

Clause No.	Existing Clause	Proposed Amendment	Comments
Section 2 (Definitions), 11	(11) "Chairperson" means the Chairperson of the Authority or Appropriate Commission or the Appellate Tribunal, as the case may be;	(11) "Chairperson" means the Chairperson of the Authority or Appropriate Commission or Electricity Contract Enforcement Authority or the Appellate Tribunal, as the case may be;	Detailed Comments provided at Section 109 A
Section 2, (Definitions), 17a	Newly Added	“(17a) “Distribution sub-licensee” means a person recognized as such and authorized by the distribution licensee to distribute electricity on its behalf in a particular area within its area of supply, with the permission of the appropriate State Commission. Any reference to a distribution licensee under the Act shall include a reference to a sub-distribution licensee;”	The additional clause for Distribution sub-licensing will provide legal status to PPP framework infusion and the Licensee can explore more viable options for deploying agencies for enforcing efficiency in billing, collection and meter reading through Opex or Capex based models. However, more clarity is required in terms of operationalization of Distribution sub-licensee like Eligibility (both financial as well as technical), Functions, Responsibilities, Guidelines / procedure for appointment of Sub-Licensee etc. Also, more clarity is required in terms of roles/responsibilities of Sub-Licensee so as to avoid cherry picking of more profitable segments of DISCOM’s jurisdiction. Further, the Definition of Distribution sub-licensee, it makes inadvertent reference to “sub distribution licensee” which needs to be corrected. Additionally, the SOR says enabling provisions have been made to

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			address the situations to deal the issues in Sections 126, 135, and 164. However, no such amendments are provided in Draft Bill.
Section 2, (Definitions), 24a	Newly Added	“(24a)“Electricity Contract Enforcement Authority” means an Electricity Contract Enforcement Authority referred to in sub-section (1) of section 109A;”;	Detailed Comments provided at Section 109 A
Section 2, (Definitions), 43	(43) "Member" means the Member of the Appropriate Commission or Authority or Joint Commission, or the Appellate Tribunal, as the case may be, and includes the Chairperson of such Commission or Authority or Appellate Tribunal	“(43) "Member" means the Member of the Appropriate Commission or Authority or Joint Commission, or Electricity Contract Enforcement Authority or the Appellate Tribunal, as the case may be, and includes the Chairperson of such Commission or Electricity Contract Enforcement Authority or Authority or Appellate Tribunal	Detailed Comments provided at Section 109 A
Part-II, Section 3a, National Renewable Energy Policy	Newly Added	The Central Government may, from time to time, after such consultation with the State Governments, as may be considered necessary, prepare and notify a National Renewable Energy Policy for the promotion of generation of electricity from renewable sources of energy and prescribe a minimum percentage of purchase of electricity from renewable and hydro sources of energy.”	Detailed Comments provided at Section 142 (2)
Section 26, (National Load Despatch Centre),	(1) The Central Government may establish a centre at the national level, to be known as the National Load Despatch Centre for optimum scheduling and despatch of electricity among the Regional Load DespatchCentres. (2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government: Provided that the National Load Despatch Centre shall not engage inthe business of	“(4) the National Load Despatch Centre shall (a) be responsible for optimum scheduling and despatch of electricity in the country across different regions in accordance with the contractsentered into with the licensees or the generating companies; (b) monitor grid operations (c) exercise supervision and control over the inter-regional and interstate transmission network; and (d) have overall authority for carrying out real time	Earlier NLDC was looking after the grid discipline. Now it is proposed to make it responsible for optimum scheduling and despatch of electricity in the country. This seems to be in line with the MoP proposal for implementation of National MOD and Real Time Market.

