



A STUDY OF ELECTRICITY ACT WITH SPECIAL REFERENCE TO CONSUMER PROTECTION.

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ABSTRACT

Electricity is the basic necessity for human being. One cannot imagine the life without electricity. Electricity Supply Companies Plays important role in providing good quality of electricity. Electricity Act 2003 consolidate the law relating to generation, transmission, distribution, use of electricity. Act provides for establishment of various authorities for protection of consumer interest.

KEYWORDS : Electricity, Regulation, Consumer, Ombudsman, Electricity Regulatory Commission

INTRODUCTION.

Electricity is the basis necessity without electricity one cannot imagine the life in the modern world and India is not exception to this. In India source of power generation range from commercial sources such as coal, natural gas, lignite, nuclear, hydro and non-conventional sources i.e. renewable such as wind, solar, agriculture and domestic waste. Electricity is one of the important and essential sources for the economic and social development of a nation.

Indian power sector in the course of time has witnessed numerous milestones. The regulatory frame work for power sector started with Electricity Act 1887 and then by Indian Electricity Act 1903 Later Indian Electricity Act 1910 replaced 1903 Act. After independence in 1947, In order to fulfill the social obligation by the state the electricity supply Act 1948 was enacted. It provides and mandates for the creational state electricity boards in the states for the purpose of ensuring electricity in each and every proof of the country.

This leads to monopoly of the state in the electricity sector and not encourages completion and electricity tariff became the object for the vote bank policy during the time of election. In spite of government control over State Electricity Board, most of these SEB, not achieved the object of 1948 Act, due to various reason such as miss management, political intervention, no competition and inefficient management etc.

Failure of most of SEBC's leads to complete overhaul of the power sector. This leads to establishments of separate entity for tariff determination. For this purpose the Electricity Regulatory Commission Act 1998 was enacted which mandates establishment of CERC (Central Electricity Regulatory commission) at central and SERC (State electricity Regulatory Commission) at state level.

After lots of discussions debates The Electricity act 2003 was enacted by repealing all the previous Acts.

OBJECTIVES OF 2003 Act.

The Electricity act 2003 was enacted to consolidate the law relating to generation, transmission, distribution, trading and use of electricity and to promote competition, protecting interest of consumers, ensure supply of electricity to all area, renationalization of electricity tariff and constitution of electricity Authority at central and state.

Regulatory Commissions.

The Electricity Act 2003 section 76, 82, 83 and 110 provides for the establishment of Central Electricity Regulatory Commission, State Electricity Regulatory Commission and Joint Electricity Regulatory Commission, Appellate Tribunal for electricity.

Regulatory commissions are discharge the following functions.

The Central Commission functions

- (a) To regulate the tariff of generating companies owned or controlled by the Central Government;
- (b) to regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;
- (c) To regulate the inter-State transmission of electricity;
- (d) To determine tariff for inter-State transmission of electricity;
- (e) To issue licenses to persons to function as transmission licensee and electricity trader with respect to their inter-State operations;
- (f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;
- (g) To levy fees for the purposes of this Act;
- (h) To specify Grid Code having regard to Grid Standards;
- (i) To specify and enforce the standards with respect to quality, continuity and reliability of service by licensees;
- (j) To fix the trading margin in the inter-State trading of electricity, if considered, necessary;
- (k) To discharge such other functions as may be assigned under this Act.
- (2) The Central Commission shall advise the Central Government on all or any of the following matters, namely:--
 - (I) Formulation of National electricity Policy and tariff policy;
 - (ii) Promotion of competition, efficiency and economy in activities of the electricity industry;
 - (iii) Promotion of investment in electricity industry;
 - (iv) Any other matter referred to the Central Commission by that Government.
- (3) The Central Commission shall ensure transparency while exercising its powers and discharging its functions.
- (4) In discharge of its functions, the Central Commission shall be guided by the National Electricity Policy, National Electricity Plan and tariff policy published under section 3.

