

Appendix – 2018 Draft EA2003 Amendments
Line Item comments and suggestions
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Brookings India

No. 42/6/2011-R&R (Vol-VIII)
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 7th September, 2018

To

1. Chairperson, Central Electricity Authority, New Delhi.
2. Principal Secretary/Secretary(Energy) , All State Governments/UTs.
3. Registrar, Appellate Tribunal for Electricity, New Delhi.
4. Secretary, Central Electricity Regulatory Commission, New Delhi.
5. Secretaries, All SERCs/JERCs.
6. Chairman/CMDs for all PSUs under administrative control of Ministry of Power.
7. CMDs/MDs of DISCOMs/GENCOs/TRANSCOs of all State Governments .
8. DG, Association of Power Producers, New Delhi.
9. President, FICCI, Federation House, Tansen Marg, New Delhi.
10. Head, Prayas (Energy Group), Pune.

Subject: Proposed amendment to Electricity Act, 2003-regarding .

Sir/Madam ,

I am directed to say that the Electricity (Amendment) Bill, 2014 was introduced in the Lok Sabha on 19.12.2014. The Bill was subsequently referred to the Standing Committee on Energy for examination and report. The Committee had submitted its report on 7.5.2015. Based on the observations/recommendations of the Standing Committee, further consultation with State Governments/UTs held in September, 2015 and deliberations at different levels thereafter some more amendments have been proposed.

2. A revised proposal for amendment in Electricity Act, 2003 is enclosed with the request to provide your comments , if any, to this Ministry within 45 days from the date of this letter. The comments may also be emailed at sandeep.naik68@gov.in and debranjan.chattopadhyay@nic.in.

Yours faithfully,

Encl: As above

(D. Chattopadhyay)
Under Secretary to the Government of India
Tel: 2373 0265

Copy to: i) All Joint Secretaries/Economic Adviser, Ministry of Power.
ii) PS to Hon'ble Minister, PPS to Secretary (Power), PPS to AS(R&R), PS to Chief Engineer(R&R) , PS to Director (R&R)
iii) Incharge, NIC, Ministry of Power with the request to upload this document on the website of Ministry of Power under heading 'Current Notices'.

(b) (As on 07.09.2018)

Draft for stakeholder consultation

ELECTRICITY ACT, 2003

Preamble 1 - ELECTRICITY ACT, 2003

THE ELECTRICITY ACT, 2003

[Act, No. 36 of 2003]

[2nd June, 2003]

PREAMBLE

An Act to consolidate the laws relating to generation, transmission, distribution, supply, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of energy security, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the ~~Fifty-fourth~~ **Sixty-Eighth** Year of the Republic of India as follows: --

Part I - PRELIMINARY

Section 1 - Short title, extent and commencement

(1) This Act may be called the Electricity Act, ~~2003~~ **(Amendment) Act 2018**.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Section 2 - Definitions

In this Act, unless the context otherwise requires, --

(1) "Appellate Tribunal" means the Appellate Tribunal for ~~Electricity~~ **Energy** established under section 110;

(1A) "ancillary support", in relation to power system or grid operation, means the support required, by the load despatch centres, for the power system or grid operation for maintaining power quality, reliability and security of the grid.

(2) "appointed date" means such date as the Central Government may, by notification, appoint;

(3) "area of supply" means the area within which a distribution licensee **till the effective date of transfer scheme notified under section 131 A or supply licensee**, is authorised by his licence to supply electricity;

(3A) "area of distribution" means the area within which a distribution licensee is authorised by his licence to distribute electricity;

(4) "Appropriate Commission" means the Central Regulatory Commission referred to in sub-section (1) of section 76 or the State Regulatory Commission referred to in section 82 or the Joint Commission referred to in section 83, as the case may be ;

(5) "Appropriate Government" means, -

(a) the Central Government, -

- (i) in respect of a generating company wholly or partly owned by it;
- (ii) in relation to any inter-State generation, transmission, trading or supply of electricity and with respect to any mines, oil-fields, railways, national highways, airports, telegraphs, broadcasting stations and any works of defence, dockyard, nuclear power installations;
- (iii) in respect of National Load Despatch Centre; and Regional Load Despatch Centre;
- (iv) in relation to any works or electric installation belonging to it or under its control ;

(b) in any other case, the State Government, having jurisdiction under this Act;

(6) "Authority "means the Central Electricity Authority referred to in sub-section(1) of section 70;

(7) "Board" means, a State Electricity Board, constituted before the commencement of this Act, under sub-section (l) of section 5 of the Electricity (Supply) Act, 1948;

(8) "Captive generating plant" means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association **subject to such other conditions as may be prescribed by the Central Government from time to time;**

(9) "Central Commission" means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76;

(10) "Central Transmission Utility" means any Government company which the Central Government may notify under sub-section (1) of section 38;

(11) "Chairperson" means the Chairperson of the Authority or Appropriate Commission or the Appellate Tribunal as the case may be;

(12) "Cogeneration" means a process which simultaneously produces two or more forms of useful energy (including electricity) **as specified by the Authority;**

(13) "company" means a company formed and registered under the Companies Act, 1956 (1 of 1956) or Companies Act, **2013(18 of 2013), as the case may be** and includes any body corporate under a Central, State or Provincial Act;

(14) "conservation" means any reduction in consumption of electricity as a result of increase in the efficiency in supply and use of electricity;

(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

(15A) "decentralised distributed generation" means electricity generation from wind, small hydro, solar, biomass, biogas, bio fuel, any kind of waste including municipal and solid waste, geothermal, hybrid power system or such other sources as may be notified by the Central Government from time to time for end use at or near the place of generation;

(16) "dedicated transmission lines" means any **radial** electric supply-line for point to point transmission which ~~are~~ **is** required for the purpose of connecting ~~electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10~~ to any transmission lines or **distribution system** or sub-stations or **switching station or any other captive Generating Plant** or generating stations, or the load centre, as the case may be, **dedicated for evacuating the electricity generated from such Captive Power Plant or Generating Station and shall not be used for any other purpose subject to the condition that such line shall not form a loop with the grid and shall not be shared except with the prior approval of the Appropriate Commission, except where authorized for additional connections for redundancy purposes or improved transmission;**

Commented [RT1]: A single interconnect may not be desirable for some more critical plants

(17) "distribution licensee" means a licensee authorised to operate and maintain a distribution system for ~~supplying~~ **enabling supply of** electricity to the consumers in his area of ~~supply~~ **distribution and shall be deemed supply licensee till transfer scheme is notified as provided in Section 131A of this Act;**

(17A) "distribution" means the conveyance of electricity by use of distribution system and the expression "distribute" shall be construed accordingly;

(18) "distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected;

(19) "distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers;

(20) "electric line" means any line which is used for carrying electricity for any purpose and includes

(a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and

(b) any apparatus connected to any such line for the purpose of carrying electricity;

(21) "Electrical Inspector" means a person appointed as such by the Appropriate Government under sub-section (1) of section 162 and also includes Chief Electrical Inspector;

(22) "electrical plant" means any plant, equipment, apparatus or appliance or any part

thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include-

(a) an electric line; or

(b) a meter used for ascertaining the quantity of electricity supplied to any premises; or

(c) an electrical equipment, apparatus or appliance under the control of a consumer;

(23) "electricity" means electrical energy--

(a) generated, transmitted, **distributed**, supplied or traded for any purpose; or

(b) used for any purpose except the transmission of a message;

(24) "Electricity **Distribution and Supply Code**" means the Electricity **Distribution and Supply Code** specified under section 50;

(25) "electricity system" means a system under the control of a generating company or licensee, as the case may be, having one or more -

(a) generating stations; or

(b) transmission lines; or

(c) electric lines and sub-stations,

and when used in the context of a State or the Union, the entire electricity system within the territories thereof;

(26) "electricity trader" means a person who has been granted a licence to undertake trading in electricity under section 12;

(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~~ **or a supply licensee, as the case may be, to undertake distribution or supply of electricity in a specified area on its behalf within his area of distribution or area of supply of the licence;**

(28) "generating company" means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;

(29) "generate" means to produce electricity from a generating station for the purpose of giving supply to any premises or enabling a supply to be so given;

(30) "generating station" or "station" means any station for generating electricity, including any building and plant with step-up transformer, switch yard, switch-gear, cables or other appurtenant equipment, if any used for that purpose and the site thereof, a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;

(31) "Government company" shall have the meaning assigned to it in ~~section 647~~ Companies Act, 1956 (1 of 1956) or sub-section (45) of section 2 of the Companies Act, 2013 (18 of 2013);

(32) "grid" means the high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants;

(33) "Grid Code" means the Grid Code specified by the Central Commission under clause (h) of sub-section (1) of section 79;

(34) "Grid Standards" means the Grid Standards specified under clause (d) of section 73 by the Authority;

(35) "high voltage line or high pressure cables" means an electric line or cable of a nominal voltage as may be specified by the Authority from time-to-time;

(36) "inter-State transmission system" includes -

(i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;

(ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity;

(iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility.

(37) "intra-State transmission system" means any system for transmission of electricity **within the state and** other than an inter-State transmission system;

(38) "licence" means a licence granted under section 14;

(39) "licensee" means a person who has been granted a licence under section 14;

(40) "line" means any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity and includes any line which surrounds or supports, or is surrounded or supported by or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;

(41) "local authority" means any ~~Nagar Panchayat, Municipal Council, municipal corporation, panchayat constituted at the village, intermediate and district levels~~ **urban local body / rural local body** or body of port commissioners or other authority ~~legally entitled to, or entrusted by the Union or any State Government with the control or management of any area or local fund;~~

(41A) "long term" means the duration of power purchase which shall be as notified by the Central Government;

(42) "main" means any electric supply-line through which electricity is, or is intended to be, supplied ;

(42 A) "medium term" means the duration of power purchase which shall be as notified by the Central Government;

(43) "Member" means the Member of the Appropriate Commission or Authority or Joint Commission, or the Appellate Tribunal, as the case may be, and includes the Chairperson of such Commission or Authority or Appellate Tribunal;

(44) "National Electricity Plan" means the National Electricity Plan notified under sub-section (4) of section 3;

(45) "National Load Despatch Centre" means the Centre established under sub-section (1) of section 26;

(45A) "National Power Committee (NPC)" means a committee established by resolution under section 25(A).

(46) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(46A). "Obligated Entity" means (i) licensee authorized to supply electricity to the consumer or (ii) the captive user of the captive power plant or (iii) the open access consumer, as the case may be;

(47) "open access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with ~~the regulations specified by the Appropriate Commission~~ the rules made under the Act;

(48) "overhead line" means an electric line which is placed above the ground and in the open air but does not include live rails of a traction system;

(49) "person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

(50) "power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-

- (a) generating stations;
- (b) transmission or main transmission lines;
- (c) sub-stations;
- (d) tie-lines;
- (e) load despatch activities;
- (f) mains or distribution mains;
- (g) electric supply-lines;
- (h) overhead lines;
- (i) service lines;

(j) works;

(51) "premises" includes any land, building or structure;

(52) "prescribed" means prescribed by rules made by the Appropriate Government under this Act;

(53) "public lamp" means an electric lamp used for the lighting of any street;

(54) "real time operation" means action to be taken at a given time at which information about the electricity system is made available to the concerned Load Despatch Centre;

(55) "Regional Power Committee" means a committee established by resolution ~~by the Central Government for a specified region for facilitating the integrated operation of the power systems in that region~~ **under section 25(B).**

(56) "Regional Load Despatch Centre" means the centre established under sub-section (1) of section 27;

(57) "regulations" means regulations made under this Act;

(57A) "renewable energy sources" for the purposes of this Act, means the hydro, wind, solar, bio-mass, bio-fuel, bio-gas, waste including municipal and solid waste, geothermal, tidal, forms of oceanic energy, co-generation from the sources mentioned herein above and such other sources as may be notified by the Central Government from time to time. Renewable energy sources shall include the ability to be delivered via a storage system and shall remain classified as renewable energy sources, without need for further licensing or regulation. This is only applicable for storage systems solely connected to renewable energy sources, even if owned or operated by a third party;

Explanation. -For the purposes of this clause, the expression "hydro" means hydro generating stations of capacity not exceeding the capacity notified by the Central Government for this purpose;

(57B) "Renewable Energy Service Company" means an energy service company which provides renewable energy to the consumers in the form of electricity for the purposes of this Act;

(57C) "Renewable Purchase Obligation" means such minimum percentage of the purchase of electricity from Renewable Energy Sources to be procured by every obligated entity in a manner as may be prescribed by the respective Commission from time to time;

Commented [RT2]: This is to both recognise the value of storage linked to RE but also ensure if generic storage is to regulated separately, it isn't automatically entitled to benefits accorded to RE.

Commented [RT3]: Obligations on state entities are to be handled by state Regulatory Commissions. If the centre wants states to align, it should align at that layer, and not directly to the Licensees. The center can notify these in coordination with the states.

(58) "repealed laws" means the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commissions Act, 1998 repealed by section 185;

(59) "rules " means rules made under this Act;

(60) "Schedule" means the schedule to this Act;

(61) "service-line" means any electric supply line through which electricity is, or is intended to be, supplied -

(a) to a single consumer either from a distributing main or immediately from the Distribution Licensee's premises; or

(b) from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main;

(61A) "Smart Grid" means an electricity network that uses information and communication technology to gather information and act intelligently in both an automated manner and with increased information to improve the efficiency, reliability, economics, and sustainability of generation, transmission and distribution of electricity as may be specified by the Authority;

(62) "specified" means specified by regulations made by the Appropriate Commission or the Authority, as the case may be, under this Act;

(63) "stand alone system" means the electricity system set-up to generate ~~power~~ ~~electricity~~, and distribute ~~and supply~~ electricity in a specified area without connection to the grid;

(64) "State Commission" means the State Electricity Regulatory Commission constituted under sub-section (1) of section 82 and includes a Joint Commission constituted under sub-section (1) of section 83;

(65) "State Grid Code" means the State Grid Code referred under clause (h) of sub-section (1) of section 86;

(66) "State Load Despatch Centre" means the centre established under sub-section (1) of section 31;

Commented [RT4]: RGOs can be a distortion that can both conflict with RPOs (can't specify both supply and demand – one has to float) and lead to market power by selected stakeholders.

[remove all references in the document to RGOs

Commented [RT5]: Some aspects of a Smart Grid are NOT automated but rather give inputs for stakeholders to make decisions, choices, or actions.

(66A) "State Power Committee (SPC)" means a committee established by resolution under section 25(C)

(67) "State Transmission Utility" means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39;

(68) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway;

(69) "sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings used for that purpose and the site thereof;

(70) "supply", in relation to electricity, means the ~~sale-supply~~ of electricity to a ~~licensee or the consumer~~ by a Distribution Licensee or Supply licensee, as the case may be, of the area of supply where the premises of the consumer is situated, in accordance with the provisions of this Act;

(70A) "supply licensee" means a person authorised under section 12 to supply electricity to consumers from the date of implementation of Transfer Scheme;

(71) "trading" means purchase of electricity for resale thereof and the expression "trade" shall be construed accordingly;

(71A) "Transfer Scheme" means Transfer Scheme as notified by the State Government under Section 131 or Section 131 A;

(72) "transmission lines" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station or a sub-station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works;

(73) "transmission licensee" means a licensee authorised to establish or operate transmission lines;

(74) "transmit" means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;

(75) "utility" means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or licensee under the provisions of this Act;

(76) "wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62;

(77) "works" includes electric line, and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under this Act or any other law for the time being in force.

Part II - NATIONAL ELECTRICITY POLICY AND PLAN

Section 3 - National Electricity Policy and Plan

(1) The Central Government shall, from time-to-time, prepare, **review or revise and notify** the National Electricity Policy and Tariff Policy **and National Renewable Energy Policy**, in consultation with the State Governments and the Authority ~~for development of the power system based on optimal utilisation of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy~~ **and in doing so, shall consider including:**

(a) **the development of the electricity supply and for ensuring availability of electricity to all consumers;**

(b) **development of the power system and promoting energy security based on optimal utilisation of resources such as fossil and non-fossil energy sources;**

(c) **separation of distribution and supply functions and measures to improve electricity supply to the consumer;**

(d) **promote smart grid, storage technologies, ancillary support and decentralised distributed generation in accordance with the provisions of the Act;**

~~(2) The Central Government shall publish National Electricity Policy and tariff policy from~~

Commented [RT6]: Storage is also important for high RE scenarios and grid stability – it can directly also support Ancillary Services.

~~time to time.~~

~~(3) The Central Government may, from time to time, in consultation with the State Governments and the Authority, review or revise, the National Electricity Policy and tariff policy referred to in sub-section (1).~~

(2) The Authority shall prepare a National Electricity Plan in accordance with the National Electricity Policy and **National Renewable Energy policy** and notify such plan at least once in five years;

(3) **The Central Government shall, from time-to-time, prepare, review or revise and notify Policy and Rules for cross border exchange of electricity in consultation with Authority;**

(4) **The Central Government may, after such consultation with the State Governments as may be considered necessary, notify policies and adopt measures for promotion of Renewable Energy Generation including grant of fiscal and financial incentives.**

Further for promotion of Renewable Energy Generation the Central Government may issue trajectory for Renewable Purchase Obligations from time to time.

(5) **The Central Government/ Authority while preparing the National Electricity Policy, Tariff Policy, National Renewable Energy Policy and National Electricity Plan shall publish the draft Policies/ Plan and invite suggestions and objections thereon from licensees, State Governments, generating companies and the public within such time as may be prescribed:**

~~Provided that the Authority while preparing the National Electricity Plan shall publish the draft National Electricity Plan and invite suggestions and objections thereon from licensees, generating companies and the public within such time as may be prescribed:~~

Provided further that the Authority shall -

- (a) notify the plan after obtaining the approval of the Central Government;
- (b) revise the plan incorporating therein the directions, if any, given by the Central Government while granting approval under clause (a).

~~(5) The Authority may review or revise the National Electricity Plan in accordance with the National Electricity Policy.~~

Section 4 - National policy on standalone systems for rural areas and non-conventional energy systems

The Central Government shall, after consultation with the State Governments, prepare and notify a national policy **for harnessing solar power and other forms of renewable energy to**

ensure electricity to un-electrified rural households and permitting stand alone systems (including those based on renewable sources of energy and non-conventional sources of energy) for rural areas.

Section 5 - National policy on electrification and local distribution and supply in rural areas

The Central Government shall also formulate a national policy, in consultation with the State Governments and the State Commissions, for rural electrification and for bulk purchase of power and management of local distribution and supply in rural areas through Panchayat Institutions, users' associations, co-operative societies, non-governmental organisations or franchisees.

6. Joint Responsibility of Central Government and State Government in Rural Electrification—

~~The concerned State Government and the Central Government~~ Central and the State Governments shall jointly endeavour to provide access to electricity to all parts of the country areas including villages and hamlets through rural electricity infrastructure and electrification of households.

Part III - GENERATION OF ELECTRICITY

Section 7 - Generating Company and requirement for setting up of generating station

1. Any generating company may establish, expand, operate and maintain a generating station without obtaining a licence under this Act, if it complies with the technical standards relating to connectivity with the grid referred to in clause (b) of section 73.