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	<p>trading in electricity.</p> <p>(3) The National Load Despatch Centre shall be operated by a Government company or any authority or corporation established or constituted by or under any Central Act, as may be notified by the Central Government.</p>	<p>operations of the national grid.</p> <p>(5) The National Load Despatch Centre may give such directions and exercise such supervision and control as may be required for the safety and security of the national grid and for ensuring the stability of grid operation throughout the country.</p> <p>(6) Every Regional Load Despatch Centre, State Load Despatch Centre, licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the National Load Despatch Centre</p>	<p>In view of the National Merit Order Dispatch through Market Based Economic Dispatch (MBED) of Electricity and Security Constrained Economic Dispatch (SCED) of ISGS Pan India, NLDC is expected to play major role in power scheduling. Therefore, NDLC may have been empowered for optimum scheduling and despatch of electricity. It is expected that with the National MoD, power purchase cost will get optimized and states will get cheaper power. However while exercising these powers in real time, the decision taken by SLDC being a local despatch centre of that area should be full and final.</p>
Section 28, (Functions of Regional Load Despatch Centre)	<p>(3) The Regional Load Despatch Centre shall -</p> <p>(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;</p>	<p>(3) The Regional Load Despatch Centre shall -</p> <p>(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;</p> <p>“Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as agreed upon by the parties to the contract, has been provided.</p>	<p>The provision of submitting and maintaining Letter of Credit as a payment security mechanism is as per the Power Purchase Agreements (PPAs) between buyer and seller. This is a contractual obligation which is to be observed by buyer and seller as per PPA and with mutual understanding. In case, there is no</p>
Section 32,	(2) The State Load Despatch Centre shall -	(2) The State Load Despatch Centre shall -	

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(Functions of State Load Despatch Centre), 6	(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State	(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State <i>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as agreed upon by the parties to the contract, has been provided</i>	(Letter of Credit) LC, the generator is free to declare his non-availability for generation as per PPA terms and conditions. Therefore, the SLDC or RLDC should not be involved in the contractual obligation of two parties and make them mandatory to ensure payment security mechanism for scheduling of power. Further the Contractual obligations should be left with the parties and should not be made binding on Discoms through Act. MoP has already provided that the Bill Payments for the State owned Generating Stations may be as decided by the respective State Governments. On similar lines, the other Parties should mutually decide the payment security. Therefore, the proposed provisions needs to be deleted from the proposed Amendment.
Section 42, (Duties of distribution licensee and open access)	(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access	(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for	Detailed Comments provided at Section 61

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	<p>in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:</p> <p>Provided that such open access shall be allowed on payment of a surcharge in addition to the charges for wheeling, as may be determined by the State Commission;</p> <p>Provided also that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission.</p> <p>Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:</p> <p>Provided also that the State Commission shall, not later than five years from the date of Commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who</p>	<p>wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:</p> <p>Provided that such open access shall be allowed on payment of a surcharge, and charges for wheeling, as may be determined by the State Commission in addition to the charges for intra-state transmission, as determined under section 39, if applicable, and charges for inter-state transmission, as determined by the Central Commission under section 38, if applicable:</p> <p>Provided also that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission by the State Commission in the manner as may be provided in the Tariff Policy:</p> <p>Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:</p> <p>Provided also that the manner of payment and utilization of the surcharge shall also be specified by the State Commission.</p> <p>Provided also that the State Commission shall, not later than five years from the date of Commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.</p>	

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	require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.		
		<p><i>Proposed Suggestion by MSEDCL:</i> <i>Following proviso may be added to Section 42 (2) after first proviso:</i> <i>Provided also that a surcharge shall be levied on the all distribution licensee including Deemed Distribution Licensee for the loss of cross subsidy to the incumbent Distribution Licensee</i></p>	<p>The State of Maharashtra is one of the agrarian State in Indian and MSEDCL is the only distribution licensee in the State which caters to more than 42 Lakhs agricultural category consumers of the state the electricity consumption by the agricultural category consumers is ~30 % of the total electricity consumption of MSEDCL and Ag cross subsidy is getting passed on to the only MSEDCL subsidizing consumers. The higher tariffs of the cross subsidising consumers of MSEDCL (Industrial, Commercial, high end residential etc.) is impacting sales and revenue of MSEDCL thereby requiring tariff hike and thus entering into a vicious circle. Hence there is a necessity to maintain a balance in tariff of the subsidised AG consumers and the high end subsidising consumers of MSEDCL.</p>

