

Indian Electricity Regulators and their Challenges: A Review

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The real evolution of regulatory regimes in India commenced with liberalization of the Indian economy and unleashing of market forces. The electricity regulator came into being with the enactment of the Electricity Regulatory Commission Act, 1998 and thereafter, the Electricity Act, 2003 (hereinafter, the 2003 Act). Some believe that the regulatory regime in India is in a nascent stage and is still evolving and therefore, it is subject to a lot of challenges. Although it is considered that the challenges of the regulators will never subside as electricity sector is very dynamic sector, as it is market driven having technology & its usage at its core and therefore, challenges for a regulator to maintain a general equilibrium safeguarding the interests of all the stakeholders is a tall order. In this context, it becomes even more interesting to observe as to how the Indian electricity regulators continue to keep a grip over the industry amidst market dynamism and newer technologies becoming imperative. While the technological and economic advancements have also happened all over the globe, the Indian regulators have some very peculiar issues which cannot be addressed in reference to the other countries.

Post the enactment of the 2003 Act, role and functions of the electricity regulator have become both diversified and streamlined. A regulator under the 2003 Act is entrusted with discharging the functions as a legislator, an administrator as well as a judicial body. It has to legislate law, it has to redress the issues under that law and has to ensure that the law and the directions given thereunder are complied with. To deliver all these functions the regulators must be fully autonomous. However, its autonomy to this day, even after 22 years of first rolling-out a regulatory regime for power sector is still a topic of debate.

There have been instances where political intervention in regulatory regime is often raised as an issue for swift and independent working in the power sector. Be it tariff determination, investment approvals, issuing regulations etc, it is imperative that such functions must be completely unbiased and neutral to the political agendas floating around. However, to remain neutral during the times of elections and otherwise too in a highly politically

sensitive country like India where 'Bijli' and 'Paani' runs at the top of an election manifesto, is a task of highest integrity & perseverance.

Besides this, autonomy of the regulator is always subject to threat in the States where financial dependencies of Electricity Regulator is on the State Government. This dichotomy where a regulator who is dependent on the budgetary assistance of the State Government is also required to regulate the power utilities which are government undertaking, is mostly the scenario in India and is indicative of not a very healthy and encouraging environment for power sector and its players to grow. In situations like this, the regulator must become self-reliant as is in some of the States in the country where the regulator maintains its finances through license fees etc. and does not need States assistance.

The dependency on the State Government is not just limited to seeking financial support and budgetary allocation, but for increasing manpower, the State Regulatory Commission has to seek approvals from the respective State Government. The Regulator has so many functions, however, it has very less manpower. Electricity sector is very dynamic and to keep a pace with it w.r.t laws and its implementation, the regulator needs to have a big brigade to churn out better results from the utilities it is regulating. It is seen across India that State Electricity Regulatory Commissions do not have more than fifteen officers to execute its function under the 2003 Act. Skilled & specialized human resource is significant to the working of the regulator and cannot be compromised at all. Although, under the 2003 Act, power to engage consultants and experts for its swift working is with the Commission, the challenge is that these engagements are short term and on contractual basis. Any skilled professional will not desire to engage itself with the regulator having to know no future prospects, and for the regulator to keep engaging new professionals who do not bring any institutional history is counter productive and is a time taking exercise. Therefore, the regulator must be able to make staff structure where each employee has a growth pattern specified. This motivates the new recruits and is healthy for the efficient working of the organization.

Another very peculiar issue faced by electricity regulators is to ensure compliance of the regulations and its directions by the power utilities. With limited manpower and hesitance in taking penal action the regulators sometimes are not very successful in ensuring compliance

with the utilities. Due to this, matters linger for years, and the quality of the work is compromised. It is therefore, suggested that since the electricity regulators exercise all powers of a court in discharging their quasi-judicial functions, they must vision for an earnest and effective disposal of the matters brought before them, and must not exhibit any reluctance to utilize their penal powers vested under provision of the 2003 Act.

It is also a major challenge for electricity regulators to strike a balance between the competitive spirit of the power utilities and interest of the consumers. As the regulator has to cater to the interest of all the parties involved in the business of electricity generation, transmission and distribution. Where the regulator has to ensure that the generator, transmission licensee and distribution licensee get decent electricity tariff, it also has to ensure that the consumers do not suffer from tariff hike. To practically juggle this equilibrium in maintaining competition, attracting investment and ensuring consumer protection, is a challenge which the regulator have to face at all times. And in doing so, it is not possible to make all the parties involved satisfied. To pacify the needs and ambitions of all the stakeholders in the sector is therefore, relentless job of a regulator.

A newage challenge which regulator faces is introduction of technologies. With most of the power utilities in the country being government undertakings and its employees/staff not being tech savvy, seeking reports and other documents from such becomes a strenuous task. This impacts the timely working of the regulator. Likewise, while the Government at the Centre pushes for implementation of newer technologies such as smart metering etc, the work force engaged with the power utilities is not skilled enough. This often results in unbaked implementation of policies and delayed compliances, which in turn reverses the clog of regulatory progress.

Challenges in any regulated sector are also an indicator of development. It is essential that each of these challenges are effectively addressed within a finite time. Any delay in resolving such hurdles causes stagnancy, which is not healthy for growth of the industry as a whole. The job of a regulator is to meet all these challenges in time, thereby achieving a balance of interest of all stakeholders and at the same time, pushing the agenda of innovation, competition and growth.

About the Author



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