

MINUTES OF THE 71st MEETING
OF THE
FORUM OF REGULATORS (FOR) HELD
THROUGH VIDEO CONFERENCING

Venue : Video Conferencing
Day / Date : 11th, 15th and 18th May and
2nd June, 2020
List of Participants : At Appendix -I (Enclosed)

The meeting was chaired by Shri P.K.Pujari, Chairperson, Central Electricity Regulatory Commission (CERC) and Forum of Regulators (FOR).

Chairperson, CERC/ FOR welcomed all the Members of the Forum to the 71st meeting of the FOR which was being conducted through video conferencing in the wake of the Covid-19 pandemic. He also welcomed Shri Arun Goyal, Member, Central Electricity Regulatory Commission who was attending the meeting for the first time after he assumed office in CERC.

Chairperson, CERC apprised the Forum that a number of issues relating to accounts and other matters of FOR along with matters related to references received from the Ministry of Power and SERCs have been placed as agenda items for discussion.

Thereafter, the Forum took up the agenda items for consideration.

AGENDA ITEM NO. 1: CONFIRMATION OF THE MINUTES OF THE 70th MEETING OF THE FORUM OF REGULATORS HELD ON 31st JANUARY 2020 AT DIU, DAMAN & DIU.

The Forum considered and endorsed the minutes of the 70th Meeting of FOR, held on 31st January, 2020 at Diu.

AGENDA ITEM NO. 2: ACCOUNTS RELATED MATTERS

a) Budget for FY 2020-2021

Deputy Chief (RA), CERC apprised the salient features of the budget including the estimated income and expenditure

It was opined by some members that due to ongoing pandemic, expenditure towards meetings or other heads of expenses may not be as substantial as it is projected in the budget. Therefore, it was decided that the budget is approved as proposed, for now and may be reviewed after 4 months to assess whether the same needs to be revised based on actual expenditure and whether heads of expenses need to be re-appropriated and re-adjusted.

Accordingly, the budget was approved.

b) Appointment of Auditor for the FY 2019-2020

The Forum was apprised on the completion of the tenure of five years by M/s MBR & Company LLP (formerly MBR & Co.), Chartered Accountants, New Delhi being the Auditor of FOR, viz. from the FY 2014-15 to 2018-19. Further, the Members were also apprised that FOR Secretariat has already initiated the process for appointing a new Auditor for the FY 2019-2020, from the list of

empanelled audit firms obtained from the C&AG of India. The Forum noted the same.

c) Appointment of Tax Consultant for filing the Income Tax Return for the FY 2019-2020.

The Forum was apprised that the process of appointing a tax consultant for filing the Income Tax Return (ITR) of FOR for FY 2019-20 and onwards, on retainer basis is under process. The same was noted by the Forum.

d) Re-appointment of GST Consultant for filing the returns for the FY 2020-2021.

The Forum approved the re-appointment of M/s MBR & Company LLP, Chartered Accountants, New Delhi as Consultant to handle the GST return filings of FOR for the FY 2020-21. However, they opined that no such consultant should be appointed for more than five years.

e) Status of ongoing IT cases

(i) Request for grant of exemption from payment of Income Tax under section 10(46) of the Income Tax Act, 1961.

(ii) Penalty matter of FOR for the AY 2016-2017(F.Y 2015-16)

Dy Chief (RA) informed the Forum about the ongoing case w.r.t seeking exemption from paying income tax under Section 10(46) of the Income Tax Act, 1961 with the IT authorities. Secretary, CERC along with the Chief (RA) and other officials of the FOR Secretariat met the Chairman of CBDT and other senior Income Tax Officers on this issue. However, it transpired from the discussions that since FOR does not have any power of “regulating and administering” like the CERC and SERCs, the requirement of Section 10(46) of the Income Tax Act does not seem to be satisfied. It was impressed that the

Forum is also not comparable to CERC and SERC as unlike these institutions FOR does not have powers to issue orders, adjudicate and frame regulations. Therefore, going by the interpretation of provisions of Income tax, there was very little possibility of receiving exemption for FOR.

The Forum was also informed that the Secretariat has started paying applicable income tax from FY 2016-17 onwards. The Secretariat has paid the assessed amount for FY 2015-16, based on a scrutiny notice which was received. However, the penalty against the assessed amount is pending.

It was brought to the notice of the Forum a Scheme of “Vivad se Vishwas” pertaining to FY 2015-16 has been announced by the Government, which may be availed by paying 25% of the penalty amount to resolve the issue. After deliberations, the members observed that since it is a long pending issue and despite regular follow up by officials of FOR secretariat, the matter regarding obtaining exemption seems unlikely, the FOR may avail the Vivad se Vishwas scheme.

Chairperson, UPERC observed that this problem may have recurring effect and whatever surplus is generated in FOR income will be liable to payment of tax. Hence, he suggested that the Forum could consider adopting a variable subscription formula on the basis of which members may be asked to pay subscription in two parts. One part would be a fixed component and the second part could be variable based on the expenditure of FOR. This would lead to optimum generation of income and utilization of funds for the expenses of the Forum.

Chairperson CERC appreciated the suggestion and directed the FOR Secretariat to examine the proposal and work out a fee structure. After discussion it was

agreed that a working group of the FOR may be constituted for deciding on the fee structure and working out other modalities. Chairperson FOR was authorized to constitute the working group.

AGENDA ITEM NO. 3: CAPACITY BUILDING PROGRAMS AND STUDIES PROPOSED TO BE CONDUCTED IN THE FINANCIAL YEAR 2020-2021

Dy Chief (RA) apprised the Forum that, in comparison to the previous years, this time there has been a considerable reduction in the grant of funds to the FOR. Rs. 47.00lakh has been allocated by the Ministry of Power to the Forum of Regulators for conducting the capacity building programmes and availing consultancy services for conducting studies.

Therefore, the Forum approved for the following Capacity building programme and studies to be conducted in the FY 2020-21:

A. Capacity building Program:

Protection of Consumer Interest for officers of CGRF and Ombudsman of States

B. Studies:

- a) Consumer Protection (ongoing)
- b) Evolving principles of Depreciation for distribution assets and operating and financial norms for Distribution Sector (on going)
- c) Distribution Franchisee-Experience so far and way forward
- d) Resource Adequacy

Chairperson, BERC requested that in addition to the officers of CGRF and Ombudsman, SERCs may be permitted to send their law officers to attend the capacity building program on Protection of consumer interest. This was agreed.

As regards the proposed study on Distribution Franchisee, the Forum opined that while conducting the study, the views of the Distribution licensees and SERCs (especially where the franchisees are operating) may be taken.

AGENDA ITEM NO.4: REQUEST FOR REDUCTION AND WAIVER OF MEMBERSHIP FEES - REFERENCE FROM TRIPURA ERC

Tripura ERC had requested for adjustment of the fees paid during the year 2017-18 and 2018-19 to the fees to be paid for the year 2019-20 & 2020-21. TERC had also requested for re-assessment of their annual membership fees for the F.Y. 2019-2020 onwards considering the proportionate ratio of the consumers strength in Tripura.

Chairperson, TERC further apprised the Forum that though they have paid the fees for the current year, the Forum may consider refunding it as Tripura is a small State with a very small consumer base and that there was no active Commission in the previous years.

Some Members stated that all SERCs and CERC are paying the same membership fees. Others stated that North Eastern States should be given discounted fees considering the lack of adequate resources.

After discussion, Chairperson, FOR/ CERC proposed that, as deliberated and decided in the previous agenda item, the membership fee of FOR may be divided into two parts, viz. basic fixed fee and variable fee and the Working Group may also examine the issue of differential membership fees .

AGENDA ITEM NO. 5: REFERENCE FROM MINISTRY OF POWER REGARDING INVESTMENT APPROVAL/ PROVISIONAL TARIFF ON ACCOUNT OF FGD BY THERMAL POWER PLANTS

Secretary, CERC/FOR briefed the Forum that this issue was also discussed in the 70th FOR meeting. Thereafter, a meeting was taken by the Secretary(Power), Ministry of Power with bankers and Department of Financial Services wherein concerns were raised by the bankers about sanctioning of loan for FGD installation without provisional tariff for such installations. It was, however, clarified that the Act does not have any provision for grant of provisional tariff in respect of generating stations. However, to address the concern of the financial institutions, the process of tariff determination could be expedited once petitions to this effect are filed after installation of FGD system. CERC has already recognized revised environmental norms as change in law event and in some cases also granted provisional approval of capital cost for FGD installations. This should give comfort to the lenders.

Further, the Commission vide order dated 23.4.2020 in Petition No. 446/MP/2019, has directed the staff of the Commission to float a staff paper on the issue of compensation mechanism and tariff implications on account of the 2015 Notification of Ministry of Environment, Forests and Climate Change, Government of India in case of those thermal power plants where the PPA does not have explicit provision for compensation mechanism during the operation period (i.e. after the construction of plant is over) and the PPA requires the Commission to devise mechanism of compensation.

Chairperson, UPERC informed the Forum that in some cases, UPERC considered the FGD cost under “Change in law” and provided annual truing up for the same, while in other cases, it was not considered as change in law.

Therefore, FGD cost implications and its treatment would have to be examined on case to case basis.

Joint Secretary (Thermal), Ministry of Power apprised the Forum that during the meeting held with Secretary (Power), two issues were flagged. The first issue was whether the FGD cases may be disposed of in a time bound manner, say, within 3 months. The second issue was whether, in the absence of provisional tariff, investment approval could be given. As the timeline given for installation of FGD is upto December 2022, it is necessary that approval for FGD installation be granted by the Commissions latest by June 2020.

Chairperson, GERC stated that two sets of approvals are required to be granted - one for the State generating utilities and the second for the IPPs. Some State generating companies have already undertaken the process of tendering and capital investment would be allowed once they file their petition before GERC. This process is expected to take 6 months. The tariff impact for such plants has been estimated to be around 30 paise for Capex and additional 20 paise for Opex. Gujarat ERC is in the process of granting approval to State gencos for the FGD investments. As regards IPPs, approval would be given for ultra-mega power plants. Chairperson, GERC further proposed that for the old plants which have a remaining useful life of 5 years, the FGD installations may be taken up only for those cases where plant capacity is above 200 MW. He further requested the Ministry of Power to extend the timelines for FGD installation till 2023 considering the force majeure events such as the ongoing pandemic of Covid-19.

Joint Secretary (Thermal), Ministry of Power apprised the Forum that the issue of FGD installation is being monitored directly by a committee appointed by the Hon'ble Supreme Court. Moreover, many units have placed their orders for FGD

installation by December 2019. However, MoEF&CC has also intimated that the cases of extension will be taken on case to case basis based on the applications.

Chairperson, JSERC and Chairperson, PSERC stated that small plants (of capacity less than 200 MW) which have a very short residual life should not be subjected to FGD installations as the cost implications would be huge.

Chairperson, GERC also proposed that FOR may conduct a study for examining the issues pertaining to benchmarking of cost of Capex and Opex for FGD.

Chairperson, CERC/FOR summarized the whole discussion stating that provisions of change in law have to be examined on case to case basis. He further informed that CEA has identified plants which may be retrofitted and other which are not required to be retrofitted in terms of their life and plant size. Therefore, such plants may be taken up for retrofitting of FGD based on the recommendation of CEA. He further stated that CEA has also come up with indicative benchmark costs and recommended technologies which CERC has considered as the basis for allowing the provisional costs towards FGD installation for the plant which have followed the process of competitive bidding. However, CERC does not approve the provisional tariff. Further, he maintained that as compared to Section 62, there is no specific formula for recovery of additional capitalization during the operation period in Section 63. Therefore, CERC would come up with a generic formula for recovery of additional capitalization which will bring in more certainty.

Joint Secretary (Thermal) , Ministry of Power updated the Forum that while CEA has identified the list of plants where retrofitting is possible, it has also identified the capacity (5389 MW) where FGD installation is not possible and that this capacity would be phased out. He stated that the list of such plants would be shared with SERCs.

Chairperson, TNERC proposed that some portion of the cost of installation may be borne by the Central Government through subsidy or any other medium such as coal cess. Joint Secretary (Thermal), Ministry of Power informed that though the Ministry had taken up the matter with Ministry of Finance, the proposal of subsidy or bearing the cost through coal cess was not agreed upon.

