

**MINUTES OF THE SPECIAL MEETING OF**  
**FORUM OF REGULATORS ON**  
**“DRAFT ELECTRICITY (AMENDMENT) BILL 2022”**

**Date: 29<sup>th</sup> August 2022 & 30<sup>th</sup> August 2022**

**Platform : M S Teams (Virtual Mode)**

**List of participants – Appendix**

In accordance with the FOR Business Rules, in the absence of Chairperson, CERC who is the Chairperson of the Forum, the senior most Chairperson of SERC will preside over the meeting of the Forum. Accordingly, the meeting was chaired by Chairperson, UPERC, being the senior most member in FOR .

Acting Chairperson, FOR / Chairperson, UPERC welcomed all members to the special meeting of the FOR and informed the members of the purpose of the Special meeting to discuss the Draft Electricity (Amendment) Bill, 2022 which has been referred to the Standing Committee of Energy .

**AGENDA 1: “DRAFT ELECTRICITY (AMENDMENT) BILL, 2022”**

The members of the Forum undertook clause wise discussion on the proposed Electricity Act (Amendment) Bill 2022. The suggestions of the FOR on the Bill evolved based on the discussion during the meeting is placed at **Annexure-I**. The Forum decided that the comments of FOR may be communicated to the Standing Committee of Energy, when called for.

## **AGENDA II: ANY OTHER AGENDA ITEM WITH THE PERMISSION OF CHAIR**

### **ELECTRICITY (AMENDMENT) RULES 2022**

The Forum observed that Ministry of Power had sought comments on the Electricity (Amendment), Rules 2022 and hence decided to constitute a Working Group (WG) with the following composition: -

- a) Chairperson, Bihar – Chairperson of WG
- b) Chairperson, Rajasthan – Member
- c) Chairperson, Punjab – Member
- d) Chairperson, Haryana – Member
- e) Chairperson, Karnataka – Member

It was also decided that the WG may submit its report within two weeks so that the report of the WG may be taken up for discussion during the 82<sup>nd</sup> FOR meeting scheduled to be held on 16<sup>th</sup> September, 2022 at Vishakhapatnam.

The meeting ended with a vote of thanks to the Chair.

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**PARTICIPANTS OF THE**  
**SPECIAL FORUM OF REGULATORS ( “FOR” ) MEETING**  
**HELD ON 29<sup>TH</sup> AND 30<sup>TH</sup> AUGUST, 2022.**  
**[ THROUGH VIDEO CONFERENCING (MS TEAM) ]**

<b>S. No.</b>	<b>NAME</b>	<b>ERC</b>
01.	Shri Raj Pratap Singh Chairperson	UPERC – in Chair.
02.	Shri Kumar Sanjay Krishna Chairperson	AERC
03.	Shri Shishir Sinha Chairperson	BERC
04.	Shri Hemant Verma Chairperson	CSERC
05.	Justice (Shri) Shabihul Hasnain ‘Shastri’ Chairperson	DERC
06.	Shri R.K. Pachnanda Chairperson	HERC
07.	Shri D.K. Sharma Chairperson	HPERC
08.	Shri Lokesh Dutt Jha Chairperson	JERC (for UTs of J&K and Ladakh)
09.	Shri Rengthanvela Thanga Chairperson	JERC for M & M
10.	Shri P. Ravi Kumar Chairperson	KERC
11.	Shri S.P.S. Parihar Chairperson	MPERC
12.	Shri P. W. Ingty Chairperson	MSERC
13.	Shri Khose Sale Chairperson	NERC
14.	Shri Viswajeet Khanna Chairperson	PSERC
15.	Dr. B.N. Sharma Chairperson	RERC

16.	Shri K.B. Kunwar Chairperson	SSERC
17.	Shri M. Chandrasekar Chairperson	TNERC
18.	Shri D. Radhakrishna Chairperson	TERC
19.	Shri Gajendra Mohapatra Member/Officiating Chairperson	OERC
20.	Shri D.P. Gairola Member/Chairperson I/c.	UERC
21.	Shri Satyendra R. Pandey Member	GERC
22.	Shri M.D. Manohar Raju Member	TSERC
23.	Shri Harpreet Singh Pruthi Secretary	CERC/FOR
24.	Dr. Sushanta K. Chatterjee Chief (RA)	CERC
<b>SPECIAL INVITEES</b>		
25.	Shri Arun Goyal Member	CERC
26.	Shri Pravas Kumar Singh Member	CERC
<b>OTHERS</b>		
27.	Shri Proteek Kumar Chakraborty Chief (Fin.)	CERC
28.	Shri Awdhesh Kumar Yadav Chief (Engg.)	CERC
29.	Shri Rajeev Pushkarna Chief	CERC
<b>FOR SECRETARIAT</b>		
30.	Ms. Rashmi S. Nair Dy. Chief (RA)	CERC
31.	Shri Sanjeev Tinjan Asst. Chief (RA)	CERC

32.	Ms. Sukanya Mandal Asst. Chief (RA)	CERC
33.	Shri P.M. Antony Asst. Secy.	FOR
34.	Shri Ravi Kadam Sr. Advisor (RE)	CERC
35.	Shri Saurabh Principal Research Officer (RA)	CERC
36.	Ms. Jijnasa Behra Research Officer	FOR
37.	Shri Kushal Pal Research Associate	SAFIR
38.	Shri Sushil Kumar Arora Administrative Officer	SAFIR

**COMMENTS OF FOR ON THE ELECTRICITY (AMENDMENT) BILL 2022**

**GENERAL COMMENTS**

1. Electricity lies in the concurrent list of the Constitution of India, thus making both the State and the Central Government responsible for the development of the sector. In view of this, the Electricity Act 2003 made a fine balance between the role and responsibilities of the State and the Central Governments. However, the proposed amendments to the Act, at several places, tend to shift this balance towards the Central Government.