Provided that any generating company before establishing or expanding the capacity of a generating station shall submit a detailed project report, as may be specified, to the Authority. Such a DPR shall only be for coordination and technical compliance purposes and shall not be a limiting factor for permission for establishing generation capacity.

Provided further that any generating company establishing or expanding the generating station, after a date as notified by the Central Government for the purpose, shall build and maintain reserve including spinning reserve of such capacity as may be specified by the Authority from time to time based on the requirement given by the National Load Despatch Centre or the Regional Load Despatch Centre or the State Load Despatch Centre as the case may be.

Explanation.—For the purposes of sub-section (1), the expression “reserve including spinning reserve” means the backup capacity of a generating station which shall be exclusively made available on the directions of the National Load Dispatch Centre or Regional Load Dispatch Centre or State Load Dispatch Centre, as the case may be, within

Commented [RT7]: Must clarify that no entity should stop a generator from setting up a plant at their own risk/vision.

a time limit as may be notified by the Central Government, to maintain grid safety and security.

Section 8 - Hydro-electric generation

(1) Notwithstanding anything contained in section 7, any generating company intending to set up a hydro-generating station including multipurpose hydro facilities with power generation shall prepare and submit to the Authority for its concurrence, a scheme estimated to involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time-to-time, by notification.

(2) The Authority shall, before concurring in any scheme submitted to it under sub-section (1) have particular regard to, whether or not in its opinion,--

(a) the proposed river-works will prejudice the prospects for the best ultimate development of the river or its tributaries for power generation, consistent with the requirements of drinking water, irrigation, navigation, flood-control, or other public purposes, and for this purpose the Authority shall satisfy itself, after consultation with the State Government, the Central Government, or such other agencies as it may deem appropriate, that an adequate study has been made of the optimum location of dams and other river-works;

(b) the proposed scheme meets the norms regarding dam design and safety.

(3) Where a multi-purpose scheme for the development of any river in any region is in operation, the State Government and the generating company shall co-ordinate their activities with the activities of the persons responsible for such scheme insofar as they are inter-related.

Section 9 - Captive Generation

(1) Notwithstanding anything contained in this Act, a person may construct, maintain or

Commented [RT8]: Explanation for why RGO is a poor instrument is already listed. Also, while bundling may force creation of RE capacity, utilities need to plan at a generation (kWH) level, for which an RGO is an especially poor instrument.

operate a captive generating plant and dedicated transmission lines:

Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company.

Provided further that no licence shall be required under this Act for supply of electricity generated from a captive generating plant to any licensee in accordance with the provisions of this Act and the rules and regulations made thereunder and to any consumer subject to the regulations made under sub-section (2) of section 42.

(2) Every person, who has constructed a captive generating plant and maintains and operates such, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use:

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the Central Transmission Utility or the State Transmission Utility, as the case may be:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Appropriate Commission.

Section 10 – Details of Generating Companies

(1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.

(2) A generating company may supply electricity to any licensee in accordance with this Act and the rules and regulations made thereunder and may, subject to the regulations made under sub-section (2) of section 42, supply electricity to any consumer.

(3) Every generating company shall -

(a) submit technical details regarding its generating stations to the Appropriate Commission and the Authority;

(b) co-ordinate with the Central Transmission Utility or the State Transmission Utility, as the case may be, for transmission of the electricity generated by it.

Section 11 - Directions to generating companies

(1) ~~The Appropriate Government~~ **State Government in case of Generating station owned by the State and Central Government in all other cases** may specify that a generating

company shall, in extraordinary circumstances operate and maintain any generating station in accordance with the directions of that Government.

Explanation: --For the purposes of this section, the expression "extraordinary circumstances" means circumstances arising out of threat to security of the State, public order or a natural calamity or such other circumstances arising in the public interest.

(2) The Appropriate Commission may offset the adverse financial impact of the directions referred to in sub-section (1) on any generating company in such manner as it considers appropriate.

Part IV – LICENSING

Section 12 - Authorised persons/entities to transmit, distribute, supply, etc., electricity-

Commented [RT9]: Not sure if legal language requires this – to cover corporations/groups/etc.

No person or entity shall--

- (a) transmit electricity; or
- (b) distribute electricity; or
- (c) undertake trading in electricity, or
- (d) supply of electricity to consumers

unless he is authorised to do so by a licence issued under section 14, or is exempt under section 13.

Provided that no licence shall be required for any company established under the Transfer Scheme for the activities assigned thereupon under the Act.

Section 13 - Power to exempt

The Appropriate Commission or the Government may, on the recommendations of the Appropriate Government, in accordance with the national policy formulated under section 5 and in the public interest, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the provisions of section 12 shall not apply to any local authority, Panchayat Institution, users' association, co-operative societies, non-governmental organisations, or franchisees.

Commented [RT10]: Both should be allowed to grant exemptions – each may focus on different stakeholders worthy of an exemption.

Commented [RT11]: Why should a franchisee be on the list for exemptions? They are very close to a Service Licensee in function. In fact, for franchisees, there must be clarity on WHOM the legal performance obligations remain.

Section 14 - Grant of licence

The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person--

- (a) to transmit electricity as a transmission licensee; or

-
- (b) to distribute electricity as a distribution licensee; or
- (c) to undertake trading in electricity as an electricity trader, or
- (d) to supply electricity as a supply licensee ~~from and after the date of implementation of the Transfer Scheme in any area as may be specified in the licence;~~

Provided that the distribution licensee shall be deemed to have the authorisation to supply electricity as a supply licensee till the transfer scheme is implemented in the area of the distribution licensee;

Provided further that the distribution of electricity and supply of electricity shall be governed in the manner as stipulated in the transfer scheme from the date of implementation of the transfer scheme;

Provided also that the Developer of a Special Economic Zone notified under sub-section (1) of Section 4 of the Special Economic Zones Act, 2005, shall be deemed to be a licensee for the purpose of clause (b) and clause (d) above with effect from the date of notification of such Special Economic Zone;

Provided also that use of power system for telecommunication shall not be construed as trading for the purpose of this Act;

Provided also that procurement and settlement for ancillary support, if carried out by the National Load Despatch Centre or Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, shall not be construed as trading for the purpose of this Act;

Provided also that transactions involving charging of batteries for electric vehicles by charging stations or other direct value-adding providers such as storage service providers or aggregators shall not be construed as distribution, trading or supply to the extent undertaken for the said purpose and subject to such terms and conditions, as may be notified by the Central Government from time to time;

Commented [RT12]: These should be enabled, and not require a license.

Provided also that any person engaged in the business of transmission or distribution or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:

Provided also that any person engaged in the business of distribution of electricity on or before the commencement of Electricity (Amendment) Act 2018 shall be deemed to have authorization to undertake distribution of electricity as a distribution licensee and also to supply electricity as a supply licensee till the transfer scheme is effective in accordance with the provisions of this Act, whereupon the distribution business and the supply business shall be undertaken in the manner as stipulated in the said transfer scheme;

Provided also that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:

Provided also that in case ~~an~~ the Appropriate Government transmits electricity or distributes electricity ~~or supplies~~ electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act:

Provided also that Railways as defined under the Indian Railways Act 1989 and Metro Rail Corporation established under the Metro Railways (Operation and Maintenance) Act, 2002, Mono rail and such other transport or other entities as may be notified by the Central Government, from time to time, shall be deemed to be a licensee under this Act, and shall not be required to obtain a licence under this Act:

Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948, shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, insofar as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:

Provided also that the Government company or the company referred to in ~~sub-section (2) of section 131~~ ~~and 131A~~ of this Act and the company or companies created in pursuance of the Acts specified in the Schedule ~~or any company or companies as may be notified by the Central Government~~, shall be deemed to be a licensee under this Act:

Provided also that the Appropriate Commission may grant a licence to two or more persons for ~~distribution~~ ~~undertaking~~ ~~supply~~ of electricity ~~through own distribution system~~ within the same area ~~of supply~~, subject to the conditions that the applicant for grant of ~~supply~~ licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements (relating to the capital adequacy, creditworthiness or code of conduct) as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:

Provided also that the State Government in consultation with the Appropriate Commission and Central Government may, in public interest, permit more than one distribution licensee to operate in any area, if it is considered necessary.

Provided also that where two or more distribution licensees within the same area of distribution exist on the date of the commencement of the Electricity (Amendment) Act, 2018 they shall continue their operation till such period as specified in their licence.

~~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:~~

Provided also that where a person intends to generate, distribute **and supply** electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation, distribution **and supply** of electricity, but he shall comply with the measures which may be specified by the Authority under section 53:

Provided also that a ~~distribution~~-**supply** licensee shall not require a licence to undertake trading in electricity.

Provided also that a distribution licensee, after implementation of the Transfer Scheme shall not engage in trading or supply of electricity, unless otherwise specifically approved by the Central Government;

Provided also that in a case where a distribution licensee or a supply licensee proposes to undertake distribution or supply of electricity for a specified area within his area of distribution or supply through a franchisee, the franchisee shall not be required to obtain any separate licence from the Appropriate Commission however agreements including terms and condition for appointment of franchisee shall be approved by the Appropriate Commission and distribution licensee or a supply licensee shall be held responsible for non-compliance of any provision of the law or Rules or Regulations by the franchisee;

Section 15 - Procedure for grant of licence

(1) Every application under section 14 shall be made in such form and in such manner as may be specified by the Appropriate Commission and shall be accompanied by such fee as may be prescribed.

(2) Any person who has made an application for grant of a licence shall, within seven days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted--

(i) until the objections, if any, received by the Appropriate Commission in response to publication of the application have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of publication of the notice as aforesaid;

(ii) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Appropriate Commission has ascertained that there is no objection to the grant of the licence on the part of the Central Government.

(3) A person intending to act as a transmission licensee shall, immediately on making the application, forward a copy of such application to the Central Transmission Utility or the State Transmission Utility, as the case may be.

(4) The Central Transmission Utility or the State Transmission Utility, as the case may be, shall, within thirty days after the receipt of the copy of the application referred to in sub-section (3), send its recommendations, if any, to the Appropriate Commission:

Provided that such recommendations shall not be binding on the Appropriate Commission.

(5) Before granting a licence under section 14, the Appropriate Commission shall-

(a) publish a notice in two such daily newspapers, as that Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence;

(b) consider all suggestions or objections and the recommendations, if any, of the Central Transmission Utility or the State Transmission Utility, as the case may be.

(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application,--

(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(7) The Appropriate Commission shall, immediately after issue of a licence, forward a copy of the licence to the Appropriate Government, Authority, local authority, and to such other person as the Appropriate Commission considers necessary.

(8) A licence shall continue to be in force for a period of twenty-five years unless such licence is revoked under the provisions of the Act.

Section 16 - Conditions of licence

The Appropriate Commission may specify **or introduce** any general or specific conditions which shall apply either to a licensee or class of licensees and such conditions shall be deemed to be conditions of such licence:

Provided that the Appropriate Commission shall, within one year from the appointed date, specify any general or specific conditions of licence applicable to the licensees referred to in the first, second, third, fourth and fifth provisos to section 14 after the expiry of one year from the commencement of this Act.

Section 17 - Licensee not to do certain things

(1) No licensee shall, without prior approval of the Appropriate Commission,

(a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee; or

(b) merge his utility with the utility of any other licensee:

Provided that nothing contained in this sub-section shall apply if the utility of the licensee is situate in a State other than the State in which the utility referred to in clause (a) or clause (b) is situate.

(2) Every licensee shall, before obtaining the approval under sub-section (1), give not less than one month's notice to every other licensee who transmits or distributes **or supplies**, electricity in the area of such licensee who applies for such approval.

(3) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Appropriate Commission.

(4) Any agreement relating to any transaction specified in sub-section (1) or sub-section (3), unless made with, the prior approval of the Appropriate Commission, shall be void.

Section 18 - Amendment of licence

(1) Where in its opinion the public interest so ~~permits~~ **requires**, the Appropriate Commission, may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of his licence as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Appropriate Commission, been unreasonably withheld.

(2) Before any alterations or amendments in the licence are made under this section, the following provisions shall have effect, namely:--

(a) where the licensee has made an application under sub-section (1) proposing any alteration or modifications in his licence, the licensee shall publish a notice of such application with such particulars and in such manner as may be specified;

(b) in the case of an application proposing alterations or modifications in the area of ~~supply~~ **a licensee authorised to distribute or supply electricity** comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Government for defence purposes, the Appropriate Commission shall not make any alterations or modifications except with the consent of the Central Government;

(c) where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Appropriate Commission shall publish the proposed alterations or modifications with such particulars and in such manner as may be specified;

(d) the Appropriate Commission shall not make any alterations or modifications unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered.

Section 19 - Revocation of licence

(1) If the Appropriate Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely: --

(a) where the licensee, in the opinion of the Appropriate Commission, makes wilful and prolonged default in doing anything required of him by or under this Act or the rules or regulations made thereunder;

(b) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Appropriate Commission may have granted therefor--

(i) to show, to the satisfaction of the Appropriate Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or

(ii) to make the deposit or furnish the security, or pay the fees or other charges required by his licence;

(d) where in the opinion of the Appropriate Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or supply or transmission or trading upon such terms and conditions as it thinks fit.

(3) No licence shall be revoked under sub-section (1) unless the Appropriate Commission has given to the licensee not less than ~~three~~-two months' notice, in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) The Appropriate Commission may, instead of revoking a licence under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms and conditions so imposed shall be binding upon and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.

(5) Where the Commission revokes a licence under this section, it shall serve a notice of revocation upon the licensee and fix a date on which the revocation shall take effect.

(6) Where the Appropriate Commission has given notice for revocation of licence under sub-section (5), without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under this Act, the licensee may, after prior approval of that Commission, sell his utility to any person who is found eligible by that Commission for grant of licence.

Section 20 - Sale of utilities of licensees

(1) Where the Appropriate Commission revokes under section 19 the licence of any licensee or on expiry of licence, the following provisions shall apply, namely: --

(a) the Appropriate Commission shall invite applications for acquiring the utility of the licensee whose licence has been revoked or expires (hereinafter referred to as the outgoing licensee) and determine which of such applications should be

accepted through a transparent process, primarily on the basis of the highest and best price offered for the utility;

Provided that whenever the duration of any licence is due to expire, the Appropriate Commission shall review the performance of licensee prior to the extension of the licence.

(b) the Appropriate Commission may, by notice in writing, require the outgoing licensee to sell his utility and thereupon the outgoing licensee shall sell his utility to the person (hereafter in this section referred to as the "purchaser") whose application has been accepted by that Commission, except where the application of the outgoing licensee itself is accepted; the default position shall be that the existing Licensees shall have their renewals accepted unless there has been a failure of service performance.

(c) all the rights, duties, obligations and liabilities of the licensee, on and from the date of revocation of licence or expiry of the period of the licence or on and from the date, if earlier, on which the utility of the licensee is sold to a purchaser, shall absolutely cease except for any liabilities which have accrued prior to that date;

(d) the Appropriate Commission may make such interim arrangements in regard to the operation of the utility as may be considered appropriate including the appointment of Administrators;

(e) the Administrator appointed under clause (d) shall exercise such powers and discharge such functions as the Appropriate Commission may direct.

(2) Where a utility is sold under sub-section (1), the purchaser shall pay to the outgoing licensee the purchase price of the utility in such manner as may be agreed upon between the parties or as may be directed by the Appropriate Commission.

(3) Where the Appropriate Commission issues any notice under sub-section (1) requiring the outgoing licensee to sell the utility, it may, by such notice, require the outgoing licensee to deliver the utility, and thereupon the outgoing licensee shall deliver on a date specified in the notice, the utility to the designated purchaser and if so directed by the Appropriate Commission even pending the payment of the purchase price thereof.

(4) Where the licensee has delivered the utility referred to in sub-section (3) to the purchaser but its sale has not been completed by the date fixed in the notice issued under that sub-section, the Appropriate Commission may, if it deems fit, permit the intending purchaser to operate and maintain the utility system pending the completion of the sale.

Section 21 - Vesting of utility in purchaser

Where a utility is sold under section 20 or section 24, then, upon completion of the sale or on the date on which the utility is delivered to the intending purchaser, as the case may be, whichever is earlier-

Commented [RT13]: Given these are new entrants envisaged, except the incumbents, there is no consideration of maximizing exchequer revenue via licensing fees. Without this proviso, near the end of the live of their term, they would otherwise reduce capital investments, many of which have a life measured in many decades.

(a) the utility shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the utility:

Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the utility; and

(b) the rights, powers, authorities, duties and obligations of the licensee under his licence shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee.

Section 22 - Provisions where no purchase takes place

(1) If the utility is not sold in the manner provided under section 20 or section 24, the Appropriate Commission may, to protect the interest of consumers or in public interest, issue such directions or formulate such scheme as it may deem necessary for operation of the utility.

(2) Where no directions are issued or scheme is formulated by the Appropriate Commission under sub-section (1), the licensee referred to in section 20 or section 24 may dispose of the utility in such manner as it may deem fit:

Provided that, if the licensee does not dispose of the utility, within a period of six months from the date of revocation under section 20 or section 24, the Appropriate Commission may cause the works of the licensee in, under, over, along, or across any street or public land to be removed and every such street or public land to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Section 23 - Directions to licensees

If the Appropriate Commission is of the opinion that it is necessary or expedient so to do for maintaining the efficient supply, securing the equitable ~~distribution~~-supply of electricity and promoting competition, it may, by order, provide for regulating supply, distribution, consumption or use thereof.

Section 24 - Suspension of distribution licence or supply licence and sale of utility

(1) If at any time the Appropriate Commission is of the opinion that a distribution licensee or a supply licensee

(a) has persistently failed to maintain uninterrupted ~~distribution or supply~~ or both, as the case may be, of electricity conforming to standards regarding quality of electricity to the consumers; or

(b) is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(c) has persistently defaulted in complying with any direction given by the Appropriate Commission under this Act; or

(d) has broken the terms and conditions of licence,

and circumstances exist which render it necessary for it in public interest so to do, the Appropriate Commission may, for reasons to be recorded in writing, suspend, for a period not exceeding one year, the licence of the distribution licensee or a supply licensee and appoint an Administrator to discharge the functions of the distribution licensee or a supply licensee in accordance with the terms and conditions of the licence:

Provided that before suspending a licence under this section, the Appropriate Commission shall give a reasonable opportunity to the distribution licensee or the supply licensee to make representations against the proposed suspension of licence and shall consider the representations, if any, of the distribution licensee or the supply licensee.

(2) Upon suspension of licence under sub-section (1), the utilities of the distribution licensee or the supply licensee shall vest in the Administrator for a period not exceeding one year or up to the date on which such utility is sold in accordance with the provisions contained in section 20, whichever is later.

(3) The Appropriate Commission shall, within one year of appointment of the Administrator under sub-section (1), either revoke the licence in accordance with the provisions contained in section 19 or revoke suspension of the licence and restore the utility to the distribution licensee or the supply licensee whose licence had been suspended, as the case may be.

(4) In a case where the Appropriate Commission revokes the licence under sub-section (3), the utility of the distribution licensee or the supply licensee shall be sold within a period of one year from the date of revocation of the licence in accordance with the provisions of section 20 and the price after deducting the administrative and other expenses on sale of utilities and such other amounts as may be due from the licensee shall be remitted to the distribution licensee or the supply licensee.

