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SOUTH ASIA REGIONAL INITIATIVE FOR ENERGY  
COOPERATION AND DEVELOPMENT

ROLE OF STATES IN IMPLEMENTING  
INDIA'S ELECTRICITY ACT 2003

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SOUTH ASIA REGIONAL INITIATIVE FOR  
ENERGY COOPERATION AND DEVELOPMENT

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- *Core Role* – Issuing orders regarding tariff regulation, monitoring quality of service, adjudicating disputes, enforcing license conditions, monitoring compliance, and redressing grievances;
- *Recommendation Role* – When approval is not required, a SERC can present recommendations to other authorities; and
- *Advisory Role* – Upon request, SERCs provide information or advice regarding important matters to the power sector.<sup>16</sup>

Criticisms and questions have been raised by a number of states regarding their new roles and by deregulation concerns expressed by other stakeholders<sup>17</sup>. There remains a tendency for some SERCs to favor the state-owned sector against private investors and some states simply have demonstrated little political or administrative commitment to support wholesale electricity reform.<sup>18</sup>

In response, in May 2004, the newly elected coalition Government (the United Progressive Alliance, or UPA) outlined a new policy blueprint, the “National Common Minimum Programme of the Government of India.” With regard to power infrastructure, the policy states:

*“The review of the Electricity Act, 2003 will be undertaken in view of the concern expressed by a number of states. (Emphasis added.) The mandatory date of June 10, 2004 for unbundling and replacing the state electricity boards will be extended. The UPA government also reiterates its commitment to an increased role for private generation of power and more importantly power distribution.”*<sup>19</sup>

This reassessment was also supported by recommendations made by stakeholders that want to accelerate market development for power trading and to increase private investment in the power sector.<sup>20</sup> Consequently, deadlines have been extended by MoP, including the June 10, 2004 deadline for unbundling and reorganizing SEBs and the disengagement of STUs from electricity trading.<sup>21</sup>

While MoP has undertaken a review of certain provisions of EA 2003, CERC remains a very active, functioning body that has issued several threshold decisions that constitute the basic provisions of EA 2003. At the state level, Orissa, Haryana, Andhra Pradesh, Uttar Pradesh, Karnataka, Rajasthan, Madhya Pradesh, Delhi, and Gujarat have enacted State Electricity Reform Acts to provide unbundling of SEBs and establishing SERCs. Unbundling has been implemented by Orissa, Haryana, Andhra Pradesh, Karnataka, Uttar Pradesh, Uttranchal, Rajasthan, Delhi, Madhya Pradesh, and Assam. Twenty-four states have either constituted or

<sup>16</sup> See ‘Governing Power – A New Institution of Governance: the Experience with Independent Regulation of Electricity’, S.L. Rao, Teni Press (2004) at page 164.

<sup>17</sup> ‘National Common Minimum Programme of the Government of India, May 2004 (downloadable at <http://pmindia.nic.in/cmp.pdf>).

<sup>18</sup> As one example of vested interests criticizing reforms, see the website of the Electricity Employees Federation of India at [www.eefi.org](http://www.eefi.org), one of some eight delegations that make upon the thousands of employees of the public power sector. These delegations have contested efforts to unbundled SEBs and otherwise support privatization under EA 2003. See ‘Unions Discusses Power Policy with PM’ and ‘Repeal Electricity Act 2003’ at <http://pd.cpim.org> (September 12, 2004 and October 24, 2004, respectively).

<sup>19</sup> ‘Governing Power’, S.L. Rao, Teni Press (2004) at page 12.

<sup>20</sup> ‘National Common Minimum Programme of the Government of India, May 2004 (downloadable at <http://pmindia.nic.in/cmp.pdf>).

<sup>21</sup> MoP also proposed amending EA 2003 to better facilitate new private investments in the power sector. A comprehensive report was issued in February 2004: ‘Report of the Task Force on Power Sector Investments and Reforms’, also downloadable from the MoP website.

<sup>22</sup> See ‘Inaugural Speech of Shri P.M. Sayeed, Union Minister of Power’ at CII Conference on Electricity Act 2003 – The Year After Progress Made and Challenges Ahead (July 24, 2004).