Another objective of the Electricity Act 2003 was to distance the Government from process of determination of tariff . This was ensured through the establishment of Regulatory Commission at the Central and State levels, who were responsible for regulating the sector. However, through the proposed amendments, this basic premise of the Electricity Act is getting diluted, as Central Government interventions have been suggested on various regulatory matters, which may create avoidable confusion in the sector. Such amendments should ideally be dropped in the interest of smooth functioning of the power sector.

2. During the finalization of this Act and subsequent Rules and Policies based on the amended Act, Government should remain sensitive towards the desirable balance in terms of burden to be borne by the electricity rate payers vs tax payers. For the benefit of the electricity consumers, it should be ensured that rate paying electricity consumers are not subjected to adverse impact for subsidizing development of any other sector.



	<p>Act, 2013 the Companies Act, 1956;</p> <p>(50) "power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-</p> <ul style="list-style-type: none"> <li>a. generating stations;</li> <li>b. transmission or main transmission lines;</li> <li>c. sub-stations;</li> <li>d. tie-lines;</li> <li>e. load despatch activities;</li> <li>f. mains or distribution mains;</li> <li>g. electric supply-lines;</li> <li>h. overhead lines;</li> <li>i. service lines;</li> <li>j. works</li> </ul> <p>(60) "schedule" means the Schedule to this Act;</p>	<p>(50) "power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-</p> <ul style="list-style-type: none"> <li>a. generating stations;</li> <li>b. transmission or main transmission lines;</li> <li>c. sub-stations;</li> <li>d. tie-lines;</li> <li>e. load despatch activities;</li> <li>f. mains or distribution mains;</li> <li>g. electric supply-lines;</li> <li>h. overhead lines;</li> <li>i. service lines;</li> <li><u>j. works;</u></li> <li><u>j-k. energy storage system;</u></li> </ul> <p>(60) "schedule" means the Schedule to this Act;</p> <p><u>(60a) "security of payment" means such security of payment as may be prescribed by the Central Government;</u></p>	<p><u>Energy storage system may be defined as "any system or device capable of storing electrical energy in any form using any technology and delivering it back in the form of electrical energy"</u></p> <p><u>The objective of the Act is to distance Governments from regulation. Accordingly, the following modification is suggested in clause 60(a) "security of payment" means such security of payment as may be <del>prescribed</del> specified by the Central Government <u>Appropriate Commission;</u></u></p>
<p><b>Section 8. (Hydro-electric generation)</b></p>	<p>(1) Notwithstanding anything contained in section 7, any generating company intending to set-up a hydro- generating station shall prepare and submit to the Authority for its concurrence, a scheme</p>	<p>(1) Notwithstanding anything contained in section 7, any generating company intending to set-up a hydro-generating station shall prepare and submit to the Authority for its concurrence, a scheme estimated to</p>	



	<p>estimated to involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification.</p>	<p>involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification.</p> <p><u>(JA) The Authority shall, after examining the scheme, concur on the scheme in such manner as may be prescribed by the Central Government.</u></p>	<p><u>CEA is a technically competent specialized body. The Central Government may only prescribe the time lines.</u></p>
<p><b>Section 14. (Grant of licence)</b></p>	<p>The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -</p> <p>(a) to transmit electricity as a transmission licensee; or</p> <p>(b) to distribute electricity as a distribution licensee; or</p> <p>(c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence:</p> <p>Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be</p>	<p>The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -</p> <p>(a) to transmit electricity as a transmission licensee; or</p> <p>(b) <u>to distribute electricity as a distribution licensee in an area of supply in accordance with such criteria as may be prescribed by the Central Government;</u> or</p> <p>(c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence:</p> <p>Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity <del>through their own distribution system</del> within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the</p>	<p><u>The 6<sup>th</sup> proviso to section 14 already empowers the Central Government to prescribe additional requirement for 2<sup>nd</sup>/ subsequent licence. Accordingly, the proposed insertion “as a distribution licence in an area of supply in accordance with such criteria as may be prescribed by the Central Government” in clause (b) of section 12 appears redundant and therefore should be deleted.</u></p> <p><u>If at all it is considered necessary, it should be in the form of guidelines.</u></p> <p><u>With the proposed deletion of the expression “through their own distribution system” in the 6<sup>th</sup> proviso to section 14, there would be two categories of distribution licence (a) with distribution system (b) without distribution system. In such a situation, the questions as to whether and how the provisions of section 15(2), section 20, section 21, section 22 and section 24 would apply, need be addressed.</u></p>

	refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:	same purpose:	
<b>Section 15. (Procedure for grant of licence):</b>	<p>(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application, -</p> <p>(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or</p> <p>(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:</p> <p>Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.</p>	<p>(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application, -</p> <p>(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or</p> <p>(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:</p> <p>Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.</p> <p><u>Provided further that if the Appropriate Commission fails to grant the licence or reject the application, as the case may be, within the time so provided, the applicant shall be deemed to have been granted the licence.</u></p>	<p><u>The deeming provision proposed to be inserted under section 15 has its consequences. Accordingly, the following modification is suggested:</u></p> <p><u>“Provided further that if the Appropriate Commission fails to grant the licence or reject the application, as the case may be, <del>within the time so provided</del>, within the period of 90 days or such other period as may be considered necessary by the appropriate Commission, not exceeding 120 days, the applicant shall be deemed to have been granted the licence.”</u></p>

