

8

STANDING COMMITTEE ON ENERGY  
(1999-2000)  
THIRTEENTH LOK SABHA

THE ELECTRICITY REGULATORY COMMISSIONS  
(AMENDMENT) BILL, 1999

MINISTRY OF POWER

**EIGHTH REPORT**



Presented to Lok Sabha on 16.5.2000  
Laid in Rajya Sabha on 16.5.2000

LOK SABHA SECRETARIAT  
NEW DELHI  
May, 2000/Vaisakha, 1922 (Saka)

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**COMPOSITION OF THE STANDING COMMITTEE ON ENERGY**  
**(1999-2000)**

**Shri Sontosh Mohan Dev - Chairman**

**MEMBERS**

**Lok Sabha**

2. Shri Basudeb Acharia
3. Shri Prasanna Acharya
4. Shri Prakash Yashwant Ambedkar
5. Shri Rajbhar Babban
6. Shri Vijayendra Pal Singh Badnore
7. Shri Jagmeet Singh Brar
8. Shri Lal Muni Chaubey
9. Shri A.B.A. Ghani Khan Choudhury
10. Shri Bikash Chowdhury
11. Shri M. Durai
12. Shri Sanat Kumar Mandal
13. Shri K. Muraleedharan
14. Shri Amar Roy Pradhan
15. Shri Ravindra Kumar Pandey
16. Shri Dalpat Singh Parste
17. Shri B.V.N. Reddy
18. Shri Chada Suresh Reddy
19. Shri B. Satyanarayana
20. Shri Harpal Singh Sathi
21. Shri C.K. Jaffer Sharief
22. Shri Chandra Pratap Singh
23. Shri Tilakdhari Prasad Singh
24. Shri Manoj Sinha
25. Shri Ramji Lal Suman
26. Prof. Ummareddy Venkateswarlu
27. Shri P.R. Khunte
28. Shri Girdhari Lal Bhargava
29. Shri Trilochan Kanungo

**Rajya Sabha**

30. Shri Lakhiram Agarwal
31. Shri Gandhi Azad
32. Shri E. Balanandan
33. Shri Brahamakumar Bhatt
34. Shri Manohar Kant Dhyan
35. Shri Aimaduddin Ahmad Khan (Durru)
36. Shri Ananta Sethi

37. Dr. Akhtar Hasan Rizvi  
38. Shri Vedprakash P. Goyal  
39. Shri Rama Shanker Kaushik  
40. Shri Santosh Bagrodia  
\*\*41. Shri Ramamuni Reddy Sirigireddy  
\*\*'42. Ven'ble Dhamma Viriyo  
#43. Shri Dara Singh Chauhan  
##44. Shri R.P. Goenka

### SECRETARIAT

- |                       |   |                      |
|-----------------------|---|----------------------|
| 1. Dr. A.K. Pandey    | - | Additional Secretary |
| 2. Shri John Joseph   | - | Joint Secretary      |
| 3. Shri P.K. Bhandari | - | Deputy Secretary     |
| 4. Shri R.S. Kambo    | - | Under Secretary      |
| 5. Shri R.S. Mishra   | - | Reporting Officer    |

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- \* Ceased to be a member of the Committee w.e.f. 5.5.2000.  
\*\* Nominated to the Committee w.e.f. 27.4.2000.  
\*\*\* Nominated to the Committee w.e.f. 1.5.2000.  
# Re-nominated to the Committee w.e.f. 1.5.2000.  
## Nominated to the Committee w.e.f. 5.5.2000.

## INTRODUCTION

I, the Chairman, Standing Committee on Energy having been authorised by the Committee to present the Report on their behalf, present this Eighth Report, on the Electricity Regulatory Commissions (Amendment) Bill, 1999 relating to the Ministry of Power.

2. The Electricity Regulatory Commissions (Amendment) Bill, 1999 was introduced in Lok Sabha on 23.12.1999. The Hon'ble Speaker referred it to the Committee on 4.1.2000 for examination and Report. The Committee took oral evidence of the representatives of Ministry of Power on 22nd March, 2000.

3. The Committee also heard the views of the representatives of Government of Assam, Nagaland, Mizoram and Manipur during their tour to North-Eastern Region in February, 2000. The Committee wish to express their thanks to the representatives of these State Governments.

4. The Committee wish to thank in particular to the representatives of the Ministry of Power and State Governments for appearing before the Committee and placing detailed material before the Committee in connection with examination of the Bill.

5. The Report was considered and adopted by the Committee at their sitting held on 11<sup>th</sup> May, 2000.

New Delhi;  
11 May, 2000  
21 Vaisakha , 1922 (Saka)

SONTOSH MOHAN DEV  
Chairman,  
Standing Committee on Energy.