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			<p>It is pertinent to note that Maharashtra has around 9 Deemed Distribution Licensees. (as per the Specific Conditions of Distribution Licence issued by MERC). Further, some other Organisations such as Maharashtra Industrial Development Corporation, Aurangabad Industrial Township Limited etc. also trying to make a case for supply of electricity to the consumers in their area. It is pertinent to note the consumer mix of these Deemed Licensees is mostly Industrial and Commercial. Further, till the time of full operations or till the time of filing tariff Petitions, these Deemed Licensee use MSEDCL tariff as ceiling tariffs and use the cross subsidy built in MSEDCL tariffs to their advantage. In fact, considering their consumer mix, they don't require cross subsidy as such.</p> <p>It is also pertinent to note that there are 3 Distribution Licensees in</p>

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			<p>Mumbai. These Licensee have favourable consumer mix without any AG category consumer and although ACoS of Mumbai utilities is higher as compared to MSEDCL, the tariff to subsidising category consumer in Mumbai area is low. These consumers have higher capacity to pay in comparison to the Agricultural category consumers. Thus, the consumers of Mumbai Licensees and SEZs are protected from the burden of the cross subsidy for AG consumers in the Maharashtra.</p> <p>Therefore, a suitable amendment is required in the Electricity Act 2003 so that the burden of such cross subsidy is shared by all the consumers of the State i.e. by all the other Licensees including the Deemed Distribution Licensees. This will also reduce the tariff difference among similar category consumers across the State.</p>
		<p><i>Proposed Suggestion by MSEDCL:</i> <i>Following proviso may be added to Section 42 (4):</i> <i>Provided also that such additional surcharge shall be leviable in case open access is provided to a person who</i></p>	<p>Captive power plants (CPP) are set up primarily for their own consumption. Therefore, the captive</p>

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		<i>has established a captive generating plant after the enactment of this Act for carrying the electricity to the destination of his own use.</i>	<p>plants need to be conceived / conceptualized right at the time of setting up of the plant. The CSS exemption was justified in the 2003 since these plants were set up during the power shortage situation and were captive in real sense as per the spirit of the Act. It is pertinent to note that captive generation was encouraged by the Government of India during the period when the electricity requirements of the industrial consumers were to be met by captive generation due to the shortage of power to meet the continuous power requirements of such consumers.</p> <p>However, by changing the shareholding in accordance with the Electricity Rules 2005 by selling 26% of equity, a generating plant originally setup as an Independent Power Producer (IPP) is being converted to a Group Captive Generating Plant. Thus the majority shareholders (74%) avail the</p>

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			<p>financial benefits of group captive structure without consuming any power. In known Case No. 117 of 2012 before MERC, in the matter of Petition of M/s Wardha Power Company, it has been observed that power plant has been set up by the promoters, but the promoters including the incorporated entity owning the plant itself does not consume any power. By modifying the shareholding, the captive consumers are able to get the benefit of exemption from levy of CSS and Additional Surcharge.</p> <p>The increasing trend of 'retrofitting' oneself as captive so as to somehow evade CSS and Additional Surcharge is alarming and requires to be taken judicial note of. Similarly, such evasion of CSS and Additional Surcharge affect the revenue of Distribution utilities and such under recovery gets passed on to other common consumers of distribution utilities resulting into increase in</p>

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			<p>their tariff for no fault on their part. There have been number of cases where the shareholding pattern of the captive consumers is adjusted / changed within a financial year such that the captive consumption remains in proportion to the equity shareholding at the end of the year and satisfy the condition of 51% consumption by the captive shareholders as per provision in the Electricity Rules, 2005.</p> <p>MSEDCL continuously is in power surplus since FY 15-16. MSEDCL has tied up sufficient capacity for the requirement of its consumers. However, due to increase in Open Access, RE capacity addition to fulfil RPO Target, RE capacity addition by CPP because of low tariff and Net Metering etc., MSEDCL is in power surplus. With increased RPO Targets, MSEDCL will have to buy renewable power due to which the surplus power is expected to be continued further since the renewable energy</p>