<p><b>Section 26. (National Load Despatch Centre) :</b></p>	<p>(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:</p> <p>Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity.</p>	<p>(2) The constitution of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:</p> <p>Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity <u>except as mandated by the Central Government for implementation of any scheme to ensure the stability of the power system.</u></p>	
<p><b>Section 26. (National Load Despatch Centre) :</b></p>	<p>Nil</p>	<p>(4) <u>The National Load Despatch Centre shall—</u></p> <p><u>(a) be the apex body to ensure integrated operation of the power system in the country;</u></p> <p><u>(a)(b) be responsible for optimum scheduling and despatch of electricity in the country across different States and regions in accordance with the contracts entered into with the licensees or the generating companies;</u></p> <p><u>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;</u></p> <p><u>(b)(c) monitor grid operations and ensure security of the electricity grid and for this purpose give directions as necessary to the Regional Load Despatch Centre or State Load Despatch Centre, as the case may be;</u></p> <p><u>(d) exercise supervision and control over the</u></p>	<p>Proviso to 4(b) may be deleted. <u>The system operator should be responsible primarily for scheduling and despatch and not with contractual arrangement between two parties.</u></p> <p><u>The contractual arrangements are defined in the PPA and the disputes arising out of the contract are settled by the Appropriate Commission by</u></p>

		<p><u>inter-regional and inter-State transmission network; and</u>  <u>(e) have overall authority for carrying out real time operations of the electricity grid of the country.</u></p> <p><u>(5) The National Load Despatch Centre shall give such directions and exercise such supervision and control over the power system as may be required for the safety and security of the electricity grid of the country, for ensuring the stability of grid operation and for achieving maximum economy and efficiency in the operation of the power system throughout the country.</u></p> <p><u>(6) The National Load Despatch Centre shall give such directions to the State Load Despatch Centre, as may be necessary through the Regional Load Despatch Centre concerned.</u></p> <p><u>(6)(7) Every Regional Load Despatch Centre, State Load Despatch Centre, licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the National Load Despatch Centre from time to time.</u></p>	<p><u>following the process of natural justice. The system operator does not have the competence and jurisdiction and hence may be liable for consequential liabilities arising out of dispute, if any. In such a situation, the system operator cannot be indemnified.</u></p> <p>Power purchase is governed through the conditions in the bilateral agreement executed between the generating company/ trader and the licensee/ buyer, and it will be settled between them. The payment security mechanism will be part of that Power Purchase Agreement (PPA). The scheduling of SLDC need not be linked with this. This may lead to system power availability and grid stability. The generator should have the freedom to schedule the power to the licensee/ buyer, provided they are satisfied with the terms and conditions executed among them.</p> <p>In the case of transactions through Power Exchanges, the exchange ensures the payment for the energy supplied by the generator.</p> <p><u>The direction from NLDC to SLDC should come through RLDC as proposed in clause 6. Accordingly, clause 4 (c) may also be modified to align with clause 6.</u></p>
<p><b>Section 28. (Functions of Regional Load Despatch Centre):</b></p>	<p>(3) The Regional Load Despatch Centre shall -</p> <p>a. be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts</p>	<p>(3) The Regional Load Despatch Centre shall -</p> <p>a. be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into</p>	<p>Proviso to sub-section (3), clause (a) may be deleted.</p> <p><u>The system operator should be responsible primarily for scheduling and despatch and not with contractual arrangement between two</u></p>

	<p>entered into with the licensees or the generating companies operating in the region;</p>	<p>with the licensees or the generating companies operating in the region;</p> <p><u>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;</u></p>	<p><u>parties.</u></p> <p><u>The contractual arrangements are defined in the PPA and the disputes arising out of the contract are settled by the Appropriate Commission by following the process of natural justice. The system operator does not have the competence and jurisdiction and hence may be liable for consequential liabilities arising out of dispute, if any. In such a situation the system operator cannot be indemnified.</u></p> <p>The power purchase is governed through the conditions in the bilateral agreement executed between the generating company/ trader and the licensee/ buyer, and it will be settled between them. The payment security mechanism will be part of that Power Purchase Agreement (PPA). The scheduling of SLDC need not be linked with this. This may lead to system power availability and grid stability. The generator should have the freedom to schedule the power to the licensee/ buyer, provided they are satisfied with the terms and conditions executed among them.</p>
<p><b>Section 32. (Functions of State Load Despatch Centres):</b></p>	<p>(2) The State Load Despatch Centre shall -</p> <p>(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;</p>	<p>(2) The State Load Despatch Centre shall -</p> <p>(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;</p> <p><u>Provided that no electricity shall be scheduled or despatched under such contract unless adequate</u></p>	<p>Proviso to sub-section (2), clause (a) may be deleted.</p> <p><u>The system operator should be responsible primarily for scheduling and despatch and not with contractual arrangement between two parties.</u></p> <p><u>The contractual arrangements are defined in the PPA and the disputes arising out of the contract are settled by the Appropriate Commission by</u></p>

		<p><u>security of payment, as may be prescribed by the Central Government, has been made;</u></p>	<p><u>following the process of natural justice. The system operator does not have the competence and jurisdiction and hence may be liable for consequential liabilities arising out of dispute, if any. In such a situation the system operator cannot be indemnified.</u></p> <p>The power purchase is governed through the conditions in the bilateral agreement executed between the generating company/ trader and the licensee/ buyer, and it will be settled between them. The payment security mechanism will be part of that Power Purchase Agreement (PPA). The scheduling of SLDC need not be linked with this. This may lead to system power availability and grid stability. The generator should have the freedom to schedule the power to the licensee/ buyer, provided they are satisfied with the terms and conditions executed among them.</p> <p><u>The proposed amendment in section 32 may also conflict with Section 37 of the Act.</u></p>
<p><b>Section 38. (Central Transmission Utility and functions):</b></p>	<p>Provided further that the Central Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.</p>	<p>Provided further that the Central Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under <u>the Companies Act, 2013</u> to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.</p>	