## **CHAPTER I**

### **Background**

The Electricity Regulatory Commission Act, 1998 was enacted to provide for the establishment of a Central Regulatory Commission (CERC) and State Regulatory Commissions, rationalization of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign Power policies and for matters connected therewith or incidental thereto.

1.2 The Central Government has since established the Central Electricity Regulatory Commission under sub-section (1) of Section 3 of the Electricity Regulatory Commissions Act, 1998. Sub-Section (1) of Section 17 of the said Act empowers the State Governments to establish State Regulatory Commissions. 14 States have set up or have notified the setting up the State Electricity Regulatory Commissions of these 14 states, ten States have notified set up of Regulatory Commissions under the Central Act and four States have notified set up of the Regulatory Commission under their own Reforms Acts.

1.3 Consequent upon the enactment of the Electricity Regulatory Commissions Act 1998, the Government have been monitoring the reform process in various States. The Ministry of Power have been providing all necessary inputs to the State Governments to encourage them to set up the Regulatory Commissions. However, small States like Sikkim and North-Eastern States have indicated problems in setting up the Commission due to factors like paucity of funds, non-availability of personnel with adequate expertise and talent, etc. The matter was discussed by the Union Power Minister with Power Ministers of the North-Eastern States in different meetings and it was proposed to set up a Joint Regulatory Commission for Sikkim and the seven North-Eastern States. Accordingly, the Government of Nagaland requested the Ministry of Power for the constitution of a joint North-Eastern Electricity Regulatory Commission for the four States of Assam, Mizoram, Manipur and Nagaland. Since the Electricity Regulatory Commissions Act, 1998 does not have an express provision for constitution of a Joint Regulatory Commission, the Government have tabled the present Electricity Regulatory Commissions (Amendment) Bill, 1999 to provide for constitution of a Joint Regulatory Commission. The Hon'ble Speaker has referred the bill to this Standing Committee for examination and report.

1.4 The Standing Committee discussed the bill with the representatives of various State Governments of the North-Eastern Region to ascertain their views in the matter. The representatives of the Ministry of Power were also examined to seek clarification on some points which emerged during the discussions of the Committee with various State Governments. The recommendations of the Committee on various provisions of the bill are accordingly given in the following Chapter.

## CHAPTER II

### REPORT

#### **Provisions of the Amendment Bill**

The provisions of the ERC (Amendment) Bill, 1999 are briefly as under:-

2.1 The Electricity Regulatory Commission (Amendment) Bill, 1999 provides for the manner in which the joint State Commission is to be constituted and the Membership of the Commission. It proposes to insert a new chapter, chapter IV(A) after chapter IV of the main Act. The chapter will have two Sections mainly 21A and 21B. Under provision 21(A) two or more contiguous States/Union territories may enter into an agreement to form a joint Commission. The agreement will provide the name of joint Commission, manner of constitution of Selection Committee, manner of appointment of Chairperson and member, on rotation, apportionment of expenditure and other supplementary, incidental and consequential provisions. Section 21(B) of the Amendment Bill provides for special provision relating to giving of directions. It states that the Government of the State for which the Joint Commission is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a matter within the exclusive territorial jurisdiction of the State [21(B)(a)]. However, the Central Government shall alone 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 [21 (B)(b)].

2.2 The Committee examined the provisions of the Bill clause-wise and after having been convinced that the present ERC (Amendment) Bill, 1999 helps two or more States to constitute a joint Commission, the Committee approve the same for enactment by Parliament with certain modifications/recommendations which are dealt with in detail in the succeeding paragraphs of the Report.

2.3 **The Electricity Regulatory Commissions (Amendment) Bill 1999 proposes to add a new Chapter No. 4 A titled 'Joint State Regulatory Commission' after Chapter IV of the Act, 1998 Chapter IV of the Act has been titled as 'State Electricity Regulatory Commission'. To maintain uniformity with the Act, it is suggested that the new Chapter IVA should be titled 'Joint Electricity Regulatory Commission'. The word 'State' appearing in the heading should also be deleted as the Bill provides that the joint Commission can be between two or more Governments of contiguous States as also between the Central Government and one or more Governments of States contiguous to Union Territories.**

**2.4 Chapter IVA proposes to add two Clauses in the Act, viz. Clause 21A dealing with the constitution of joint State Commission and Clause 21B dealing with special provisions relating to giving of directions. In the light of amendments suggested above, the Committee feel that in Clause 21A & B also the nomenclature of the Commission should be changed to 'Joint Electricity Regulatory Commission' wherever occurring.**

### **Definition of Contiguous State**

2.5 As per Clause 21(A) Sub-clauses 1(a) & (b) of the Amendment Bill, Governments of two or more contiguous States, or the Central Government and one or more Governments of States can enter into agreement to constitute a joint Commission. During the course of discussions with the Committee on this Bill, some State Governments of North-Eastern Region raised their objection to the word 'contiguous' appearing in clause 21(A). The representatives of the Government of Tripura stressed the need to delete the word 'contiguous' since in case Assam decides to keep out of the common Joint Regulatory Commission the requirement of Clause 21A (1) Sub-clause (a) will not be met and may create a problem in setting up a common joint Commission amongst the other North-Eastern States. It was, therefore, suggested by the State Government that the words "contiguous State" may be deleted from the Clause 21(A).

