corresponding provisions of the repealed laws or rules made thereunder are saved to the extent of consistency/correspondence with the provisions of the new Act (*Section 185 (2)*).

• Provisions of State Reform laws not inconsistent with provisions of the new Central law will continue to apply in that State (*Section 185(3)*).

• State Governments can defer implementation of the new Act by a maximum period of six months. (*Section 172(d)*).
Thank You