Chairperson, BERC sought clarification as to who will have the authority to decide in case of plants under composite schemes with regard to FGD, to which Chairperson, CERC/FOR clarified that the plants under composite scheme are under the jurisdiction of CERC as per the Act.

Chairperson, Kerala ERC proposed to improve financing of FGD by way of borrowings from banks based on a good balance sheet and credit rating of the generator. The other option was to float bonds in the market.

Joint Secretary (Thermal), Ministry of Power stated that the banks are willing to finance only when provisional cost gets approved within a specified timeline. He further added that the IPPs are facing FGD financing issue.

After detailed deliberations, the Forum noted the need for disposal of petitions on priority basis.

AGENDA ITEM NO. 6: UPDATES

a) IMPLEMENTATION OF E-COURT IN SERCs/JERCs

Dy Chief (RA), CERC updated the status of the request of FOR seeking funds from MoP for implementation of E court for the SERCs, through NIC. The Forum was also apprised that, as advised in the 70th FOR meeting, the FOR Secretariat has sent a reminder to the MoP for the funds and that there is no response till date. However, regarding the cost estimates given by NIC earlier,

the FOR Sectt spoke to NIC officials who confirmed that there is no change in costs.

Chairperson, OERC suggested that FOR may fund the project through its own funds and implement the same in all the States. Chairperson, UPERC said that due care should be taken to ensure completion of the project within stipulated timeline. Chairperson, CERC remarked that each SERC needs to vigorously follow up for implementation of the project.

Chief (RA), CERC informed that as FOR would be developing a generic tool for all the States, the same could be adopted by all SERCs with suitable customization at nominal additional costs.

As discussed and concurred in the 70th meeting of the FOR, the Forum reaffirmed that this project be implemented with the assistance of NIC. FOR will earmark the fund of approx. Rs 62 lakh (as proposed by NIC) from its own funds for development of the generic ecourt for the SERCs. Accordingly, the budget would be modified. FOR Secretariat shall communicate the decision and award the project to NIC at the earliest. The Forum also agreed that the SERCs would closely interact with NIC for implementation of the ecourt system in their offices.

b) WORKING GROUP OF FOR IN THE CONTEXT OF STANDARD BIDDING DOCUMENTS FOR PROCUREMENT OF POWER FOR MEDIUM TERM

Chairperson, WBERC being the Chairman of the Working Group informed that the Forum mandated the Group to:

- a. Examine the rationale for the creation of categories which is restricting the competition.
- b. Examine the necessity for replacing Short term contracts / medium term contracts with Forward contracts.

After discussion the Working group decided that the issues raised in the context of the Standard Bidding Documents for procurement of power for Medium term, along with deliberations/minutes of the meeting of the Working Group be forwarded to MoP for suitable action by the Committee constituted by the Ministry on SBD for medium term procurement of power.

On the issue related to forward contracts, Chief(RA), CERC informed that the matter relating to the governance of the forward and futures contracts is at present subjudice before the Hon'ble Supreme Court.

The Forum endorsed the decision of the Working Group and directed the FOR Secretariat to forward the minutes of the meeting of the Working Group to the Ministry of Power for necessary action at their end.

ADDITIONAL AGENDA NO. 7: DRAFT ELECTRICITY (AMENDMENT) BILL 2020

The Ministry of Power vide letter dated 17th April, 2020 issued the Draft Electricity (Amendment) Bill 2020 seeking comments of stakeholders. The Forum deliberated on the Draft bill and approved the constitution of a Working Group of FOR comprising of Chairperson, DERC as Chairman of the Working Group with Chairpersons of OERC, UPERC, APERC and Member, MERC as Members of the Working Group. The FOR mandated the Working Group to deliberate on the Draft Bill and prepare the comments. The comments so prepared will be discussed in a further meeting of the Forum before forwarding the same to the Ministry of Power.

The Group examined the proposed amendments and made recommendations for consideration of the Forum. The recommendations of the Working Group were considered by the Forum and the Forum endorsed the recommendations of the Working Group. The Forum further resolved that the recommendations as approved by the FOR (**Annexure I**) be forwarded to the Ministry of Power.

At the end of the meetings, Secretary, FOR/CERC thanked all the members for attending the meeting through video conferencing, the first of its kind. He acknowledged the efforts taken by the officials of FOR Secretariat and the IT team of CERC in helping conduct the video conference effortlessly and seamlessly. The meeting concluded with vote of thanks to the Chair.

LIST OF PARTICIPANTS OF THE 71ST MEETING

OF

FORUM OF REGULATORS (FOR)

HELD ON 11TH, 15TH AND 18TH MAY, 2020.

S. No.	NAME	ERC
01.	Shri P.K. Pujari Chairperson	CERC/FOR – in Chair.
02.	Justice (Shri) C.V. Nagarjuna Reddy Chairperson	APERC
03.	ShriSubhash Chandra Das Chairperson	AERC
04.	Shri S.K. Negi Chairperson	BERC
05.	Justice (Shri) Satyendra Singh Chauhan Chairperson	DERC
06.	ShriAnand Kumar Chairperson	GERC
07.	ShriDepinder Singh Dhesi Chairperson	HERC
08.	Shri S.K.B.S. Negi Chairperson	HPERC
09.	Dr.Arbind Prasad Chairperson	JSERC
10.	ShriM.K. Goel Chairperson	JERC (State of Goa & UTs)
11.	ShriNgangomSarat Singh Chairperson	JERCfor M & M
12.	ShriShambhuDayalMeena Chairperson	KERC
13.	ShriPremanDinaraj Chairperson	KSERC

14.	ShriMukulDhariwal Chairperson	MPERC
15.	Shri P. W. Ingty Chairperson	MSERC
16	Er. ImlikumzukAo Chairperson	NERC
17	Shri U.N. Behera Chairperson	OERC
18	Ms. KusumjitSidhu Chairperson	PSERC
19	ShriShreematPandey Chairperson	RERC
20	Shri Nanda Ram Bhattarai Chairperson	SSERC
21	ShriM. Chandrasekar Chairperson	TNERC
22	ShriT. SrirangaRao Chairperson	TSERC
23	Shri D. Radhakrishna Chairperson	TERC
24	ShriRajPratap Singh Chairperson	UPERC
25	ShriD.P. Gairola Officiating Chairperson/Member (Law)	UERC
26	ShriSutirtha Bhattacharya Chairperson	WBERC
27	ShriMukeshKhullar Member	MERC
28	ShriBandaruKrishnaiah Member	APERC
29	ShriS.N.Kalitha Member	AERC
30	ShriSanoj Kumar Jha Secretary	CERC
31	Dr. Sushanta K. Chatterjee Chief (RA)	CERC
32	Ms. RashmiSomasekharan. Nair Dy. Chief (RA)	CERC

SPECIAL INVITEES		
	Shri V.K. Dewangan Joint Secretary (Thermal)	MOP
	ShriGhanshyam Prasad Chief Engr. (R&R)	MOP
	ShriSandeepNaik Director (R&R)	MOP
	ShriInduShekharJha Member	CERC
	ShriArunGoyal Member	CERC
OTHERS		
	Ms. Geetu Joshi Chief (Eco.)	CERC
	Shri S.C. Shrivastava Chief (Engg.)	CERC
	ShriP.K. Awasthi Chief (Fin.)	CERC

FORUM OF REGULATORS (FOR)
Sectt.: C/o CENTRAL ELECTRICITY REGULATORY COMMISSION (CERC)
3rd & 4th Floor, Chanderlok Building, 36 Janpath,
New Delhi - 110 001.
(Tele.: 23353503 / Fax: 23753923)

F.NoFOR-11011(13)/1/2020-CERC

Date: 4th June 2020

Shri Debranjana Chattopadhyay
Under Secretary
Ministry of Power (R&R)
Shram Shakti Bhavan
New Delhi

Subject: Draft Electricity (Amendment) Bill, 2020- comments of Forum of Regulators (FOR)
- regarding

Sir

The proposed amendments to the Electricity Act were deliberated in detail in the 71st FOR meeting.

2. Based on the deliberations, the Forum has finalized its comments. The Forum further resolved that the comments as finalized and approved by the FOR, be forwarded to the Ministry of Power.

3. Accordingly, the comments of FOR on the proposed amendments to the Electricity Act are enclosed.

Encl: as above

Yours Sincerely



Arun Kumar
Assistant Secretary, FOR

Comments of Forum of Regulators on Draft Electricity (Amendment) Bill, 2020

Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
Section 1 (1) This Act may be called the Electricity Act, 2003. (2) This Act may be called the Electricity Act, 2003. It extends to the whole of India except the State of Jammu and Kashmir....	Section 1 (1) This Act may be called the Electricity Act, 2003. (2) This Act may be called the Electricity Act, 2003. It extends to the whole of India except the State of Jammu and Kashmir....	No comments.
Section 2 (11) “Chairperson” means the Chairperson of the Authority or Appropriate Commission or the Appellate Tribunal as the case may be;	Section 2 (11) “Chairperson” means the Chairperson of the Authority or Appropriate Commission or Electricity Contract Enforcement Authority or the Appellate Tribunal as the case may be;	No comments.
New Insertion	Section 2 (15a) Cross border trade of electricity” means transactions involving import or export of electricity between India and any other country and includes transactions related to passage of electricity through our country in transit between two other countries;	The expression “our country” may be reworded.
New Insertion	Section 2 (17a) “Distribution sub-licensee” means a person recognized as such and authorized by the distribution licensee to distribute electricity on its behalf in a particular area within its area of supply, with the permission of the appropriate State Commission. Any reference to a distribution licensee under the Act shall include a reference to a sub-distribution licensee;	Creation of the non-regulated entity Distribution Sub Licensee is not required. Reasons : <ol style="list-style-type: none"> 1. There is no clarity about the role and responsibility of Distribution Sub Licensee. 2. As the Distribution Sub Licensee could discharge the functions of a licensee, it has no obligation to buy power exclusively from the Distribution Licensee. It would mean that it could procure power independently to the exclusion of power contracted by distribution licensee which will get stranded. It will add to the Licensee’s costs for

Comments of Forum of Regulators on Draft Electricity (Amendment) Bill, 2020

Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
		<p>recovery through higher tariff.</p> <p>3. As the Distribution Sub Licensee is not subjected to regulatory regime, there is an apprehension that a part of the area of Distribution Licensee or a set of its consumers could be assigned to it with no liability to pay cross subsidy surcharge. It would then adversely impact the remaining consumers of the incumbent Distribution Licensee in terms of tariff.</p> <p>4. Capital expenditure by the Sub Licensee for infrastructure creation on behalf of the Licensee has been cited as a justification for its creation. No arrangement has been suggested for recovery of the cost. There is no clarity on this.</p> <p>5. Lastly, for any area such sub distribution licensees would also be monopolies with no choice for the consumers so as to build pressure for better service and reasonable returns on investment.</p>
New Insertion	Section 2 (24a)“Electricity Contract Enforcement Authority” means an Electricity Contract Enforcement Authority referred to in sub-section (1) of section 109A;	There is no need for such an Authority. Relevant comments have been detailed against proposed Section 109A.
Section 2 (27) “franchisee means a person authorised by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply;	Section 2 (27) “franchisee means a person recognized as such and authorized by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply, under information to the appropriate State Commission. Subject to the provisions of the agreement entered into between the distribution licensee and the franchisee, any reference to a distribution licensee in the Act shall include a franchisee;	No Comments
Section 2 (43) “Member” means the Member of the Appropriate Commission or Authority or	Section 2 (43) "Member" means the Member of the Appropriate Commission or Authority or Joint	No amendment is necessary.

