



The Electricity Act, 2003

Dipankar Dehingia
March 29, 2008

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

Background contd..

- **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.

Background contd..

- **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.

Background contd..

- **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.

Background contd..

- **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.

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

- 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**)
- Clearance of CEA for hydro projects required. Necessary due to concern of dam safety and inter-State issues. (**Section 8**)
- Captive Generation is free from controls. Open access to Captive generating plants subject to availability of transmission facility. (**Section 9**)
- Generation from Non-Conventional Sources / Co-generation to be promoted. Minimum percentage of purchase of power from renewable 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 contd...

- Private 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.

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. **(Sections 42)**
- In addition to the wheeling charges provision for surcharge if open access is allowed before elimination of cross subsidies, to take care of
 - Current level of cross subsidy
 - 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)**)

Consumers (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 (1) (j) & 86 (1) (j)**)
- 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.*¹⁸
 - *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**)
- On the spot 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**)



Thank You