

**National Workshop on Power Sector Reforms and Regulation in India**  
**A civil society experience sharing and learning event**  
**Pune, March 22 and 23, 2007**

A two-day national workshop on Power Sector Reforms and Regulation in India was held at Pune on 22<sup>nd</sup> and 23<sup>rd</sup> March 2007. About thirty representatives from various civil society and consumer organizations from ten states participated in the workshop and shared their experiences.

Based on deliberations during the workshop we wish to highlight a few urgent issues that are critical for promotion of the public interest and call for immediate action by the central government and State Electricity Regulatory Commissions (ERCs).

1. Detrimental effects due to judgments by Appellate Tribunal for Electricity (ATE)

The ATE started functioning in November 2005. It is felt that several judgments of the ATE have seriously hurt consumer interests and have thwarted the fundamental intent of the regulatory framework envisaged in the Electricity Act, 2003. For instance, the jurisdiction of ERCs on two issues that directly impact tariff – (a) on the power of the ERC to seek enforcement of their own orders / directives regarding tariff and billing and; (b) on evaluating and approving capital expenditure by licensees – have been severely limited by orders of the ATE.

Unless these detrimental effects are addressed, the regulatory process will be rendered meaningless. It is therefore essential that Central government / Ministry of Power, the Forum of Regulators (FOR) and State ERCs take immediate actions including:

1. Ensuring stronger representation before the ATE and the Supreme Court;
2. Facilitating representation of consumers before the ATE; and
3. Incorporating necessary clarifications / amendments in the Electricity Act 2003 so as to ensure that the spirit of consumer protection is adequately safeguarded.

2. Proposed amendments in the Electricity Act 2003

The Ministry of Power has recently proposed amendments to the Electricity Act 2003. One of the proposed amendments seeks to make electricity theft, a non-bailable offence without addressing the issue of implementation of the current provisions. The mere enhancement of punishment has the potential of being misused and may also lead to enormous harassment of consumers. There have been examples of effective use of existing mechanisms to reduce theft suggesting that the gap is in current enforcement effort and not in the quantum of punishment. While agreeing that theft reduction is critical and necessary, we demand that the proposed amendment be reviewed to avoid possibility of misuse and harassment of honest consumers.

### 3. Regulatory credibility and selection processes

It is essential to improve the credibility, transparency and effectiveness of the regulatory process, for which following actions are urgently needed:

- The selection of Chairman and members of ERCs needs to be made through a more transparent and independent mechanism. This calls for suitable amendments in the Electricity Act 2003.
- Similarly, mechanisms to prevent conflict of interest of ERC Chairpersons, Members and Consultants hired by the ERCs should be evolved and strengthened.
- The ERCs should undertake stringent monitoring of norms laid out in the “Standards of Performance” and “Supply Code” by ensuring timely and reliable reporting by licensees and appropriate field monitoring. Third party monitoring and validation should be implemented as ERCs do not have the infrastructure and required manpower to monitor and validate these crucial performance parameters of licensees.
- ERCs have allowed massive capital expenditure running into thousands of crores of rupees per year (recovered from consumer bills) without demonstrating the prudence of such expenditure. It is necessary for ERCs to examine the appropriateness of such claimed expenditure, to ensure that the claimed benefits of such expenditure are realised and shared in a transparent manner with consumers who are going to pay for it.
- The National Electricity Policy (Section 5.13.4) prescribes the need for enhanced participation of consumer groups and other civil society groups. In order to achieve this, necessary analytical and financial resources should be made available to such groups through a credible mechanism. Further, all ERCs should identify and authorize consumer representatives as required under **section 94(3)** of the Electricity Act (2003) and invite them to participate in all regulatory proceedings.

### 4. Environmental and social impacts of the sector

The growth of the electricity sector should be sustainable and equitable. Increasing focus on energy efficiency and renewable energy to *inter alia*, minimize impacts of climate change and adverse social impacts, are therefore necessary. To achieve this Integrated Resources Planning (IRP) methodologies that promote optimal natural resource usage and integrate environmental and social concerns should be adopted at the State and Central levels.

### 5. Policy space within the Electricity Act, 2003

Consumer representatives from several states have complained about the lack of space for individual States to implement structures and policies best suited in the context of the respective States. Hence, we demand that States be provided adequate policy space to develop their electricity sector in an equitable, sustainable and efficient manner.

## 6. Fuel Prices

Pricing of fuels is very critical to control electricity prices for the end consumer. Hence effective regulatory mechanism needs to be in place to determine rational prices of fuels through transparent public process.

### LIST OF SIGNATORIES

Serial No.	Name	Organization
1	Anil Sood	Society for Protection of Culture , Heritage, Environment, Traditions and Promotion of National Awareness (Regd) (CHETNA), New Delhi
2	Ajay Shankar	Lucknow
3	Bharath Jairaj	Citizen Consumer and Civic Action Group (CAG), Chennai
4	Bieswaranjan Mishra	Gridco Engineers Association, Orissa
5	Gautam Menon	Centre for Interdisciplinary Studies in Environment & Development (CISED), Bangalore,
6	K K Bajaj	Consumer Education and Research Centre, Ahmedabad
7	B. R. Khedkar	Akhil Bharatiya Grahak Panchayat, Pune
8	R. Hema	Madras School of Economics, Chennai
9	Raghu K.	APSEB Engineers' Association & Peoples Monitoring Group (PMG), Hyderabad
10	Rajesh Kumar	Hindu College Sonapat, Haryana
11	Venugopal M. Rao	Prajashakti Telugu Daily, Hyderabad
12	Thimma M. Reddy	Centre For Environment Concerns (CEC), Hyderabad
13	Shruti Shukla	Climate Change & Energy Programme World Wide Fund for Nature (WWF), New Delhi
14	Soumybrata Rahut	Greenpeace
15	S. R. Vijayakar	LOK SATTA, Hyderabad
16	Sharad Shah	Centre for Fuel Studies and Research, Vadodara
17	Girish Sant	Prayas Energy Group, Pune

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