Comments of Forum of Regulators on Draft Electricity (Amendment) Bill, 2020

Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
Joint Commission, or the Appellate Tribunal, as the case may be, and includes the Chairperson of such Commission or Authority or appellate tribunal;	Commission, or Electricity Contract Enforcement Authority or the Appellate Tribunal, as the case may be, and includes the Chairperson of such Commission or Electricity Contract Enforcement Authority or Authority or Appellate Tribunal;	
New Insertion	<p>Section 3A</p> <p>National Renewable Energy Policy - The Central Government may, from time to time, after such consultation with the State Governments, as may be considered necessary, prepare and notify a National Renewable Energy Policy for the promotion of generation of electricity from renewable sources of energy and prescribe a minimum percentage of purchase of electricity from renewable and hydro sources of energy.</p>	<p>Addition of Section 3A is not needed as there is no need for a separate National Renewable Energy Policy.</p> <p>Reasons :</p> <ol style="list-style-type: none"> 1. The National Electricity Policy is mandated under Section 3 (1) of Electricity Act, 2003 to take care of the utilization of hydro and renewable energy sources also. Therefore, existing National Electricity policy is adequate and the intention in the proposed amendment could be easily covered while formulating or making any changes to National Electricity Policy. 2. Making it discretionary to consult State Governments is contrary to the provisions of Section 3. Excluding States from the consultative process is ultra vires of the constitution as Electricity is in concurrent list. 3. Giving a country wide prescription through a central policy for uniform adherence to given targets of RE procurement is not well conceived. State Commissions are best placed to give the trajectory for RE integration taking into account the financial impact on the consumers and the status of power infrastructure to integrate the RE into the State Grid. 4. Given the stage of development of various renewable technologies in India fixing source wise RPO targets may not be required. For a state, source should not matter as long as it is renewable.
Section 14	Section 14	

Comments of Forum of Regulators on Draft Electricity (Amendment) Bill, 2020

Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>The Appropriate Commission may, on an application made to it under section 15, grant any person 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 that (7th Proviso)</p> <p>Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply:</p>	<p>The Appropriate Commission may, on an application made to it under section 15, grant any person 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 that (7th Proviso)</p> <p>Provided also that a franchisee shall not be required to obtain any separate license from the appropriate State Commission and such distribution licensee shall continue to remain responsible for distribution of electricity in its area of supply:</p> <p>(after 7th Proviso, insertions of a new Proviso) Provided also that a distribution sub-licensee shall not be required to obtain any separate license from the appropriate State Commission:</p>	<p>In view of the comments given against the proposed section 2(17a), the proposed addition of 8th Proviso relating to Distribution Sub Licensee, be deleted.</p>
<p>Section 26</p> <p>(1) The Central Government may establish a centre at the national level, to be known as the National Load Despatch Centre for optimum scheduling and despatch of electricity among the Regional Load Despatch Centres.</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>Section 26</p> <p>(1) The Central Government may establish a centre at the national level, to be known as the National Load Despatch Centre for optimum scheduling and despatch of electricity among the Regional Load Despatch Centres.</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>(3) The National Load Despatch Centre shall be operated by a Government company or any</p>	<p>Proposed amendment should make it clear that the directives from NLDC to state utilities should be through RLDC and SLDC to avoid any conflict or ambiguity.</p> <p>Intra- State Transmission decisions should be left to the SLDC only, which is already envisaged under the existing provision of the Act.</p>

Comments of Forum of Regulators on Draft Electricity (Amendment) Bill, 2020

Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
(3) The National Load Despatch Centre shall be operated by a Government company or any authority or corporation established or constituted by or under any Central Act, as may be notified by the Central Government.	<p>authority or corporation established or constituted by or under any Central Act, as may be notified by the Central Government.</p> <p>(4) the National Load Despatch Centre shall</p> <p>(a) be responsible for optimum scheduling and despatch of electricity in the country across different regions in accordance with the contracts entered into with the licensees or the generating companies;</p> <p>(b) monitor grid operations;</p> <p>(c) exercise supervision and control over the inter-regional and inter- state transmission network; and</p> <p>(d) have overall authority for carrying out real time operations of the national grid.</p> <p>(5) The National Load Despatch Centre may give such directions and exercise such supervision and control as may be required for the safety and security of the national grid and for ensuring the stability of grid operation throughout the country.</p> <p>(6) 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.</p>	
<p>Section 28</p> <p>(1) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the</p>	<p>Section 28</p> <p>(1) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the concerned region.</p>	

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>concerned region.</p> <p>(2) The Regional Load Despatch Centre shall comply with such principles, guidelines and methodologies in respect of the wheeling and optimum scheduling and despatch of electricity as the Central Commission may specify in the Grid Code.</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 with the licensees or the generating companies operating in the region;</p> <p>(b) monitor grid operations;</p> <p>(c) keep accounts of the quantity of electricity transmitted through the regional grid;</p> <p>.....</p>	<p>(2) The Regional Load Despatch Centre shall comply with such principles, guidelines and methodologies in respect of the wheeling and optimum scheduling and despatch of electricity as the Central Commission may specify in the Grid Code.</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 with the licensees or the generating companies operating in the region;</p> <p>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as agreed upon by the parties to the contract, has been provided.</p> <p>(b) monitor grid operations;</p> <p>(c) keep accounts of the quantity of electricity transmitted through the regional grid;</p> <p>.....</p>	<p>Addition of the proviso to sub section (3) (a) proposed by the amendment is not necessary.</p> <p>Payment security mechanism is part of PPAs approved by the Commission. Compliance to such mechanism needs to be enforced by Commission. NLDC and SLDCs are highly technical bodies that have scheduling and despatch of electricity as their core competence. Asking them to monitor payment security mechanism would not be proper. Instead, Central/ State Commissions could be strengthened with legal mandate to ensure compliance of the conditions of PPA approved by them.</p>
<p>Section 32</p> <p>(1) The State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State.</p> <p>(2) The State Load Despatch Centre shall -</p> <p>(a) be responsible for optimum scheduling</p>	<p>Section 32</p> <p>(1) The State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State.</p> <p>(2) The State Load Despatch Centre shall -</p> <p>(a) be responsible for optimum scheduling and</p>	<p>Similar views as at section 28.</p>

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<p>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>(b) monitor grid operations;</p> <p>.....</p>	<p>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>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as agreed upon by the parties to the contract, has been provided.</p> <p>(b) monitor grid operations;</p> <p>.....</p>	
<p>Section 38</p> <p>(1) The Central Government may notify any Government company as the Central Transmission Utility</p> <p>...</p> <p>(2) The functions of the Central Transmission Utility shall be –</p> <p>(a) to undertake transmission of electricity through inter-State transmission system;</p> <p>...</p> <p>(d) to provide non-discriminatory open access to its transmission system 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</p>	<p>Section 38</p> <p>(1) The Central Government may notify any Government company as the Central Transmission Utility</p> <p>...</p> <p>(2) The functions of the Central Transmission Utility shall be –</p> <p>(a) to undertake transmission of electricity through inter-State transmission system;</p> <p>...</p> <p>(d) to provide non-discriminatory open access to its transmission system 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</p>	<p>The portion “as may be specified by the State Commission under sub-section (2) of section 42, if required by the Appropriate Commission to be collected by it” appearing in the sub section (3) (d) (ii) may be replaced by “as may be specified by the Appropriate State Commission under sub-section (2) of section 42”.</p> <p>Reason :</p> <p>There is lack of clarity in the proposed provision. All charges including surcharge are to be collected by the concerned Discom, and not by the Commission.</p>

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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 Central Commission: ...	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 Central Commission and a surcharge, as may be specified by the State Commission under sub-section (2) of section 42, if required by the Appropriate Commission to be collected by it.	
Section 39 (1) The State Government may notify the Board or a Government company as the State Transmission Utility: ... (2) The functions of the State Transmission Utility shall be - ... (d) to provide non-discriminatory open access to its transmission system for use by- (i) any licensee or generating company on payment of the transmission charges ; or (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: ...	Section 39 (1) The State Government may notify the Board or a Government company as the State Transmission Utility: ... (2) The functions of the State Transmission Utility shall be - ... (d) to provide non-discriminatory open access to its transmission system for use by- (i) any licensee or generating company on payment of the transmission charges ; or (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 and a surcharge, as may be specified by the State Commission under sub-section (2) of section 42, if required by the State Commission to be collected by	Similar views as at Section 38.

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	it. ...	
<p>Section 40</p> <p>It shall be the duty of a transmission licensee -</p> <p>...</p> <p>(c) to provide non-discriminatory open access to its transmission system 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>...</p>	<p>Section 40</p> <p>It shall be the duty of a transmission licensee -</p> <p>...</p> <p>(c) to provide non-discriminatory open access to its transmission system 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 StateAppropriate Commission.</p> <p>...</p>	
<p>Section 42</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>(2) The State Commission shall introduce open access in such phases and subject to</p>	<p>Section 42</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>(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other</p>	<p>No amendment to this section is required. Roadmap for progressive reduction of cross subsidy should be decided by the State Commissions so that they can do it effectively without causing tariff shock. If it is governed ipso facto by prescription from central tariff policy, there would be huge financial impact on the distribution utilities and the consumer tariff as it would not be feasible for the State Governments to provide commensurate revenue support.</p>

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<p>such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:</p> <p>Provided that such open access shall be allowed on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission:</p> <p>Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:</p> <p>Provided also that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State 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>Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers</p>	<p>operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:</p> <p>Provided that such open access shall be allowed on payment of a surcharge, in addition to the charges and charges for wheeling, as may be determined by the State Commission in addition to the charges for intra-state transmission, as determined under section 39, if applicable, and charges for inter-state transmission, as determined by the Central Commission under section 38, if applicable:</p> <p>Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:</p> <p>Provided also that such surcharge and cross subsidies shall be progressively reduced by the State Commission in the manner as may be specified by the State Commission provided in the Tariff Policy:</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>(New Proviso)</p> <p>Provided also that the manner of payment and</p>	<p>A common thread runs through the third proviso to Section 42(2), Sections 61 (g), 62 (3) and 86 (1) (e) of the Act.</p> <p>The proposed amendment to the third proviso to section 42 (2) would take away the discretion of the Electricity Regulatory Commissions in discharge of their statutory/legislative function relating to fixation of tariffs. The existing provision <i>inter alia</i> vests absolute discretion in the Commissions in the matter of progressive reduction of surcharge and cross subsidies. By the amendment to the third proviso, this power is sought to be completely taken away from the Commissions and they have to determine the surcharge and cross subsidies <u>as envisaged in the Tariff Policy</u> (Emphasis added). Section 61 of the Act enjoins upon the Electricity Regulatory Commissions to specify the terms and conditions for determination of the tariff. Under the existing clause (g) progressive reduction of cross subsidies shall be as specified by the appropriate Commissions. By the proposed amendment, such a progressive reduction of cross subsidies shall be made by the Commissions based on the Tariff Policy. Under the existing Section 62 (3) of the Act, the power to fix different tariffs by differentiating among the consumers based on the relevant factors such as load factor, nature and purpose of supply of power, geographical position of any area etc., is absolutely vested in the appropriate Commissions. By the proposed amendment, the power of the State Commissions in this regard is made subject to the provisions of the Tariff Policy. Under Section 86 (1) (e) of the Act, absolute power given to the Electricity Regulatory Commissions <i>inter alia</i> to specify for purchase of electricity from renewable</p>

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<p>who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.</p> <p>...</p>	<p>utilization of the surcharge shall also be specified by the State Commission:</p> <p>Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.</p> <p>...</p>	<p>sources of energy is sought to be curtailed by mandating that such percentages shall be fixed as prescribed by the Central Government from time to time. In PTC India Limited Vs CERC (2010) 4 SCC 603, the Hon'ble Supreme Court held that Electricity Act, 2003 has been enacted in furtherance of the policy envisaged under the Electricity Regulatory Commissions Act, 1998 as it mandates independent and transparent Regulatory Commissions entrusted with wide ranging responsibilities and objectives <i>inter alia</i> protection of consumers of the electricity. By the proposed amendments to the aforementioned provisions, this objective will be totally defeated as in the matters of surcharge and cross subsidies for open access consumers and in fixing different tariffs for different categories of consumers, the element of discretion vested in the Electricity Regulatory Commissions is sought to be taken away and Regulatory Commissions are proposed to be reduced to the status of mere executing agencies of Tariff Policies and Central Government directions on a very important legislative/statutory function of tariff fixation. Thus, the proposed amendments make the Electricity Regulatory Commissions completely shed their independent character. This is in total derogation of the objects for which Regulatory Commissions are constituted to discharge the functions hitherto discharged by the respective State Governments and the Electricity Boards. The proposed amendments also affect the federal spirit as the Central Government is seeking to hold complete sway over all the matters concerning tariff fixation. Indubitably the State Governments are important and major stakeholders in power sector as they have to discharge socio economic responsibilities in making available electricity to their subjects. The 2003 Act made Electricity Regulatory Commissions neutral and</p>