The State Commission functions

- (a) Determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:
Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;
- (b) Regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

- (c) Facilitate intra-State transmission and wheeling of electricity;
- (d) Issue licenses to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;
- (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;
- (f) Adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;
- (g) Levy fee for the purposes of this Act;
- (h) Specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;
- (i) Specify or enforce standards with respect to quality, continuity and reliability of service by licensees;
- (j) Fix the trading margin in the intra-State trading of electricity, if considered, necessary;
- (k) Discharge such other functions as may be assigned to it under this Act.
- (2) The State Commission shall advise the State Government on all or any of the following matters, namely:--
 - (i) Promotion of competition, efficiency and economy in activities of the electricity industry;
 - (ii) Promotion of investment in electricity industry;
 - (iii) Reorganization and restructuring of electricity industry in the State;
 - (iv) Matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.
- (3) The State Commission shall ensure transparency while exercising its powers and discharging its functions.
- (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

The central commission has to discharge the above function with respect to companies owned or controlled by central government and to regulate the interstate transmission of electricity and determine tariff for the same. Appellate tribunal hear the appeals against the orders of adjudicating officer or the appropriate commission.

State or central government has no direct control over the function of Regulatory Authority.

Consumer disputes settlement.

The 2003 Act provides for establishment of consumer dispute settlement machinery i.e. CGRF (Consumer Grievance Reprisal Forum), Ombudsmen, Appellate authority.

CGRF

Electricity Regulatory Commission has makes regulation under sec 181 read with 42 of the Electricity Act 2003 for establishment of CGRF and Ombudsman. eg. Karnataka Electricity Regulatory Commission (CGRF and Ombudsman) Regulations 2004.

In the event of a complaint not redressed satisfactorily by the licensee (Distribution Agency), consumer can file complaint with CGRF; the forum has power to pass interim order pending adjudication of complaint. The forum has to dispose of complaint after hearing complainant and licensee by observing principles of Natural justice within time limit prescribed by the regulation. The CGRF has jurisdiction to entertain complaint with respect to short claim and other issues/disputes other than back billing charges for unauthorized use of electricity.

Complaint regarding back billing charges lies to appellate authority established as per KERC (Procedure for filing Appeal before Appellate Authority) Regulations, 2005.

Establishment, Composition of the Forum.

Every distribution Licensee shall establish a Forum to be called as 'Consumer Grievance Redressed Forum' in the manner specified by Regulations having jurisdiction over its area of supply.

The Forum shall consist of the following members appointed by the licensee.

a. The Chairperson shall be a person of ability, integrity and standing who has adequate knowledge of, and have shown capacity in dealing with problems of electrical engineering in power sector, finance, law, administration.

b. One member shall be an employee of the distribution Licensee, not below the rank of superintending Engineer. He shall cease to be a member of the Forum on his superannuation.

One member shall be a representative of a registered voluntary consumer protection organization of the area working for at least five (5) years on matters concerning complainant grievances.

The Chairman and members of the Forum shall have working knowledge of Local language. Every member of the Forum shall hold office for a maximum period of THREE years and is not eligible for reappointment.

The members shall serve part-time for the hearing and disposal of the Appeals filed before the Forum.

Jurisdiction of the Forum

The headquarters of the Forum shall be as specified by the licensee. The Forum shall have sittings at the headquarters and/or at any other place in the licensees; area as may be decided by the Chairperson depending upon the number of grievances and area of operation.

The forum shall meet at least once in a fortnight.

Any party aggrieved by the order passed by the CGRF can file appeal before the Ombudsman, the Ombudsman has to facilitate for the settlement of the same by through conciliation and mediation or he may pass an award in accordance with law.

Establishment of the Office of Ombudsman.

The Commission shall establish an authority to be called as Ombudsman for the whole of the state of Karnataka in the manner prescribed under these Regulations.

Qualification, term and jurisdiction

The Ombudsman shall be a person of ability, integrity and standing who has adequate knowledge of, and have shown capacity in dealing with problems of electrical engineering in power sector, finance, law, and administration, and having working knowledge of Kannada.

The appointment or designation of the person(s) as the Ombudsman shall be made for a period not exceeding three (3) years. Provided that the tenure of the Ombudsman may be extended by the Commission for a further period not exceeding two (2) years subject to an overall age limit of sixty five (65) years.