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			<p>is treated as "Must Run". To manage the surplus power, MSEDCL gives zero schedule/ back-down the high variable cost thermal generation as per Merit Order Despatch. However whenever such surplus capacity remains available, MSEDCL has to pay fixed/capacity charges irrespective of the scheduling or non-scheduling of power from the units which declares its availability. This burden of fixed cost of surplus capacity gets passed on to the common consumers of MSEDCL. In view of this, if there is addition of any CPPs in future or converts existing IPP into CPP or Group CPP, they should share the burden of fixed costs of surplus capacity to Discom. Considering the standby services provided by the Licensee and various operational challenges faced by them due to these CPPs, it is high time to revisit the exemptions given to them. Therefore, MSEDCL categorically submits that the captive generating</p>

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			plants established after enactment of these Amendment should be charged with the Additional Surcharge applicable to the Open Access consumers. This will not only arrest the misuse of exemption by the converted CPPs but will also help in financial viability of the power sector in the State. Therefore, necessary amendment is required to be bring in for applicability of Additional Surcharge to CPPs.
Section 61, (Tariff Regulations)	<p>(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission;</p> <p>(h) the promotion of co-generation and generation of electricity from renewable sources of energy;</p> <p>(i) the National Electricity Policy and tariff policy</p>	<p>(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission as provided by the Tariff Policy;</p> <p>(h) the promotion of co-generation and generation of electricity from renewable and hydro sources of energy;</p> <p>(i) the National Electricity Policy and tariff policy and National Renewable Energy Policy</p>	The mechanism of cross subsidy through tariff by SERC and subsidy from the State Government envisages a support to consumer categories in it's licensee area with low capacity to pay or sectors doing economic activities (e.g. BPL, low end residential consumers, agriculture) having impact on society as a whole. It cannot be denied that the tariff for electricity can be ideally decided among different categories of consumers only after the cost to serve the category is correctly established. State Commission has

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			<p>been setting tariffs in line with the tariff philosophy adopted by it in the past, and as per the provisions of law. The tariffs and categorisation is being determined so that the cross-subsidy is reduced to the extent possible without subjecting any consumer category to tariff shock. The applicable tariff for a consumer category and its cross-subsidy level would also depend upon the present tariff structure, number of consumers, consumer mix, and consumption mix. Further, every State has different consumer mix and State specific requirement of cross subsidy for a particular category of consumers also varies. For example, in Maharashtra, there are highest no. of Agriculture pumps in country and their electricity consumption is significant whereas same is not the case for all other States. Thus, while the tariff design exercise may strive to bring the tariff for each consumer category close to ACoS, some degree of cross-</p>

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			<p>subsidisation across consumer categories is unavoidable.</p> <p>However, Owing to the historical legacy and background of the present tariff for various consumer categories, it is difficult for State Commission to eliminate the cross-subsidy entirely. In case stringent target of cross subsidy reduction is provided in Tariff Policy, which becomes mandatory as proposed in the Amendment, it will lead to a tariff shock to certain categories. Therefore, the State Commissions need to be allowed to decide the progressive reduction in the cross subsidy without mandating it and treating Tariff Policy as a guiding principle/document.</p>
Section 62, (Determination of Tariff)	<p>Newly Added</p> <p>(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during</p>	<p>Provided that the Appropriate Commission shall fix tariff for retail sale of electricity without accounting for subsidy, which, if any, under section 65 of the Act, shall be provided by the Government directly to the consumer;</p> <p>(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may, subject to provisions of the Tariff Policy, differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any</p>	<p>Detailed Comments provided at Section 61 and 65</p>