PART V - TRANSMISSION OF ELECTRICITY

Inter-State transmission

Section 25 - Inter-State, regional and inter-regional transmission

For the purposes of this Part, the Central Government may, make region-wise demarcation of the country, and, from time to time, make such modifications therein as it

may consider necessary for the efficient, economical and integrated transmission and supply of electricity, and in particular to facilitate voluntary inter-connections and co-ordination of facilities for the inter-State, regional and inter-regional generation and transmission of electricity.

Section 25 (A) - National Power Committee

(1) The Central Government may establish a Committee at the national level, to be known as National Power Committee for facilitating the integrated operation of the power system at national level.

(2) The constitution and functions of the National Power Committee shall be such, as may be prescribed by the Central Government, by resolution.

(3) The National Power Committee shall have a secretariat which will be headed by the Member Secretary of the Committee. The Member Secretary as well as other staff of the Secretariat shall be provided by the Central Electricity Authority.

Section 25 (B) - Regional Power Committee

(1) The Central Government may establish a Committee to be known as Regional Power Committee for a specified region, for facilitating the integrated operation of the power system in that region. This will supplant existing Regional Power Committees.

(2) The constitution and functions of the Regional Power Committee shall be such, as may be prescribed by the Central Government, by resolution.

(3) The Regional Power Committee shall have a secretariat which will be headed by the Member Secretary of the Committee. The Member Secretary as well as other staff of the Secretariat shall be provided by the Central Electricity Authority.

Commented [RT14]: One cannot ignore existing RPCs – must check all THEIR functions are carried forward.

Section 25 (C) - State Power Committee

(1) The State Government may establish a Committee to be known as State Power Committee for facilitating the integrated operation of the power system in the state.

(2) The constitution and functions of the State Power Committee shall be such, as may be prescribed by the State Government, by resolution.

Section 26 - National Load Despatch Centre

(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.

(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:

Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity.

(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.

Section 27 - Constitution of Regional Load Despatch Centre

(1) The Central Government shall establish a centre for each region to be known as the Regional Load Despatch Centre having territorial jurisdiction as determined by the Central Government in accordance with section 25 for the purposes of exercising the powers and discharging the functions under this Part.

(2) The Regional 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:

Provided that until a Government company or authority or corporation referred to in this sub-section is notified by the Central Government, the Central Transmission Utility shall operate the Regional Load Despatch Centre:

Provided further that no Regional Load Despatch Centre shall engage in the business of generation of electricity or trading in electricity.

Section 28 - Functions of Regional Load Despatch Centre

(1) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the concerned region.

(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.

(3) The Regional Load Despatch Centre shall -

- (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;

-
- (b) monitor grid operations;
 - (c) keep accounts of the quantity of electricity transmitted through the regional grid;
 - (d) exercise supervision and control over the inter-State transmission system; and
 - (e) be responsible for carrying out real time operations for grid control and despatch of electricity within the region through secure and economic operation of the regional grid in accordance with the Grid Standards and the Grid Code.

(4) The Regional Load Despatch Centre may levy and collect such fee and charges from the generating companies or licensees engaged in inter-State transmission of electricity as may be specified by the Central Commission.

Section 29 - Compliance of directions

(1) The Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring stability of grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control.

(2) Every 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 Regional Load Despatch Centres under sub-section (1).

(3) All directions issued by the Regional Load Despatch Centres to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter-State transmission system) or sub-station in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centres shall ensure that such directions are duly complied with by the licensee or generating company or sub-station.

(4) The Regional Power Committee in the region may, from time to time, agree on matters concerning the stability and smooth operation of the integrated grid and economy and efficiency in the operation of the power system in that region.

(5) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given under sub-section (1), it shall be referred to the Central Commission for decision:

Provided that pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.

(6) If any **generating company** or licensee, ~~generating company~~ or any other person fails to comply with the directions issued under sub-section (2) or sub-section (3), he shall be liable to a penalty not exceeding rupees ~~fifteen lacs~~ **one crore**.

Provided that in case of non-compliance of the directions issued under sub-section(2) or sub-section (3), by a generating company for generating renewable energy, such generating company shall be liable to a penalty not exceeding rupees fifty lacs.

(c) Intra-State transmission

Section 30 – Transmission with a State

The State Commission shall facilitate and promote transmission, wheeling and inter-connection arrangements within its territorial jurisdiction for the transmission and supply of electricity by economical and efficient utilisation of the electricity.

Section 31 – Constitution of State Load Despatch Centres

(1) The State Government shall establish a Centre to be known as the State Load Despatch Centre for the purposes of exercising the powers and discharging the functions under this Part.

(2) The State Load Despatch Centre shall be operated by a Government company or any authority or corporation established or constituted by or under any State Act, as may be notified by the State Government.

Provided that until a Government company or any authority or corporation is notified by the State Government, the State Transmission Utility shall operate the State Load Despatch Centre:

Provided further that no State Load Despatch Centre shall engage in the business of trading in electricity.

Section 32 - Functions of State Load Despatch Centres

(1) The State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State.

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- (2) The State Load Despatch Centre shall -
- a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;
 - b) monitor grid operations;
 - c) keep accounts of the quantity of electricity transmitted through the State grid;
 - d) exercise supervision and control over the intra-state transmission system; and
 - e) be responsible for carrying out real time operations for grid control and despatch of electricity within the State through secure and economic operation of the State grid in accordance with the Grid Standards and the State Grid Code.
- (3) The State Load Despatch Centre may levy and collect such fee and charges from the generating companies and licensees engaged in intra-State transmission of electricity as may be specified by the State Commission.

Section 33 - Compliance of directions

(1) The State Load Despatch Centre in a State may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations and for achieving the maximum economy and efficiency in the operation of power system in that State.

(2) Every 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 State Load Despatch Centre under sub-section (1).

(3) The State Load Despatch Centre shall comply with the directions of the Regional Load Despatch Centre.

(4) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the State grid or in relation to any direction given under sub-section (1), it shall be referred to the State Commission for decision:

Provided that pending the decision of the State Commission, the directions of the State Load Despatch Centre shall be complied with by the licensee or generating company.

(5) If any **generating company** or licensee, ~~generating company~~ or any other person fails to comply with the directions issued under sub-section (1), he shall be liable to a penalty not exceeding rupees ~~five lacs~~ **one crore**.

Provided that in case of non-compliance of the directions issued under sub section(1), by a generating company for generating renewable energy, such generating company shall be liable to a penalty not exceeding rupees fifty lacs.

Section 34 to 41 - Other provisions relating to transmission

Section 34 - Grid Standards

Every ~~transmission licensee~~ licensee or generating company, person owning and maintaining dedicated transmission lines and any other person whose system is connected to the grid or involved in the operation of the Power system shall comply with such technical standards, of operation and maintenance of transmission lines, in accordance with the Grid Standards, as may be specified by the Authority.

Section 35 - Intervening transmission facilities

The Appropriate Commission may, on an application by any licensee, by order require any other licensee owning or operating intervening transmission facilities to provide the use of such facilities to the extent of surplus capacity available with such licensee.

Provided that any dispute regarding the extent of surplus capacity available with the licensee, shall be adjudicated upon by the Appropriate Commission.

Section 36 - Charges for intervening transmission facilities

(1) Every licensee shall, on an order made under section 35, provide his intervening transmission facilities at rates, charges and terms and conditions as may be mutually agreed upon :

Provided that the Appropriate Commission may specify rates, charges and terms and conditions if these cannot be mutually agreed upon by the licensees.

(2) The rates, charges and terms and conditions referred to in sub-section (1) shall be fair and reasonable, and may be allocated in proportion to the use of such facilities.

Explanation. - For the purposes of section 35 and 36, the expression "intervening transmission facilities" means the electric lines owned or operated by a licensee where such electric lines can be utilized for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge.

Section 37 - Directions by Appropriate Government

The Appropriate Government may issue directions to the Regional Load Despatch Centres or State Load Despatch Centres, as the case may be, to take such measures as may be necessary for grid security and safety and for maintaining smooth and stable transmission and supply of electricity to any region or State.

Section 38 - Central Transmission Utility and functions

- 1) The Central Government may notify any Government company or Board or Authority as the Central Transmission Utility:

Provided that the Central Transmission Utility shall not engage in the business of generation of electricity or trading in electricity:

Provided further that the Central Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 (1 of 1956) or Companies Act, 2013 (18 of 2013) to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.

- 2) The functions of the Central Transmission Utility shall be--

- (a) to undertake transmission of electricity through inter-State transmission system;
- (b) to discharge all functions of planning and co-ordination relating to inter-State transmission system with--
 - (i) State Transmission Utilities;
 - (ii) Central Government;
 - (iii) (iii) State Governments;
 - (iv) generating companies;
 - (v) National Power Committee and Regional Power Committees;
 - (vi) Authority;
 - (vii) licensees;
 - (viii) ed by the Central Government in this behalf;
- (c) to ensure development of an efficient, co-ordinated and economical system of inter-State transmission lines for smooth flow of electricity from generating stations to the load centres;
- (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 Central Commission.

~~Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:~~

~~Provided further that such surcharge and cross-subsidies shall be progressively reduced in the manner as may be specified by the Central Commission:~~

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Central Commission:

~~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.~~

Section 39 - State Transmission Utility and functions

(1) The State Government may notify the Board or a Government company as the State Transmission Utility:

Provided that the State Transmission utility shall not engage in the business of trading in electricity:

Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 (1 of 1956) or Companies Act, 2013(18 of 2013) to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.

(2) The functions of the State Transmission Utility shall be--

- (a) to undertake transmission of electricity through intra-State transmission system;
- (b) to discharge all functions of planning and co-ordination relating to intra-State transmission system with--
 - (i) Central Transmission Utility;
 - (ii) State Governments;
 - (iii) Generating companies;
 - (iv) Regional Power Committees;
 - (iv(a)) State Power Committees;**
 - (v) Authority;

-
- (vi) licensees;
- (vii) any other person notified by the State Government in this behalf;
- (c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres;
- (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:

~~Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:~~

~~Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission:~~

~~Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission:~~

~~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.~~

Section 40 - Duties of transmission licensees

It shall be the duty of a transmission licensee--

- (a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be;
- (b) to comply with the directions of the Regional Load Despatch Centre and the State Load Despatch Centre as the case may be;
- (c) 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~~ : **as may be specified by the Appropriate Commission of the state in which the premises of the consumer is situated:**

~~Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:~~

~~Provided further that such surcharge and cross-subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:~~

~~Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:~~

~~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.~~

Section 41 – Other business of transmission licensee

A transmission licensee may, with prior intimation to the Appropriate Commission, engage in any business for optimum utilization of its assets:

Provided that a proportion of the revenues derived from such business shall, as may be specified by the Appropriate Commission, be utilized for reducing its charges for transmission and wheeling:

Provided further that the transmission licensee shall maintain separate accounts for each such business undertaking to ensure that transmission business neither subsidises in any way such business undertaking nor encumbers its transmission assets in any way to support such business:

Provided also that no transmission licensee shall enter into any contract or otherwise engage in the business to in trading electricity.

Part VI - DISTRIBUTION **AND SUPPLY** OF ELECTRICITY

Section 42 to 51 - Provisions with respect to distribution licensee and supply licensee

Section 42 - Duties of distribution licensee and supply licensee and open access

(1) The distribution licensee or supply licensee, as the case may be, shall have the obligation to supply 24x7 power to its consumers, with exceptions only as allowed by the Central Government under uniform norms.

Commented [RT15]: Otherwise, is agriculture to be provide 24x7 power? This disallows rostering. Rostering isn't just a supply curtailment tool – it helps shift load to off-peak periods.

(2) 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 distribution and supply of and to supply electricity in accordance with the provisions contained in this Act.

Commented [RT16]: NO!!! This specifically stops flexibility in operations, which may be markets but even otherwise.

Even if retained, language elsewhere mentioned fractions of loads that must have a PPA.

~~(2) The State Commission shall introduce open access in such phases and subject to 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:~~

(4) The Appropriate Commission shall carry out a comprehensive review every two years combined with an annual review of general performance, and assess performance including supply quality and addressing consumer complaints. In case of persistent shortfall in the above, the Commission may:

Commented [RT17]: It shouldn't take 2 years to figure out if things aren't on track! Must also make sure there is no conflict with oversight as per Section 57.

- (i) require that remedial action be taken within a specified time frame failing which
- (ii) suspend the license under Section 24;
- (iii) revoke the license under Section 19 and take further action mandated by law.

Commented [RT18]: Do not mandate PPAs; see edits to that section for better options. Seek compliance with performance instead of asking for more procurement contracts.

Provided that, the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in supply of electricity of such Distribution Utility, to a company or companies to be incorporated or registered under the Companies Act, 2013 to function as a supply licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be supply licensees under this Act.

(5) Upon the vesting of the supply of electricity in another company in terms of the proviso to Sub-section (1), the duty of the Distribution licensee shall be restricted to distribution in the manner provided in Sub-section (1) to enable supply of electricity by the supply licensee(s) and the distribution licensee shall cease to undertake supply of electricity.

(6) The State Commission shall facilitate open access subject to such conditions, as may be specified by it:

Provided that such open access shall be allowed on payment of wheeling charges and a surcharge thereon as may be determined by the State Commission; provided that the surcharge shall not be more than twenty percent of the wheeling charges.

Provided also that such surcharge shall be progressively reduced and eliminated in three years in the manner as may be specified by the State Commission.

~~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:~~

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.

(7) Where any person, whose premises are situated within the area of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than ~~such distribution~~ the licensee authorised to supply electricity, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.

~~(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.~~

Commented [RT19]: This otherwise doesn't sync with the time period listed for cross-subsidy removal for other users. Importantly, this item will mean more Open Access consumers. With lower surcharges, this is a hit upon local licensees. The surcharge should be allowed equal to the local surcharges prevalent in the geography.

(8) Every distribution licensee(s) and supply licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier-later, establish a separate forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

Provided that in case of multiple distribution licensees or supply licensees, a joint forum for redressal of grievances of the consumers may be established, separately for distribution licensees and supply licensees, by the Appropriate Commission within a period as may be specified or within six months, whichever is earlier.

(8b) The point of contact for consumers for all operational matters will be the Supply Licensee, whose responsibility shall be to coordinate with relevant Distribution Licensees as applicable. In the case of Open Access consumers, the relevant point of contact shall be the Distribution Licensee.

Commented [RT20]: Renumber as required. Make this (9) if reqd.

(10-9) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(11-10) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(12-11) The provisions of sub-sections (9), (10) and (11)-(8), (9) and (10) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by those sub-sections.

Section 43 - Duty to distribute and supply on request

(1) Save as otherwise provided in this Act, every distribution licensee or supply licensee, as the case may be, shall, on an application by the owner or occupier of any premises, give connection or supply of electricity to such premises, within one month seven days after receipt of the application requiring such connection or supply, as the case may be:

Provided that where such supply-connectivity requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall enable supply of the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

~~Provided further that in case of a village or hamlet or area wherein no provision for~~

~~supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.~~

Explanation.--For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the licensee, along with documents showing payment of necessary charges and other compliances.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for ~~giving~~ **enabling** electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a ~~distribution~~ licensee fails to **connect or** supply the electricity, **as the case may be**, within a period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

Section 44 - Exceptions from duty to **connect or to** supply or distribute electricity

Nothing contained in section 43 shall be taken as requiring a ~~distribution~~ licensee to give **connection or** supply of electricity to any premises if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control.

Section 45 - Power to recover charges

(1) Subject to the provisions of this section, the prices to be charged by a ~~distribution~~ licensee for the **connection or** supply, **as the case may be**, of electricity by him in pursuance of section 43 shall be in accordance with such limited caps on tariffs fixed from time to time and conditions of his licence which includes:-

(a) **Consumption of electricity by the consumer shall be metered and charges shall be paid in accordance with the tariff determined by the Appropriate Commission;**

Commented [RT21]: Does this extend to agriculture? All users must be metered?

(b) **Where the State Government or any other agency proposes to provide any subsidy to any category of consumer, it shall be paid by the state to the licensees quarterly, failing which the center shall have the right to recover such charges through offsets against other center to state transfers to ensure payment to the utilities.**

Commented [RT22]: See main text why DBT risks leaving out the poorest of the poor.

(2) The charges for electricity supplied by a distribution licensee shall be -

(a) ~~fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;~~

(2) The charges for **connection or supply of** electricity ~~supplied by a distribution licensee~~ shall be -

- a) ~~fixed~~**recovered** in accordance with the methods and the principles as may be specified by the concerned State Commission;
- b) published in such manner so as to give adequate publicity for such charges and prices.

Provided that the State Commissions shall have the rights to review tariffs and place caps where they determine abuse of market power. This shall apply on the supply licensee(s) from the date of implementation of the Transfer Scheme.

(3) The charges for electricity supplied by a distribution **or supply licensee** may include -

- (a) a fixed charge in addition to the charge for the actual electricity supplied;
- (b) a rent or other charges in respect of any electric meter or electrical plant provided by the licensee;

(4) Subject to the provisions of section 62, in fixing charges under this section a licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.

(6) **The charges for electricity to be supplied by a distribution or supply licensee to prepaid consumer may be collected in advance and the licensee would supply equivalent amount of electricity to such consumer.**

45A. The Appropriate Government may, in consultation with the Appropriate Commission and the concerned authorities, prescribe the manner of collection and realisation of any dues under the relevant laws for the time being in force in the State along with the electricity dues.

Section 46 - Power to recover expenditure

The State Commission may, by regulations, authorise a licensee to charge from a person requiring **connection for enabling** supply of electricity in pursuance of section 43, any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that **connection for** supply.

Commented [RT23]: Ceilings have risks and limitations. While the intent is good, and still allows SOME flexibility in tariffs, if the Commission estimates are too tight, it limits options for suppliers. Also, a few cases may need/want to be charged higher. Importantly, these signal a price that most licensees may coalesce around.

Section 47 - Power to require security

(1) Subject to the provisions of this section, a licensee may require any person, who requires a **connection or** supply of electricity in pursuance of section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him--

(a) in respect of the **connection or supply of** electricity to such person; or

(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter,

and if that person fails to give such security, the licensee may, if he thinks fit, refuse to give the **connection or** supply or to provide the line or plant or meter, **as the case may be**, for the period during which the failure continues.

(2) Where any person has not given such security as is mentioned in sub-section (1) or the security given by any person has become invalid or insufficient, the licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the **connection or** supply of electricity or provision of such line or plant or meter, **as the case may be**.

(3) If the person referred to in sub-section (2) fails to give such security, the ~~distribution~~ licensee may, if he thinks fit, discontinue the supply **or connection** of electricity for the period during which the failure continues.

(4) The ~~distribution~~ licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.

(5) A ~~distribution~~ licensee **authorised to supply** shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the ~~persons requiring the supply is prepared to take the supply~~ through a pre-payment meter.

Section 48 - Additional terms of **connection for supply of Electricity**

A distribution licensee may require any person who requires a **connection for** supply of electricity in pursuance of section 43 to accept--

(a) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the regulations made under section 53;

(b) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence of the person to whom the ~~electricity is supplied~~ **connection is provided**.