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		independent authorities by vesting in them three vital functions, namely, Tariff Fixation (Legislative/Statutory), Regulatory and Adjudicatory. By the above discussed proposed amendments, the function of tariff fixation by the Electricity Regulatory Commissions is sought to be made symbolic as they have no discretion except to follow the Central Government Tariff Policies and directions. Therefore, the Forum strongly opposes these amendments with a request to retain the existing provisions without any change whatsoever.
Section 49 Where the Appropriate Commission has allowed open access to certain consumers under section 42, such consumers notwithstanding the provisions contained in clause (d) of sub- section (1) of section 62, may enter into an agreement with any person for supply or purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.	Section 49 Agreement with respect to supply or purchase or transmission of electricity).- (1) A generating company or a licensee may enter into an agreement with a licensee for supply, purchase or transmission of electricity on such terms and conditions, as may be agreed upon by them, including tariff and adequate security of payment consistent with the provisions of this Act. (2) Where the Appropriate Commission has allowed open access to certain consumers under section 42, such consumers, notwithstanding the provisions contained in clause (d) of sub-section (1) of section 62, may enter into an agreement with any person for supply or purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.	Insertion of the new Sub Section (1) through the proposed amendment is not desirable and, hence, is strongly objected. One of the primary objectives of the Electricity Act, 2003 was to promote competition and the existing provision promotes competition in power purchase. Bilateral power purchase contracts without regulatory control will increase the private sector gaming as private distribution companies may sign PPA with their related generating companies driven by their own interest. It is contradictory to the regulatory responsibilities of the State Commissions. There is no need for such contracts when the generation has been delicensed resulting in buyer's market in a power surplus situation. All bilateral power procurements as per Tariff policy are to be made through competitive bidding for day ahead, short, medium or long term requirement.
New Insertion	Section 49A Cross Border Trade of Electricity - (1) The Central Government may prescribe rules and issue guidelines for allowing and facilitating cross border trade of electricity in accordance with the provisions of this Act.	Consequential Change w.r.t. Cross Border Trade.`

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	(2) The Central Government may require the Central Commission to make regulations for cross border trade of electricity.	
<p>Section 61</p> <p>The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-</p> <p>...</p> <p>(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> <p>(h) the promotion of co-generation and generation of electricity from renewable sources of energy;</p> <p>(i) the National Electricity Policy and tariff policy:</p>	<p>Section 61</p> <p>The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-</p> <p>...</p> <p>(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 as provided in the Tariff Policy;</p> <p>(h) the promotion of co-generation and generation of electricity from renewable and hydro sources of energy;</p> <p>(i) the National Electricity Policy and tariff policy and National Renewable Energy Policy:</p>	<p>Sub section (g) may not be amended. Detailed justification for this has been given against Section 42.</p> <p>As already discussed reduction in cross subsidy regime should be left to the State Commissions who are well conversant with the consumer profile of the State. Besides a diktat from policy would have severe financial impact on the state utilities. State Government would not be able to provide for commensurate revenue to the utilities.</p> <p>Clause (h) should be reframed to drop the word 'hydro' as renewable sources include hydro sources. In view of the comments against the proposed Section 3A, the proposed amendment in Clause (i) is not required.</p>
<p>Section 62</p> <p>(1) The Appropriate Commission shall determine the tariff in accordance with 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</p>	<p>Section 62</p> <p>(1) The Appropriate Commission shall determine the tariff in accordance with 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</p>	<p>Implementing DBT on the lines of LPG subsidy transfer is premature for electricity consumers. Firstly, electricity users pay their subsidized bills after consumption. In any case, the manner of payment of subsidy being in the domain of the state government, its administration may be left to them.</p> <p>Secondly, there is associated cross subsidy surcharge which would be available to utility even with non-payment by subsidised consumers.</p> <p>Amendment to the Sub Section (3) is strongly</p>

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<p>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>(b) transmission of electricity ;</p> <p>(c) wheeling of electricity;</p> <p>(d) retail sale of electricity.</p> <p>Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.</p> <p>...</p> <p>(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.</p> <p>...</p>	<p>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>(b) transmission of electricity ;</p> <p>(c) wheeling of electricity;</p> <p>(d) retail sale of electricity.</p> <p>Provided that the Appropriate Commission shall fix tariff for retail sale of electricity without accounting for subsidy, which, if any, under section 65 of the Act, shall be provided by the government directly to the consumer;</p> <p>Provided further that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.</p> <p>...</p> <p>(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may, subject to provisions of the Tariff Policy, differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the</p>	<p>opposed. Asking Commissions to fix tariff subject to tariff policy as proposed in amendment to Sub Section 3 fetters its role and constrains it significantly to discharge its statutory duties. Rather than being an autonomous body for setting up level playing field for the utilities to operate, Commissions would be rendered as executive bodies of the Government to implement the tariff policy. It would lead to a lot of ambiguity and uncertainty as EA at several places states the Commission would be guided by Tariff policy, but proposed amendments make it mandatory for Commission to follow the tariff policy. It is felt that Commissions have been envisaged as independent expert bodies to enforce rule bound fair play. Curtailing its role through the modicum of tariff policy would be counter-productive. Further justification on this has been provided against Section 42.</p>

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	purpose for which the supply is required. ...	
Section 63 Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.	Section 63 (1) Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. (2) The Appropriate Commission shall, after receipt of application complete in all respects, adopt the tariff so determined under sub-section (1), in a timely manner but not later than sixty days from the date of application: Provided that on expiry of sixty days from the date of application, if it is not decided by the Appropriate Commission, the tariff shall be deemed to have been adopted by the Appropriate Commission.	The time limit of 60 days prescribed in sub section (2) is short and it may be changed to 90 days as the hearing takes some time. 90 days should be counted from the date of admission of the petition, found complete in all respects.
Section 65 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State	Section 65 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government the amount of subsidy directly to the consumer and the licensee shall charge the consumers as per the tariff	No amendment is required in Section 65.

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<p>Government:</p> <p>Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.</p>	<p>determined by the Commission:</p> <p>Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.</p>	
<p>Section 77</p> <p>(1)</p> <p>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>Provided that not more than one Member shall be appointed under the same category</p>	<p>Section 77</p> <p>(1)</p> <p>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, public policy 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 financelaw;</p> <p>c) two persons having qualifications and experience in the field of finance economics, commerce, law public policy or management:</p> <p>Provided that not more than one Member shall be appointed under the same category under clause (c)</p>	<p>The proposed amendment is agreeable.</p>

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<p>under clause (c)</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as 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>...</p>	<p>(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as 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>...</p>	
<p>Section 78</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>(b) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of the Legal Affairs Member;</p> <p>(c) Chairperson of the Public Enterprises Selection Board Member;</p>	<p>Section 78</p> <p>Constitution of Selection Committee to recommend Members: -</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, Electricity Contract Enforcement Authority, State Commissions and Joint Commissions constitute a Selection Committee consisting of –</p> <p>(a) A person who is, or has been, a Judge of the Supreme Court to be nominated by the Chief Justice of India.....Chairperson;</p> <p>(b) Secretary-in-charge of the Ministry of the Central Government to be nominated by the Central Government.....Member;</p> <p>(c) Chief Secretaries of two State Governments in accordance with sub-section</p>	<p>Proposed amendment is strongly opposed on the following grounds.</p> <ol style="list-style-type: none"> 1. It goes against the federal principles of the Constitution to provide for a central selection committee for selection of Chairman and Members of State Electricity Regulatory Commissions. There is already an impartial high level Committee at States provided under the existing statutory provisions which is headed by a person who has been a High Court Judge and has Chief Secretary and Chairman of CERC/CEA as the other members. 2. In the proposed arrangement the state will not have any participation in the selection process. It will not be fair to completely alienate the State Government, which is the primary stakeholder, from the selection process. State Commissions cannot be equated to APTEL or the CERC because SERCs are more State consumer specific. Functions of the State Commission listed in Section 86 of the Act are primarily linked to the affairs of the State. Each State has its own local issues. Functionaries associated in the selection process should have

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<p>(d) a person to be nominated by the Central Government in accordance with sub-section (2) Member ;</p> <p>(e) a person to be nominated by the Central Government in accordance with sub-section (3) Member ;</p> <p>(f) Secretary-in-charge of the Ministry of the Central Government dealing with power Member.</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 specified in section 4A of the Companies Act, 1956.</p> <p>(3) For the purposes of clause (e) of sub-section (1), the Central Government shall, by notification, nominate from amongst persons holding the post of director or the head of the institution, by whatever name called, of any research, technical or management institution for this purpose.</p> <p>(4) Secretary-in-charge of the Ministry of the Central Government dealing with Power shall be the Convenor of the Selection Committee.</p>	<p>(2).....Member;</p> <p>(d) Secretary-in-charge of the Ministry of the Central Government dealing with power.....Member.</p> <p>(2) For the purposes of clause (c) of sub-section (1), the Chief Secretary of the State Governments in alphabetical order of the states starting with Andhra Pradesh, Arunachal Pradesh shall be the members of the Selection Committee for a period of one year.</p> <p>(3) Secretary-in-charge of the Ministry of the Central Government dealing with Power shall be the Convener of the Selection Committee.</p> <p>(4) The Central Government shall, within a period of one month from the date of occurrence of any vacancy by reason of death, resignation or removal of a Member of the Appellate Tribunal, or the Chairperson or a Member of the Central Commission or the Electricity Contract Enforcement Authority and within a period of twelve months before the superannuation or end of tenure of the Member of the Appellate Tribunal or Chairperson or Member of the Central Commission or Electricity Contract Enforcement Authority, make a reference to the Selection Committee for filling up of the vacancy.</p> <p>(5) The State Government shall, within a period of one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and within a period of twelve months before the superannuation or end of tenure of the Chairperson or Member, make a</p>	<p>close understanding of the issues of the state as much as the Members of the Commission selected by them.</p> <p>3. Constituting the committee at state level and filling up the vacancies based on the recommendations is the responsibility of the State Government. Process involved in issuing an advertisement calling for candidates to apply, issuing a gazette notification constituting the selection committee, convening the meeting and recording the minutes, recommending the two candidates for each vacancy, taking approval of the Government are important steps that need to be meticulously followed so as to defend the due process when selection is challenged in a court of law. By constituting a central committee the entire responsibility of the process would be that of central government. Doing it for all the states in the country would be cumbersome.</p> <p>4. It would be extremely difficult for a single central selection committee for the entire country to find adequate time to go through the selection of such a large number of Chairpersons and Members of all the Commissions.</p> <p>5. Central selection committee should restrict itself to central regulatory bodies – APTEL, CERC and JERC. States should continue to follow the set process for selecting Chairman and Members of SERCs as per the terms of service conditions, emoluments, allowances etc and the status of the Commission as prescribed in the rules notified by them.</p> <p>6. Unless there is a centralised cadre for State Commissions and the service conditions of the members of the commissions require them to be posted anywhere in the country, there is no propriety to call for a central institution to force itself on the state in the manner proposed.</p>

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<p>(5) The Central Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of a Member of the Appellate Tribunal or the Chairperson or a Member of the Central Commission and six months before the superannuation or end of tenure of the Member of the Appellate Tribunal or Member of the Central Commission, make a reference to the Selection Committee for filling up of the vacancy.</p> <p>(6) The Selection Committee shall finalise the selection of the Chairperson and Members referred to in sub-section (5) within three month from the date on which the reference is made to it.</p> <p>(7) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.</p> <p>(8) Before recommending any person for appointment as Member of the Appellate Tribunal or the Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as the Chairperson or Member.</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>reference to the Selection Committee for filling up of the vacancy.</p> <p>(6) The proceedings of the Selection Committee shall be held in Delhi or such other places as the Central Government may notify.</p> <p>(7) The Selection Committee shall finalise the selection of the Chairperson and Members referred to it under sub-sections (4) and (5) and make a recommendation for every vacancy referred to it within three months of the receipt of the reference.</p> <p>(8) Before recommending any person for appointment as Member of the Appellate Tribunal, or the Chairperson or other Member of the Appropriate Commission or Electricity Contract Enforcement Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as the Chairperson or Member.</p> <p>(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy other than that of the Chairperson in the Selection Committee.</p>	<p>7. The Central Selection Committee is predominantly manned by serving secretaries of the Government which is not in accordance with the judgment of the Supreme Court in Roger Mathews Vs. South Indian Bank Ltd and others.</p> <p>8. There is no representative of technical organizations like CERC or CEA in the selection committee even though the evaluation of technical member's qualification is required to be done.</p> <p>9. The sub section (7) of the original Act requiring recommendation of a panel of two names for every vacancy has been done away with making the recommendation for every post binding on the Appropriate Government which is not fair.</p>

