

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)
- Gujarat (2003)

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

Common features 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.¹⁴

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. (*Section 43(1)*)
- Penalty in the event of failure to give connection (*Section 43(3)*)
- Payment of interest on security deposit. (*Section 47(4)*)
- Regulatory commission to specify Electricity supply code to be followed by licensees. (*Section 50*)
- No sum due from consumers recoverable after a period of two years unless the same was shown recoverable continuously. (*Section 56(2)*)

- 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