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	any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.	specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.	
Section 65, (Provision of subsidy by State Government)	<p>If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:</p> <p>Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.</p>	<p>If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission the amount of subsidy directly to the consumer and the licensee shall charge the consumers as per the tariff determined by the Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:</p> <p>Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.</p>	<p>Before going for such change to DBT as proposed in amendment, certain ground realities regarding Residential/Agriculture consumers need be considered. The identification of beneficiary for DBT will be a challenge as presently the meter is on the name of owners/old owner, one of the family members and occupancy of premises is done by tenants or other member of family/person. So the DBT may get passed on to premises and not on actual user of electricity, which is not expected in DBT.</p> <p>Further, the manner of disbursement of DBT is also not clear and even though the Draft Amendment has mentioned it as in advance, it is expected that it will be done post payment of bills by the Consumer. Thus, the reference of “in advance” need to be removed. In</p>

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			<p>Maharashtra, for Agriculture consumers, it will be a radical change for them. At present, the Agriculture consumers are not even paying the bills charged with subsidised tariffs. In case the consumers are charged without subsidised tariffs, it will be more difficult for them to pay. This will further result into non-payment of bills, increase in arrears, additional burden of penalties for consumers and increase in financial woes of the Licensee. The end result of such non-payment is disconnection which is not expected in the DBT.</p> <p>The impact of advance payment of electricity bills by Agriculture consumers on Discoms in some of the States where the electricity is free and who have never paid bills, will be much higher. Currently, the delay in receipt of subsidy is being borne by the DISCOMS. However, in case of delay in transfer of subsidy, the consumers may opt for not to</p>

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			<p>pay the future bills.</p> <p>There will be far-reaching impacts of DBT in power sector. Several ground realities and difficulties need to be addressed before implementing such new initiative. To ensure proper implementation of DBT, a robust IT system with correct consumer mapping and regular payments by consumer and update in system needs to be in place. Therefore, till the time such issues are not addressed, the existing mechanism of billing with subsidised tariffs for Agriculture consumer and transfer of subsidy to DISCOM need to be continued. To start with, the DBT may be extended to paying consumer categories such as Industries/ power-loom.</p>
Section 79, (1)(f)	(f)to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;	(f)to adjudicate upon disputes except matters referred to in section 109A involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;	Detailed Comments provided at Section 109 A
Section 92,(6)	Newly Added	“(6) Where before or during the course of a proceeding, the Appropriate Commission comes to a conclusion that	Detailed Comments provided at Section 109 A

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		the Electricity Contract Enforcement Authority has the sole authority and jurisdiction to adjudicate a matter, it shall refer the same to the Electricity Contract Enforcement Authority for its orders”.	
Part XA, ELECTRICITY CONTRACT ENFORCEMENT AUTHORITY- Section 109A	Newly Added	<p>109A. Establishment of Electricity Contract Enforcement Authority.-</p> <p>(1)The Central Government shall, by notification, establish an Electricity Contract Enforcement Authority to exercise the powers conferred on, and discharge the functions assigned to, it under the Act.</p> <p>(2) Notwithstanding anything contained in this Act or any other law in force, the Electricity Contract Enforcement Authority shall have the sole authority and jurisdiction to adjudicate upon matters regarding performance of obligations under a contract related to sale, purchase or transmission of electricity, provided that it shall not have any jurisdiction over any matter related to regulation or determination of tariff or any dispute involving tariff.</p> <p>(3) Every contract between a generation company and a licensee shall be filed with the Appropriate Commission within 30 days of the said contract having been concluded.</p>	Principal Act already has sufficient provisions to adjudicate the disputes between Generators and Licensees by SERCs. Further, the SERCs are empowered to deal with the matters related to Contract and issue Orders on any matter as deemed appropriate. Therefore, establishment of such Authority is not at all required. At present matters related to Contract obligations as well as Tariff are being heard by the State Commission. Since only one authority hears all the matters, there is consistency in the decision due to benefit of entirety. Considering the fact that this Authority will be responsible for all Contracts related to electricity, the proceedings before such Authority will not add to the time but also increase the litigations due to lack of clarity. The Authority shall be responsible for almost all the