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<p>(1) Every State Government shall, within six months from the appointed date, by notification, constitute for the purposes of this Act, a Commission for the State to be known as the (name of the State) Electricity Regulatory Commission:</p> <p>Provided that the State Electricity Regulatory Commission, established by a State Government under section 17 of the Electricity Regulatory Commissions Act, 1998 and the enactments specified in the Schedule, and functioning as such immediately before the appointed date shall be the State Commission for the purposes of this Act and the Chairperson, Members, Secretary, and officers and other employees thereof shall continue to hold office, on the same terms and conditions on which they were appointed under those Acts.</p> <p>Provided further that the Chairperson and other Members of the State Commission appointed before the commencement of this Act under the Electricity Regulatory Commissions Act, 1998 or under the enactments specified in the Schedule, may on the recommendations of the Selection Committee constituted under sub-section (1) of section 85 be allowed to opt for the terms and conditions under this Act by the concerned State Government.</p> <p>(2) The State Commission shall be a body corporate by the name aforesaid, having</p>	<p>(1) Every State Government shall, within six months from the appointed date, by notification, constitute for the purposes of this Act, a Commission for the State to be known as the (name of the State) Electricity Regulatory Commission:</p> <p>Provided that the State Electricity Regulatory Commission, established by a State Government under section 17 of the Electricity Regulatory Commissions Act, 1998 and the enactments specified in the Schedule, and functioning as such immediately before the appointed date shall be the State Commission for the purposes of this Act and the Chairperson, Members, Secretary, and officers and other employees thereof shall continue to hold office, on the same terms and conditions on which they were appointed under those Acts.</p> <p>Provided further that the Chairperson and other Members of the State Commission appointed before the commencement of this Act under the Electricity Regulatory Commissions Act, 1998 or under the enactments specified in the Schedule, may on the recommendations of the Selection Committee constituted under sub-section (1) of section 85 section 78 be allowed to opt for the terms and conditions under this Act by the concerned State Government.</p> <p>(2) The State Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or</p>	<p>The proposed Sub Section (7) may be modified as follows :</p> <p>“In the event of all or some posts of Chairperson and Members of a State Commission lying vacant the State Government may entrust their task to the Chairperson and/or member of another State Commission in consultation with the concerned State Government.”</p> <p>In case of a vacancy of Chairman or member not getting filled up in time due to some reason, there is no need for the central government to order another state commission to take charge. Concerned State could make alternative arrangement in the interim, if required, by entrusting the work to Chairman/ Members of another State Commission.</p> <p>Besides, the proposed amendment suffers from drafting lacunae also, by not stating that the existing Commissions would stay constituted. Such a proviso would ensure that regulatory work continues uninterrupted in the interests of the power utilities. There should be addition of the words “under the pre-amended provisions of the Electricity Act, 2003” before the words “under Section 17 of the Electricity Regulatory Commissions Act, 1998” in the first proviso to Section 82 of the Act.</p> <p>A similar amendment needs to be carried out in the second proviso to Section 82 also.</p> <p>A similar saving is required to be made in respect of CERC by amending sub-section 2 of Section 76 of the 2003 Act.</p>

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<p>perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.</p> <p>(3) The head office of the State Commission shall be at such place as the State Government may, by notification, specify.</p> <p>(4) The State Commission shall consist of not more than three Members, including the Chairperson.</p> <p>(5) The Chairperson and Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 85.</p> <p>New Insertion</p>	<p>be sued.</p> <p>(3) The head office of the State Commission shall be at such place as the State Government may, by notification, specify.</p> <p>(4) The State Commission shall consist of not more than three four Members, including the Chairperson.</p> <p>(5) The Chairperson and Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 85 section 78.</p> <p>(7) “If there is no chairperson and member in a State Commission to perform its functions, 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 proper.”</p>	
<p>Section 84</p> <p>(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.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from</p>	<p>Section 84</p> <p>(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 having adequate knowledge of, or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance, public policy 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 specialization in</p>	<p>The expression “(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....” may be retained as such without any modification.</p> <p>Reason:</p> <p>The original wording of Chairperson and the members to be persons of ability, integrity and standing should be retained as these are critical measures to assure</p>

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<p>amongst persons who is, or has been, a Judge 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 that High Court.</p> <p>...</p>	<p>generation, transmission or distribution of electricity;</p> <p>(b) one person having qualifications and experience in the field of law;</p> <p>(c) two persons having qualifications and experience in the field of finance, economics, commerce, public policy or management.</p> <p>(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:</p> <p>Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.</p> <p>...</p>	<p>creditworthy selection.</p>
<p>Section 85</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>(a) a person who has been a Judge of the High CourtChairperson;</p> <p>(b) the Chief Secretary of the concerned StateMember;</p> <p>(c) the Chairperson of the Authority or</p>	<p>Section 85</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>(a) a person who has been a Judge of the High CourtChairperson;</p> <p>(b) the Chief Secretary of the concerned StateMember;</p> <p>(c) the Chairperson of the Authority or the Chairperson of the Central CommissionMember;</p>	<p>Section 85 does not require any amendment.</p> <p>In addition to the detailed justification given against Section 78, the following points are made.</p> <p>By the proposed amendment to section 85 the federal character of the Constitution has been put at naught. While exercising power under the Concurrent List, the Central Government cannot take away the right of the State Government to make appointment in respect of State Regulatory Commission. Mere issue of appointment letter by the State Government does not amount to selection of Chairperson and Members of</p>

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<p>the Chairperson of the Central Commission Member:</p> <p>Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.</p> <p>(2) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.</p> <p>(3) The Selection Committee shall finalise the selection of the Chairperson and Members within three months from the date on which the reference is made to it.</p> <p>(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.</p> <p>(5) Before recommending any person for appointment as the Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.</p>	<p>Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.</p> <p>(2) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.</p> <p>(3) The Selection Committee shall finalise the selection of the Chairperson and Members within three months from the date on which the reference is made to it.</p> <p>(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.</p> <p>(5) Before recommending any person for appointment as the Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.</p> <p>(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.</p>	<p>State Commission by the State Government.</p> <p>Opening words used in Section 78 itself go to indicate that the power of selection has been usurped by the Central Government, when it says in Section 78 sub-section (1) that “the Central Government shall for the purpose of selecting the members of the Appellate Tribunal and the chairperson and members of the Central Commission, Electricity Contract Enforcement Authority, State Commissions and Joint Commissions”.</p> <p>The proposed amendment goes against the basic structure of the Constitution when the State Government is denied the power of appointment in respect of state entities. Such exercise of power by Central Government under Concurrent List would lead to colourable exercise of power, excessive delegation of power and is also ultra vires of the Constitution.</p> <p>It is axiomatic that selection will be made by the Central Government and appointment letter will be issued by the State Government and all the expenses in respect of salary and perks and office maintenance, etc. will be borne by the State Government. Such arrangement is not contemplated under the service jurisprudence or under the Constitution. The Selection Committee also denudes the representation of the State Government. Such a committee cannot exist in law.</p> <p>Similar attempt was made by the Central Government in respect of 25 tribunals by making amendments in Part XIV of the Finance Act, 2017. By similar process the provisions of 25 different tribunals were</p>

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(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.		amended to give effect to the requisite qualifications, method of appointment, terms of office, salary and allowances, and various other terms of services of the member of the presiding officer of different Statutory Tribunals. The aforesaid amendment was disapproved by the Apex Court, by means of majority judgement of the Constitution Bench, in Rojer Mathews vs South Indian Bank Limited and others dated 13.11.2019.
<p>Section 86</p> <p>(1) The State Commission shall discharge the following functions, namely: -</p> <p>...</p> <p>(e) promote cogeneration 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>(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;</p> <p>...</p> <p>(4) In discharge of its functions the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and tariff policy published under section 3.</p>	<p>Section 86</p> <p>(1) The State Commission shall discharge the following functions, namely: -</p> <p>...</p> <p>(e) promote cogeneration and generation of electricity from renewable and hydro 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 as may be prescribed by the Central Government from time to time;</p> <p>(f) adjudicate upon the disputes except matters referred to in section 109A between the licensees, and generating companies and to refer any dispute for arbitration;</p> <p>...</p> <p>(4) In discharge of its functions the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and tariff policy published under section 3 and National Renewable Energy Policy under section 3A.</p>	<p>Section 86 may not be amended.</p> <p>As already highlighted in the comments against proposed section 42, given the stage of development of various renewable technologies in India fixing source wise RPO targets may not be required. For a state, source should not matter as long as it is renewable.</p>
Section 90	Section 90	

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<p>(1) No Member shall be removed from office except in accordance with the provisions of this section.</p> <p>...</p> <p>(3) The Central Government or the State Government, as the case may be, may, in consultation with the Chairperson of the Appellate Tribunal suspend any Member of the Appropriate Commission in respect of whom a reference has been made to the Chairperson of the Appellate Tribunal, under sub-section (2) until the Central Government or the State Government, as the case may be, has passed orders on receipt of the report of the Chairperson of the Appellate Tribunal, on such reference :</p> <p>Provided that nothing contained in this section shall apply to the Chairperson of the Appropriate Commission who, at the time of his appointment as such is a sitting Judge of the Supreme court or the Chief Justice of a High Court or a Judge of a High Court.</p>	<p>(1) No Member shall be removed from office except in accordance with the provisions of this section.</p> <p>...</p> <p>(3) The Central Government or the State Government, as the case may be, may, in consultation with the Chairperson of the Appellate Tribunal suspend any Member of the Appropriate Commission in respect of whom a reference has been made to the Chairperson of the Appellate Tribunal, under sub-section (2) until the Central Government or the State Government, as the case may be, has passed orders on receipt of the report of the Chairperson of the Appellate Tribunal, on such reference :</p> <p>Provided that nothing contained in this section shall apply to the Chairperson of the Appropriate Commission who, at the time of his appointment as such is a sitting Judge of the Supreme court or the Chief Justice of a High Court or a Judge of a High Court.</p>	<p>No comments</p>
<p>Section 92</p> <p>(1) The Appropriate Commission shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.</p>	<p>Section 92</p> <p>(1) The Appropriate Commission shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.</p>	<p>Insertion of sub section (6) is not necessary.</p>

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<p>...</p> <p>(5) All orders and decisions of the Appropriate Commission shall be authenticated by its Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.</p>	<p>...</p> <p>(5) All orders and decisions of the Appropriate Commission shall be authenticated by its Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.</p> <p>(6) Where before or during the course of a proceeding, the Appropriate Commission comes to a conclusion that the Electricity Contract Enforcement Authority has the sole authority and jurisdiction to adjudicate a matter, it shall refer the same to the Electricity Contract Enforcement Authority for its orders.</p>	
New Insertion	<p>PART XA</p> <p>ELECTRICITY CONTRACT ENFORCEMENT AUTHORITY</p> <p>109A. Establishment of Electricity Contract Enforcement Authority.-</p> <p>(1) The Central Government shall, by notification, establish an Electricity Contract Enforcement Authority to exercise the powers conferred on, and discharge the functions assigned to, it under the Act.</p> <p>(2) Notwithstanding anything contained in this Act or any other law in force, the Electricity Contract Enforcement Authority shall have the sole authority and jurisdiction to adjudicate upon matters regarding performance of obligations under a contract related to sale, purchase or transmission of electricity, provided that it shall not have any jurisdiction over any matter related to regulation or determination of tariff or any dispute involving</p>	<p>Proposed Sections 109A to 109N are not necessary and hence may be dropped.</p> <p>Reasons :</p> <ol style="list-style-type: none"> 1. Setting up an exclusive authority at a central level to adjudicate disputes relating to PPA is against the spirit of creation of State Commissions vested with regulatory, legislative and adjudicative powers. Once the adjudicating responsibility is divested, the work of the Commission will remain limited to setting of tariff and issuing of license 2. There is no complaint that the Commissions are over burdened with the PPA cases and that there is inordinate delay in disposal of such cases. No evidence to support this rationale is provided in SOR. 3. With the induction of member (law) from the judicial background in compliance with Hon'ble Supreme Court's order the Commissions are better placed to adjudicate and resolve such disputes. 4. Though most of the orders in PPA disputes are