2.6 The State Government of Sikkim in their response mentioned that the provision under Clause 21A (1)(a) is not valid for the State of Sikkim as it is contiguous with the State of West Bengal which has already constituted its State Electricity Regulatory Commission. The State Government of Assam was also of the view that contiguity of States should not be a condition precedent to setting up of common Joint Commission for North-Eastern States.

2.7 The Secretary (Power), during evidence clarifying the term "contiguous States" mentioned that the dictionary meaning of the word "contiguous" is neighbouring or adjacent, near or next in order or time and it is in this sense that the word has been used in the BW. Thus, even if Assam backs out, the other States in the North-Eastern Region can be considered contiguous in the sense that they are neighbouring and near to each other. According to the same logic, the Sikkim can also be a member of the Joint Commission to be constituted for North-Eastern States.

2.8 The Committee are of the opinion that contiguity should not be a condition precedent for States entering into an agreement, for the constitution of a joint Regulatory Commission. The Committee, therefore, recommend that word 'contiguous' should be deleted, so that a State Government is at liberty to enter into an agreement with any other State Government, it feel like, for the purpose of constitution of a Joint Regulatory Commission.



2.9 The Committee find that under Section 2 of Electricity Regulatory Commission Act, 1998 (Principal Act), 'Commission', means the Central Commission, or the State Commission, as the case may be. Further, the 'Central Commission' and 'State Commission' have been defined under Sub-Sections (C) and (j) of Section 2 of the Principal Act. However, the Committee note that joint Regulatory Commission, has not been defined in the proposed amendment Bill. The Committee, therefore, recommend that definition of 'Commission' should be qualified to include joint Regulatory Commission also. Further, Joint Regulatory Commission' should be defined on the lines of Central and State Commission and should mean ".the joint Regulatory Commission' established under Sub-Section (1) of Section 21A.

**Clause 21(A) Sub-Clause 1(b)-Validity period for agreement**

2.10 As per Clause 21(A) Sub-clause 1(b) of the Amendment Bill, an agreement for the Constitution of joint State Commission, may be entered into by the Central Government (in respect of one or more Union territories) and one or more Government of States contiguous to such Union territory or Union territories and shall be in force, for such period and to be subject to renewal for such period as may be specified in the agreement.

2.11 During the course of discussion with the Committee, the State Government of Assam stated that withdrawal from the membership of Joint Regulatory Commission should be voluntary and be included in the proposed agreement. Similarly, the Government of Manipur also mentioned that there should be a separate provision for dissolution of and withdrawal from the Joint Electricity Regulatory Commission. It was also stated by them that a provision should also be made in case any State Government wants to have a separate SERC while being a member of a Joint Regulatory Commission.

2.12 Clarifying the provision regarding powers of the participating States to withdraw from JRC, the Ministry of Power in their reply mentioned that the participating States are free not to renew their agreement pertaining to JRC. The provision of setting up JRC for States in the North-Eastern Region and the Union territories in the Amendment Bill does

not nullify the provision under Section 17(i) of the Principal Act for these States to form individual SERCS. Further clarifying the Government's stand in regard to dissolution of joint Commission, the Ministry in a note stated that the Bill provides for an agreement being entered into between two or more States which will remain in force for such period and be subject to renewal for such further period as may be specified in the agreement. There is no provision for dissolution of or withdrawal from the membership of the Joint Commission before the expiry of such period as fixed in the agreement.

2.13 The Committee note that each State is free to constitute its individual Regulatory Commission as per Section 17(i) of the ERC Act, 1998 even after joining a Joint Regulatory Commission. The Government feel that the agreement among the participating States under Clause 21(A) of the Amendment Bill will specify the period for which the joint Commission will be in force and it will not be possible for them to withdraw till the end of that period. But the Committee find that there is no expressed provision for dissolution and withdrawal from the membership of the Joint Commission. States like Manipur and Assam have expressed their support for a separate provision for these matters. The Committee, while concurring with the views of Manipur and Assam, recommend that a separate provision should be made in the Bill itself, for withdrawal from the membership of joint Commission and for dissolution of a joint Commission.

### **Composition of Commission**

2.14 Clause 21(A) provides that the joint Commission shall consist of not more than three members, including the chairperson and they will be appointed by rotation to represent the participating States/UTs.