Section 49 - Agreements with respect to supply or purchase of electricity

~~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.~~

(1) A minimum percentage of power shall be through Long Term/Medium Term/Short Term Power Purchase Agreements, the format for which shall be laid down by the Authority, with the approval of Central Government. This percentage shall allow flexibility for market-based sale/purchases. The Central Government may notify norms that convert PPAs or supplant them with market-based solutions in manner to be determined in consultation with the License holders, States and the Commissions.

(2) No PPA shall be cancelled except with the approval of the Appropriate Commission or mutually by both stakeholders.

(3) Violation of PPA will lead to penalties which may be as determined by the Appropriate Commission which may be fines which may extend to Rupees One crore per day or 10% of the violation amount, whichever is higher, and, in case of licensees may also extend to suspension and cancellation of licence. Any fine chosen shall be deposited by the end of the month or 10 working days, whichever is later. Failure to pay on time shall attract a surcharge to be established by the Central Government.

(4) With effect from the commencement of the Electricity (Amendment) Act, 2018, all consumers having a connected load of 1 Mega Watt and above with the power system, may procure at their option electricity through open access under contractual agreement from any generating company, trading licensee, or from any other source. This is an extension of the prior norms of Open Access.

(5) Notwithstanding anything contained in clause (d) of sub-section (1) of section 62, the consumers mentioned in sub-section (4), 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 50 - The Electricity **Distribution and** Supply Code

The State Commission shall specify an Electricity **Distribution and** Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.

Commented [RT24]: We want to end PPAs as we have today. Even in a high PPA world today, we have states doing bilateral trades for allocations of central plants. PPAs KILL flexibility!

Section 51 – Other businesses of distribution licensees

A distribution licensee may, with prior intimation to the Appropriate Commission, engage in any other business for optimum utilisation of its assets:

Provided that a proportion of the revenues derived from such business shall, as may be specified by the concerned State Commission, be utilised for reducing its charges for wheeling :

Provided further that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidies in any way such business undertaking nor encumbers its distribution assets in any way to support such business.

Provided also that nothing contained in this section shall apply to a local authority engaged, before the commencement of this Act, in the business of distribution of electricity.

(d) Provisions with respect to electricity traders

Section 52 - Provisions with respect to electricity trader

(1) Without prejudice to the provisions contained in clause (c) of section 12, the Appropriate Commission may, specify the technical requirement, capital adequacy requirement and credit worthiness for being an electricity trader.

(2) Every electricity trader shall discharge such duties, in relation to supply and trading in electricity, as may be specified by the Appropriate Commission.

Section 53 - Provision relating to safety and electricity supply

The Authority may, in consultation with the ~~State~~ **Central** Government, specify suitable measures for—

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution **or supply** or trading) from dangers arising from the generation, transmission or distribution **or supply** or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property.
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified;
- (d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity,

-
- (e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;
 - (f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;
 - (g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

Section 54 - Control of transmission and use of electricity

(1) Save as otherwise exempted under this Act, no person other than the Central Transmission Utility or a State Transmission Utility, or a licensee shall transmit or use electricity at a rate exceeding two hundred and fifty watts and one hundred volts-

- (a) in any street, or
- (b) in any place,--
 - (i) in which one hundred or more persons are ordinarily likely to be assembled; or
 - (ii) which is a factory within the meaning of the Factories Act, 1948 (63 of 1948) or a mine within the meaning of the Mines Act, 1952 (35 of 1952); or
 - (iii) to which the State Government, by general or special order, declares the provisions of this sub-section to apply,

without giving, before the commencement of transmission or use of electricity, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate or the Commissioner of Police, as the case may be, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply and complying with such of the provisions of Part XVII of this Act, as may be applicable:

Provided that nothing in this section shall apply to electricity used for the public carriage of passengers, animals or goods, on, or for the lighting or ventilation of the rolling stock of any railway or tramway subject to the provisions of the Railways Act, 1989 (24 of 1989) or metro railway under the Metro Railways (Operation and Maintenance) Act, 2002 or Mono Rail and such other transport or other entities as may be notified by the Central Government, from time to time.

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are ordinarily likely to be assembled, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.

(3) The provisions of this section shall be binding on the Government.

Section 55 - Use, etc., of meters

(1) No licensee shall supply electricity, ~~after the expiry of two years from the appointed date, except through installation of a correct meter,~~ including smart meter or prepayment meter, in accordance with the regulations to be made in this behalf by the Authority:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter:

~~Provided further that the State Commission may, by notification extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.~~

(2) For proper accounting and audit in the generation, transmission and distribution or supply or trading of electricity, the Authority may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or supply or trading of electricity and at such locations of generation, transmission or distribution or supply or trading, as it may deem necessary.

Provided that smart meters, as specified by the Authority, shall be installed at each stage for proper accounting and measurement for the purpose of metering and consumption from the point of generation up to such consumers who consume more than the quantity of electricity in a month as may be notified by the Central Government.

(3) If a person makes default in complying with the provisions contained in this section or the regulations made under sub-section (1), the Appropriate Commission may make such order as it thinks fit for requiring the default to be made good by the generating company or licensee or by any officers of a company or other association or any other person who is responsible for its default.

Section 56 - Disconnection of supply in default of payment

(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Commented [RT25]: Again, does this apply to agricultural users?

Provided that the supply of electricity shall not be cut off if such person deposits, under protest,--

- (a) an amount equal to the sum claimed from him, or
- (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,

whichever is less, pending disposal of any dispute between him and the licensee.

Provided further that disconnection of connectivity or supply of electricity, as the case may be, to a consumer due to non-payment of charges or otherwise under the provisions of this Act, shall only be made by the licensee or any other person authorised for installation and maintenance of the electricity meter. In addition to disconnection, consumers may be curtailed or load-limited as per Commission authority for non-payment, based on meter capabilities such as with smart meters;

(1A) In case of prepayment meter, the supply shall automatically stop when the quantum of electricity for such payment has been consumed. This shall not amount to disconnection of supply.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not ~~has~~ cut off the supply of the electricity.

Section 57 to 60 - Consumer protection: Standards of performance

Section 57 - Standards of performance of licensee

- (1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees. Standards of performance shall be based not only on norms but also "best practices" and the median standard as defined by the respective Commissions. Defaults are also based not only on complaints lodged but based on reporting and compliance reports as well. The Standards of Performance shall include trajectories for compliance in the case any licensee begins at a starting point far from the median performance across licensees. The said standards of performance shall include, amongst other aspects, the following:
- (i) that the licensee shall have the obligation to supply 24x7 power to its consumers. In case of power cuts other than reasons attributable to distribution or supply licensee as the case may be or technical faults an appropriate penalty,

Commented [RT26]: The intent is: Say for example there is a fuel shortage, and they cannot deliver power. This is (a) not the licensee's fault; (b) something that affects many SLs and consumers. This should not be penalized.

Commented [RT27]: This is to ensure that all consumers don't have to file complaints for a common problem, e.g., a load-shedding event.

as determined by the SERC under sub-section (3) shall be levied on the distribution or supply licensee as the case may and credited to the account of the respective consumers.

(ii) The response time for rectification of different types of faults.

(iii) The quality of supply and such requirements to make the quality/services as may be specified.

(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

Notwithstanding anything contained in sub-section (1), the minimum penalty and the compensation on each willful default (by omission or commission) specified in the standards of performance of a licensee or a class of licensees would be 2% of the bill amount of the consumer's previous month or the previous billing cycle and amount would get adjusted in the next billing cycle. In case of prepayment meter consumers, 2% of the total amount for which electricity has been consumed during the previous month, would be credited into the consumer's bill in the next month. Repeated infractions of the same failure can attract additional penalties as allowed by norms to be laid out in advance by the respective Commission.

Provided that the maximum amount of compensation shall not exceed 30% of the bill amount of the previous month or the previous billing cycle during the first year of notification of the Electricity (Amendment) Act, 2018 or as prescribed.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

Section 58 - Different Standards of performance by licensee.

The Appropriate Commission may specify different standards under sub-section (1) of section 57 for a class or classes of licensee. The minimum Standards of Performance shall also reflect not just best practices and median performance

Section 59 - Information with respect to levels of performance

(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:--

- (a) the level of performance achieved under sub-section (1) of section 57;
- (b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.

(2) The Appropriate Commission shall at least once in every year arrange for the publication, in such form and manner as it considers appropriate, of such of the

Commented [RT28]: This is not defined in the Act – update it to the respective licensees

Commented [RT29]: RPOs need to include state consensus. These shouldn't become an unfunded mandate (equiv. to a tax). What happens when we have TOO MUCH RE? The choices are only curtailment or storage – would curtailment be “deemed generation”?

Commented [RT30]: This is to prevent establishing a market for load-shedding. Say there is a poor consumer whose supply is Rs. 3/kWh. Rs. 100/month. So 2% is 2 rupees - cheaper to pay the penalty than procure peak power.

information furnished to it under sub-section (1).

Section 59 A

59A. In case any complaint is filed before the Appropriate Government and if the Appropriate Government is satisfied that any licensee has not discharged any of the functions assigned to him by the Act, including the standards of performance specified by the Appropriate Commission, and the infraction is of a serious nature, the Appropriate Government may recommend for the revocation of licence of the said licensee.

Section 60 – Market domination

The Appropriate Commission may such issue directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.

Part VII - TARIFF

Section 61 - Tariff regulations

(1) The Appropriate Commission shall, subject to the provisions of this Act, ~~specify the terms and conditions for the determination of tariff,~~ **determine the tariff in accordance with the Tariff Policy issued under section 3 of the Act** and in doing so, shall be guided by the following, namely:--

- (a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;
- (b) **such that** the generation, transmission, distribution and supply of electricity are conducted on commercial principles;
- (c) ~~the~~ factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;

- (d) the recovery of the cost of electricity, service cost, wheeling charges and any other cost to ensure the reasonable return on the capital employed while at the same time ensuring the consumer's interest;
- (e) consider capital cost as well as other incidental costs and where such costs are found excessive and unreasonable as per prevailing industry norms, shall scale it down to industry norms.
- (f) ensure the burden of inefficiencies of the Distribution/Supply Companies shall not be passed on to the consumers;
- (g) the cross subsidization of tariff of the consumers within the distribution area shall be calculated under a standardized formula to be notified by the respective Commission, and these will be used to create trajectories for each DisCom in terms of allowed cross-subsidies. Both these activities should be complete within 6 months of enhancement of the Amendments. The trajectories must include a cap to be specified by the respective Commissions, and shall allow for a maximum of 5 years to reach the cap.
- (h) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner without any revenue deficit in the revenue requirements approved by the Appropriate Commission for the period for the tariff determined under section 62:
- (i) the principles rewarding efficiency in performance;
- (j) multi year tariff principles;
- (k) time of the day tariff principles for generation, transmission and supply of electricity;

~~(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;~~

~~(h) the promotion of co-generation and generation of electricity from renewable sources of energy;~~

~~(i) the National Electricity Policy and tariff policy;~~

~~Provided that the terms and conditions for determination of tariff under the Electricity (Supply) Act, 1948, the Electricity Regulatory Commission Act, 1998 and the enactments specified in the Schedule as they stood immediately before the appointed date, shall continue to apply for a period of one year or until the terms and conditions for tariff are specified under this section, whichever is earlier.~~

Section 62 - Determination of tariff

(1) The Appropriate Commission shall determine the tariff in accordance with the
Draft Amendments to Electricity Act, 2003 (September 2018)

Commented [RT31]: Does it mean that Open Access Consumers shall pay transmission/ wheeling charges also on the basis of TOD Tariff principles? Implications?

provisions of this Act for--

- (a) supply of electricity by a generating company to a ~~distribution licensee~~ authorised to supply electricity including supply of electricity under a back to back arrangement involving an electricity trader or any other licensee;

Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity:

~~Provided further that there shall be no such determination of tariff by the Appropriate Commission under this clause (a) where the Central Government specifies that the procurement of electricity from the sources identified for the purpose by the supply licensee shall be done only by competitive bidding as per section 63;~~

- (b)) transmission of electricity;
(c) wheeling of electricity;
(d)) retail sale of electricity:

~~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.~~

- (2) (a) Notwithstanding anything contained in sub section (1), the tariff determined, after the date of implementation of the transfer scheme, for retail sale of electricity shall be the ceiling tariff for the respective categories of consumers, the supply licensee shall be entitled to charge any consumer category at an amount lesser than the ceiling tariff, subject to sub-section (3) and also, without in any way affecting the obligation of a supply licensee to pay the intermediary company, the transmission licensee, the distribution licensee and generating company, as the case may be.
- (b) The ceiling tariff shall be determined by the Appropriate Commission on the basis of normative costs and standards of performance as laid down by such Commission.
- 3) Provided further that any penalty imposed under this Act shall not be accounted for determining the tariff under this section and shall not be pass through to the consumers as part of tariff determined.
- (4) The tariff determined by the Appropriate Commission for a licensee shall provide for recovery of all prudent costs of the licensee approved by the Appropriate Commission in the monthly bills during the tariff period through an appropriate fuel and power purchase price adjustment formula wherever applicable including surcharge, if any.

Commented [RT32]: This is not defined – seems to be a key part of the Transfer Mechanism.

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- (2) (5) The Appropriate Commission may require a licensee or a generating company to furnish separate details, as may be specified in respect of generation, transmission, distribution and supply for determination of tariff.
- (3) (6) 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.
- (4) (7) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of ~~any changes expressly permitted under the terms any fuel surcharge formula~~ **fuel and power purchase price adjustment, including surcharge if any, which shall be permitted under the terms of the fuel and power purchase price adjustment formula** as may be specified by the Appropriate Commission.
- (5) (8) The Commission may require a licensee or a generating company to comply with such procedure as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.
- (6) (9) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

Commented [RT33]: The clause should be in sync with the Revised National Tariff Policy Clause 8.3(a) (https://powermin.nic.in/sites/default/files/webform/notice/Seeking_comments_on_revised_provision_at_Para.pdf) which states that electricity tariff should be based on load used and energy consumed, and not different for different category of usage.

Section 63 - Determination of tariff by bidding process

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.

Provided that the tariff determined through transparent process of bidding in accordance with the guidelines issued by the Central Government would not be re-determined under section 62.

Provided further that the tariff for cross border sale or purchase of electricity, as agreed in the Government to Government negotiation under the agreement between the countries, shall be adopted by the Appropriate Commission.

Provided also that if the Appropriate Commission not passed order within 30 days on completion of pleadings, such tariff would be deemed to have been adopted.

Commented [RT34]: Just because something is bid need not mean it is free from distortions or market failures

Section 64 - Procedure for tariff order

(1) An application for determination of tariff under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

(1A) If the application is not filed in time, the Appropriate Commission shall, not later than thirty days of the last date specified for such filing, on its own initiate proceedings for determination of tariff and call for such information, details and document as the Appropriate Commission may require for such determination.

(1B) The Appropriate Commission may impose cost against the generating company or licensee for the failure to provide any information, details and document required to be filed before the Appropriate Commission.

(2) Every applicant shall publish the application, in such abridged form and manner, as may be specified by the Appropriate Commission.

(3) The Appropriate Commission shall, within ~~one hundred and twenty~~ **ninety** days from receipt of an application **or initiation of proceedings in accordance with clause 1 (b) above, as the case may be** under sub-section (1) and after considering all suggestions and objections received from the public,--

(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

(b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of this Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

(4) The Appropriate Commission shall, within seven days of making the order, send a copy of the order to the Appropriate Government, the Authority, and the concerned licensees and to the person concerned.

(5) Notwithstanding anything contained in Part X, the tariff for any inter-State supply, transmission or wheeling of electricity, as the case may be, involving the territories of two States may, upon application made to it by the parties intending to undertake such supply, transmission or wheeling, be determined under this section by the State Commission having jurisdiction in respect of the licensee who intends to distribute **and supply** electricity and make payment therefor.

(6) A tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in ~~the tariff order~~ in accordance with the Tariff Policy.

Section 65 - Provision of subsidy by State Government **or Central Government**

~~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 in the manner as may be specified, by the State Commission 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:~~

~~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.~~

1. Notwithstanding anything contained in the Act if the State Government or Central Government, as the case may be, desires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62 and as per the final tariff order issued under section 64, such subsidy shall be regularly transferred to the licensee to cover the costs of service.
2. If the Central Government requires the grant of any subsidy to any consumer or class of consumers through a central government scheme, it shall pay such subsidy directly to the utility quarterly.

Commented [RT35]: DBT has its risks and limits (see previous comments)

Section 66 - Development of power market

The Appropriate Commission shall endeavour to promote the development of a market (including trading) in power and a market for encouraging energy efficiency in such manner as may be specified and which shall be guided by the National Electricity Policy referred to in section 3 in this regard and other directions issued by the Central Government in the public interest from time to time.

Provided that the market for forward and futures contract in electricity shall be developed in a manner as may be notified by the Central Government.

Section 66 A - Ensuring Performance of the agreements for Sustainable power market

- (1) The agreements for power purchase, etc entered between the licensees or by the licensees and generating Company, once approved by the Appropriate Commission, shall be mandatorily complied with by both parties failing which the Appropriate Commission may levy penalties as deemed appropriate. Any dispute between licensees which may arise may be adjudicated by the Appropriate Commission which shall pass orders in the matter.

Part VIII - WORKS

Section 67 to 69 - Works of licensees

Section 67 - Provision as to opening up of streets, railways, etc.

(1) A licensee may, from time-to-time but subject always to the terms and conditions of his licence, within his area of supply **or distribution** or transmission or when permitted by the terms of his licence to lay down or place electric supply lines ~~without~~**outside** the area of supply, ~~without~~**outside** that area carry out works such as--

- (a) to open and break up the soil and pavement of any street, railway or tram-way;
- (b) to open and break up any sewer, drain or tunnel in or under any street, railway or tramway;
- (c) to alter the position of any line or works or pipes, other than a main sewer pipe;
- (d) to lay down and place electric lines, electrical plant and other works;
- (e) to repair, alter or remove the same;
- (f) to do all other acts necessary for transmission or supply of electricity.

(2) The Appropriate Government may, by rules made by it in this behalf, specify, -

- (a) the cases and circumstances in which the consent in writing of the Appropriate Government, local authority, owner or occupier, as the case may be, shall be required for carrying out works;
- (b) the authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works;
- (c) the nature and period of notice to be given by the licensee before carrying out works;
- (d) the procedure and manner of consideration of objections and suggestion received in accordance with the notice referred to in clause (c);
- (e) the determination and payment of compensation or rent to the persons affected by works under this section;
- (f) the repairs and works to be carried out when emergency exists;
- (g) the right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor;
- (h) the procedure for carrying out other works near sewers, pipes or other electric lines or works;

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- (i) the procedure for alteration of the position of pipes, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains, etc.;
 - (j) the procedure for fencing, guarding, lighting and other safety measures relating to works on streets, railways, tramways, sewers, drains or tunnels and immediate reinstatement thereof;
 - (k) the avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works;
 - (l) the procedure for undertaking works which are not reparable by the Appropriate Government, licensee or local authority;
 - (m) the manner of deposit of amount required for restoration of any railways, tramways, waterways, etc.;
 - (n) the manner of restoration of property affected by such works and maintenance thereof;
 - (o) the procedure for deposit of compensation payable by the licensee and furnishing of security; and
 - (p) such other matters as are incidental or consequential to the construction and maintenance of works under this section.