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	<p>tariff.</p> <p>(3) Every contract between a generation company and a licensee shall be filed with the Appropriate Commission within 30 days of the said contract having been concluded.</p> <p>109B. Application to Electricity Contract Enforcement Authority and order thereon - (1) Any person aggrieved in any matter referred to in section 109A may prefer an application to the Electricity Contract Enforcement Authority.</p> <p>(2) Every application under sub-section (1) shall be filed within a period of six months from the non-performance of the obligation under the contract:</p> <p>Provided that the Electricity Contract Enforcement Authority may entertain an application after the expiry of the said period of six months if it is satisfied that there is sufficient cause for not filing it within that period.</p> <p>(3) Every application received under sub section (1) shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed.</p> <p>(4) On receipt of an application or matter under sub-section (6) of section 92, the Electricity Contract Enforcement Authority may, after giving the parties to the application an opportunity of being heard, determine whether a valid contract subsists between the parties and whether any party is in violation of any of its obligations under the contract.</p> <p>(5) Upon a finding that there has a violation/breach</p>	<p>complied by the utilities, some are challenged in appeal before APTEL. If at all, powers to execute the orders should be given to the SERCs on the lines of the powers available with APTEL for execution of its orders. In fact, in the earlier draft amendment circulated by Power Ministry, a new sub section (2A) was proposed under section 94 giving powers to Commission to execute its orders. It read as under “An order made by the Appropriate Commission under this Act shall be executable by the Appropriate Commission as a decree of civil court and for this purpose the Appropriate Commission shall have all the powers of a civil court.”</p> <p>5. Commissions are able to resolve disputes by invoking their regulatory powers in addition to adjudication on any peculiar issue. Supreme Court in Energy Watchdog case has sanctified such powers. Proposed ECEA has no such powers and it would therefore be difficult for it to resolve those kinds of issues in disputes.</p> <p>6. All PPA related disputes have tariff implications. Commissions are determining tariffs and therefore are better placed to resolve such disputes with full compliance.</p> <p>7. PPAs are approved by Commission and it is quite natural and proper that they would be able to interpret the provisions of PPA much better.</p> <p>8. Delay in adjudication of disputes could be addressed by setting time limits for the Commissions.</p> <p>9. The contract enforcement powers proposed to be given to ECEA can be given to CERC/ SERCs to make them empowered and effective.</p> <p>10. Any party not satisfied with the order of CERC/ SERC can always approach the APTEL. Therefore, there is no justification for constitution of another</p>

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	<p>of obligation under a contract by a party or parties, the Electricity Contract Enforcement Authority shall direct that the said parties immediately perform their obligation under the contract and may direct the payment of costs on account of the breach of contract or non-fulfilment of obligations of the contract and any further amount it may deem fit as compensation.</p> <p>(6) The Electricity Contract Enforcement Authority shall send a copy of every order made by it to the parties to the application as the case may be.</p> <p>(7) The Electricity Contract Enforcement Authority shall deal with the application filed before it under sub-section (1) and any matter referred to it under sub-section (6) of section 92 as expeditiously as possible and endeavor to dispose it finally within one hundred and twenty days from the date of its receipt:</p> <p>Provided that where any application could not be disposed off within the said period of one hundred and twenty days, the Electricity Contract Enforcement Authority shall record its reasons in writing for not disposing of the matter within the said period.</p> <p>109C. Composition of Electricity Contract Enforcement Authority- (1) The Electricity Contract Enforcement Authority shall consist of the following –</p> <p>(2)</p> <p>a)</p>	<p>authority.</p> <p>11.If there is any arbitration issue, then there is separate Arbitration and Conciliation Act, 1996. This Act can be invoked to resolve the dispute.</p> <p>12.Chairman and members of the ECEA are not proscribed from taking up any position for a period of one year in any commercial organization upon demitting office.</p>

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	<p>b)</p> <ol style="list-style-type: none"> 1. a) a Chairperson; 2. b) two or more Judicial Members as may be prescribed by the Central Government from time to time; and 3. c) three or more Technical Members, as may be prescribed by the Central Government from time to time. <p>Subject to the provisions of this Act,</p> <p>the jurisdiction of the Electricity Contract Enforcement Authority may be exercised by Benches thereof;</p> <p>a Bench may be constituted by the Chairperson of the Electricity Contract Enforcement Authority with two or more Members of the Electricity Contract Enforcement Authority as the Chairperson of the Electricity Contract Enforcement Authority may deem fit:</p> <p>Provided that every Bench shall include at least one Judicial Member and one Technical Member;</p> <p>(c) the Benches of the Electricity Contract Enforcement Authority shall ordinarily sit in Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Electricity Contract Enforcement Authority, notify;</p> <p>(d) the Central Government shall, in consultation with the Chairperson of the Electricity Contract</p>	

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	<p>Enforcement Authority, notify the areas in relation to which each Bench of the Electricity Contract Enforcement Authority may have exercise jurisdiction.</p> <p>(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Electricity Contract Enforcement Authority may transfer a Member of the Electricity Contract Enforcement Authority from one Bench to another Bench.</p> <p>Explanation.- For the purposes of this section, a Judicial Member shall include the Chairperson of the Electricity Contract Enforcement Authority.</p> <p>109D. Qualification for appointment of Chairperson and Members of Electricity Contract Enforcement Authority.-(1) A person shall not be qualified for appointment as the Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority unless he-</p> <ol style="list-style-type: none"> 1. (a) in the case of the Chairperson of the Electricity Contract Enforcement Authority, is, or has been a Judge of a High Court; and 2. (b) in the case of a Judicial Member of the Electricity Contract Enforcement Authority, is, or has been a District Judge or Additional District Judge for a minimum period of seven years; and 3. (c) in the case of a Technical Member of the Electricity Contract <p>Enforcement Authority,-</p>	

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	<p>i. is, or has been, an officer of the rank of Additional Secretary or above for at least one year in the Ministry or Department of the Central Government dealing with power or any other sector of infrastructure; or</p> <p>ii. is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission, distribution and regulation, or economics, finance, public policy, commerce, or management with experience in infrastructure related matters.</p> <p>(2) The Chairperson and Members of the Electricity Contract Enforcement Authority shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.</p> <p>(3) Before appointing any person for appointment as Chairperson or other Member of the Electricity Contract Enforcement Authority, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.</p> <p>109E. Term of Office and Terms and Conditions of service.-The Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority shall hold office as such for a term of five years from the date on which he enters upon his office:</p> <p>Provided that such Chairperson or other Member shall not be eligible for reappointment in the same</p>	

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	<p>capacity as the Chairperson or a Member in the Electricity Contract Enforcement Authority;</p> <p>Provided further that no Chairperson of the Electricity Contract Enforcement Authority or Member of the Electricity Contract Enforcement Authority shall hold office after attaining the age of sixty-seven years.</p> <p>109F. Vacancies.-If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Electricity Contract Enforcement Authority from the stage at which the vacancy is filled.</p> <p>109G. Resignation and Removal.- (1) The Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority may, by notice in writing under his hand addressed to the Central Government, resign his office:</p> <p>Provided that the Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or</p>	

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	<p>until the expiry of term of office, whichever is the earliest.</p> <p>(2) The Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority shall not be removed from his office except by an order of the Central Government on the ground of proved misbehavior or incapacity after an inquiry made by Chairperson of the Appellate Tribunal in which the Chairperson or a Member of the Electricity Contract Enforcement Authority concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.</p> <p>109 H. Member to act as Chairperson in certain circumstances.- (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Electricity Contract Enforcement Authority by reason of his death, resignation or otherwise, the senior-most Member of the Electricity Contract Enforcement Authority shall act as the Chairperson of the Electricity Contract Enforcement Authority until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.</p> <p>(2) When the Chairperson of the Electricity Contract Enforcement Authority is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member of the Electricity Contract Enforcement Authority shall discharge the functions of the Chairperson of the Electricity Contract Enforcement Authority until the date on which the Chairperson of the Electricity Contract</p>	

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	<p>Enforcement Authority resumes his duties.</p> <p>109I. Officers and other employees of Electricity Contract Enforcement Authority.-(1) The Central Government shall provide the Electricity Contract Enforcement Authority with such officers and other employees as it may deem fit.</p> <p>(2) The officers and other employees of the Electricity Contract Enforcement Authority shall discharge their functions under the general superintendence of the Chairperson of the Electricity Contract Enforcement Authority.</p> <p>(3) The salaries and allowances and other terms and conditions of service of the officers and other employees of the Electricity Contract Enforcement Authority shall be such as may be prescribed by the Central Government.</p> <p>(4) The Chairperson of Electricity Contract Enforcement Authority shall exercise such financial and administrative powers as may be prescribed by the Central Government.</p> <p>109 J. Procedure and powers of Electricity Contract Enforcement Authority.- (1) The Electricity Contract Enforcement Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Electricity Contract Enforcement Authority shall have powers to regulate its own procedure.</p> <p>(2) The Electricity Contract Enforcement Authority</p>	

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	<p>shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-</p> <ol style="list-style-type: none"> 1. a) summoning and enforcing the attendance of any person and examining him on oath; 2. b) requiring the discovery and production of documents; 3. c) receiving evidence on affidavits; 4. d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office; 5. e) issuing commissions for the examination of witnesses or documents; 6. f) reviewing its decisions; 7. g) dismissing an application on default or deciding it ex parte; 8. h) setting aside any order of dismissal of an application on default or any order passed by it ex parte; 9. i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an 	

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	<p style="color: red;">opportunity to be heard; and</p> <p style="color: red;">10. j) any other matter which may be prescribed by the Central Government.</p> <p style="color: red;">(3) An order made by the Electricity Contract Enforcement Authority under this Act shall be executable by it as a decree of civil court and, for this purpose, the Electricity Contract Enforcement Authority shall have all the powers of a civil court including but limited to powers of attachment and sale of property, arrest and detention in prison and appointment of a receiver.</p> <p style="color: red;">(4) Notwithstanding anything contained in sub-section (3), the Electricity Contract Enforcement Authority may transmit any 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.</p> <p style="color: red;">(5) All proceedings before the Electricity Contract Enforcement Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Electricity Contract Enforcement</p> <p style="color: red;">Authority shall be deemed to be a civil court for the purposes of section 345 and 346 of the Code of Criminal Procedure, 1973.</p> <p style="color: red;">109 K. Distribution of business amongst Benches and transfer of cases from one Bench to another Bench.- (1) Where Benches are constituted, the</p>	

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	<p>Chairperson of the Electricity Contract Enforcement Authority may, from time to time, by notification, make provisions as to the distribution of the business of the Electricity Contract Enforcement Authority amongst the Benches and also provide for the matters which may be dealt with by each Bench.</p> <p>(2) On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson of the Electricity Contract Enforcement Authority may transfer any case pending before one Bench, for disposal, to any other Bench.</p> <p>109 L. Decision to be by majority.- If the Members of the Electricity Contract Enforcement Authority of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Electricity Contract Enforcement Authority who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Electricity Contract Enforcement Authority and such point or points shall be decided according to the opinion of the majority of the Members of the Electricity Contract Enforcement Authority who have heard the case, including those who first heard it.</p> <p>109 M. Right of parties to take assistance of legal practitioner.- A person preferring an application to the Electricity Contract Enforcement Authority under this Act and any other party to the case may either appear in person or take the assistance of a</p>	