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			<p>Contracts related to electricity. In such situation, the pendency of the cases before such Authority will also be a concern.</p> <p>The proposed amendment suggests that the Authority shall not have any jurisdiction over any matter related to regulation or determination of tariff or any dispute involving tariff. It is pertinent to note that almost all the contractual disputes ultimately leads to tariff only. Therefore, without clear cut differentiation in functions, jurisdiction etc. between SERCs and ECEA, such Authority will only add chaos to the regulatory proceedings. MSEDCL feels with SERCs having sufficient powers and authority already in place, such Regulatory Body with overlapping functions will add only a level to the regulatory processes which may not serve any purpose. This may also result into one more authority similar to APTEL wherein the Orders of ECEA shall be referred back to SERCs for deciding the implications on tariffs. Therefore, MSEDCL vehemently opposes for constitution of such Authority and submits that the existing provisions empowering</p>

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			SERCs to deal with the matters related to Contract need to be continued.
Section 109B	Newly Added	<p>109B. Application to Electricity Contract Enforcement Authority and order thereon - (1) Any person aggrieved in any matter referred to in section 109A may prefer an application to the Electricity Contract Enforcement Authority.</p> <p>(2) Every application under sub-section (1) shall be filed within a period of six months from the non-performance of the obligation under the contract: Provided that the Electricity Contract Enforcement Authority may entertain an application after the expiry of the said period of six months if it is satisfied that there is sufficient cause for not filing it within that period.</p> <p>(3) Every application received under sub section (1) shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed.</p> <p>(4) On receipt of an application or matter under sub-section (6) of section 92, the Electricity Contract Enforcement Authority may, after giving the parties to the application an opportunity of being heard, determine whether a valid contract subsists between the parties and whether any party is in violation of any of its obligations under the contract.</p> <p>(5) Upon a finding that there has a violation/breach of obligation under a contract by a party or parties, the Electricity Contract Enforcement Authority shall direct that the said parties immediately perform their obligation under the contract and may direct the payment of costs on account of the breach of contract or non-fulfilment of obligations of the contract and any</p>	Detailed Comments provided at Section 109 A

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		<p>further amount it may deem fit as compensation.</p> <p>(6) The Electricity Contract Enforcement Authority shall send a copy of every order made by it to the parties to the application as the case may be.</p> <p>(7) The Electricity Contract Enforcement Authority shall deal with the application filed before it under subsection (1) and any matter referred to it under subsection (6) of section 92 as expeditiously as possible and endeavor to dispose it finally within one hundred and twenty days from the date of its receipt:</p> <p>Provided that where any application could not be disposed of within the said period of one hundred and twenty days, the Electricity Contract Enforcement Authority shall record its reasons in writing for not disposing of the matter within the said period.</p>	
Section 109C	Newly Added	<p>109C. Composition of Electricity Contract Enforcement Authority- (1) The Electricity Contract Enforcement Authority shall consist of the following –</p> <p>a) a Chairperson;</p> <p>b) two or more Judicial Members as may be prescribed by the Central Government from time to time; and</p> <p>c) three or more Technical Members, as may be prescribed by the Central Government from time to time.</p> <p>(2) Subject to the provisions of this Act,</p> <p>a) the jurisdiction of the Electricity Contract Enforcement Authority may be exercised by Benches thereof;</p> <p>b) a Bench may be constituted by the Chairperson of the Electricity Contract Enforcement Authority with two or more Members of the Electricity Contract Enforcement Authority as the Chairperson of the Electricity Contract Enforcement Authority may deem fit:</p>	Detailed Comments provided at Section 109 A

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		<p>Provided that every Bench shall include at least one Judicial Member and one Technical Member;</p> <p>c) the Benches of the Electricity Contract Enforcement Authority shall ordinarily sit in Delhi and such other places as the Central Government may, in consultation with the Chairperson of the Electricity Contract Enforcement Authority, notify;</p> <p>(d) the Central Government shall, in consultation with the Chairperson of the Electricity Contract Enforcement Authority, notify the areas in relation to which each Bench of the Electricity Contract Enforcement Authority may have exercise jurisdiction.</p> <p>(3) Notwithstanding anything contained in sub-section (2), the Chairperson of the Electricity Contract Enforcement Authority may transfer a Member of the Electricity Contract Enforcement Authority from one Bench to another Bench.</p> <p>Explanation.- For the purposes of this section, a Judicial Member shall include the Chairperson of the Electricity Contract Enforcement Authority.</p>	
Section 109D	Newly Added	<p>109D. Qualification for appointment of Chairperson and Members of Electricity Contract Enforcement Authority.- (1) A person shall not be qualified for appointment as the Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority unless he-</p> <p>(a) in the case of the Chairperson of the Electricity Contract Enforcement Authority, is, or has been a Judge of a High Court; and</p> <p>(b) in the case of a Judicial Member of the Electricity Contract Enforcement Authority, is, or has been a District Judge or Additional District Judge for a minimum period of seven years; and</p>	Detailed Comments provided at Section 109 A