(3) A licensee shall, in exercise of any of the powers conferred by or under this section and the rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(4) Where any difference or dispute [including amount of compensation under sub-section (3)] arises under this section, the matter shall be determined by the Appropriate Commission.

(5) The Appropriate Commission, while determining any difference or dispute arising under this section in addition to any compensation under sub-section (3), may impose a penalty not exceeding the amount of compensation payable under that sub-section.

Section 68 - Overhead lines

(1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2) of [section 67](#).

(2) The provisions contained in sub-section (1) shall not apply--

- (a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;
- (b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
- (c) in such other cases, as may be prescribed.

(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.

(4) The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or **any other** authority specified by the Appropriate Government may, on the application of the licensee **or generating company**, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee **or the generating company**.

Explanation--For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant.

Section 69 - Notice to telegraph authority

(1) A licensee shall, before laying down or placing, within ten meters of any telegraph line, electric line, electrical plant or other works, not being either service lines, or electric lines or electrical plant, for the repair, renewal or amendment of existing works of which the character or position is not to be altered,-

- (a) submit a proposal in case of a new installation to an authority to be designated by the Central Government and such authority shall take a decision on the proposal within thirty days;
- (b) give not less than ten days' notice in writing to the telegraph authority in case of repair, renewal or amendment of existing works , specifying-
 - i. the course of the works or alterations proposed;
 - ii. the manner in which the works are to be utilised;
 - iii. the amount and nature of the electricity to be transmitted;
 - iv. the extent to, and the manner in which (if at all), earth returns are to be used ,

and the licensee shall conform to such reasonable requirements, either general or

special, as may be laid down by the telegraph authority within that period for preventing any telegraph line from being injuriously affected by such works or alterations:

Provided that in case of emergency (which shall be stated by the licensee in writing to the telegraph authority) arising from defects in any of the electric lines or electrical plant or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works of the laying or placing of any service line is to be executed the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph authority a notice in writing of his intention to execute such works.

Part IX - CENTRAL ELECTRICITY AUTHORITY

Section 70 to 73 - Constitution and Functions of authority

Section 70 - Constitution, etc., of Central Electricity Authority

1. There shall be a body to be called the Central Electricity Authority to exercise such functions and perform such duties as are assigned to it under this Act.
2. The Central Electricity Authority, established under section 3 of the Electricity (Supply) Act, 1948 and functioning as such immediately before the appointed date shall be the Central Electricity Authority for the purposes of this Act and the Chairperson, Members, Secretary and other officers and employees thereof shall be deemed to have been appointed under this Act and they shall continue to hold office on the same terms and conditions on which they were appointed under the Electricity (Supply) Act, 1948.
3. The Authority shall consist of not more than fourteen Members (including its Chairperson) of whom not more than eight shall be full-time Members to be appointed by the Central Government.
4. The Central Government may appoint any person eligible to be appointed as Member of the Authority, as the Chairperson of the Authority, or, designate one of the full time Members as the Chairperson of the Authority.
5. The Members of the Authority shall be appointed from amongst persons of ability, integrity and standing who have knowledge of, and adequate experience and capacity in, dealing with problems relating to engineering, finance, commerce,

economics or industrial matters, and at least one Member shall be appointed from each of the following categories, namely:-

(a)engineering with specialisation in design, construction, operation and maintenance of generating stations;

(b)engineering with specialisation in transmission and supply of electricity;

(c)applied research in the field of electricity;

(d)applied economics, accounting, commerce or finance.

6. The Chairperson and all the Members of the Authority shall hold office during the pleasure of the Central Government.
7. The Chairperson shall be the Chief Executive of the Authority.
8. The head quarters of the Authority shall be at Delhi.
9. The Authority 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.
10. The Chairperson, or if he is unable to attend a meeting of the Authority, any other Member nominated by the Chairperson in this behalf and in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves shall preside at the meeting.
11. All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.
12. All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by the Chairperson in this behalf.
13. No act or proceedings of the Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy in, or any defect in, the constitution of, the Authority.
14. The Chairperson of the Authority and other full time Members shall receive such salary and allowances as may be determined by the Central Government and other Members shall receive such allowances and fees for attending the meetings of the Authority, as the Central Government may prescribe.
15. The other terms and conditions of service of the Chairperson and Members of the Authority including, subject to the provisions of sub-section (6), their terms of office shall be such as the Central Government may prescribe.

Section 71 - Members not to have certain interest

No Member of the Authority shall have any share or interest, whether in his own name or otherwise, in any company or other body corporate or an association of persons (whether incorporated or not) or a firm engaged in the business of generation, transmission, distribution, supply and trading of electricity or fuel for the generation thereof or in the manufacture of electrical equipment.

Section 72 - Officers and staff of Authority

The Authority may appoint a Secretary and such other officers and employees as it considers necessary for the performance of its functions under this Act and on such terms as to salary, remuneration, fee, allowance, pension, leave and gratuity, as the authority may in consultation with the Central Government, fix:

Provided that the appointment of the Secretary shall be subject to the approval of the Central Government.

Section 73 - Functions and duties of Authority

The Authority shall perform such functions and duties as the Central Government may prescribe or direct, and in particular to:

- (a) advise the Central Government on the matters relating to the national electricity policy, formulate short-term and perspective plans for development of the electricity system and co-ordinate the activities of the planning agencies for the optimal utilisation of resources to subserve the interests of the national economy and to provide reliable and affordable electricity for all consumers;
- (b) specify the technical standards for construction of electrical plants, electric lines and connectivity to the grid;
- (c) specify the safety requirements for construction, operation and maintenance of electrical plants and electric lines;
- (d) specify the Grid Standards for operation and maintenance of transmission lines;
- (e) specify the conditions for installation of meters for transmission and supply of electricity;
- (f) promote and assist in the timely completion of schemes and projects for improving and augmenting the electricity system;
- (g) promote measures for advancing the skill of persons engaged in the electricity industry;
- (h) advise the Central Government on any matter on which its advice is sought or make recommendation to that Government on any matter if, in the opinion of the Authority, the recommendation would help in improving the generation, transmission, trading, distribution, supply and utilisation of electricity;
- (i) collect and record the data concerning the generation, transmission, trading, distribution, supply and utilisation of electricity and carry out studies relating to cost, efficiency, competitiveness and such like matters;

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- (j) make public from time-to-time the information secured under this Act, and provide for the publication of reports and investigations;
 - (k) promote research in matters affecting the generation, transmission, distribution, **supply** and trading of electricity;
 - (l) carry out, or cause to be carried out, any investigation for the purposes of generating or transmitting or distributing **or supplying** electricity;
 - (m) advise any State Government, licensees or the generating companies on such matters which shall enable them to operate and maintain the electricity system under their ownership or control in an improved manner and where necessary, in co-ordination with any other Government, licensee or the generating company owning or having the control of another electricity system;
 - (n) advise the Appropriate Government and the Appropriate Commission on all technical matters relating to generation, transmission, distribution **and supply** of electricity; and
 - (o) discharge such other functions as may be Provided under this Act.

Section 74 to 75 - Certain powers and directions

Section 74 - Power to require statistics and returns

It shall be the duty of every licensee, generating company or person generating electricity ~~for its or his own use~~, **above the generation capacity as may be notified by Central Government, to register with the Authority and** to furnish to the Authority such statistics, returns or other information relating to generation, transmission, distribution, **supply**, trading and use of electricity as it may require and at such times and in such form and manner as may be specified by the Authority.

Section 75 – Directions by Central Government to Authority

- (1) In the discharge of its functions, the Authority shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.
- (2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

Part X - REGULATORY COMMISSIONS

Section 76 – Constitution of Central Commission

(1) There shall be a Commission to be known as the Central Electricity Regulatory Commission to exercise the powers conferred on, and discharge the functions assigned to, it under this Act.

(2) The Central Electricity Regulatory Commission, established under section 3 of the Electricity Regulatory Commissions Act, 1998 and functioning as such immediately before the appointed date, shall be deemed to be the Central Commission for the purposes of this Act and the Chairperson, Members, Secretary, and other officers and employees thereof shall be deemed to have been appointed under this Act and they shall continue to hold office on the same terms and conditions on which they were appointed under the Electricity Regulatory Commissions Act, 1998:

Provided that the Chairperson and other Members of the Central Commission appointed, before the commencement of this Act, under the Electricity Regulatory Commissions Act, 1998, may, on the recommendations of the Selection Committee constituted under subsection (1) of section 78, be allowed, to opt for the terms and conditions under this Act by the Central Government.

(3) The Central 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 be sued.

(4) The head office of the Central Commission shall be at such place as the Central Government may, by notification, specify.

(5) The Central Commission shall consist of the following Members namely:-
(a) a Chairperson and three other Members;
(b) the Chairperson of the Authority who shall be the Member, ex officio.

(6) The Chairperson and Members of the Central Commission shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.

Section 77 - Qualifications for appointment of Members of Central Commission

(1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge of, or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance or management and shall be appointed in the following manner, namely:-

- (a) one person having qualifications and experience in the field of engineering with specialization in generation, transmission or distribution of electricity,
- (b) one person having qualifications and experience in the field of finance,
- (c) two persons having qualifications and experience in the field of economics, commerce, law or management:

Provided that not more than one Member shall be appointed under the same category under clause (c).

~~(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court:~~

~~Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.~~

~~(3-2) The Chairperson or any other Member of the Central Commission shall not hold any other office.~~

~~(4-3) The Chairperson shall be the Chief Executive of the Central Commission.~~

Section 78 - Constitution of Selection Committee to recommend Members of the Central Commission

(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-

~~(a) Member of the Planning Commission incharge of the energy sector
— Chairperson;~~

a) Chairperson of the Public Enterprises Selection Board.....Chairperson, ex officio;

b) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of the Legal Affairs Member; ex officio;

-
- c) ~~Secretary-in-charge of the Ministry of the Central Government dealing with the Department of Consumer Affairs~~ New and Renewable Energy
.....Member, **ex officio**;
- ~~(e) Chairperson of the Public Enterprises Selection Board~~Member;
- d) a person to be nominated by the Central Government in accordance with sub-section (2)..... Member; **ex officio**;
- e) a person to be nominated by the Central Government in accordance with sub-section (3) Member; **ex officio**;
- f) Secretary-in-charge of the Ministry of the Central Government dealing with power
..... Member, **ex officio**;

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons, having knowledge of the power sector, 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, **2013 (18 of 2013)**.

(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.

(4) Secretary-in-charge of the Ministry of the Central Government dealing with Power shall be the Convenor of the Selection Committee.

(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 Chairperson or a Member of the Central Commission and six months before the superannuation or end of tenure of the Member of the Central Commission, make a reference to the Selection Committee for filling up of the vacancy.

(6) The Selection Committee shall finalise the selection of the Chairperson and Members referred to in sub-section (5) within three months from the date on which the reference is made to it.

(7) (a) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(b) All persons desirous of being considered for selection as Chairperson or Member of the Central Commission and possessing the requisite qualifications shall be entitled to forward the request for inclusion in the list in such format and in such manner as may be prescribed by the Central Government.

(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.

(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court.

Section 79 - Functions of Central Commission

(1) The Central Commission shall discharge the following functions, namely:-

- (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 including promotion and development of smart grid, communication system and ancillary support;
- (ca) regulate electricity purchase and procurement process of Railways as defined in the Indian Railways Act, 1989 including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for the requirements of Railways throughout the country;
- (cb) to determine the tariff for supply and wheeling of electricity, wholesale, bulk or retail in respect of Railways as defined in the Indian Railways Act, 1989;
- (d) to determine tariff for inter-State transmission of electricity including communication system;
- (e) to issue licences to persons to function as transmission licensee and electricity trader with respect to their inter-State operations;
- (ea) to issue licences to persons establishing any transmission lines involving cross border exchange of electricity in consultation with the Central Government;
- (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;
 - (j (a)) to regulate the cross border exchange of electricity in accordance with the policy or guidelines framed by the Central Government in this regard,
 - (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~~ policies or plans provided in section 3 of the Act;
- (ii) promotion of competition, efficiency and economy in activities of the electricity industry **including promotion of energy efficiency, renewable energy, cogeneration from renewable sources of energy;**
- (iii) on 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~~ and **Renewable Energy Policy** published under section 3.

(4A) In discharge of its functions, the Central Commission shall comply with the Tariff policy published under section 3.

(5) The performance in respect of the functions of the Central Commission shall be reviewed quarterly by the Chairperson and a report shall be submitted to the Central Government.

Section 80 – Central Advisory Committee

(1) The Central Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Central Advisory Committee.

(2) The Central Advisory Committee shall consist of not more than thirty-one

members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.

(3) The Chairperson of the Central Commission shall be the ex-officio Chairperson of the Central Advisory Committee and the Members of that Commission and Secretary to the Government of India in charge of the Ministry or Department of the Central Government dealing with Consumer Affairs and Public Distribution System shall be the ex-officio Members of the Committee.

Section 81 – Objects of Central Advisory Committee

The objects of the Central Advisory Committee shall be to advise the Central Commission on:--

- i. major questions of policy;
- ii. matters relating to quality, continuity and extent of service provided by the licensees;
- iii. compliance by the licensees with the conditions and requirements of their licence;
- iv. protection of consumer interest;
- v. electricity supply and overall standards of performance by utilities.

Section 82 to 88 - Constitution, powers and functions of State Commissions

Section 82 - Constitution of State Commission

~~(1) Every State Government shall, from the appointed date of Electricity (Amendment) Act, 2018, 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:~~

~~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:~~

~~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.~~

(1) There shall be constituted a State Electricity Regulatory Commission for every State.

(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 be sued.

(3) The head office of the State Commission shall be at such place as the State Government may, by notification, specify.

(4) The State Commission shall consist of not more than three Members, including the Chairperson.

(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.

Provided that the State Electricity Regulatory Commission, established by a State Government under section 82 of the Electricity Act, 2003, and functioning as such immediately before the appointed date of Electricity (Amendment) Act, 2018, 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 Act:

Section 83 – Joint Commission

(1) Notwithstanding anything to the contrary contained in section 82, a Joint Commission may be constituted by an agreement to be entered into -

(a) by two or more Governments of States; or

(b) by the Central Government, in respect of one or more Union territories, and one or more Governments of States,

and shall be in force for such period and shall be subject to renewal for each further period, if any, as may be stipulated in the agreement:

Provided that the Joint Commission, constituted under section 21 A of the Electricity Regulatory Commissions Act, 1998 and functioning as such immediately before the appointed day, shall be the Joint Commission for the purposes of this Act and the Chairperson, Members, Secretary and other officers and employees thereof shall be

deemed to have been appointed as such under this Act and they shall continue to hold office, on the same terms and conditions on which they were appointed under the Electricity Regulatory Commissions Act, 1998.

(2) The Joint Commission shall consist of 1 Member from each of the participating States and Union Territories and the Chairperson shall be appointed from amongst the Members by consensus, failing which by rotation.

(3) An agreement under sub-section (1) shall contain provisions as to the name of the Joint Commission, the manner in which the participating States may be associated in the selection of the Chairperson and Members of the Joint Commission, manner of appointment of Members and appointment of Chairperson by rotation or consensus, places at which the Commission shall sit, apportionment among the participating States of the expenditure in connection with the Joint Commission, manner in which the differences of opinion between the Joint Commission and the State Government concerned would be resolved and may also contain such other supplemental, incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.

(4) The Joint Commission shall determine tariff in respect of the participating States or Union Territories separately and independently.

(5) Notwithstanding anything contained in this section, the Central Government may, if so authorised by all the participating States, constitute a Joint Commission and may exercise the powers in respect of all or any of the matters specified under sub-section (3) and when so specifically authorized by the participating States.

Section 84 - Qualifications for appointment of Chairperson and Members of State Commission

(1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

~~Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.~~

~~(2)~~ The Chairperson or any other Member of the State Commission shall not hold any other office.

~~(3)~~ The Chairperson shall be the Chief Executive of the State Commission.

Section 85 - Constitution of Selection Committee to select Members of State Commission

~~(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of-~~

(1) There shall be a Selection Committee for selection of the Chairman and Members of the State Electricity Regulatory Commission as follows:

- ~~(a) a person who has been a Judge of the High Court..... Chairperson;~~
- ~~(b) the Chief Secretary of the concerned State.....Member;~~
- ~~(c) the Chairperson of the Authority or the Chairperson of the Central Commission..... Member;~~

- (a) a Serving Judge of the Supreme Court to be nominated by the Chief Justice of IndiaChairperson ;
- (b) the Secretary of the Ministry of Power, Government of IndiaMember Secretary
- (c) the Secretary of the Ministry of New and Renewable Energy, Government of IndiaMember,
- (~~c~~-d) Chief Secretary of the concerned state or the Secretary-in-charge of the Ministry of the concerned State Government dealing with PowerMember,;
- (~~d~~-e) the Chairperson of the Central Commission Member,
- (~~e~~-f) the Chairperson of the Authority Member,

~~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.~~

(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~~ a Chairperson or a Member of the State Commission and six months before the superannuation or end of tenure of the ~~Chairperson~~ or Member of the State Commission, make a reference to the Member Secretary of the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members referred to in sub-section (4) within three month from the date on which the reference is made to it.

~~(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.~~

(5-4) 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 the Chairperson or Member.

(6-5) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee **other than Chairperson of Selection Committee:**

Section 86 - Functions of State Commission

(1) The State Commission shall discharge the following functions, namely:--

(a) determine the tariff for generation, supply, **distribution**, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the States:

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 authorised to distribute and supply 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 supply within the State;

(c) facilitate intra-State transmission and wheeling of electricity **and promote smart grid, net metering, ancillary support and decentralised distributed generation;**

(d) issue licences to persons seeking to act as transmission licensees, distribution licensees, **supply licensees** and electricity traders with respect to their operations within the State;

(e) promote cogeneration **from renewable sources of energy** 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~~ **ensure Renewable Purchase Obligation as per the trajectory specified by Central Government from time to time;**

(ea) promote cogeneration from sources other than renewable sources and hydro power generation by providing suitable measures for connectivity with the grid and sale of electricity to the licensee having the obligation to supply to consumers in the area of supply;

(f) adjudicate upon the disputes ~~between~~ **amongst** the licensees, ~~and~~ **generating companies, intermediary company and, or between any of them, as the case may be** 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~~ **irrespective of final destination of the electricity;**

(ja) to require creation of distribution system and related infrastructure by the distribution licensee in a time bound manner;

(jb) to ensure the time bound reduction of cross – subsidies in tariff as notified in the policies under section 3 of this Act.

(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) a) tion 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~~ **Policy on Cross Border Exchange of Electricity and Renewable Energy Policy** and shall comply with the **Tariff policy**, published under section 3.

(4A) In discharge of its functions, the State Commission shall comply with the Tariff policy published under section 3.

(5) The performance in respect of the functions of the State Commission shall be reviewed quarterly by the Chairperson and a report shall be submitted to the Central Government and State Government.

Section 87 – State Advisory Committee

(1) The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.

(3) The Chairperson of the State Commission shall be the ex-officio Chairperson of the State Advisory Committee and the Members of the State Commission and the Secretary to State Government in charge of the Ministry or Department dealing with Consumer Affairs and Public Distribution System shall be the ex-officio Members of the Committee.