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	<p>legal practitioner of his choice to present his case before the Electricity Contract Enforcement Authority, as the case may be.</p> <p>109 N. Appeal to Appellate Tribunal.-Any person aggrieved by any decision or order of the Electricity Contract Enforcement Authority, may, file an appeal to the Appellate Tribunal within sixty days from the date of communication of the decision or order of the Electricity Contract Enforcement Authority to him:</p> <p>Provided that the Appellate Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.</p>	
<p>Section 110</p> <p>The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Appellate Tribunal for Electricity to hear appeals against the orders of the adjudicating officer or the Appropriate Commission under this Act.</p>	<p>Section 110</p> <p>The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Appellate Tribunal for Electricity to hear appeals against the orders of the adjudicating officer or the Appropriate Commission or the Electricity Contract Enforcement Authority under this Act.</p>	No Amendment is required
<p>Section 111</p> <p>(1) Any person aggrieved by an order made by an adjudicating officer under this Act (except under section 127) or an order made by the Appropriate Commission under this Act may prefer an appeal to the Appellate Tribunal for Electricity:</p> <p>...</p>	<p>Section 111</p> <p>(1) Any person aggrieved by an order made by an adjudicating officer under this Act (except under section 127) or an order made by the Appropriate Commission or an order made by the Electricity Contract Enforcement Authority under this Act may prefer an appeal to the Appellate Tribunal for</p>	No amendment is required

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	Electricity: ...	
Section 112 (1) The Appellate Tribunal shall consist of a Chairperson and three other Members. ...	Section 112 (1) The Appellate Tribunal shall consist of a Chairperson and three other Members such number of other Members, not less than seven, as may be prescribed by the Central Government. ...	No comments
Section 119 (1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may deem fit. (2) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Chairperson of the Appellate Tribunal. (3) The salaries and allowances and other terms and conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed by the Central Government.	Section 119 (1) The Central Government shall provide the Appellate Tribunal with such officers and other employees as it may deem fit. (2) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Chairperson of the Appellate Tribunal. (3) The salaries and allowances and other terms and conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be prescribed by the Central Government. (4) The Chairperson of Appellate Tribunal shall exercise such financial and administrative powers as may be prescribed by the Central Government.	No comments
Section 120 (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this	Section 120 (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall	

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<p>Act, the Appellate Tribunal shall have powers to regulate its own procedure.</p> <p>(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-</p> <p>...</p> <p>(g) dismissing a representation of default or deciding it <i>ex parte</i>;</p> <p>(h) setting aside any order of dismissal or any representation for default or any order passed by it <i>ex parte</i>;</p> <p>...</p>	<p>have powers to regulate its own procedure.</p> <p>(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-</p> <p>...</p> <p>(g) dismissing a representation of an appeal or an application on default or deciding it <i>ex parte</i>;</p> <p>(h) setting aside any an order of dismissal or any representation for of an appeal or an application on default or any order passed by it <i>ex parte</i>;</p> <p>...</p>	
<p>Section 121</p> <p>The Appellate Tribunal may, after hearing the Appropriate Commission or other interested party, if any, from time to time, issue such orders, instructions or directions as it may deem fit, to any Appropriate Commission for the performance of its statutory functions under this Act.</p>	<p>Section 121</p> <p>(1) The Appellate Tribunal may, after hearing the Appropriate Commission Electricity Contract Enforcement Authority or other interested party, if any, from time to time, issue such orders, instructions or directions as it may deem fit, to any Appropriate Commission or Electricity Contract Enforcement Authority for the performance of its statutory functions under this Act.</p>	<p>Proposed amendment to sub-section (1) is not required.</p>
	<p>(2) The Appellate Tribunal shall have the same jurisdiction, powers and authority to take action on wilful disobedience to any of its judgment, decree, direction, order or other process or wilful breach of</p>	<p>Additional provision introduced by the new sub section (2) is not desirable.</p> <p>Section 121 vests a limited power of supervisory</p>

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	<p>an undertaking given to a it, as a High Court under the provisions of the Contempt of Courts Act, 1971 (70 of 1971) on its own motion or on a motion made by the Advocate General or such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer or the Advocate General, and a reference in the Contempt of Courts Act, 1971 to a High Court shall be construed as including a reference to the Appellate Tribunal.</p>	<p>jurisdiction on the Appellate Tribunal for Electricity over the Electricity Regulatory Commissions to the extent of issuing orders and instructions to perform its statutory functions under the Act. In PTC India Limited Vs CERC (2010) 4 SCC 603 while dealing with the scope of power of the Appellate Tribunal for Electricity, the Hon'ble Supreme Court held that there is no power of judicial review vested in it in order to examine the legality or otherwise of regulations framed by the Electricity Regulatory Commissions. No doubt under Section 111 of the Act, orders passed by the appropriate Commissions are appealable to the Appellate Tribunal and on such appeals, the Tribunal can pass appropriate orders. The orders passed by the Appellate Tribunal shall be executable by it under Section 120 (3) as decree of Civil Court and, for this purpose, it has been conferred with the powers of a Civil Court. Under Section 146 of the Act, non-compliance of the orders or directions is made a punishable offence. It is noteworthy that the orders passed or directions issued to the appropriate Commissions under Section 121 are exempted from the purview of Section 146 of the Act. In the absence of power of judicial review and having regard to the limited supervisory jurisdiction under Section 121 of the Act, it cannot be said that the Electricity Regulatory Commissions are direct subordinates to the Appellate Tribunal for Electricity for the purpose of exercising contempt jurisdiction. When there is already a mechanism for execution of orders passed by the Appellate Tribunal for Electricity under Section 120 (3) of the Act apart from imposing punishment under Section 146 of the Act for non-compliance of the orders, there could be no sound reason for vesting the contempt power in the Appellate Tribunal for Electricity. Ordinarily the power of contempt is vested only in courts of record such as High Courts</p>

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		<p>and Supreme Court established under the constitution. Hence it is not desirable to vest the Appellate Tribunal with the power of contempt. Alternatively, it is submitted that the proposed provision could be inserted under Section 120 of the Act, instead of under Section 121 of the Act as the latter provision exclusively deals with the directions issued to the appropriate Commissions creating a serious apprehension that it is intended to punish the Regulatory Commissions. Having regard to the independent nature of and wide ranging powers vested in the Electricity Regulatory Commissions, it is neither appropriate nor desirable to subject the Commissions to the contempt jurisdiction of the Appellate Tribunal for Electricity as such a measure may affect the independent functioning of the Commissions.</p> <p>It is therefore suggested that the proposed provision may be deleted. In the alternative, the provision may be shifted to Section 120 of the Act with a proviso similar to that existing under Section 146 of the Act for exempting the Commissions from the purview of the contempt.</p>
<p>Section 142</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 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</p>	<p>Section 142</p> <p>(1) 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 rules or regulations made thereunder, or any direction or order 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</p>	

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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>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 crore rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees upto one lakh rupees for every day during which the failure continues after contravention of the first such direction.</p> <p>(2) Notwithstanding anything contained in sub-section (1), in case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person, with effect from such date as may be notified by the Central Government, has not purchased power from renewable or hydro sources of energy as specified by it using its powers under the Act, the Appropriate Commission shall 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, a sum calculated at the rate of fifty paise per kilowatt-hour for the shortfall in purchase in the first year of default, one rupees per kilowatt-hour for the shortfall in purchase in the second successive year of default and at the rate of two rupees per unit for the shortfall in purchase continuing after the second year.</p>	The proposed sub-section (2) should be deleted.
Section 146 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	Section 146 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 which may extend to	No Comments

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<p>imprisonment for a term 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>¹ Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>	<p>three months or with fine, which may extend to one lakh crore 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 one lakh rupees for every day during which the failure continues after conviction of the first such offence:</p> <p>¹ Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>	
<p>Section 176</p> <p>(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.</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>(b) the additional requirements ¹ relating to the capital adequacy, creditworthiness or code of conduct under sixth proviso to section 14;</p>	<p>Section 176</p> <p>(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.</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>(aa) the minimum percentage of purchase of electricity from renewable and hydro sources of energy under section 3A;</p> <p>(ab) allowing and facilitating cross border trade of electricity and any matter related to it under sub</p>	<p>In view of the comments in the context of proposed sections 3A, 49, 49A, 109 A to I,. The proposal to add clauses (aa), (ac), (ad), (ae), (da), (pa), (pb), (pc) and (pd) may be dropped.</p>

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<p>...</p> <p>(d) the constitution and functions of the National Load Despatch Centre under sub-section (2) of section 26;</p> <p>(e) the works of licensees affecting the property of owner or occupier under sub-section (2) of section 67;</p> <p>...</p> <p>(p) the form in which and time at which the Central Commission shall prepare its budget under section 106;</p> <p>(q) the form and the manner of verifying such form, and fee for filing appeal under sub-section (2) of section 111;</p> <p>(r) the salary and allowances payable to and the other terms and conditions of service of the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal under section 115;</p> <p>(s) the salary and allowances and other conditions of service of the officers and employees of the Appellate Tribunal under sub-section (3) of section 119;</p>	<p>section (1) of section 49A;</p> <p>(ac) laying down the modalities of bundling of renewable energy (including hydro) with thermal energy;</p> <p>(ad) Renewable Generation Obligation;</p> <p>(ae) regarding maintaining adequate capacity resources;</p> <p>(b) the additional requirements ¹relating to the capital adequacy, creditworthiness or code of conduct under sixth proviso to section 14;</p> <p>...</p> <p>(d) the constitution and functions of the National Load Despatch Centre under sub-section (2) of section 26;</p> <p>(da) payment security mechanism under section 49;</p> <p>(e) the works of licensees affecting the property of owner or occupier under sub-section (2) of section 67;</p> <p>...</p> <p>(p) the form in which and time at which the Central Commission shall prepare its budget under section 106;</p> <p>(pa) the form, the manner of verifying the form, and fee for filing the application under sub-section (4) of</p>	

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	<p>section 109B;</p> <p>(pb) the number of Judicial and Technical Members to be included in the Electricity Contract Enforcement Authority under sub-section (1) of section 109C;</p> <p>(pc) the salaries and allowances and other terms and conditions of service of the officers and other employees of the Electricity Contract Enforcement Authority under sub-section (3) of section 109I;</p> <p>(pd) the exercise of financial and administrative powers by the Electricity Contract Enforcement Authority under sub-section (4) of section 109I;</p> <p>(q) the form and the manner of verifying such form, and fee for filing appeal under sub-section (2) of section 111;</p> <p>(qa) the number of Members to be included in the Appellate Tribunal under sub section 1 of section 112;</p> <p>(r) the salary and allowances payable to and the other terms and conditions of service of the Chairperson of the Appellate Tribunal and Members of the Appellate Tribunal under section 115;</p> <p>(s) the salary and allowances and other conditions of service of the officers and employees of the Appellate Tribunal under sub-section (3) of section 119;</p> <p>(sa) exercise of financial and administrative powers by the Chairperson of Appellate Tribunal under sub</p>	

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	<p>section 4 of section 119;</p> <p>...</p>	
<p>Section 178</p> <p>(1) The Central Commission may, by notification make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.</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>(a) period to be specified under the first proviso to section 14;</p> <p>(b) the form and the manner of the application under sub-section (1) of section 15;</p> <p>(c) the manner and particulars of notice under sub-section (2) of section 15;</p> <p>(d) the conditions of licence under section 16;</p> <p>(e) the manner and particulars of notice under clause (a) of sub-section (2) of section 18;</p> <p>(f) publication of alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;</p>	<p>Section 178</p> <p>(1) The Central Commission may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act in respect of the functions assigned to it in the Act.</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>(a) period to be specified under the first proviso to section 14;</p> <p>(aa) Cross border trade of electricity, if any, under sub section (2) of section 6A;</p> <p>(b) the form and the manner of the application under sub-section (1) of section 15;</p> <p>(c) the manner and particulars of notice under sub-section (2) of section 15;</p> <p>(d) the conditions of licence under section 16;</p> <p>(e) the manner and particulars of notice under clause (a) of sub-section (2) of section 18;</p> <p>(f) publication of alterations or amendments to be made in the licence under clause (c) of sub-section</p>	<p>Sub section (1) and clause (ze) of sub section (2) of section 178 ensure that the regulations are made within the ambit of the Act and to carry out the provisions of the Act, while at the same time enabling the Commission to frame regulations which may not be specifically mentioned under sub section (2) of the Act. The electricity sector is dynamic and undergoing rapid transformation due to disruptive technologies. In this context, it is not possible to specify all the possible subjects under sub section (2) to which the Commission's regulation framing powers would get limited to. The same approach has been followed in the context of the provisions dealing with the rule making powers of the Central Government (section 176), State Government (section 180) and regulation making powers of CEA (section 177) as well.</p> <p>In view of the above proposed amendments to sub section (1) and clause (ze) may be dropped.</p>