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		<p>(c) in the case of a Technical Member of the Electricity Contract Enforcement Authority,-</p> <p>i. is, or has been, an officer of the rank of Additional Secretary or above for at least one year in the Ministry or Department of the Central Government dealing with power or any other sector of infrastructure; or</p> <p>ii. is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with the matters relating to electricity generation, transmission, distribution and regulation, or economics, finance, public policy, commerce, or management with experience in infrastructure related matters.</p> <p>(2) The Chairperson and Members of the Electricity Contract Enforcement Authority shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 78.</p> <p>(3) Before appointing any person for appointment as Chairperson or other Member of the Electricity Contract Enforcement Authority, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.</p>	
Section 109E	Newly Added	<p>109E. Term of Office and Terms and Conditions of service.- The Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority shall hold office as such for a term of five years from the date on which he enters upon his office:</p> <p>Provided that such Chairperson or other Member shall not be eligible for reappointment in the same capacity as the Chairperson or a Member in the Electricity Contract Enforcement Authority;</p>	Detailed Comments provided at Section 109 A

Clause No.	Existing Clause	Proposed Amendment	Comments
		Provided further that no Chairperson of the Electricity Contract Enforcement Authority or Member of the Electricity Contract Enforcement Authority shall hold office after attaining the age of sixty-seven years.	
Section 109F	Newly Added	109F. Vacancies. -If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Electricity Contract Enforcement Authority from the stage at which the vacancy is filled.	Detailed Comments provided at Section 109 A
Section 109G	Newly Added	109G. Resignation and Removal. - (1) The Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority may, by notice in writing under his hand addressed to the Central Government, resign his office: Provided that the Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of term of office, whichever is the earliest. (2) The Chairperson of the Electricity Contract Enforcement Authority or a Member of the Electricity Contract Enforcement Authority shall not be removed from his office except by an order of the Central Government on the ground of proved misbehavior or	Detailed Comments provided at Section 109 A

Clause No.	Existing Clause	Proposed Amendment	Comments
		incapacity after an inquiry made by Chairperson of the Appellate Tribunal in which the Chairperson or a Member of the Electricity Contract Enforcement Authority concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.	
Section 109H	Newly Added	<p>109 H. Member to act as Chairperson in certain circumstances.- (1) In the event of the occurrence of any vacancy in the office of the Chairperson of the Electricity Contract Enforcement Authority by reason of his death, resignation or otherwise, the senior-most Member of the Electricity Contract Enforcement Authority shall act as the Chairperson of the Electricity Contract Enforcement Authority until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.</p> <p>(2) When the Chairperson of the Electricity Contract Enforcement Authority is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member of the Electricity Contract Enforcement Authority shall discharge the functions of the Chairperson of the Electricity Contract Enforcement Authority until the date on which the Chairperson of the Electricity Contract Enforcement Authority resumes his duties.</p>	Detailed Comments provided at Section 109 A
Section 109I	Newly Added	<p>109I. Officers and other employees of Electricity Contract Enforcement Authority.- (1) The Central Government shall provide the Electricity Contract Enforcement Authority with such officers and other employees as it may deem fit.</p> <p>(2) The officers and other employees of the Electricity Contract Enforcement Authority shall discharge their</p>	Detailed Comments provided at Section 109 A