Section 88 – Objects of State Advisory Committee

The objects of the State Advisory Committee shall be to advise the Commission on –

- i. major questions of policy;
- ii. matters relating to quality, continuity and extent of service provided by the licensees;
- iii. compliance by licensees with the conditions and requirements of their licence;
- iv. protection of consumer interest; and
- v. electricity supply and overall standards of performance by utilities.

Section 89 to 90 - Appropriate Commission--Other provisions

Section 89 - Term of office and conditions of service of Members

(1) The Chairperson ~~or~~ and other Members shall hold office for a term of five years from the date ~~he enters upon his~~ **of assumption** of office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

(2) The salary, allowances and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the Appropriate Government:

Provided that the salary, allowances and other terms and conditions of service of the Members, shall not be varied to their disadvantage after appointment.

(3) Every Member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), a Member may--

- (a) relinquish his office by giving in writing to the Appropriate Government a notice of not less than three months; or
- (b) be removed from his office in accordance with the provisions of section 90.

(5) Any member ceasing to hold office as such shall--

- (a) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and
- (b) not represent any person before the Central Commission or any State Commission in any manner.

Explanation : For the purposes of this sub-section, "commercial employment" means employment in any capacity in any organisation which has been a party to the proceedings before the Appropriate Commission or employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Section 90 - Removal of Member

(1) No Member shall be removed from office except in accordance with the provisions of this section.

(2) The Central Government, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he--

- (a) has been adjudged an insolvent;
- (b) has been convicted of an offence which, in the opinion of the Appropriate Government, involves moral turpitude;
- (c) has become physically or mentally incapable of acting as a Member;
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member;
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has been guilty of proved misbehaviour:

Commented [RT36]: Is there no grounds for removal based on gross non-performance, as discovered through review processes?

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.

(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:

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.

(e) Proceedings and powers of the Appropriate Commission

Section 91 – Secretary, Officers and other employees of Appropriate Commission

(1) The Appropriate Commission may appoint a Secretary to exercise such powers and perform such duties as may be specified.

(2) The Appropriate Commission may, with the approval of the Appropriate Government, specify the numbers, nature and categories of other officers and employees.

(3) The salaries and allowances payable to, and other term and conditions of service of, the Secretary, officers and other employees shall be such as may be specified with the approval of the Appropriate Government.

(4) The Appropriate Commission may appoint consultants required to assist that Commission in the discharge of its functions on the terms and conditions as may be specified.

Section 92 - Proceedings of Appropriate Commission

(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.

(2) The Chairperson, or if he is unable to attend a meeting of the Appropriate Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of

such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Appropriate Commission shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member shall have one vote.

(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.

(6) Every proceeding before the Appropriate Commission shall be decided expeditiously. Matters pertaining to pass through in tariff on account of change in law/duties/taxes etc shall be decided in a maximum of 30 days. The pass through will be applicable from the date of incidence and delayed payment will attract a Delayed Payment Surcharge at the rate of 18%. All other matters will be disposed off within ninety days and in the event of delay, beyond the said period the Appropriate Commission shall record the reasons for the delay.

Section 93 - Vacancies, etc., not to invalidate proceedings.

No act or proceedings of the Appropriate Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Appropriate Commission.

Section 94 - Powers of Appropriate Commission

(1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:--

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning of any public record;
- (e) issuing commission for the examination of witnesses;
- (f) reviewing its decisions, directions and orders;
- (g) any other matter which may be prescribed.

(2) The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.

(2A) 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.

(3) The Appropriate Commission may authorise any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

Section 95 – Proceedings before Commission

All proceedings before the Appropriate Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appropriate Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Section 96 – Powers of entry and seizure

The Appropriate Commission or any officer, not below the rank of a Gazetted Officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, insofar as it may be applicable.

Section 97 – Delegation

The Appropriate Commission may, by general or special order in writing, delegate to any Member, Secretary officer of the Appropriate Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers to adjudicate disputes under Section 79 and Section 86 and the powers to make regulations under section 178 or section 181) as it may deem necessary.

Section 98 to 109 - Grants, Fund, Accounts, Audit and Report

Section 98 - Grants and loans by Central Government for Central Commission

The Central Government may, after due appropriation made by Parliament in this behalf, make to the Central Commission grants and loans of such sums of money as that Government may consider necessary.

Section 99 - Establishment of Fund by Central Government for Central Commission

(1) There shall be constituted a Fund to be called the Central Electricity Regulatory Commission Fund which shall be kept in a nationalized bank by the Central Commission and there shall be credited thereto-

- (a) any grants and loans made to the Central Commission by the Central Government under section 98;
- (b) all fees received by the Central Commission under this Act;
- (c) all sums received by the Central Commission from such other sources as may be decided upon by the Central Government.

(1A) The Central Commission shall, after meeting its budgetary requirement for the year, deposit the surplus funds if any, in the Consolidated Fund of India.

(2) The Fund shall be applied for meeting--

- (a) the salary, allowances and other remuneration of Chairperson, Members, Secretary, officers and other employees of the Central Commission;
- (b) the expenses of the Central Commission in discharge of its functions under section 79;
- (c) the expenses on objects and for purposes authorised by this Act.

(3) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe the manner of applying the Fund for meeting the expenses specified in clause (b) or clause (c) of sub-section (2).

Section 100 – Accounts and Audit of Central Commission

(1) The Central Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Central Commission to the

Comptroller and Auditor General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Central Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Central Commission.

(4) The accounts of the Central Commission, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

Section 101 – Annual report of Central Commission

(1) The Central Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

Section 102 - Grants and loans by State Government

The State Government may, after due appropriation made by Legislature of a State in this behalf, make to the State Commission grants and loans of such sum of money as that Government may consider necessary.

Section 103 - Establishment of Fund by State Government

(1) There shall be constituted a Fund to be called the State Electricity Regulatory Commission Fund and there shall be credited thereto--

(a) any grants and loans made to the State Commission by the State Government under section 102;

(b) all fees received by the State Commission under this Act;

(c) all sums received by the State Commission from such other sources as may be decided upon by the State Government.

(2) The Fund shall be applied for meeting--

(a) the salary, allowances and other remuneration of Chairperson, Members, Secretary, officers and other employees of the State Commission;

(b) the expenses of the State Commission in discharge of its functions under section 86;

(c) the expenses on objects and for purposes authorised by this Act.

(3) The State Government may, in consultation with the Comptroller and Auditor-General of India, prescribe the manner of applying the Fund for meeting the expenses specified in clause (b) or clause (c) of sub-section (2).

Section 104 - Accounts and audit of State Commission

(1) The State Commission shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government and that Government shall cause the same to be laid, as soon as may be after it is received, before the State Legislature.

Section 105 – Annual report of State Commission

(1) The State Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

Section 106 – Budget of Appropriate Commission

The Appropriate Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of that Commission and forward the same to the Appropriate Government.

Section 107 - Directions by Central Government to the Central Commission

- (1) In the discharge of its functions, the Central Commission shall ~~be guided by~~ **act as per** such directions in matters of policy involving public interest as the Central Government may give to it in writing.
- (2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

Section 108 - Directions by State Government to the State Commission

- (1) In the discharge of its functions, the State Commission shall ~~be guided by~~ **act as per** such directions in matters of policy involving public interest as the State Government may give to it in writing.
- (2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.

Section 109 – Directions to Joint Commission

Notwithstanding anything contained in this Act, where any Joint Commission is established under section 83 –

- (a) the Government of the State, for which the Joint Commission is established, shall be competent to give any direction under this Act only in cases where such direction relates to matter within the exclusive territorial jurisdiction of the State;
- (b) the Central Government alone shall be competent to give any direction under this Act where such direction relates to a matter within the territorial jurisdiction of two or more States or pertaining to a Union territory if the participating Governments fail to reach an agreement or the participating States or majority of them request the Central Government to issue such directions.

Section 109 A: Review of the performance of Appropriate Commissions:

109A. (1) The Forum of Regulators shall, from time to time, constitute an independent Committee consisting of not less than three persons of eminence to review, once in three years, the performance of the Appropriate Commissions in respect of their functions under this Act including the compliance of tariff policy, Renewable Purchase Obligation, Obligation to supply 24x7 power to its consumers and submit a report with recommendations of such Committee to the Central Government.

(2) The Committee appointed under sub-section (1) shall be entitled to take the assistance of experts and consultants to be engaged with the approval of the Forum of Regulators.

(3) The functions and the terms of reference, including the time period for submission of the report, by the Committee shall be such as may be prescribed by the Forum of Regulators.

(4) The Central Government or other notified body may take action against Licensees as appropriate based on the findings of the above Committee. The Appellate Tribunal can even take *suo motu* cognisance of the above findings to take action against respective state commissions for failure to perform. In extreme cases, this can call for removal of Members from the Commission.

Part XI - APPELLATE TRIBUNAL FOR ~~ELECTRICITY~~ ENERGY

Section 110 - Establishment of Appellate Tribunal

The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Appellate Tribunal for ~~Electricity~~ Energy to hear appeals against the orders of the adjudicating officer or the Appropriate Commission [under this Act or any other law for the time being in force].

Section 111 - Appeal to Appellate Tribunal

(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~~ Energy:

Provided that where an appeal is filed against an order of the Regulatory Commission allowing a pass through or an increase of tariff and if it is upheld in appeal the said increase in tariff or pass through on account of change in law/duties/taxes will be

effective from the date of incidence/date when the said change in law/duty/taxes took place and there shall be a delayed payment surcharge of 18% on delayed payment.

Provided also that any person appealing against the order of the adjudicating officer levying any penalty shall, while filing the appeal, deposit the amount of such penalty:

Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, it may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the adjudicating officer or the Appropriate Commission is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Appellate Tribunal shall ~~send a copy of~~ communicate every order made by it to the parties to the appeal and to the concerned adjudicating officer or the Appropriate Commission, as the case may be.

(5) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within ~~one hundred and eighty~~ ninety days from the date of receipt of the appeal:

Provided that where any appeal could not be disposed of within the said period of ~~one hundred and eighty~~ ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within the said period.

(6) The Appellate Tribunal may, for the purpose of examining the legality, propriety or correctness of any order made by the adjudicating officer or the Appropriate Commission under this Act, as the case may be, in relation to any proceeding, on its own motion or otherwise, call for the records of such proceedings and make such order in the case as it thinks fit.

Section 112 - Composition of Appellate Tribunal

(1) The Appellate Tribunal shall consist of a Chairperson and ~~three other~~ not more than five Members as may be notified by the Central Government.

(2) Subject to the provisions of this Act,--

(a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with two or more Members of the Appellate Tribunal as the Chairperson of the Appellate Tribunal

may deem fit:

Provided that every Bench constituted under this clause shall include at least one Judicial Member and one Technical Member;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;

(d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of the Appellate Tribunal from one Bench to another Bench.

Explanation : For the purposes of this Chapter,--

(i) "Judicial Member" means a Member of the Appellate Tribunal appointed as such under sub-clause (i) of clause (b) of sub-section (1) of section 113, and includes the Chairperson of the Appellate Tribunal;

(ii) "Technical Member" means a Member of the Appellate Tribunal appointed as such under sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (1) of section 113.

Section 113 - Qualifications for appointment of Chairperson and Member of the Appellate Tribunal

- 1) A person shall not be qualified for appointment as the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal unless he-
 - (a) in the case of the Chairperson of the Appellate Tribunal, is, or has been, a judge of the Supreme Court or the Chief Justice of a High Court; and
 - (b) in the case of a Member of the Appellate Tribunal,-
 - (i) is, or has been, or is qualified to be, a Judge of a High Court; or
 - (ii) is, or has been, a Secretary for at least one year in the Ministry or Department of the Central Government dealing with economic affairs or matters or infrastructure; or
 - (iii) or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission and distribution and regulation or economics, commerce, law or management.
- 2) The Chairperson of the Appellate Tribunal shall be appointed by the Central Government after consultation with the Chief Justice of India.

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- 3) The Members of the Appellate Tribunal shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.
 - 4) Before appointing any person for appointment as Chairperson or other Member of the Appellate Tribunal, 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.

Section 114 – Term of Office

The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall hold office as such for a term of three years from the date on which he enters upon his office:

Provided that such Chairperson or other Member shall be eligible for reappointment for a second term of three years:

Provided further that no Chairperson of the Appellate Tribunal or Member of the Appellate Tribunal shall hold office as such after he has attained,-

- (a) in the case of the Chairperson of the Appellate Tribunal, the age of seventy years;
- (b) in the case of a Member of the Appellate Tribunal, the age of sixty-five years.

Section 115 – Terms and conditions of service

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 shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

Section 116 – Vacancies

If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal, 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 Appellate Tribunal from the stage at which the vacancy is filled.

Section 117 – Resignation and removal

(1) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal 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 until the expiry of term of office, whichever is the earliest.

(2) The Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a judge of the Supreme Court as the Central Government may appoint for this purpose in which the Chairperson or a Member of the Appellate Tribunal concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

Section 117 A - Qualifications, terms and conditions of service of Chairperson and Member

Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.

Section 117 B –provision of the section 184 of the Finance Act, 2017 to apply in certain cases

Notwithstanding anything contained in this Act, in case of the repugnancy with the provisions of section 184 of the Finance Act, 2017 and the rules made thereunder, the provisions of section 184 of the Finance Act, 2017 shall prevail.

Section 118 – 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 Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Member of the Appellate Tribunal shall act as the Chairperson of the Appellate Tribunal 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.

(2) When the Chairperson of the Appellate Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member of the Appellate Tribunal shall discharge the functions of the Chairperson of the Appellate Tribunal until the date on which the Chairperson of the Appellate Tribunal resumes his duties.

Section 119 - Officers and other employees of Appellate Tribunal

(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.**

Section 120 - Procedure and powers of Appellate Tribunal

(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 have powers to regulate its own procedure.

(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:-

- a) summoning and enforcing the attendance of any person and examining him on oath;
- b) requiring the discovery and production of documents;
- c) receiving evidence on affidavits;
- 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;
- e) issuing commissions for the examination of witnesses or documents;
- f) reviewing its decisions;
- g) dismissing a representation of default or deciding it *ex parte*;
- h) setting aside any order of dismissal or any representation for default or any order passed by it *ex parte*;

i) any other matter which may be prescribed by the Central Government.

(3) An order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court and, for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal 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.

(5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 345 and 346 of the Code of Criminal Procedure, 1973 .

Section 121 - Power of Appellate Tribunal

(1) 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.

(2) The Appellate Tribunal may, in exceptional cases, for ensuring compliance of the provisions of the Act and the Tariff policy, review the orders passed by the Appropriate Commission under this Act, on its own motion or otherwise, for the reasons to be recorded in writing.

Section 122 - Distribution of business amongst Benches and transfer of cases from one Bench to another Bench.

(1) Where Benches are constituted, the Chairperson of the Appellate Tribunal may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

(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 Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

Section 123 - Decision to be by majority.

If the Members of the Appellate Tribunal 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 Appellate Tribunal 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 Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Appellate Tribunal who have heard the case, including those who first heard it.

Section 124 - Decision to be by majority

(1) A person preferring an appeal to the Appellate Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Appellate Tribunal, as the case may be.

(2) The Appropriate Commission may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the Appellate Tribunal, as the case may be.

Section 125 - Appeal to Supreme Court

Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:

Provided that the Supreme Court 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.

PART – XII - INVESTIGATION AND ENFORCEMENT

Section 126 - Assessment

(1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom an order has been served under sub-section (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by such person.

(4) Any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:

(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, ~~however~~, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

(6) The assessment under this section shall be made at a rate equal to ⁴[twice] the tariff applicable for the relevant category of services specified in sub-section (5).

Explanation: For the purposes of this section,--

(a) "assessing officer" means an officer of a State Government or Board or licensee or franchisee appointed by licensee, as the case may be, designated as such by the State Government;

(b) "unauthorised use of electricity" means the usage of electricity--

(i) by any artificial means; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) ed meter; or

(iv) for the purpose other than for which the usage of electricity was authorised; or

(v) for the premises or areas other than those for which the supply of electricity was authorised.

Section 127 - Appeal to appellate authority

(1) Any person aggrieved by a final order made under section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, ~~to an appellate authority as may be prescribed~~ the ombudsman of the concerned area appointed in terms of sub-section (8) of section (42) who shall be the appellate authority under this section.

(2) No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to half of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The appellate authority referred to in sub-section (1) shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.

(4) The order of the appellate authority referred to in sub-section (1) passed under sub-section (3) shall be final.

(5) No appeal shall lie to the appellate authority referred to in sub-section (1) against the final order made with the consent of the parties.

(6) When a person defaults in making payment of assessed amount, he, in addition to the assessed amount shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen per cent per annum compounded every six months.

Section 128 – Investigation of certain matters

(1) The Appropriate Commission may, on being satisfied that a licensee has failed to comply with any of the conditions of licence or a generating company or a licensee has failed to comply with any of the provisions of this Act or rules or regulations made thereunder, at any time, by order in writing, direct any person (hereafter in this section referred to as "Investigating Authority") specified in the order to investigate the affairs of any generating company or licensee and to report to that Commission on any investigation made by such Investigating Authority:

Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation under this section.

(2) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956 (1 Of 1956) or Companies Act, 2013(18 of 2013) the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of its officers, of any licensee or generating company and his books of account; and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.

(3) It shall be the duty of every manager, managing director or other officer of the licensee or generating company, as the case may be, to produce before the Investigating Authority directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensee or generating company, as the case may be, as the said Investigating Authority may require of him within such time as the said Investigating Authority may specify.

(4) Any Investigating Authority, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath any manager, managing director or other officer of the licensee or generating company, as the case may be, in relation to his business and may administer oaths accordingly.

(5) The Investigating Authority, shall, if it has been directed by the Appropriate Commission to cause an inspection to be made, and may, in any other case, report to the Appropriate Commission on any inspection made under this section.

(6) On receipt of any report under sub-section (1) or sub-section (5), the Appropriate Commission may, after giving such opportunity to the licensee or generating company, as the case may be, to make a representation in connection with the report as in the opinion of the Appropriate Commission, seems reasonable, by order in writing—

(a) require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Appropriate Commission may think fit; or

(b) cancel the licence; or

(c) direct the generating company to cease to carry on the business of generation of electricity.

(7) The Appropriate Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority under sub-section (5) or such portion thereof as may appear to it to be necessary.

(8) The Appropriate Commission may specify the minimum information to be maintained by the licensee or the generating company in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by licensee or the generating company in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Authority to discharge satisfactorily its functions under this section.

Explanation.- For the purposes of this section, the expression “licensee or the generating company” shall include in the case of a licensee incorporated in India—

(a) all its subsidiaries formed for the purpose of carrying on the business of generation or transmission or distribution or trading of electricity exclusively outside India; and

(b) all its branches whether situated in India or outside India.

(9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the licensee or generating company, as the case may be, and shall have priority over that debts due from the licensee or the generating company and shall be recoverable as an arrear of land revenue.

Section 129 - Orders for securing compliance

(1) Where the Appropriate Commission, on the basis of material in its possession, is satisfied that a licensee is contravening, or is likely to contravene, any of the conditions mentioned in his licence or the licensee or conditions for grant of exemption or the licensee or the generating company has contravened or is likely to contravene any of the provisions of this Act **or Regulations made there under**, it shall, by an order, give such

directions as may be necessary for the purpose of securing compliance with that condition or provision.