2.15 Taking into consideration that eight States may participate in the Joint Commission proposed for the North-Eastern Region, the Committee enquired as to why the Commission cannot be broad-based by including one member each from all participating States. The Ministry in their written reply mentioned that the whole concept of a joint Commission owes its genesis to the agreement to be arrived at between the participating States. The Principal Act also provides for only a three member State Commission (including the Chairperson).

2.16 Further, elaborating on the point, a representative of the Ministry of Power stated:

"The idea is that the joint Commission should also have 'three' because it becomes too unwieldy a Commission. This amendment is not just for the North-Eastern States ..... Therefore, to satisfy more than three, about which the main Act says, we have not considered it. If the Committee specifically takes into account and suggest that for the North-Eastern States, an exception has to be provided that is a matter of law".

Elaborating further the representative stated :

“ ..... It is because each has three members and we have taken that formula and formulated it here as three members in the Joint Commission. This, was done in order to save money. If the Committee feel that one member should be there from each State, then we will have to consider their view point”.

2.17 On the question of rotating Chairmanship/Membership among the participating States, the Committee during oral evidence asked why the option for a consensus candidate should be closed to participating States by putting the word "rotation" in Clause 21(2) of the BW, the Secretary, Ministry of Power stated "we will put it rotation/consensus".

**2.18 The Committee find that the Bill has restricted the number of members in the joint Commission to three including the Chairperson. As the constitution of Joint Regulatory Commission primarily aims at facilitating North-Eastern States and Sikkim to have a common Commission restricting the membership of the Commission to three may evoke negative response from the participating State Governments. The Committee do not find any logic in restricting membership of the Commission to only three, while the number of participating States is more than three. Moreover, when most of the modalities are to be finalised by the participant States under Sub-clause (3) of Clause 21(A) restricting the membership to only 3 is not understandable. The Committee desire that Sub-clause (2) of Clause 21(A) of the Amendment Bill should be suitably modified so that each participating State finds representation in the joint Commission.**

**2.19 The Committee also desire that the term rotation in Clause 21 Sub-clause (2) of the Bill should also include by -consensus, as to keep the option of a consensus candidate open for the State Governments. The Committee are of the view that the Clause 21A Sub-clause (2) should provide for appointment of the Chairperson by**

**rotation/consensus to represent the participating States and the Union territories instead of by rotation only. Clause 21A(2) Constitution of the Commission**

2.20 Sub-clause (3) of Clause 21(A) provides that an agreement under Sub-clause (1) shall contain provisions as to the name of the joint State Commission, the manner in which the participating States may be associated in the selection of the Chairperson and member of the joint Commission, manner of appointment of Chairperson and members by rotation.

2.21 The Committee observed that Section 18(1) of the Principal Act i.e. the Electricity Regulatory Commission Act, 1998 stipulates that the State Government shall for the purpose of selecting the members of the State Electricity Commission constitute a Selection Committee consisting of-

- |                                                                    |             |
|--------------------------------------------------------------------|-------------|
| (a) a person who has been a judge of the High Court                | Chairperson |
| (b) the Chief Secretary of the concerned State                     | Member      |
| (c) the Chairman or a Member of the, Central Electricity Authority | Member      |

Provided that nothing contained in this clause shall apply to the appointment of a person as the Chairperson who is or has been a judge of the High Court.

2.22 Asked to clarify how the Selection Committee for the constitution of Joint Regulatory Commission will be constituted, the Ministry of Power informed that Clause 21A enable the States to enter into an agreement which will contain provisions detailing the manner in which the participating States may be associated in the selection of Chairperson and members of the Joint Electricity Regulatory Commission. The Selection Committee can be constituted taking into account the broad parameters for such constitution as defined in the Principal Act.

2.23 Section 18(3) of the Principal Act provides that the State Government shall within 6 months from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of any Chairperson or

a member, make reference to the Selection Committee for filling of. the vacancy. When the Committee enquired how and by whom the action will be initiated in case of a vacancy in the joint Commission, the Ministry informed the Committee that in the proposed Bill the Chairperson and the members shall be appointed by rotation to represent the participating States and Union territories. As such the concerned State Government whom the Chairperson/member will be representing, will initiate the action.

2.24 When the Committee desired to know the reasons for making it a general matter under Sub-clause 3 of Clause 21(A) and not a specific one, the representative of the Ministry of Power stated during evidence ..... the spirit of the whole Act, even the main Act and the Amendment, is that total and complete powers are to be given to the States and at no point of time is the Central Government going to interfere in their decision making ..... Clarifying the position further another representative of Ministry of Power stated: ..... once the bill is enacted and becomes an Act, then, we might get together and the Central Government might also be able to participate in the negotiations that take place between the States to facilitate the agreements to be reached. May be we could even consider guidelines".