<p><b>Section 39. (State Transmission Utility and functions):</b></p>	<p>Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.</p>	<p>Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under <a href="#">the Companies Act, 2013</a> to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.</p>	
<p><b>Section 40. (Duties of transmission licensees)</b></p>	<p>It shall be the duty of a transmission licensee -</p> <p>c. to provide non-discriminatory open access to its transmissionsystem for use by-</p> <p>(i) any licensee or generating company on payment of the transmission charges; or</p> <p>(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:</p> <p>Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:</p>	<p>It shall be the duty of a transmission licensee -</p> <p>c. to provide non-discriminatory open access to its transmissionsystem for use by-</p> <p>(i) any licensee or generating company on payment of the transmission charges; or</p> <p>(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:</p> <p>Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:</p> <p>Provided further that such surcharge and cross</p>	

	<p>Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:</p> <p>Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:</p> <p>Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.</p>	<p>subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:</p> <p>Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:</p> <p>Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.</p> <p><u>Provided also that a consumer who requires supply of electricity where the maximum power to be made available at any time exceeds one megawatt shall be entitled to get open access to inter-State transmission system in accordance with the regulations made by the Central Commission, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission.</u></p> <p><u>Explanation.—For the purposes of this section and section 42, the expression “megawatt” means ten lakh watts.</u></p>	
<p><b>Section 42. (Duties of distribution licensee and open access):</b></p>	<p>(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.</p>	<p><u>(1) It shall be the duty of all distribution licensees to,—</u></p> <p>(a) <u>ensure an efficient, co-ordinated and economic distribution system in their area of supply:</u></p>	<p><u>Section 42(a) is suggested to be amended as follows:</u></p> <p><u>“(a) <b>develop, maintain and</b> ensure an efficient, co-ordinated and economic distribution system in their area of supply.”</u></p>



	<p>(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.</p>	<p><u>Provided that a distribution licensee may use the distribution systems of other licensees in the area of supply for supplying power through the system of non-discriminatory open access;</u></p> <p>(b) <u>give non-discriminatory open access to other distribution licensees on payment of wheeling charges; and</u></p> <p>(c) <u>provide supply of electricity to the consumers,</u></p> <p><u>in accordance with the provisions of this Act and the rules made thereunder by the Central Government and the regulations made by the Appropriate Commission and in accordance with the model regulations laid down by the Forum of Regulators.</u></p> <p>(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.</p> <p><u>(4A) A distribution licensee shall provide non-discriminatory open access through its distribution system to all distribution licensees having licence within the same area of supply, subject to payment of wheeling charges and in accordance with the regulations specified by the Appropriate Commission.</u></p>	<p><u>Provisions related to “develop and maintain an efficient .....” has been modified to “(a) ensure an efficient.....” by deleting word ‘develop and maintain’ in the proposed amendments in the Electricity Act, 2003. However, in case of generating company and transmission licensee, same has been retained. To bring more clarity regarding development of distribution network and to avoid any confusion, the word ‘develop and maintain’ should be retained.</u></p> <p><u>The expression “and surcharge” may be inserted after the words “wheeling charges” in the proposed amendment (4A)</u></p>
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		<u>(4B) In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that a distribution licensee has knowingly failed to provide open access through its distribution system to another distribution licensee or hindered it in any manner from using its distribution network, the Appropriate Commission may, after giving the distribution licensee an opportunity of being heard, issue such directions as it considers necessary and impose the penalties in accordance with the provisions of this Act.</u>	
<b>Section 59. (Information with respect to levels of performance)</b>	<p>(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-</p> <p>(a) the level of performance achieved under sub-section (1) of the section 57;</p> <p>(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.</p>	<p>(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-</p> <p>(a) the level of performance achieved under sub-section (1) of the section 57;</p> <p>(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.</p> <p>(c) <u>the status of compliance of the guidelines issued by the Central Government regarding corporate governance.</u></p>	
<b>Section 60. (Market domination)</b>	The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to	The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an	

	<p>cause or causes an adverse effect on competition in electricity industry.</p>	<p>adverse effect on competition in electricity industry.</p> <p><u>60A</u></p> <p><u>(1) Notwithstanding anything contained in this Act, on the issuance of licence to more than one distribution licensee in an area of supply, the power and associated costs from the existing power purchase agreements with the existing distribution licensee, as on the date of issuing licence to another distribution licensee, shall be shared among all the distribution licensees in the area of supply as per such arrangements as may be specified by the State Commission in accordance with the provisions of this Act and the rules made thereunder by the Central Government:</u></p> <p><u>Provided that the State Commission shall periodically review the sharing of power as provided in the existing power purchase agreements:</u></p> <p><u>Provided further that a distribution licensee may enter into additional power purchase agreements, after meeting the commitments of the existing power purchase agreements, to meet any additional requirement of power without sharing with other distribution licensees.</u></p>	<p><u>The expression “Central Government” and may be substituted by “State Government” as the liability lies with the respective State Government and State Discoms.</u></p>
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<b>Section 61. (Tariff regulations)</b>	(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission;	<p>i. <u>the tariff recovers all prudent costs incurred for supply of electricity</u></p> <p><u>(ga) the tariff reduces cross subsidies in the manner specified by the Appropriate Commission;</u></p>	

