

ANNEXURE - 16**Note On Review Of Electricity Act, 2003**

(Submitted to the UPA-Left Coordination Committee)

The National Common Minimum programme states that, "The review of the Electricity Act, 2003 will be undertaken in view of the concern expressed by a number of states. The mandatory date of June 10, 2004 for unbundling and replacing the state electricity boards will be extended".

It is necessary to address this matter seriously, as power is an essential requirement for our all-round social-economic development. A draft National Electricity Policy has been formulated, without undertaking the review of the Act even without consulting the State Governments which according to the Act is a must. Contrary to the CMP, the Ministry of Power it appears has dismissed all talk of any review of the Act. We cannot agree with this approach.

Steps in certain states were taken in anticipation of this Act, and in some states after it was passed. The results have proved disastrous. Mention can be made of Orissa, Andhra Pradesh, Delhi. In the light of experience we would like to draw attention to the following aspects:

- i) Generation, transmission and distribution are closely interconnected activities that need to be coordinated in a holistic manner. Considering the importance of electricity as an essential intermediate input for economic development, there is a distinct advantage in integrating the activities within a single organisational structure. Public ownership and control is desirable as electricity supply is a utility service and its control cannot be left to be dictated by the market forces in a developing country like ours. Experience in various states has shown that unbundling of the State Electricity Boards SEBs (with or without privatisation) has not resolved the fundamental problems – burden of losses to the SEBs or subsidy from the Government and T & D and other commercial losses. On the other hand the overheads on account of multiple organisations has increased and so also the coordinated working.
- (ii) The Act has made a statutory distinction between Rural & Urban and also made it legally mandatory to eliminate subsidies and cross subsidies. This has serious implications on Agriculture, Powerlooms, Streetlights, water works & 75% of rural population. The Act if not amended will divide the masses in rural & urban areas.
- (iii) Sections 79 & 86 of the Electricity Act, 2003 provides for functions to be discharged by the Central and State Electricity Regulatory Commissions. In the present form of the Electricity Act 2003, the State Governments have been burdened with a lot of responsibility but with almost no authority. The authority to take effective decisions lies squarely with the SERC's which have no executive responsibility at all. It needs also to be kept in view that the SERC's have been functioning for a limited period of time and are yet to establish suitable procedures and regulations with due consultation of the utilities and the State Government. While the regulatory body has a significant role, this cannot be a body which can overrule or ignore the declared objectives of the State Governments. Central Government or State Governments, as the case may be, will have to

Provisions for 2nd licensee for distribution should remove.

Universal service obligation is directly hindered by unfettered open access since it tends to segregate the profitable and the loss making segments of the supply industry and privatises only the former.

Trading should be restricted only to the public owned agencies since there is a grave danger of large speculative profits if there is inadequate regulation. Under the present conditions of shortages it is not possible to have on line market regulation, consequently there will be cherry picking and domestic and agricultural consumers will be the causality.

It is for the above reasons that some of the provisions of the Act have to be reviewed and amended. The National Electricity Policy has to be worked out keeping the interests of consumers in mind, and in consultation with the state governments, and the organisations of employees and engineers.

We therefore urge that a Review Mechanism for the Act be set up by Government immediately for this purpose. In the meantime the mandatory provision for unbundling the replacing the SEBs be kept in abeyance.

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