**2.25 The Committee feel that while it is a good thing to grant full freedom to the participating States in the matter of constitution of Joint Regulatory Commission, it is also desirable that certain inbuilt guidelines are provided in the Act itself to avoid future disagreements amongst the States. To avoid such situations, which can adversely affect the working of the joint Regulatory Commission, the Committee recommend that it may be provided in Clause 21(A) Sub-clause 3 that an agreement under sub-section (1), containing provisions for various matters regarding constitution of a joint Regulatory Commission, shall take into account, the broad parameters for similar matters as defined in the Act itself. It may also be provided in the bill that where insufficient or no agreement is entered into by the States for any matter relating to joint Regulatory Commission, the "visions of State Commission may apply mutatis- mutandis.**

#### **Clause 21B-Special provisions relating to Directions**

2.26 Clause 21(B) deals with the special provision relating to giving of directions whereby any Joint Regulatory Commission is constituted under Clause 21(A) Sub-clause (a) of Clause 21(B) provides as under:-

"The Government of the State for which the joint Commission is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a matter within the exclusive territorial jurisdiction of the State."

2.27 One of the overwhelming apprehensions among the North- Eastern State Governments, the Committee find is, about the role of JRC in tariff fixation, etc. taking into account the diverse nature of States in the region. The Government of Tripura in their memorandum furnished to the Committee mentioned that though the NE States are contiguous to each other, they differ widely in their socioeconomic characteristics and a uniform regional tariff for all the NE States may not be appropriate. Even though there may be a common SERC, it should consider the conditions prevailing in each State separately and accordingly recommend a tariff structure suitable for each State. It was also stated that appropriate provisions be included in the Amendment Bill so that the common SERC does not have problems in considering the requirement of each State separately and recommending different tariff structures for the different member States. The Government of Assam is of the view that irrespective of the fact whether SERC or JERC is in place the tariff must be fixed for each constituent State individually and independently. The Government of Nagaland also mentioned that details of modalities would have to be worked out in consultation and in co-ordination with the constituent States taking into account the individual interests of each State.

2.28 Asked how the tariff can be fixed, considering the peculiar situation prevailing in each of the participating States, the Ministry of Power in a written reply stated as under:-

"Section 29(3) of the Principal Act empowers the SERCs to determine tariff by taking into account various factors like load, power, total consumption of energy during any specified period or time at which the supply is required or the geographical provision of any area, the nature of supply and the purpose for which the supply is required."

2.29 The Clause 21B Sub-clause (b) of the amendment Bill provides as under:-

"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 fails to reach an agreement or participating States or majority of them request the Central Government to issue such directions".

2.30 The State Government of Assam desired that no suo moto intervention (of the Centre) should be there but may be done on request from the States concerned. The representatives of Mizoram Government mentioned during informal discussion that the Centre should not have any blanket authority and directive, if any, should be issued by the Central Government, only if a majority of States refer the matter to the Centre.

2.31 Asked how the Central Government propose to deal with this problem the Ministry of Power in a written reply mentioned that Clause 21 B has been kept in the Bill to cater to the contingency of the States failing to reach an agreement to constitute a Joint Regulatory Commission.

2.32 The Ministry of Power further stated that all the participating States can jointly and unanimously make a request. Alternatively, the Central Government can intervene if at least a majority of the participating States makes such a request.

**2.33 The Committee find some doubts in the minds of the State Governments regarding the role of Central Government in the functioning of JRC. The Committee note that Central intervention as per Clause 21(B) of the Bill has been kept for only when all States or a majority of States request for such action. The Committee, while accepting that the Central Government should continue to play proactive role in the power sector, desire that the Competent Authority to give direction under the Clause 21(B). Sub-clause (b) should be the Central Regulatory Commission and not the Central Government.**

**2.34 The Committee concur with the views of some of the State Governments that uniform tariff for the participating States will not be appropriate, since the States in the NE Region, differ widely in their socioeconomic characteristics. The Committee, therefore, recommend that provisions should be made in the bill enabling the Joint Regulatory Commission to fix a different tariff for each constituent State individually and independently.**

#### **Financing**

2.35 According to Sub-clause (3) of Clause 21(A) an agreement shall contain provisions in regard to apportionment among the participating States of the expenditure in connection with the joint Commission .....

2.36 Many States of the North-East have pointed out that in view of their weak financial position, they would not be able to bear the full cost of setting up SERCs from their own sources. The Government of Tirpura in their Memorandum furnished to the Committee mentioned that the Government of India should agree to fund the initial Non-recurring and the recurring cost of the Regulatory Commission. The Government of Nagaland informed the Committee that Central Government agreed to provide the funding for the non-recurring expenditure of the proposed NEERC for the first 5 years. It was at variance with the earlier indication that the common ERC would be funded by the Central Government, without any qualification.