<p><b>Section 62.</b> <b>(Determination of tariff)</b></p>	<p>(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –</p> <p>(a) supply of electricity by a generating company to a distribution licensee:</p> <p>Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;</p> <p>(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.</p>	<p>(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –</p> <p>(a) supply of electricity by –a –generating company- to a distribution licensee:</p> <p><u>Provided that in case of distribution of electricity in the same area of supply by two or more distribution licensees, the Appropriate Commission shall, for promoting competition among such distribution licensees, fix the maximum ceiling of tariff and the minimum tariff for retail sale of electricity in accordance with the provisions of this Act and the rules made thereunder by the Central Government:</u></p> <p><u>Provided further that in such ceiling tariff, the cross subsidy, wheeling charges and adjustment in tariff pertaining to the period prior to the introduction of ceiling tariff, if any, shall be indicated separately by the Appropriate Commission.</u></p> <p>(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.</p> <p><u>Provided that the Appropriate Commission may, by an order and for reasons to be recorded in writing, allow the licensee to effect the changes due to amendment in tariff, not exceeding in four stages, during a year in accordance with the Tariff Policy.</u></p>	
<p><b>Section 64.</b></p>	<p>(1) An application for determination of tariff</p>	<p>(1) <u>An application for determination of tariff under</u></p>	

<p><b>(Procedure for tariff order)</b></p>	<p>under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.</p> <p>(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,-</p> <p>(a) issue a tariff order accepting the application with such modifications or</p>	<p><u>section 62 shall be made by a generating company or licensee at such time and in such manner and accompanied by such fee, as may be specified by the Appropriate Commission:</u></p> <p><u>Provided that the time specified should be such that the new tariff comes into effect from the beginning of the following financial year:</u></p> <p><u>Provided further that if an application is not made by a generating company or licensee on time, the State Commission shall, not later than thirty days of the last date specified in the regulations, initiate proceedings for determination of tariff and call for such information, details and documents as may be required for such determination with the objective of determining the tariff before the beginning of the financial year:</u></p> <p><u>Provided also that, where two or more distribution licensees operate in the same area of supply, the State Commission shall fix the maximum ceiling of tariff and the minimum tariff, suo motu, after calling for requisite information from such distribution licensees.</u></p> <p>(3) The Appropriate Commission shall, within <u>ninety days from the date of receipt of the application or initiation of proceedings</u> under sub-section (1) and after considering all suggestions and objections received from the public,-</p>	<p><u>The principles for determination of maximum and minimum tariff need to be evolved by the Appropriate Commission after the enactment.</u></p> <p>The time period for issuance of tariff order may be retained as one hundred and twenty days from the date of accepting the application from the licensee. <u>Accordingly, sub section 3 may not need any amendment.</u></p>
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	<p>such conditions as may be specified in that order;</p>	<p>(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;</p> <p><u>Provided that if tariff order cannot be issued due to any reasons which are to be recorded in writing, the Appropriate Commission shall issue the order for interim tariff within the said period of ninety days from the date of receipt of such application or initiation of such proceedings:</u></p> <p><u>Provided further that the interim tariff shall remain in operation till issue of final tariff order which shall be issued within such period not exceeding one hundred and fifty days of receipt of such application for determination of tariff or initiation of such proceedings.</u></p>	
<p><b>Section 77. (Qualifications for appointment of Members of Central Commission):</b></p>	<p>(1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge of, or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance or, management and shall be appointed in the following manner, namely:-</p> <p>a) one person having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;</p> <p>b) one person having qualifications and experience in the field of finance;</p> <p>c) two persons having qualifications and experience in the field of economics, commerce, law or management:</p>	<p>(1) <u>The Chairperson of the Central Commission shall be a person of ability, integrity and standing, who is or has been,—</u></p> <p>i. <u>head of an organisation dealing with generation, transmission or distribution of electricity; or</u></p> <p>ii. <u>Secretary to the Government of India or its equivalent;</u></p> <p><u>Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.<sup>22</sup>;</u></p>	<p><u>The expression “head of the organisation” in the proposed amendment 77 (1) (i) may be substituted as “Managing Director or Director or C.E.O.”</u></p>

	<p>Provided that not more than one Member shall be appointed under the same category under clause (c).</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court:</p> <p>Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.</p>	<p><u>(2) The Members, other than the Chairperson of the Central Commission shall be persons of ability, integrity and standing, having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy or public administration or management and shall be appointed as follows:—</u></p> <p><u>(a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;</u></p> <p><u>(b) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and</u></p> <p><u>(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.</u></p>	
<p><b>Section 78. (Constitution of Selection Committee to recommend Members)</b></p>	<p>(1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of –</p> <p>(a) Member of the Planning Commission incharge of the energy sector ..... (Chairperson)</p> <p>(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of chairperson or managing director, by</p>	<p>(1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of –</p> <p>(a) Member of the <u>Niti Aayog</u> incharge of the energy sector ... (Chairperson)</p> <p>(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of chairperson or managing director, by whatever name called, of any public financial institution</p>	