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<p>(g) Grid Code under sub-section (2) of section 28;</p> <p>(h) levy and collection of fees and charge from generating companies or transmission utilities or licensees under sub-section (4) of section 28;</p> <p>(i) rates, charges and terms and conditions in respect of intervening transmission facilities under proviso to section 36;</p> <p>(j) payment of the transmission charges and a surcharge under-sub-clause (ii) of clause (d) of sub-section (2) of section 38;</p> <p>(k) reduction ¹of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 38;</p> <p>(l) payment of transmission charges and a surcharge under sub-clause (ii) of clause(c) of section 40;</p> <p>(m) reduction ²of surcharge and cross subsidies under the second proviso to sub-clause (ii) of clause (c) of section 40;</p> <p>(n) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;</p> <p>(o) duties of electricity trader under sub-</p>	<p>(2) of section 18;</p> <p>(g) Grid Code under sub-section (2) of section 28;</p> <p>(h) levy and collection of fees and charge from generating companies or transmission utilities or licensees under sub-section (4) of section 28;</p> <p>(i) rates, charges and terms and conditions in respect of intervening transmission facilities under proviso to section 36;</p> <p>(j) payment of the transmission charges and a surcharge under-sub-clause (ii) of clause (d) of sub-section (2) of section 38;</p> <p>(k) reduction ¹of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 38;</p> <p>(l) payment of transmission charges and a surcharge under sub-clause (ii) of clause(c) of section 40;</p> <p>(m) reduction ²of surcharge and cross subsidies under the second proviso to sub-clause (ii) of clause (c) of section 40;</p> <p>(n) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;</p> <p>(o) duties of electricity trader under sub-section (2) of section 52;</p> <p>(p) standards of performance of a licensee or class</p>	

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>section (2) of section 52;</p> <p>(p) standards of performance of a licensee or class of licensees under sub-section (1) of section 57;</p> <p>(q) the period within which information to be furnished by the licensee under sub-section (1) of section 59;</p> <p>(r) the manner for reduction of cross-subsidies under clause (g) of section 61;</p> <p>(s) the terms and conditions for the determination of tariff under section 61;</p> <p>(t) details to be furnished by licensee or generating company under sub-section (2) of section 62;</p> <p>(u) the procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;</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>(w) the manner of publication of application under sub-section (2) of section 64;</p> <p>(x) issue of tariff order with modifications or conditions under sub-section (3) of section 64;</p>	<p>of licensees under sub-section (1) of section 57;</p> <p>(q) the period within which information to be furnished by the licensee under sub-section (1) of section 59;</p> <p>(r) the manner for reduction of cross-subsidies under clause (g) of section 61;</p> <p>(s) the terms and conditions for the determination of tariff under section 61;</p> <p>(t) details to be furnished by licensee or generating company under sub-section (2) of section 62;</p> <p>(u) the procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;</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>(w) the manner of publication of application under sub-section (2) of section 64;</p> <p>(x) issue of tariff order with modifications or conditions under sub-section (3) of section 64;</p> <p>(y) the manner by which development of market in power including trading specified under section 66;</p> <p>(z) the powers and duties of the Secretary of the Central Commission under sub-section (1) of</p>	

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>(y) the manner by which development of market in power including trading specified under section 66;</p> <p>(z) the powers and duties of the Secretary of the Central Commission under sub-section (1) of section 91;</p> <p>(za) the terms and conditions of service of the Secretary, officers and other employees of Central Commission under sub-section (3) of section 91;</p> <p>(zb) the rules of procedure for transaction of business under sub-section (1) of section 92;</p> <p>(zc) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128;</p> <p>(zd) the manner of service and publication of notice under section 130;</p> <p>(ze) any other matter which is to be, or may be specified by regulations.</p>	<p>section 91;</p> <p>(za) the terms and conditions of service of the Secretary, officers and other employees of Central Commission under sub-section (3) of section 91;</p> <p>(zb) the rules of procedure for transaction of business under sub-section (1) of section 92;</p> <p>(zc) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128;</p> <p>(zd) the manner of service and publication of notice under section 130;</p> <p>(ze) any other matter which is to be, or may be specified by regulations.</p>	
<p>Section 181</p> <p>(1) The State Commissions may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.</p> <p>(2) In particular and without prejudice to the generality of the power contained in sub-</p>	<p>Section 181</p> <p>(1) The State Commissions may, by notification, make regulations in respect of the functions assigned to it in the Act. consistent with this Act and the rules generally to carry out the provisions of this Act.</p> <p>(2) In particular and without prejudice to the</p>	<p>There is no need to make any amendment to Section 181 of the Act. The entire Section of the Act may be left as such in order to protect the independence and effectiveness of the SERCs.</p>

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>section (1), such regulations may provide for all or any of the following matters, namely: -</p> <p>(a) period to be specified under the first proviso of section 14;</p> <p>(b) the form and the manner of application under sub- section (1) of section 15;</p> <p>(c) the manner and particulars of application for licence to be published under sub-section (2) of section 15;</p> <p>(d) the conditions of licence under section 16;</p> <p>(e) the manner and particulars of notice under clause(a) of sub-section (2) of section 18;</p> <p>(f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;</p> <p>(g) levy and collection of fees and charges from generating companies or licensees under sub- section (3) of section 32;</p> <p>(h) rates, charges and the terms and conditions in respect of intervening transmission facilities under proviso to section 36;</p> <p>(i) payment of the transmission charges and a surcharge under sub-clause (ii) of clause(d)</p>	<p>generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely: -</p> <p>(a) period to be specified under the first proviso of section 14;</p> <p>(b) the form and the manner of application under sub- section (1) of section 15;</p> <p>(c) the manner and particulars of application for licence to be published under sub-section (2) of section 15;</p> <p>(d) the conditions of licence under section 16;</p> <p>(e) the manner and particulars of notice under clause(a) of sub-section (2) of section 18;</p> <p>(f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;</p> <p>(g) levy and collection of fees and charges from generating companies or licensees under sub-section (3) of section 32;</p> <p>(h) rates, charges and the terms and conditions in respect of intervening transmission facilities under proviso to section 36;</p> <p>(i) payment of the transmission charges and a surcharge under sub-clause (ii) of clause(d) of sub-section (2) of section 39;</p>	

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>of sub- section (2) of section 39;</p> <p>(j) reduction ¹ of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;</p> <p>(k) manner and utilisation of payment and surcharge under the fourth proviso to sub-clause(ii) of clause (d) of sub-section (2) of section 39;</p> <p>(l) payment of the transmission charges and a surcharge under sub-clause(ii) of clause (c) of section 40;</p> <p>(m) reduction ² of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (c) of section 40;</p> <p>(n) the manner of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (c) of section 40;</p> <p>(o) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;</p> <p>(p) reduction ¹ of surcharge and cross-subsidies under the third proviso to sub-section (2) of section 42;</p> <p>(q) payment of additional charges on charges of wheeling under sub-section (4) of</p>	<p>(j) reduction ¹ of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;</p> <p>(k) manner and utilisation of payment and surcharge under the fourth proviso to sub-clause(ii) of clause (d) of sub-section (2) of section 39;</p> <p>(l) payment of the transmission charges and a surcharge under sub-clause(ii) of clause (c) of section 40;</p> <p>(m) reduction ² of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (c) of section 40;</p> <p>(n) the manner of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (c) of section 40;</p> <p>(o) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;</p> <p>(oa) determination and payment of surcharge and wheeling charges under the first proviso to sub-section (2) of section 42;</p> <p>(p) reduction of surcharge and cross subsidies in surcharge and cross subsidies, as may be provided for in the Tariff Policy under the third proviso to sub-section (2) of section 42;</p> <p>(pa) the manner of payment and utilization of the surcharge under the fifth proviso to sub-section (2)</p>	

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<p>section 42;</p> <p>(r) guidelines under sub-section (5) of section 42;</p> <p>(s) the time and manner for settlement of grievances under sub-section (7) of section 42;</p> <p>(t) the period to be specified by the State Commission for the purposes specified under sub-section (1) of section 43;</p> <p>(u) methods and principles by which charges for electricity shall be fixed under sub-section (2) of section 45;</p> <p>(v) reasonable security payable to the distribution licensee under sub-section (1) of section 47;</p> <p>(w) payment of interest on security under sub-section (4) of section 47;</p> <p>(x) electricity supply code under section 50;</p> <p>(y) the proportion of revenues from other business to be utilised for reducing wheeling charges under proviso to section 51;</p> <p>(z) duties of electricity trader under sub-section (2) of section 52;</p> <p>(za) standards of performance of a licensee or a class of licensees under sub-section (1)</p>	<p>of section 42;</p> <p>(q) payment of additional charges on charges of wheeling under sub-section (4) of section 42;</p> <p>(r) guidelines under sub-section (5) of section 42;</p> <p>(s) the time and manner for settlement of grievances under sub-section (7) of section 42;</p> <p>(t) the period to be specified by the State Commission for the purposes specified under sub-section (1) of section 43;</p> <p>(u) methods and principles by which charges for electricity shall be fixed under sub-section (2) of section 45;</p> <p>(v) reasonable security payable to the distribution licensee under sub-section (1) of section 47;</p> <p>(w) payment of interest on security under sub-section (4) of section 47;</p> <p>(x) electricity supply code under section 50;</p> <p>(y) the proportion of revenues from other business to be utilised for reducing wheeling charges under proviso to section 51;</p> <p>(z) duties of electricity trader under sub-section (2) of section 52;</p> <p>(za) standards of performance of a licensee or a class of licensees under sub-section (1) of section</p>	

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>of section 57;</p> <p>(zb) the period within which information to be furnished by the licensee under sub-section (1) of section 59;</p> <p>²(zc) the manner of reduction of cross-subsidies under clause (g) of section 61;</p> <p>(zd) the terms and conditions for the determination of tariff under section 61;</p> <p>(ze) details to be furnished by licensee or generating company under sub-section (2) of section 62;</p> <p>(zf) the methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;</p> <p>(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;</p> <p>(zh) issue of tariff order with modifications or conditions under sub-section(3) of section 64;</p> <p>(zi) the manner by the which development of market in power including trading specified under section 66;</p> <p>(zj) the powers and duties of the Secretary of</p>	<p>57;</p> <p>(zb) the period within which information to be furnished by the licensee under sub-section (1) of section 59;</p> <p>(ze) the manner of reduction of cross-subsidies under clause (g) of section 61;</p> <p>(zd) the terms and conditions for the determination of tariff under section 61;</p> <p>(ze) details to be furnished by licensee or generating company under sub-section (2) of section 62;</p> <p>(zf) the methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (5) of section 62;</p> <p>(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;</p> <p>(zh) issue of tariff order with modifications or conditions under sub-section(3) of section 64;</p> <p>(zi) the manner by the which development of market in power including trading specified under section 66;</p> <p>(zj) the powers and duties of the Secretary of the State Commission under sub-section (1) of section 91;</p> <p>(zk) the terms and conditions of service of the</p>	

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Existing Provisions	Proposed Provisions	Comments of Forum of Regulators
<p>the State Commission under sub-section (1) of section 91;</p> <p>(zk) the terms and conditions of service of the secretary, officers and other employees of the State Commission under sub-section (2) of section 91;</p> <p>(zl) rules of procedure for transaction of business under sub-section (1) of section 92;</p> <p>(zm) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128;</p> <p>(zn) the manner of service and publication of notice under section 130;</p> <p>(zo) the form of preferring the appeal and manner in which such form shall be verified and the fee for preferring the appeal under sub-section (1) of section 127;</p> <p>(zp) any other matter which is to be, or may be, specified.</p> <p>(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication.</p>	<p>secretary, officers and other employees of the State Commission under sub-section (2) of section 91;</p> <p>(zl) rules of procedure for transaction of business under sub-section (1) of section 92;</p> <p>(zm) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 128;</p> <p>(zn) the manner of service and publication of notice under section 130;</p> <p>(zo) the form of preferring the appeal and manner in which such form shall be verified and the fee for preferring the appeal under sub-section (1) of section 127;</p> <p>(zp) any other matter which is to be, or may be, specified.</p> <p>(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication.</p>	