2.37 The Government of Assam furnished an estimated cost of the Joint Regulatory Commission, on the basis of a study conducted by Administrative Staff College of India, Hyderabad. As per this study the annual recurring expenditure would be Rs. 1,09,90,040. For 5 years it would come to Rs. 5,49,50,200 and a non-recurring expenditure of Rs. 55,00,000. The Government of Assam also mentioned that as the scope of ERC will now

extend to almost the entire North-Eastern States which may also include Sikkim and therefore, infrastructural requirement etc. will increase manifold.

2.38 However, Ministry of Power have mentioned that total financial implication for the Government of India is only Rs. 2,83,97,440 (Non-recurring expenditure of Rs. 51,00,000 and a recurring expenditure of Rs. 58,24,360 per year for 4 years).

2.39 The structure of Joint Electricity Regulatory Commission for North-Eastern States as envisaged by Ministry of Power is broadly as under:-

"A three member Commission is proposed to be constituted for all the seven NE States and Sikkim. The Commission would also consist of a Secretary, three Chief Engineers, one Assistant Secretary (A&F), six Deputy Chief Engineers, three Private Secretaries (one each for Chairperson & members), four Personal Assistants (one each of Secretary and Chief Engineers), seven Stenos, eight Assistants and four Drivers. Chairperson and members can have a Private Secretary and Chief Engineers can have a Personal Assistant each as their personal staff and the Assistant Secretary (A&F) as well as the Deputy Chief Engineers could have a Steno for secretarial assistance."

2.40 Financial implications of the scheme for the Government of India are the following: Non-recurring expenditure of Rs. 51,00,000 and recurring expenditure of Rs. 58,24,360 for four years, coming to a total of Rs. 2,83,97,440.

2.41 Nature of Scheme Plan is under:-

Total Outlay for current financial year :  
Rs. 51,00,000 + Rs. 58,24,360 = Rs. 1,09,24,360/-

Non-recurring expenditure

Accommodation: (10,000 sq. feet @ Rs. 50/- per sq. ft)	Rs. 5,00,000/-
Library	Rs. 2,00,000/-
Management Information Centre:	Rs. 20,00,000/-
Furniture:	Rs. 8,00,000/-
4 Cars	Rs. 16,00,000/-
(one car each for members and one staff car)	-----
Total non-recurring expenditure	Rs. 51,00,000/-



#### Recurring Expenditure Break-up

Salaries	Rs. 41,04,360/- (salary component) (average of the scale + 50% of the average)
Hiring of Consultants	Rs. 16,00,000/-
Fuel & Lubricants	Rs. 48,000/-
Vehicle maintenance	Rs. 24,000/-
Telephone Bills	Rs. 24,000/-
Stationery	Rs. 12,000/-
Electricity Charges	Rs. 12,000/-
	-----
Total recurring expenditure (per annum)	Rs. 58,24,360
	-----

2.42 It is proposed by the Ministry of Power that the assistance from the Government of India should be as a one-time grant for non- recurring expenditure and the funds to meet the recurring expenditure could be released by the Government of India every year for a limited period of 4 years. The expenditure incurred over and above the Government of India's assistance could be shared by all the 7 NE States and Sikkim.

2.43 Funds for setting up of a Joint Electricity Regulatory Commission would be released by the Government in the following manner:-

Sl. No	Steps to be taken by each State	Release by GoI
1.	Appoint Chairperson & Members of SERC after following the procedure in ERC Act, 1998.	50% of the entitled amount
2.	Select and appoint staff, provide accommodation, vehicles and delegation of powers with budget	25% of the entitled amount
3	The Commission to conduct meetings and hand down the first tariff order.	25% of the entitled amount

2.44 So far as Plan Allocation and Budgetary Provisions are concerned it is proposed to provide for the expenditure in the Budget of the Ministry of Power.

2.45 The Ministry of Power further added that administrative approval is sought for the release of an amount of Rs. 51,00,000/- as a one-time grant for meeting the non-recurring expenditure and an amount of Rs. 58,24,360/- every year for meeting the recurring- expenditure to the 7 North-Eastern States and Sikkim in the setting up of a Joint Electricity Regulatory Commission (GERC) for a limited period of 4 (four) years.

2.46 Commenting on the assessment made by the Government of Assam regarding the financial implications in the constitution of Joint SERC, the Ministry of Power mentioned that the quantum of financial assistance has been estimated after taking into account the major heads of expenditure. They have not received any estimate for JRC from the Government of Assam. However, it is estimated that a total of Rs. 2.84 crore would be the cost involved in setting up the JRC covering all the NE States for a limited period of 4 years.

2.47 Enquired about the consent of the concerned State Governments regarding estimate for JRC, the Ministry of Power in their reply stated that it has been decided that the financial assistance from the Central Government for setting up of JRC in the North-Eastern Region should be incentive-oriented. Therefore, the planning of the allocation will be linked to attaining of successive milestones towards power sector reforms.