	<p>whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956.</p> <p>(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:</p> <p>Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been , a Judge of the Supreme Court or the Chief Justice of a High Court.</p>	<p><u>defined in clause (72) of section 2 of the Companies Act, 2013 .</u></p> <p>(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any <u>vacancy, other than that of Chairperson, in the Selection Committee.</u></p>	
<p><b>Section 79. (Functions of Central Commission)</b></p>	<p>(1) The Central Commission shall discharge the following functions, namely:-</p> <p>(f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;</p> <p>(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;</p>	<p>(1) The Central Commission shall discharge the following functions, namely:-</p> <p>(f) <u>to adjudicate upon the disputes including those relating to performance of obligations under a contract related to sale, purchase or transmission of electricity, involving generating companies or licensees in regard to matters connected with clauses (a) to (d);</u></p> <p><u>(fa) to adjudicate upon the disputes involving the National Load Despatch Centre or the Regional Load Despatch Centre in regard to matters connected with sections 26, 28 and 29;</u></p> <p>(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;</p>	

	<p>(k) to discharge such other functions as may be assigned under this Act.</p>	<p><u>(ja) to grant licence for distributing electricity in more than one State:</u></p> <p>(k) to discharge such other functions as may be assigned under this Act.</p> <p><u>Provided that the Chairperson of the Central Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 77 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions as provided in clauses (f) and (fa).</u></p>	<p><u>The proposed insertion of Clause (ja) will lead to avoidable confusion and duplication of jurisdiction between CERC and SERCs. As such this provision should ideally be deleted.</u></p> <p><u>If at all it is considered necessary, the provision should be modified as under</u></p> <p><u>“(ja) to regulate licence of deemed licences referred to in 3<sup>rd</sup> proviso and 4<sup>th</sup> proviso to section 14 of the Act, for distributing electricity in more than one State;”</u></p> <p><u>The proviso under clause (k) of 79 (1) may be modified as under:</u>  <u>“Provided that the Chairperson of the Central Commission shall—may constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 77 and not more than one—two Members, as may be nominated by the Chairperson, who shall discharge the functions as provided in clauses (f) and (fa).”</u></p>
<p><b>Section 82. (Constitution)</b></p>	<p>(4) The State Commission shall consist of not more than three Members, including the</p>	<p>(4) <u>The State Commission shall consist of a Chairperson and three other Members.</u></p>	

<b>of State Commission)</b>	Chairperson		
<b>Section 82. (Constitution of State Commission)</b>	Nil	(6) <u>If any State Commission is unable to perform its functions on account of vacancies, the Central Government may, in consultation with the State Government concerned, entrust its functions to any other State Commission or Joint Commission, as it deems necessary.</u>	<u>The proposed insertion of section 82(6) may be modified as under:</u> “If any State Commission is unable to perform its functions on account of vacancies, the Central Government may, <del>in consultation with</del> <u>with the consent of</u> the State Government concerned, entrust its functions to any other State Commission or Joint Commission, as it deems necessary.”
<b>Section 84. (Qualification for appointment of Chairperson and Members of State Commission)</b>	(1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.  (2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:  Provided that no appointment under this sub-	(1) <u>The Chairperson of the State Commission shall be a person of ability, integrity and standing, who is or has been,—</u> (i) <u>the head of an organisation dealing with generation, transmission or distribution of electricity; or</u> (ii) <u>a Principal Secretary to the State Government or its equivalent:</u>  <u>Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.</u>  (2) <u>The Members, other than the Chairperson of the State Commission, shall be persons of ability, integrity and standing having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy, public administration or management and shall be appointed as follows:—</u>	<u>The expression “head of the organisation” in the proposed amendment 84 (1) (i) may be substituted as “Managing Director or Director or Chief Executive Officer.”</u>  <u>The existing provision for appointment of Retd. High Court Judge as Chairperson of SERC may be retained. In the event a Retd. High Court Judge is appointed as Chairperson, the requirement for appointment of a Legal Member shall be dispensed with.</u>

	<p>section shall be made except after consultation with the Chief Justice of that High Court.</p> <p>(3) The Chairperson or any other Member of the State Commission shall not hold any other office.</p> <p>(4) The Chairperson shall be the Chief Executive of the State Commission.</p>	<p><u>(a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;</u></p> <p><u>(b) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and</u></p> <p><u>(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.</u></p>	
<p><b>Section 85. (Constitution of Selection Committee to select Members of State Commission)</b></p>	<p>(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of –</p> <p>.....</p> <p>(c) the Chairperson of the Authority or the Chairperson of the Central Commission ..... Member:</p> <p>(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection</p>	<p>(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of –</p> <p>.....</p> <p>(c) <u>a nominee of the Central Government not below the rank of Additional Secretary to the Government of India ..... Member;</u></p> <p>(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any <u>vacancy, other than that of Chairperson, in</u></p>	<p><u>The existing provision in the 2003 Act may be retained.</u></p>

	Committee.	<u>the Selection Committee</u>	
<b>Section 86. (Functions of State Commission)</b>	<p>(1) The State Commission shall discharge the following functions, namely: -</p> <p>(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case maybe, within the State:</p> <p>Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;</p> <p>(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;</p>	<p>(1) The State Commission shall discharge the following functions, namely: -</p> <p>(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case maybe, within the State:</p> <p><u>Provided that the tariff recovers all prudent costs incurred for supply of electricity and also provide reasonable returns on investment and take necessary steps to ensure financial stability of the licensees:</u></p> <p><u>Provided further that</u> where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;</p> <p>(e) <u>promote generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such person, a percentage of the total consumption of electricity in the area of supply of a distribution licensee which shall not be less than such percentage as may be prescribed by the Central Government;</u></p>	<p><u>The proposed insertion in form of 1<sup>st</sup> proviso to section 86(1) (a) appears redundant. The guiding principles under section 61 are wider in scope and adequately take care of this aspect as well as several other factors like efficiency, consumer interest etc. Accordingly, this provision may be deleted.</u></p> <p><u>The proposed amendment to 86(1) (e) may be modified as under:</u></p> <p><u>(e) “promote non-fossil fuel based co-generation, and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such person, a percentage of the total consumption of electricity in the area of supply of a distribution licensee which shall not be less than such percentage</u></p>