(2) While giving direction under sub-section (1), the Appropriate Commission shall have due regard to the extent to which any person is likely to sustain loss or damage due to such contravention.

Section 130 - Procedure for issuing directions by Appropriate Commission

The Appropriate Commission, before issuing any direction under section 129, shall--

- (a) serve notice in the manner as may be specified to the concerned licensee or generating company;
- (b) publish the notice in the manner as may be specified for the purpose of bringing the matters to the attention of persons, likely to be affected, or affected;
- (c) Consider suggestions and objections from the concerned licensee or generating company and the persons, likely to be affected, or affected.

Section 131 - Vesting of property of Board in State Government

(1) With effect from the date on which a transfer scheme, prepared by the State Government to give effect to the objects and purposes of this Act, is published or such further date as may be stipulated by the State Government (hereafter in this Part referred to as the effective date), any property, interest in property, rights and liabilities which immediately before the effective date belonged to the State Electricity Board (hereafter referred to as the Board) shall vest in the State Government on such terms as may be agreed between the State Government and the Board.

(2) Any property, interest in property, rights and liabilities vested in the State Government under sub-section (1) shall be re-vested by the State Government in a Government company or in a company or companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of the State Government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the State Government and such company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be :

Provided that the transfer value of any assets transferred hereunder shall be determined, as far as may be, based on the revenue potential of such assets at such terms and conditions as may be agreed between the State Government and the State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.

(3) Notwithstanding anything contained in this section, where,-

(a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government;

(b) a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties and even if such persons or third parties have not consented to it.

(4) The State Government may, after consulting the Government company or company or companies being State Transmission Utility or generating company or transmission licensee or distribution licensee, referred to in sub-section (2) (hereinafter referred to as the transferor), require such transferor to draw up a transfer scheme to vest in a transferee being any other generating company or transmission licensee or distribution licensee, the property, interest in property, rights and liabilities which have been vested in the transferor under this section, and publish such scheme as statutory transfer scheme under this Act.

(5) A transfer scheme under this section may-

- a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements which shall promote the profitability and viability of the resulting entity, ensure economic efficiency, encourage competition and protect consumer interests;
- b) define the property, interest in property, rights and liabilities to be allocated -
 - i. by specifying or describing the property, rights and liabilities in question;
or
 - ii. by referring to all the property, interest in property, rights and liabilities comprised in a described part of the transferor's undertaking; or
 - iii. partly in one way and partly in the other;
- c) provide that any rights or liabilities stipulated or described in the scheme shall be enforceable by or against the transferor or the transferee;
- d) impose on the transferor an obligation to enter into such written agreements with or execute such other instruments in favour of any other subsequent transferee as may be stipulated in the scheme;
- e) mention the functions and duties of the transferee;
- f) make such supplemental, incidental and consequential provisions as the transferor considers appropriate including provision stipulating the order as taking effect; and
- g) provide that the transfer shall be provisional for a stipulated period.

(6) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by the Board, with the Board or for the Board, or the State Transmission Utility or generating company or transmission licensee or distribution licensee, before a transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the Board, with the Board or for the State Government or the transferee and all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, may

be continued or instituted by or against the State Government or concerned transferee, as the case may be.

(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.

Explanation.- For the purposes of this Part, -

(a) "Government company" means a Government Company formed and registered under the Companies Act, 1956 (1 Of 1956) or Companies Act, 2013(18 of 2013), .

(b) "company" means a company to be formed and registered under the Companies Act, 1956 (1 Of 1956) or Companies Act, 2013(18 of 2013), to undertake generation or transmission or distribution in accordance with the scheme under this Part.

Section 131A - Vesting of property of Distribution Licensee

(a) The State Government shall, within such period as it may decide but limited to 5 years after the Act Amendments go in force, implement the transfer scheme, in accordance with the provisions of the Act, for separation of distribution and supply of electricity; prescribing phases for transfer of such of the functions, property, interest in property, rights and liabilities of the distribution licensees relating to supply of electricity to a company which shall be the incumbent supply licensee for the concerned area of supply and so far as the existing power purchase Agreements and procurement arrangements, to which the distribution licensee is the beneficiary in the intermediary company and publish such scheme as statutory transfer scheme under the Act.

(b) The distribution licensee shall cease to be charged with and shall not perform the functions and duties under this Act to the extent of the transfers made under sub clause (a) on and after the effective date of such transfer.

(c) The functions of the intermediary company shall be such as may be prescribed by the Central Government.

Commented [RT37]: This is not defined; issues of existing PPAs are critical for pathways going forward.

Section 132 - Use of proceeds of sale or transfer of the Board etc.

In the event that a Board or any utility owned or controlled by the Appropriate Government is sold or transferred in any manner to a person who is not owned or controlled by the Appropriate Government, the proceeds from such sale or transfer shall be utilised in priority to all other dues in the following order, namely :-

(a) dues (including retirement benefits due) to the officers and employees of such Board or utility, who have been affected by the aforesaid sale or transfer;

(b) payment of debt or other liabilities of the transferor as may be required by the existing loan covenants.

Section 133 - Provisions relating to officers and employees

(1) The State Government may, by a transfer scheme, provide for the transfer of the officers and employees to the transferee on the vesting of properties, rights and liabilities in such transferee as provided under section 131.

(2) Upon such transfer under the transfer scheme, the personnel shall hold office or service under the transferee on such terms and conditions as may be determined in accordance with the transfer scheme:

Provided that such terms and conditions on the transfer shall not in any way be less favourable than those which would have been applicable to them if there had been no such transfer under the transfer scheme:

Provided further that the transfer can be provisional for a stipulated period.

Explanation: - For the purposes of this section and the transfer scheme, the expression "officers and employees" shall mean all officers and employees who on the date specified in the scheme are the officers and employees of the Board or transferor, as the case may be.

Section 134 - Payment of compensation or damages on transfer

Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force and except for the provisions made in this Act, the transfer of the employment of the officers and employees referred to in sub-section (1) of section 133 shall not entitle such officers and employees to any compensation or damages under this Act, or any other Central or State law, save as provided in the transfer scheme.

Section 135 - Theft of Electricity

(1) Whoever, dishonestly, --

- a. taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or
- b. tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- c. damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,
- d. uses electricity through a tampered meter; or

e. uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use -

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

Provided also that if it is proved that any artificial means or means not authorized by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee or supplier, as authorized for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection:

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this

Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.

- 2) Any officer of the licensee or supplier, as the case may be, authorised in this behalf by the State Government may --
 - a. enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been or is being used unauthorisedly;
 - b. search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been or is being used for unauthorized use of electricity;
 - c. examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under subsection (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.
- 3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.
- 4) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

Section 136 – Theft of electric lines and materials

- (1) Whoever, dishonestly --
 - a. cuts or removes or takes away or transfers any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain; or
 - b. stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is committed for profit or gain; or
 - c. loads, carries, or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or

gain, is said to have committed an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

- (2) If a person, having been convicted of an offence punishable under sub-section (1) is again guilty of an offence punishable under that sub-section, he shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than ten thousand rupees.

Section 137 – Punishment for receiving stolen property

Whoever, dishonestly receives any stolen electric line or material knowing or having reasons to believe the same to be stolen property, shall be punishable with imprisonment of either description for a term which may extend to three years or with fine or with both.

Section 138 – Interference with meters or works of licensee

- (1) Whoever, -

- a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line; or
- b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected; or
- c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee; or
- d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both, and , in the case of a continuing offence, with a daily fine which may extend to five hundred rupees; and if it is proved that any means exist for making such connection as is referred to in clause (a) or such re-connection as is referred to in clause (b), or such communication as is referred to in clause (c), for causing such alteration or prevention as is referred to in clause (d), and that the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not, it shall be presumed, until the contrary is proved, that such connection, reconnection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and willfully caused by such consumer.

Section 139 – Negligently breaking or damaging works

Whoever, negligently breaks, injures, throws down or damages any material connected with the supply of electricity, shall be punishable with fine which may extend to ten thousand rupees.

Section 140 – Penalty for intentionally injuring works

Whoever, with intent to cut off the supply of electricity, cuts or injures, or attempts to cut or injure, any electric supply line or works, shall be punishable with fine which may extend to ten thousand rupees.

Section 141 – Extinguishing public lamps

Whoever, maliciously extinguishes any public lamp shall be punishable with fine which may extend to two thousand rupees.

Commented [RT38]: What does "extinguish" mean? Damage? Or simply switch off?

Section 142 - Punishment for non-compliance of directions by Appropriate Commission

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any generating company or licensee has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which the generating company or licensee may be liable under this Act, ~~such person~~ the generating company or licensee shall pay, by way of penalty a sum which shall not exceed ~~one lakh~~ **one crore** rupees for each contravention and in case of continuing failure with an additional penalty which may extend to ~~six thousand rupees~~ **one lakh** rupees for every day during which the failure continues after contravention of the first such direction.

Section 143 - Power to adjudicate

(1) For the purpose of adjudging under this Act, the Appropriate Commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Appropriate Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such

inquiry, he is satisfied that the person has failed to comply with the provisions of section 29 or section 33 or section 43, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Section 144 - Factors to be taken into account by adjudicating officer

While adjudicating the quantum of penalty under section 29 or section 33 or section 43, the adjudicating officer shall have due regard to the following factors, namely:-

- a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- b) the repetitive nature of the default.

Section 145 - Civil court not to have jurisdiction

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Section 146 - Punishment for non-compliance of orders of directions

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 three months or with fine which may extend to ~~one lakh~~ **one 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:

Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.

Provided further that in case of non-compliance of by a generating company generating Renewable Energy, any person in charge of such generating company shall be liable for imprisonment for a term which may extend to three months or such generating company shall be liable to pay fine which may extend to ten 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 ten thousand rupees for every day during which the failure continues after conviction of the first such offence.

Section 147 - Penalties not to affect other liabilities

The penalties imposed under this Act shall be in addition to, and not in derogation of, any liability in respect of payment of compensation or, in the case of a licensee, the revocation of his licence which the offender may have incurred.

Section 148 - Penalty where works belong to Government

The provisions of this Act shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of electricity supplied by or of works belonging to the Appropriate Government.

Section 149 - Offences by companies

(1) ~~Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:~~

~~Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.~~

(2) ~~Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.~~

~~Explanation. - For the purpose of this section,-~~

~~(a)"company" means a body corporate and includes a firm or other association of individuals; and~~

~~(b)"director", in relation to a firm, means a partner in the firm.~~

Section 150 - Abatement

1) Whoever abets an offence punishable under this Act, shall, notwithstanding anything contained in the Indian Penal Code, be punished with the punishment provided for the

offence.

- 2) Without prejudice to any penalty or fine which may be imposed or prosecution proceeding which may be initiated under this Act or any other law for the time being in force, if any officer or other employee of the Board or the licensee enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any theft of electricity is committed, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.
- 3) Notwithstanding anything contained in sub-section (1) of section 135, sub-section (1) of section 136, section 137 and section 138, the license or certificate of competency or permit or such other authorisation issued under the rules made or deemed to have been made under this Act to any person who acting as an electrical contractor, supervisor or worker abets the commission of an offence punishable under sub-section (1) of section 135, sub-section (1) of section 136, section 137, or section 138, on his conviction for such abetment, may also be cancelled by the licensing authority:

Provided that no order of such cancellation shall be made without giving such person an opportunity of being heard.

Explanation.— For the purposes of this sub-section, “licencing authority” means the officer who for the time being in force is issuing or renewing such licence or certificate of competency or permit or such other authorisation.

Section 151 - Cognizance of offences

No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by Appropriate Government or Appropriate Commission or any of their officer authorized by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose.

Provided that the court may also take cognizance of an offence punishable under this Act upon a report of a police officer filed under section 173 of the Code of Criminal Procedure, 1973:

Provided further that a special court constituted under section 153 shall be competent to take cognizance of an offence without the accused being committed to it for trial.

151A. For the purposes of investigation of an offence punishable of this Act, the police officer shall have all the powers as provided in Chapter XII of the Code of Criminal Procedure, 1973.

151B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sections 135 to 140 or section 150 shall be cognizable and non-bailable.

Section 152 - Compounding of offences

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Appropriate Government or any officer authorised by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:

TABLE

Name of Service	Rate at which the sum of money for compounding to be collected per Kilowatt (KW)/ Horse Power (HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere (KVA) of contracted demand for High Tension (HT)
(1)	(2)
1. Industrial Service	twenty Fifty thousand rupees;
2. Commercial Service	ten Thirty thousand rupees;
3. Agricultural Service	two thousand rupees;
4. Other Services	four thousand rupees:

Commented [RT39]: Needs an inflation-linked index

Provided that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the Table above based on an inflation-linked index or other criteria as specified.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

Part XV – SPECIAL COURTS

Section 153 - Compounding of offences

- 1) The State Government may, for the purposes of providing speedy trial of offences referred to in sections 135 to 140 and section 150, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.
- 2) A Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High Court.
- 3) A person shall not be qualified for appointment as a Judge of a Special Court unless he was, immediately before such appointment, an Additional District and Sessions Judge.
- 4) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or he is incapacitated by illness or otherwise for the performance of his duties, any urgent business in the Special Court shall be disposed of –
 - (a) by a Judge, if any, exercising jurisdiction in the Special Court;
 - (b) where there is no such other Judge available, in accordance with the direction of District and Sessions Judge having jurisdiction over the ordinary place of sitting of Special Court, as notified under sub-section(1).

Section 154 – Procedure and power of Special Court

- 1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under sections 135 to 140 and section 150 shall be triable only by the Special Court within whose jurisdiction such offence has been committed.
- 2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under sections 135 to 140 and section 150 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act :

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court :

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already

been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

- 3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973 (2 of 1974), try the offence referred to in sections 135 to 140 and section 150 in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial :

Provided that where in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

- 4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall , for the purposes of section 308 of the Code of Criminal Procedure,1973 (2 of 1974), be deemed to have been tendered under section 307 thereof.
- 5) The Special Court shall determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined which ever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.
- 6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

Explanation. - For the purposes of this section, "civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 135 to 140 and section 150.

Section 155 – Special Court to have powers of court of session

Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, in so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court and for the purpose of the provisions of the said enactments, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

Section 156 – Appeal and revision

The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973, as if the Special Court within the local limits of the jurisdiction of the High Court is a District Court, or as the case may be, the Court of Session, trying cases within the local limits of jurisdiction of the High Court.

Section 157 – Review

The Special Court may, on a petition or otherwise and in order to prevent miscarriage of justice, review its judgment or order passed under section 154, but no such review petition shall be entertained except on the ground that it was such order passed under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record :

Provided that the Special Court shall not allow any review petition and set aside its previous order or judgment without hearing the parties affected.

Explanation.- For the purposes of this Part, "Special Courts" means the Special Courts constituted under sub-section (1) of section 153.

PART XVI – DISPUTE RESOLUTION

Section 158 – Arbitration

Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the licence of a licensee, be determined by such person or persons as the Appropriate Commission may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.

PART XVII - OTHER PROVISIONS – Protective clauses

Section 159 - Protection of railways, highways, airports and canals, docks, wharfs and piers

No person shall, in the generation, transmission, distribution, supply or use of electricity, in any way injure any railway, highway, airports, tramway, canal or water-way or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, airway, tramway, canal or water-way.

Section 160 - Protection of telegraphic, telephonic and electric signalling lines.

(1) Every person generating, transmitting, distributing, supplying or using electricity (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric lines, electrical plant and other works and in working his system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephone or electric signalling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator, and the telegraph authority as to whether the operator has constructed, laid down or placed his electric lines, electrical plant or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Central Government and the Central Government, unless it is of opinion that the wire or line has been placed in unreasonable proximity to the electric lines, electrical plant or works of the operator after the construction of such lines, plant or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric line or electrical plant so long as the course of the electric line or electrical plant and the amount and nature of the electricity transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation. - For the purposes of this section, a telegraph line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signalling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an

electric line , electrical plant or other work or by any use made thereof.

Section 161 - Notice of accidents and inquiries

- 1) If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct.
- 2) The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-
 - a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or
 - b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any licence, so far as those provisions affect the safety of any person, have been complied with.
- 3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

Section 162 - Appointment of Chief Electrical Inspector and Electrical Inspector

(1) The Appropriate Government may, by notification, appoint duly qualified persons to be Chief Electrical Inspector or Electrical Inspectors and every such Inspector so appointed shall exercise the powers and perform the functions of a Chief Electrical Inspector or an Electrical Inspector under this Act exercise such other powers and perform such other functions as may be prescribed within such areas or in respect of such class of works and electric installations and subject to such restrictions as the Appropriate Government may direct.

(1A) The Appropriate Government may prescribe—

(a) the qualification, training, powers and functions of the Chief Electrical Inspector and Electrical Inspectors;

(b) the fees and charges payable for undertaking the testing, inspection and services by the Chief Electrical Inspector and Electrical Inspectors; and

(c) the manner of inspection to be performed by the Chief Electrical Inspector and the Electrical Inspectors.

(2) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of a Chief Electrical Inspector or an Electrical Inspector to the Appropriate Government or if the Appropriate Government, by general or special order so directs, to an Appropriate Commission.

Section 163 - Power for licensee to enter premises and to remove fittings or other apparatus of licensee

- 1) A licensee or any person duly authorised by a licence may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is, or has been, supplied by him, of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him for the purpose of –
 - a. inspecting, testing, repairing or altering the electric supply lines, meters, fittings, works and apparatus for the supply of electricity belonging to the licensee; or
 - b. ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or
 - c. removing where a supply of electricity is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the licensee.
- 2) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty-four hours notice in writing to the occupier, -
 - a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;
 - b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires fittings, works and apparatus for the use of electricity belonging to the consumer.
- 3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (1) or, sub-section (2), when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

Section 164 - Exercise of powers of Telegraph Authority in certain cases

The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.

Section 165 - Amendment of Sections 40 and 41 of Act 1 of 1894

- 1) In section 40, sub-section (1) of clause (b) and section 41, sub-section (5) of the Land Acquisition Act, 1894, the term "work" shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed.
- 2) The Appropriate Government may, on recommendation of the Appropriate Commission in this behalf, if it thinks fit, on the application of any person, not being a company desirous of obtaining any land for its purposes, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 in the same manner and on the same conditions as it might be acquired if the person were a company.

PART XVIII - MISCELLANEOUS

Section 166 – Coordination Forum, **Forum of Regulators, District Committee and Forum of Electrical Inspectors**

- 1) The Central Government shall constitute a coordination forum consisting of the Chairperson of the Central Commission and Members thereof, the Chairperson of the Authority, representatives of generating companies and transmission licensees engaged in inter-State transmission of electricity for smooth and coordinated development of the power system in the country.
- 2) The Central Government shall also constitute a forum of regulators consisting of the Chairperson of the Central Commission and Chairpersons of the State Commissions **which shall perform such functions as may be prescribed by Central Government.**
- 3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).
- 4) The State Government shall constitute a Coordination Forum consisting of the Chairperson of the State Commission and Members thereof representatives of the generating companies, transmission licensee, distribution licensees **and supply**

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- licensees engaged in generation, transmission, distribution and supply of electricity in that State for smooth and coordinated development of the power system in the State.
- 5) There shall be a committee in each district to be constituted by the Appropriate Government --
 - a) to coordinate and review the extension of electrification in each district;
 - b) to review the quality of power supply and consumer satisfaction;
 - c) to promote energy efficiency and its conservation.
 - 6) The recommendations of the coordination committee constituted under sub-section (5) shall be placed before the appropriate commission within a period not exceeding seven days.
 - 7) The Central Government shall constitute a Forum of Electrical Inspectors consisting of the Chief Electrical Inspectors and the Electrical Inspectors of the Central Government and the State Governments and specify its functions.