**2.48 The Committee are apprised of the fact that though the proposed amendment Bill, has an all India implication, it was initiated to facilitate the North-Eastern States and Sikkim to constitute a Joint Regulatory Commission. As these small States are unable to constitute individual Regulatory Commissions due to financial constraints, the Ministry of Power suggested financing the joint Regulatory Commission for a period of 1<sup>st</sup> five years. The Committee also find that concerned State Governments are not aware of the modalities of funding by the Union Government. Though the Ministry of Power have furnished a tentative estimate for the Joint Regulatory Commission, they have not consulted the concerned State Governments about the method of funding. The Committee, therefore, desire that the Ministry should urgently consult all the State Governments to finalise the mode, terms and conditions of financing if not already done. The Central Government should also work out their financial obligations, for first five years, keeping in mind that the number of members of the joint Commission would depend on the number of States participating in the joint Commission.**

**2.49 The Committee also find that there is no dispute redressal machinery, envisaged in the proposed Bill. The Committee find that whereas the Government of Assam has desired a dispute redressal machinery to be part of the agreement amongst the constituent States, the Government of Manipur has advocated designation of CERC, as dispute redressal authority. The Committee are of the view that instead of incorporating a dispute redressal machinery in the agreement, it would be more advantageous to nominate an agency for arbitration and redressal of disputes. The Committee, therefore, recommend that in the event of difference of opinion between the joint ERC and State Government concerned, CERC or any other suitable machinery should be designated as an arbitrator/redressal of disputes machinery for all practical purposes.**

New Delhi;  
11 May, 2000  
21 Vaisakha, 1922 (Saka)

SONTOSH MOHAN DEV  
Chairman,  
Standing Committee on Energy.

- (i) in a case referred to in clause (a),  
for all the participating States; and
- (ii) in a case referred to in clause (b),  
for the participating Union territory or  
Union territories and the State or States.

(2) The joint State Commission shall consist of not more than three Members including the Chairperson:

Provided that the Chairperson and Members shall be appointed by rotation to represent the participating States and the Union territories.

(3) An agreement under sub-section (1) shall contain provisions as to the name of the joint State Commission, the manner in which the participating States may be associated in the selection of the Chairperson and Members of the joint State Commission, manner of appointment of Chairperson and Members by rotation, places at which the Commission shall sit, apportionment among the participating States of the expenditure in connection with the joint State Commission 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.

21B. Notwithstanding anything contained in this Act, where any Joint State Commission is constituted under section 21A,-

Special provision relating to giving of directions.

- (a) the Government of the State for which the joint State Commission is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a 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."

## **STATEMENT OF OBJECTS AND REASONS**

The Electricity Regulatory Commissions Act, 1998 was enacted to provide for the establishment of a Central Electricity Regulatory Commission (CERC) and State Regulatory Commissions, rationalization of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies and matters connected therewith or incidental thereto.

2. The Central Government has since established the Central Electricity Regulatory Commission under sub-section (10) of section 3 of the Electricity Regulatory Commissions Act, 1998. Sub-section (1) of section 17 of the said Act empower the State Governments to establish State Regulatory Commission individually. Several States like Gujarat, Madhya Pradesh, Uttar Pradesh, West Bengal, Arunachal Pradesh, Punjab, Tamil Nadu and Maharashtra and the National Capital territory of Delhi have notified constitution of State Electricity Regulatory Commissions under the above provision of the said Act. Orissa has set up State Electricity Regulatory Commission in August 1996 prior to the enactment of the Electricity Regulatory Commissions Act, 1998. States like Haryana, Andhra Pradesh and Karnataka have also set up State Electricity Regulatory Commission under their respective State Reforms Act. The Government of Rajasthan has set up a Selection Committee for recommending the names of Chairperson and Members of the State Electricity Regulatory Commission which is to be constituted.

3. Small States like Sikkim and North-Eastern States have indicated problems in setting up the Commission due to factors like paucity of funds, non-availability of personnel with adequate expertise, talent, etc. Recently, the Ministry of Power received a proposal from the Government of Nagaland for the constitution of a joint North Eastern Electricity Regulatory Commission for the four States, namely, Assam, Mizoram Manipur and Nagaland.

4. Since the Act does not have an express provision for constitution of a joint State Electricity Regulatory Commission for two or more States, it is proposed to amend the Electricity Regulatory Commissions Act, 1998 to provide that if two or more States or one or more States and the Central Government, in the case of Union Territories enter into agreement, they can constitute a Joint Electricity Regulatory Commission. As in the case of a State Commission, a Joint Electricity Regulatory Commission will consist of not more than three Members including the Chairperson. The agreement may provide for the manner in which the participating States may be associated in the selection of the Chairperson and members, the place at which the Joint Commission will sit, apportionment among the participating States of the expenditure in connection with the joint Commission and such other supplemental, incidental and consequential provisions, not inconsistent with the provisions of the Act, as may be deemed necessary for giving effect to the agreement.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;  
The 15th December, 1999

P. R. KUMARMANGALAM

**LOK SABHA**

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**A**

**BILL**

to amend the Electricity Regulatory Commissions Act, 1998.