	<p>(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;</p> <p>Nil</p>	<p><u>(ea) promote co-generation of electricity;</u></p> <p><u>(f) adjudicate upon the disputes including those relating to performance of obligations under contracts related to sale, purchase or transmission of electricity involving generating companies or licensees;</u></p> <p><u>Provided that in case of reneging of Power Purchase Agreement by a generating company or a licensee, the dispute shall be adjudicated along with appropriate compensation to the affected party, within ninety days from the date of submission of petition to the Appropriate Commission;</u></p> <p><u>(fa) adjudicate upon the disputes involving the State Load Despatch Centre in regard to matters connected with section 32 and section 33;</u></p> <p>(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and</p> <p><u>(ja) issue directions or guidelines or specify regulations to secure consumer choice and an efficient, coordinated and economical use of the distribution system, where there are more than one distribution licensee in an area of supply;</u></p>	<p><del>as may be prescribed by the Central Government;”</del></p> <p><u>(ea) promote fossil fuel based co-generation of electricity</u></p>
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	<p>(k) discharge such other functions as may be assigned to it under this Act.</p>	<p><u>(jb) review the resource adequacy at intervals of every six months for each of the distribution licensees in accordance with the guidelines issued by the Central Government;</u></p> <p>(k) discharge such other functions as may be assigned to it under this Act <u>by the Central Government or the State Government</u>.</p> <p><u>Provided that the Chairperson of the State Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 84 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa).</u></p>	<p><u>The insertion in clause (k) viz., “Central Government” may be deleted.</u></p> <p><u>The proviso to the clause (k) may be modified as under:</u></p> <p>“Provided that the Chairperson of the State Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 84 and not more than <del>one</del> <u>two</u> Members <u>including Chairperson</u>, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa).”</p>
<p><b>Section 89. (Term of office and conditions of service of Members)</b></p>	<p>(1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:</p> <p>Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such :</p> <p>Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.</p>	<p>(1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:</p> <p>Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such :</p> <p>Provided further that no Chairperson or Member shall hold office as such after he has attained the age of <u>sixty-seven</u> years.</p>	<p><u>In order to maintain continuity and avoid any confusion / interpretation, it may be added that the upper age limit of 70 years shall be applicable to the Chairperson or Member(s)</u></p>

			<u>already serving in the Central / State Electricity Regulatory Commission.</u>
<b>Section 90. (Removal of Member)</b>	<p>(2) The Central Commission, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he-</p> <p>Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government, or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.</p>	<p>(2) The Central Commission, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he-</p> <p>(g) <u>has wilfully violated or overlooked the provisions of this Act or the rules or regulations made thereunder; or</u></p> <p>(h) <u>has been grossly negligent in performing one or more functions assigned to him or the Commission under this Act or the rules or regulations made thereunder;</u></p> <p>Provided that no Member shall be removed from his office on any ground specified in <u>clauses (d), (e), (f), (g) and (h)</u> unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government, or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.</p>	<p><u>The Commission is a collegiate body and the decision is taken by majority. Moreover, the orders of the Commission are appealable. <del>It</del> before the APTEL and Supreme Court and involves legal interpretations which might differ from one another. The decision of the superior court even in cases completely overruling the subordinate court does not lead to removal of the members of the subordinate court. Accordingly, the proposed insertions of clauses (g) and (h) may be deleted.</u></p>
<b>Section 94. (Powers of Appropriate Commission)</b>	Nil	<u>(4) An order made by the Appropriate Commission or its Bench shall be executable as a decree of a civil court and, for this purpose, such Commission or Bench shall have all the powers of a civil court including but not limited to powers of attachment and sale of property</u>	



		<u>and appointment of a receiver.</u> (4)(5) <u>Notwithstanding anything contained in sub-section (4), the Appropriate Commission or Bench referred to in that sub-section may transmit an order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.</u>	
<b>Section 112. (Composition of Appellate Tribunal)</b>	(1) The Appellate Tribunal shall consist of a Chairperson and three other Members.	(1) The Appellate Tribunal shall consist of a Chairperson and <u>such number of other Members, not less than three, as may be prescribed by the Central Government.</u>	
<b>Section 128. (Investigation of certain matters)</b>	(2) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of his officers, of any licensee or generating company and his books of account; and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.	(2) Notwithstanding anything to the contrary contained in <u>section 210 of the Companies Act, 2013</u> the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of his officers, of any licensee or generating company and his books of account; and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.	
<b>Section 131. (Vesting of property of Board in State Government)</b>	(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.  <i>Explanation.-</i> For the purpose of this Part, -  a. "Government company" means a	(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.  <i>Explanation.-</i> For the purpose of this Part, -  a. "Government company" means a	

	<p>Government Company formed and registered under the Companies Act, 1956.</p> <p>b. "company" means a company to be formed and registered under the Companies Act, 1956 to undertake generation or transmission or distribution in accordance with the scheme under this Part.</p>	<p>Government Company formed and registered under <u>the Companies Act, 2013</u>.</p> <p>b. "company" means a company to be formed and registered under <u>the Companies Act, 2013</u> to undertake generation or transmission or distribution in accordance with the scheme under this Part.</p>	
<p><b>Section 142.</b> <b>(Punishment for non-compliance of directions by Appropriate Commission )</b></p>	<p>In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.</p>	<p><u>(1) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any of the provisions of this Act or the rules made thereunder, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed one crore rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six lakh rupees for each day during which the failure continues after contravention of the first such direction.</u></p> <p><u>(2) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any regulation, direction or order issued by it, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed ten lakh rupees for each contravention and in case of a continuing</u></p>	<p><u>The distinction carved out between rules and the regulations in terms of enforcement of section 142 may lead to avoidable confusions as regulations are also made under or in compliance with the provisions of the Act. Accordingly, the clauses (1) and (2) may be merged.</u></p> <p><u>The penalty for shortfall in purchase of renewable energy, need to be decided by the State Commission.</u></p>