Section 167 - Exemption of electric lines or electrical plants from attachment in certain cases

Where any electric lines or electrical plant, belonging to a licensee are placed in or upon any premises or land not being in the possession of the licensee, such electric lines or electrical plant shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

Section 168 – Protection of action taken in good faith

No suit, prosecution or other proceeding shall lie against the Appropriate Government or Appellate Tribunal or the Appropriate Commission or any officer of Appropriate Government, or any Member, Officer or other employees of the Appellate Tribunal or any Members, officer or other employees of the Appropriate Commission or the assessing officer or any public servant for anything done or in good faith purporting to be done under this Act or the rules or regulations made thereunder.

Section 169 – Members, officers, etc., of Appellate Tribunal, Appropriate Commission to be public servants 45 of 1860

The Chairperson, Members, officers and other employees of the Appellate Tribunal and the Chairperson, Members, Secretary, officers and other employees of the Appropriate Commission and the assessing officer referred to in section 126 shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code.

Section 170 – Recovery of penalty payable under Act

Any penalty payable by a person under this Act, if not paid, may be recovered as if it were an arrear of land revenue.

Section 171 - Services of notices, orders or documents

- 1) Every notice, order or document by or under this Act required, or authorised to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt therefor or by registered post or **any electronic mode** or such means of delivery as may be prescribed--
 - a) where the Appropriate Government is the addressee, at the office of such officer as the Appropriate Government may prescribe in this behalf;
 - b) where the Appropriate Commission is the addressee, at the office of the Appropriate Commission;
 - c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India;
 - d) where any other person is the addressee, at the usual or last known place of abode or business of the person.
- 2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Section 172 - Transitional provisions

Notwithstanding anything to the contrary contained in this Act,-

- a) a State Electricity Board constituted under the repealed laws shall be deemed to be the State Transmission Utility and a licensee under the provisions of this Act for a period of one year from the appointed date or such earlier date as the State Government may notify, and shall perform the duties and functions of the State Transmission Utility and a licensee in accordance with the provisions of this Act and rules and regulations made thereunder:

Provided that the State Government may, by notification, authorise the State Electricity Board to continue to function as the State Transmission Utility or a licensee for such further period beyond the said period of one year as may be mutually decided by the Central Government and the State Government

- b) all licences, authorisations approvals, clearances and permissions granted under the provisions of the repealed laws may, for a period not exceeding one year from the appointed date or such earlier period; as may be notified by the Appropriate

Government, continue to operate as if the repealed laws were in force with respect to such licence, authorisations, approvals, clearances and permissions, as the case may be, and thereafter such licences, authorisations, approvals, clearances and permissions shall be deemed to be licences, authorisation, approvals, clearances and permission under this Act and all provisions of this Act shall apply accordingly to such licences authorisations approvals, clearances and permissions.

- c) the undertaking of the State Electricity Boards established under section 5 of the Electricity (Supply) Act, 1948 may after the expiry of the period specified in clause (a) be transferred in accordance with the provisions of Part XIII of this Act;
- d) the State Government may, by notification, declare that any or all the provisions contained in this Act, shall not apply in that State for such period, not exceeding six months from the appointed date, as may be stipulated in the notification.

Section 173 - Inconsistency in laws

Nothing contained in this Act or any rule or regulation made thereunder or any instrument having effect by virtue of this Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986 or the Atomic Energy Act, 1962 or the Railways Act, 1989.

Section 174 - Act to have overriding effect

Save as otherwise provided in section 173, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Section 175 - Provisions of this Act to be in addition to and not in derogation of other laws

The provisions of this Act are in addition to and not in derogation of any other law for the time being in force.

Section 176 - Power of Central Government to make rules

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(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: --

- (a) the terms and conditions for Captive Power Plants under section 2;

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- (aa) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (2) of section 3;
- (b) the additional requirements 1[relating to the capital adequacy, creditworthiness or code of conduct] under **fourteenth** proviso to section 14;
- (c) the payment of fees for application for grant of licence under subsection (1) of section 15;
- (d) the constitution and functions of the National Load Despatch Centre under subsection (2) of section 26;
- (e) the works of licensees affecting the property of owner or occupier under subsection (2) of section 67;
- (f) such other cases which may be prescribed under clause (c) of subsection (2) of Section 68;
- ~~(fa) terms and conditions including eligibility and experience of the Chairperson and Members of Authority under sub-section (5) of section 70;~~
- (g) allowances and fees payable to others Members for attending the meetings of Authority under sub-section (14) of section 70.
- (i) the functions and duties of the Central Electricity Authority under section 73;
- (j) the salary, allowances and other conditions of service of Chairperson and Member of Central Commission under subsection (2) of section 89;
- (k) the form and manner in which and the authority before whom oath of office and secrecy should be subscribed under sub-section (3) of section 89;
- (l) the procedure to be prescribed by the Central Commission under the proviso to sub- section (2) of section 90;
- (m) any other matter required to be prescribed under clause (g) of subsection (1) of section 94;
- (n) the form in which the Central Commission shall prepare its annual statement of accounts under sub-section (1) of section 100;
- (o) the form in which and time at which the Central Commission shall prepare its annual report under sub-section (1) 101;
- (p) the form in which and time at which the Central Commission shall prepare its budget under section 106;
- (q) the form and the manner of verifying such form, and fee for filing appeal under sub-section (2) of section 111;
- (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;
- (s) the salary and allowances and other conditions of service of the officers and employees of the Appellate Tribunal under subsection (3) of section 119;

(sa) conferment of financial and administrative powers on the Chairperson of Appellate Tribunal under sub-section (4) of Section 119;

(t) the additional matters in respect of which the Appellate Tribunal may exercise the powers of a civil court under clause (i) of subsection (2) of section 120;

(u) ~~the authority to whom the appeal shall be filed under sub-section (1) of section 127;~~

(u) the functions of the intermediary company under clause (c) of section 131A;

(v) manner of holding inquiry by an adjudicating officer under subsection (1) of section 143;

(w) the form in which and the time at which service of notices to any person or to the Central Government for the purpose under subsection (1) of section 161;

(x) the powers to be exercised and the functions to be performed **and the manner of inspection** by the **Chief Electrical Inspectors and the Inspectors** under sub-section (1A) of section 162;

(xa) the functions of forum of Regulators under sub-section (2) of section 166;

(xb) the functions of forum of Electrical Inspector under sub-section (7) of section 166;

(y) the manner of delivery of every notice, order or document to be served under sub-section (1) of section 171;

(z) any other matter which is required to be, or may be, prescribed;

Section 177 - Powers of Authority to make regulations

(1) The Authority may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred in sub-section (1), such regulations may provide for all or any of the following matters, namely: --

- a) the Grid Standards under section 34 **and also measures for smart grid and ancillary services**;
- b) suitable measures relating to safety and electric supply under section 53;
- c) the installation and operation of meters under section 55;
- d) the rules of procedure for transaction of business under sub-section (9) of section 70;
- e) the technical standards for construction of electrical plants and electric lines and connectivity to the grid under clause (b) of section 73;
- f) the form and manner in which and the time at which the State Government and licensees shall furnish statistics, returns or other information under section 74;
- g) any other matter which is to be, or may be, specified;

Commented [RT40]: Ancillary services are a commercial service better regulated by Commissions than the Authority.

(3) All regulations made by the Authority under this Act shall be subject to the conditions of previous publication.

Section 178 - Powers of Central Commission to make regulations

- (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.
- (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:--
- (a) period to be specified under the ~~first~~ **seventh** proviso to section 14;
 - (b) the form and the manner of the application under sub-section (1) of section 15;
 - (c) the manner and particulars of notice under sub-section (2) of section 15;
 - (d) the conditions of licence under section 16;
 - (e) the manner and particulars of notice under clause (a) of sub-section (2) of section 18;
 - (f) publication of alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;
 - (g) Grid Code under sub-section (2) of section 28;
 - (h) levy and collection of fees and charge from generating companies or transmission utilities or licensees under sub-section (4) of section 28;
 - (i) rates, charges and terms and conditions in respect of intervening transmission facilities under proviso to section 36;
 - (j) payment of transmission charges and a surcharge under sub-clause (ii) of clause (d) of sub-section (2) of section 38;
 - (k) ~~reduction of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 38;~~
 - (l) payment of transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 40;
 - (m) ~~reduction of surcharge and cross subsidies under the second proviso to sub-clause (ii) of clause (c) of section 40;~~
 - (n) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;
 - (o) duties of electricity trader under sub-section (2) of section 52;
 - (p) standards of performance of a licensee or class of licensees under sub-section (1) of section 57;
 - (q) the period within which information to be furnished by the licensee under sub-section (1) of section 59;

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- (r) the manner for reduction of cross-subsidies under clause (g) of **sub-section (1) of section 61**;
- (s) the terms and conditions for the determination of tariff under section 61;
- (t) details to be furnished by licensee or generating company under sub-section (**2 5**) of section 62;
- (u) the procedures for calculating the expected revenue from tariff and charges under sub-section (**5-8**) of section 62;
- (v) the manner of making an application before the Central Commission and the fee payable therefor under sub-section (1) of section 64;
- (w) the manner of publication of draft tariff order under sub-section (3) of section 64;
- (x) issue of tariff order with modifications or conditions under sub-section (4) of section 64;
- (y) the manner by which development of market in power including trading specified under section 66;
- (ya) the manner for obtaining prior consent of licensee or such other person under section 69A;**
- (z) the powers and duties of the Secretary of the Central Commission under sub-section (1) of section 91;
- (za) the terms and conditions of service of the Secretary, officers and other employees of Central Commission under sub-section (3) of section 91;
- (zb) the rules of procedure for transaction of business under sub-section (1) of section 92;
- (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;
- (zd) the manner of service and publication of notice under section 130;
- (ze) any other matter which is to be, or may be specified by regulations.
- (3) All regulations made by the Central Commission under this Act shall be subject to the conditions of previous publication.

Section 179 - Rules and regulations to be laid before Parliament

Every rule made by the Central Government, every regulation made by the Authority, and every regulation made by the Central Commission shall be laid, as soon as may be after it is made, before each House of the Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the

validity of anything previously done under that rule or regulation.

Section 180 - Powers of State Governments to make rules

(1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely: --

(a) the payment of fees for application for grant of licence under sub-section (1) of section 15;

(aa) the manner of collection and realisation of other dues along with electricity dues under section 45A;

(ab) the manner and phases for separation of distribution and supply of electricity under clause (a) of section 131A;

(b) the works of licensees affecting the property of other persons under sub-section (2) of section 67;

(c) such other matters which may be prescribed under clause (c) of sub-section (2) of section 68;

(d) the salary, allowances and other terms and conditions of service of the Chairperson and Members of the State Commission under sub-section (2) of section 89;

(e) the form and manner in which and the authority before whom oath of office and secrecy should be subscribed under sub-section (3) of section 89;

(f) any other matter required to be prescribed by the State Commission under clause (g) of sub-section (1) of section 94;

(g) the manner of applying the Fund under sub-section (3) of section 103;

(h) the form in which and time at which the State Commission shall prepare its annual accounts under sub-section (1) of section 104;

(i) the form in which and time at which the State Commission shall prepare its annual report under sub-section (1) of section 105;

(j) the form in which and time at which the State Commission shall prepare its budget under section 106;

(k) manner of service of provisional order of assessment under sub-section (2) of section 126;

(l) manner of holding inquiry by an adjudicating officer under sub-section (1) of section 143;

(m) the form in which and the time at which notice to the Electrical Inspector under sub-section (1) of section 161;

(ma) the powers to be exercised and the functions to be performed, fees and charges payable for undertaking the testing, inspection and services, and the manner of

inspection by the Chief Electrical Inspectors and inspectors under sub- section (1A) of section 162;

(n) the manner of delivery of every notice, order or document under sub-section (1) of section 171; and

(o) any other matter which is required to be, or may be, prescribed.

Section 181 - Powers of State Commissions to make regulations

(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.

(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 the following matters, namely: --

(a) period to be specified under the third proviso of section 14;

(b) the form and the manner of application under sub-section (1) of section 15;

(c) the manner and particulars of application for licence to be published under sub-section (2) of section 15;

(d) the conditions of licence section 16;

(e) the manner and particulars of notice under clause(a) of subsection (2) of section 18;

(f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18;

(g) levy and collection of fees and charges from generating companies or licensees under sub-section (3) of section 32;

(h) rates, charges and the term and conditions in respect of intervening transmission facilities under proviso to section 36;

(i) payment of the transmission charges and a surcharge under sub clause (ii) of clause(d) of sub-section (2) of section 39;

(j) ~~reduction of surcharge and cross subsidies under second proviso to sub clause (ii) of clause (d) of sub section (2) of section 39;~~

(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;

(l) payment of the transmission charges and a surcharge under sub clause(ii) of clause (c) of section 40;

(m)~~reduction of surcharge and cross subsidies under second proviso to sub clause (ii) of clause (c) of section 40;~~

(n) the manner of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (c) of section 40;

(o) proportion of revenues from other business to be utilised for reducing the transmission and wheeling charges under proviso to section 41;

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- (p) ~~reduction of surcharge and cross-subsidies under the third proviso to sub-section (2) of section 42;~~
- (q) payment of additional charges on charges of wheeling under sub-section (4) of section 42;
- (r) guidelines under sub-section (5) of section 42;
- (t) the period to be specified by the State Commission for the purposes specified under sub-section (1) of section 43;
- (u) methods and principles by which charges for **distribution of** electricity shall be fixed under sub-section (2) of section 45;
- (v) reasonable security payable to the distribution licensee under sub-section (1) of section 47;
- (w) payment of interest on security under sub-section (4) of section 47;
- (x) electricity **distribution** code under section 50;
- (y) the proportion of revenues from other business to be utilised for reducing wheeling charges under proviso to section 51;
- (z) duties of electricity trader under sub-section (2) of section 52;
- (za) standards of performance of a licensee or a class of licensees under sub-section (1) of section 57;
- (zb) the period within which information to be furnished by the licensee under sub-section (1) of section 59;
- (zba) the manner of recovery of revenue deficit under proviso to clause (h) of sub-section (1) of section 61;**
- (zc) the manner of reduction of cross-subsidies under clause (g) of section 61;
- (zd) the terms and conditions for the determination of tariff under section 61;
- (ze) details to be furnished by licensee or generating company under sub-section (2) of section 62;
- (zf) the methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (6) of section 62;
- (zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;
- (zh) issue of tariff order with modifications or conditions under subsection(3) of section 64;
- (zi) the manner by which development of market in power including trading specified under section 66;
- (zia) the manner for obtaining prior consent of licensee or such other person under section 69A;**
- (zj) the powers and duties of the Secretary of the State Commission under sub-section (1) of section 91;

(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;

(zl) rules of procedure for transaction of business under sub-section (1) of section 92;

(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;

(zn) the manner of service and publication of notice under section 130;

(zo) the form of preferring the appeal and the manner in which such form shall be verified and the fee for preferring the appeal under sub-section (1) of section 127;

(zp) any other matter which is to be, or may be, specified.

(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication.

Section 182 - Rules and regulations to be laid before State Legislature

Every rule made by the State Government and every regulation made by the State Commission shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Section 183 - Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House' of Parliament.

Section 184 - Provisions of Act not to apply in certain cases

The provisions of this Act shall not apply to the Ministry or Department of the Central Government dealing with Defence, Atomic Energy or such other similar Ministries or Departments or undertakings or Boards or institutions under the control of such Ministries or Departments as may be notified by the Central Government.

Section 184A.

- (1) Notwithstanding anything contained in the Electricity (Amendment) Act, 2017, the provisions relating to –
- (a) the distribution and supply business; and
 - (b) the tariff for the distribution and supply,
- as they stood before the commencement of the Electricity (Amendment) Act, 2017 shall be continued till the transfer scheme is implemented by the State Government under section 131A.
- (2) Notwithstanding anything contained in this Act,
- (a) the word “distribution” shall be read as “distribution or supply”,
 - (f) the words “distribution licence” shall be read as “distribution licence or supply licence”,
 - (g) the words “distribution licensee” shall be read as “distribution licensee or supply licensee”,
- as the case may be, throughout the section 24 and section 166 from the date of implementation of the Transfer Scheme.
- (3) Notwithstanding anything contained in this Act,
- (a) the word “distribution licensee” shall be read as “licensee”,
- as the case may be, throughout the section 42, section 44, section 45, section 46, section 47, section 50 and section 181 from the date of implementation of the Transfer Scheme.

Section 185 - Repeal and saving

- 1) Save as otherwise provided in this Act, the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commissions Act, 1998 are hereby repealed.
- 2) Notwithstanding such repeal, -
- a. anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.
 - b. the provisions contained in sections 12 to 18 of the Indian Electricity Act, 1910 and rules made thereunder shall have effect until the rules under section 67 to 69 of this Act are made;.

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- c. Indian Electricity Rules, 1956 made under section 37 of the Indian Electricity Act, 1910 as it stood before such repeal shall continue to be in force till the regulations under section 53 of this Act are made.
 - d. all rules made under sub-section (1) of section 69 of the Electricity (Supply) Act, 1948 shall continue to have effect until such rules are rescinded or modified, as the case may be;
 - e. all directives issued, before the commencement of this Act, by a State Government under the enactments specified in the Schedule shall continue to apply for the period for which such directions were issued by the State Government.”.
- 3) The provisions of the enactments specified in the Schedule, not inconsistent with the provisions of this Act, shall apply to the States in which such enactments are applicable.
 - 4) The Central Government may, as and when considered necessary, by notification, amend the Schedule.
 - 5) Save as otherwise provided in sub-section (2), the mention of particular matters in that section, shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

Section 186 - Removal of Difficulty

- 1) If any difficulty arises in giving effect to the provisions of the Electricity (Amendment) Act, 2018, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:
Provided that no order shall be made under this section after the expiry of five years from the date of commencement of this Act.
- 2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

ENACTMENTS

(See sub-Section (3) of Section 185)

- 1) The Orissa Electricity Reform Act, 1995 (Orissa Act no. 2 of 1996)
- 2) The Haryana Electricity Reform Act, 1997 (Haryana Act no. 10 of 1998)
- 3) The Andhra Pradesh Electricity Reform Act, 1998 (Andhra Pradesh Act no. 30 of 1998)
- 4) The Uttar Pradesh Electricity Reform Act, 1999 (Uttar Pradesh Act no. 24 of 1999)
- 5) The Karnataka Electricity Reform Act, 1999 (Karnataka Act no. 25 of 1999)
- 6) The Rajasthan Electricity Reform Act, 1999 (Rajasthan Act no. 23 of 1999)
- 7) The Delhi Electricity Reforms Act, 2000 (Delhi Act No.2 of 2001)
- 8) The Madhya Pradesh Vidyut Sudhar Adhinyam, 2000 (Madhya Pradesh Act No. 4 of 2001)