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(Shri P.R. Kumarmangalam, Minister of Power)

## **ANNEXURE II**

### **MINUTES OF THE THIRD SITTING OF STANDING COMMITTEE ON ENERGY (1999-2000) HELD ON 22<sup>ND</sup> MARCH 2000 IN COMMITTEE ROOM 53, PARLIAMENT HOUSE, NEW DELHI.**

The Committee set from 15.00 hours to 16.30 hours.

#### **PRESENT**

**Shri Sontosh Mohan Dev** - **Chairman**

#### **MEMBERS**

2. Shri Prasanna Acharya
3. Shri Prakash Yashwant Ambedkar
4. Shri Vijayendra Pal Singh Badnore
5. Shri M. Durai
6. Shri C.K. Jaffer Sharief
7. Shri Sanat Kumar Mandal
8. Shri K. Muraleedharan
9. Shri Ravindra Kumar Pandey
10. Shri Dalpat Singh Parste
11. Shri Chada Suresh Reddy
12. Shri Harpal Singh Sathi
13. Shri B. Satyanarayana
14. Shri Chandra Pratap Singh
15. Shri Tilakdhari Prasad Singh
16. Shri Manoj Sinha
17. Prof. Ummareddy Venkateswarlu
18. Shri Brahamakumar Bhatt
19. Shri Aimaduddin Ahmad Khan (Durrui)
20. Shri Lakhiram Agarwal
21. Shri Vedprakash P. Goyal
22. Dr. Alladi P. Rajkumar
23. Shri Rama Shanker Kaushik
24. Shri Gandhi Azad
25. Shri Santosh Bagrodia



## **SECRETARIAT**

- |                       |   |                  |
|-----------------------|---|------------------|
| 1. Shri P.K. Bhandari | - | Deputy Secretary |
| 2. Shri R.S. Kambo    | - | Under Secretary  |

At the outset, the Chairman welcomed the Members and officials of the Ministry of Power to the sitting of the Committee and apprised them Direction 58 of the Direction by the Speaker.

2. The following points were discussed with the representatives of the Ministry of Power: -

- (i) Objectives of enacting the proposed Bill.
- (ii) Desirability of changing the definition of “Contiguous State”.
- (iii) Composition of Selection Committee.
- (iv) Fixation of tariff in individual State by Joint Commission.
- (v) Need to make clear provisions for selection of Chairman, Members, manner of appointment, Headquarters, apportionment among participating States, etc. in the Bill itself.

3. A copy of the verbatim proceeding of the sitting of the Committee has been kept on record.

**The Committee then adjourned**

## **ANNEXURE III**

### **EXTRACTS OF THE MINUTES OF THE NINTH SITTING OF STANDING COMMITTEE ON ENERGY (1999-2000) HELD ON 11<sup>TH</sup> MAY 2000**

The Committee set from 9.30 hours to 10.20 hours.

#### **PRESENT**

**Shri Sontosh Mohan Dev** - **Chairman**

#### **MEMBERS**

2. Shri Vijayendra Pal Singh Badnore
3. Shri Lal Muni Chaubey
4. Shri M. Durai
5. Shri Sanat Kumar Mandal
6. Shri Amar Roy Pradhan
7. Shri Ravindra Kumar Pandey
8. Shri Harpal Singh Sathi
9. Shri Manoj Sinha
10. Shri P.R. Khunte
11. Shri Girdhari Lal Bhargava
12. Shri Trilochan Kanungo
13. Shri Gandhi Azad
14. Shri Brahamakumar Bhat
15. Shri Vedprakash P. Goyal
16. Shri Santosh Bagrodia
17. Shri Ramamuni Reddy Sirigireddy

#### **SECRETARIAT**

1. Shri John Joseph - Joint Secretary
2. Shri P.K. Bhandari - Deputy Secretary
3. Shri R.S. Kambo - Under Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3. Thereafter, the Committee considered and adopted the following draft Reports without any amendment:-

(i) \*\* \*\* \*

(ii) \*\* \*\* \*

(iii) \*\* \*\* \*

(iv) Report on the subject, “The Electricity Regulatory Commission (Amendment Bill, 1999).

4. \*\* \*\* \*

5. The Committee authorized the Chairman to finalise these Reports after making consequential changes arising out of factual verification by the concerned Ministries and to present the same to both the Houses of Parliament.

6. \*\* \*\* \*

**The Committee then adjourned**

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\*\* Para 3(i), (ii), (iii), 4 and 6 relating to other matters have not been included.