		<p><u>failure with an additional penalty which may extend to sixty thousand rupees for each day during which the failure continues after contravention of the first such direction.</u></p> <p><u>(3) Notwithstanding anything contained in sub-sections (1) and (2), where the Appropriate Commission is satisfied on a complaint filed before it or otherwise, that obligated entity has not purchased power from renewable sources of energy as 5 specified under clause (e) of sub-section (1) of section 86, the Commission shall after giving such entity an opportunity of being heard, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty of a sum calculated at a rate of—</u></p> <p><u>i. not less than twenty-five paisa per kilowatt-hour and not more than thirty-five paisa per kilowatt-hour for the shortfall in purchase in the first year of default;</u></p> <p><u>ii. not less than thirty-five paisa per kilowatt-hour and not more than fifty paisa per kilowatt-hour for the shortfall in purchase continuing after the first year of default.”.</u></p>	
<p><b>Section 146. (Punishment for non-compliance of orders or directions)</b></p>	<p>Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term</p>	<p>Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, <u>shall be punishable with fine which may extend to one crore rupees, in respect of each offence</u></p>	

	<p>which may extend to three months or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:</p> <p>Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>	<p><u>and in the case of a continuing failure, with an additional fine which may extend to one lakh rupees for every day</u> during which the failure continues after conviction of the first such offence:</p> <p>Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>	
<b>Section 152. (Compoundin g of offences)</b>	<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:</p>	<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf <u>shall accept</u> from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:</p>	
<b>Section 166. (Coordinatio n Forum)</b>	<p>(3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).</p>	<p>(3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).</p> <p><u>(3A) The Forum of Regulators referred to in sub-section (2) shall discharge the following functions, namely:—</u></p> <p><u>(a) prepare and lay on model regulations for the guidance of State Commission for the purposes of sub-section (1) of section 42, sub-section (1) of section 43, sub-sections (1) and (2) of</u></p>	

		<p><u>section 60A, section 61 and the first proviso to sub-section (1) of section 62, in accordance with the provisions of this Act and the rules made thereunder;</u></p> <p><u>(b) monitor the status of compliance of the provisions of clause (e) of sub-section (1) of section 86 by distribution licensees on annual basis and submit a report to the Central Government; and</u></p> <p><u>(c) any other functions, as may be prescribed by the Central Government.</u></p>	<p><u>The proposed insertion in clause (b) restricts FOR to monitoring the compliance. Ideally the FOR should decide the monitoring requirement through consensus. Accordingly, the clause (b) should be deleted.</u></p>
<p><b>Section 176. (Power of Central Government to make rules)</b></p>	<p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -</p> <p>(a) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3</p>	<p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -</p> <p>(a) <u>the security of payment under clause (60a) of section 2;</u></p> <p><u>(aa) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3;</u></p> <p><u>(ab) the manner of concurrence by the Authority under sub-section (1A) of section 8;</u></p> <p><u>(ac) the criteria for area of supply under clause (b) of section 14;</u></p> <p><u>(ia) the percentage of total consumption of electricity in the area of supply of distribution licensee under clause (e) of sub-section (1) of section 86;</u></p>	<p><u>In view of the modification suggested in 86(1) (e) clause (ia) may be deleted.</u></p>

		<p><u>(qa) the number of members of the Appellate Tribunal under sub-section (1) of section 112;</u></p> <p><u>(xa) any other functions to be discharged by the Forum of Regulators under clause (c) of sub-section (3A) of section 166;</u></p>	
<b>Section 178. (Powers of Central Commission to make regulations)</b>	<p>(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:-</p> <p>(v) the manner of making an application before the Central Commission and the fee payable therefor under sub-section (1) of section 64;</p>	<p>(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:-</p> <p>(v) <u>the time, manner of making an application</u> before the Central Commission and the fee payable therefor under sub-section (1) of section 64;</p>	
<b>Section 181. (Powers of State Commissions to make regulations)</b>	<p>Nil</p> <p>Nil</p> <p>Nil</p> <p>(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section</p>	<p><u>(la) the payment of transmission charges and a surcharge thereon by the consumer under proviso to sub-clause (ii) of clause (c) of section 40;</u></p> <p><u>(zba) the arrangements for sharing of power and associated costs amongst the distribution licensees in the area of supply under sub-section (1) of section 60A;</u></p> <p><u>(zbb) the managing of cross subsidy balancing fund by a Government company under sub-section (2) of section 60A;”;</u></p> <p>(zg) <u>the time, manner of making an application</u> before the State Commission and the fee payable therefor under sub-section (1) of section 64;</p>	

	64; Nil	<u>(zia) securing the consumer choice under clause (ja) of sub-section (I) of section 86;</u>	
<b>Section 183. (Power to remove difficulties)</b>	(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:	(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:  <u>(IA) Notwithstanding anything contained in sub-section (I), if any difficulty arises in giving effect to the provisions of this Act as amended by the Electricity (Amendment) Act, 2022, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:</u>  <u>Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Electricity (Amendment) Act, 2022.</u>	