Powers and Duties of the Ombudsman

- The Ombudsman shall have the following powers and

duties.

- To receive the representations against the order of the forum and consider such representation and facilitate
- Their satisfaction or settlement by agreement through complainant or by passing an award in accordance with these Regulations.
- To exercise general powers of superintendence and control over his office and shall be responsible for the conduct of business thereat
- To incur expenditure on behalf of the office, provided however, in order to exercise such power, the ombudsman will draw up an annual budget for his office in consultation of the Commission and shall exercise the powers of expenditure within the approved budget.

Procedure for Redressed of Grievance

The Ombudsman shall settle the complaint of the Complainant within such time and in such manner as specified in the following Regulations.

Any Complainant, who is aggrieved by the non-redressed of his grievances by the forum may himself or through his representative make a representation to the Ombudsman exercising jurisdiction over the licensee within Thirty (30) days from the date of the receipt of the order of the Forum.

Provided that the Ombudsman may entertain a representation after the expiry of the said period of thirty (30) days if he is satisfied that there was sufficient cause for not filling it within the said period.

The complaint shall be in writing duly signed by the complainant in a form specified in Form B of the Regulation.

Maintainability of the complaint:

No representation to the Ombudsman shall lie:

- (a) Unless the Complainant had made a written representation in the prescribed form, to the Forum
- (b) Unless the Complainant is aggrieved on account of his complaint being not redressed by the Forum within the period and manner specified in these Regulations.
- (c) Unless the representation against an order of the Forum was made within the period specified in these Regulations and is not in respect of the same subject matter that has been settled by the Ombudsman in any previous proceedings.
- (d) In cases where a representation for the same grievance by the Complainant is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

The Ombudsman may reject the representation at any stage if it appears to him that the representation

- (i) Frivolous, vexatious, malafide
- (ii) Without any sufficient cause
- (iii) Not being pursued by the Complainant with reasonable diligence.
- (iv) There is no prima facie loss or damage or inconvenience caused to the Complainant.

The Ombudsman shall complete the enquiry as expeditiously as possible and every endeavor shall be made to pass appropriate order on the representation within a period of TWO (2) months from the date of receipt of the representation by the Ombudsman. Provided that in the event of the representation being disposed of after the completion of the said period of two (2) months, the Ombudsman shall record, in writing, the reasons for the same.

The Ombudsman shall be guided by such factors which in the opinion of the Ombudsman are necessary in the interest of justice and shall ensure transparency while exercising its

powers and discharging its functions.

Subject to the foregoing provisions and the need to observe the rules of natural justice the Ombudsman may specify its own procedures.

Every order made by the Ombudsman shall be a speaking order. A copy of the order shall be sent to the complainant and the Licensee. The Distribution Licensee shall, comply with the orders of the Ombudsman.

IV Electricity (Amendments) Bill, 2022

The Electricity Amendments Bill, 2022 is promises to unlock the level of reforms in electricity sector. In the recent years the power sector is witnessing increased private participation especially in renewable energy, these changes calls for new regulations and rules to regulate the same.

The bill aims at makes the sector more viable, transparent and investor friendly to encourage clean /renewable energy.

For better implementation and adherence to executed PPAS, the bill provides for creation of an Electricity Contract Enforcement Authority to supervise the fulfillment of PPA obligation by the players/parties to the PPA. The amendments provides for a policy guidelines to promote renewable energy especially solar and hydro power. It provides minimum percentage power purchase from renewable sources of green energy apart from above changes bill provides for franchisee system in distribution of power without separate license.

CONCLUSION

The Electricity Act 2003 has played important role in reforming the power sector. The generation capacity has been improved drastically but the required demand is not yet met.

The Authority has not only ensure the availability of quality electricity, but also it must be available at affordable price. At the time of the tariff determination exercise by the regulatory authority must be carried out on more scientific manner involving participation of all stake holders i.e. industrialist consumer, power producer and power distributor actively. It should concentrate on avoiding unnecessary expenses by ESCOMS. i.e. Electricity supply companies. Ultimately in the long run consumer interest must be protected by ensuring qualitative, uninterrupted continuous power supply at reasonable price.

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