Clause No.	Existing Clause	Proposed Amendment	Comments
		<p>functions under the general superintendence of the Chairperson of the Electricity Contract Enforcement Authority.</p> <p>(3) The salaries and allowances and other terms and conditions of service of the officers and other employees of the Electricity Contract Enforcement Authority shall be such as may be prescribed by the Central Government.</p> <p>(4) The Chairperson of Electricity Contract Enforcement Authority shall exercise such financial and administrative powers as may be prescribed by the Central Government.</p>	
Section 109J	Newly Added	<p>109 J. Procedure and powers of Electricity Contract Enforcement Authority.- (1) The Electricity Contract Enforcement Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Electricity Contract Enforcement Authority shall have powers to regulate its own procedure.</p> <p>(2) The Electricity Contract Enforcement Authority shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in acivil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-</p> <p>a) summoning and enforcing the attendance of any person and examining him on oath;</p> <p>b) requiring the discovery and production of documents;</p> <p>c) receiving evidence on affidavits;</p> <p>d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;</p>	Detailed Comments provided at Section 109 A

Clause No.	Existing Clause	Proposed Amendment	Comments
		<p>e) issuing commissions for the examination of witnesses or documents;</p> <p>f) reviewing its decisions;</p> <p>g) dismissing an application on default or deciding it ex parte;</p> <p>h) setting aside any order of dismissal of an application on default or any order passed by it ex parte;</p> <p>i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard; and</p> <p>j) any other matter which may be prescribed by the Central Government.</p> <p>(3) An order made by the Electricity Contract Enforcement Authority under this Act shall be executable by it as a decree of civil court and, for this purpose, the Electricity Contract Enforcement Authority shall have all the powers of a civil court including but limited to powers of attachment and sale of property, arrest and detention in prison and appointment of a receiver.</p> <p>(4) Notwithstanding anything contained in sub-section (3), the Electricity Contract Enforcement Authority may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.</p> <p>(5) All proceedings before the Electricity Contract Enforcement Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Electricity Contract Enforcement Authority shall be deemed to be a civil court for the purposes of section 345 and 346 of the Code of Criminal Procedure, 1973.</p>	

Clause No.	Existing Clause	Proposed Amendment	Comments
Section 109K	Newly Added	<p>109 K. Distribution of business amongst Benches and transfer of cases from one Bench to another Bench.- (1) Where Benches are constituted, the Chairperson of the Electricity Contract Enforcement Authority may, from time to time, by notification, make provisions as to the distribution of the business of the Electricity Contract Enforcement Authority amongst the Benches and also provide for the matters which may be dealt with by each Bench.</p> <p>(2) On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson of the Electricity Contract Enforcement Authority may transfer any case pending before one Bench, for disposal, to any other Bench.</p>	Detailed Comments provided at Section 109 A
Section 109L	Newly Added	<p>109 L. Decision to be by majority.- If the Members of the Electricity Contract Enforcement Authority of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Electricity Contract Enforcement Authority who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Electricity Contract Enforcement Authority and such point or points shall be decided according to the opinion of the majority of the Members of the Electricity Contract Enforcement Authority who have heard the case, including those who first heard it.</p>	Detailed Comments provided at Section 109 A
Section 109M	Newly Added	<p>109 M. Right of parties to take assistance of legal practitioner.- A person preferring an application to the Electricity Contract Enforcement Authority under this</p>	Detailed Comments provided at Section 109 A

Clause No.	Existing Clause	Proposed Amendment	Comments
		Act and any other party to the case may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Electricity Contract Enforcement Authority, as the case may be.	
Section 109N	Newly Added	109 N. Appeal to Appellate Tribunal. -Any person aggrieved by any decision or order of the Electricity Contract Enforcement Authority, may, file an appeal to the Appellate Tribunal within sixty days from the date of communication of the decision or order of the Electricity Contract Enforcement Authority to him: Provided that the Appellate Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."	Detailed Comments provided at Section 109 A
Section 142 (1)	In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any generating company or licensee has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which the generating company or licensee may be liable under this Act, such person the generating company or licensee shall pay, by way of penalty which shall not exceed one lakh rupees for each contravention and in case of continuing failure with an additional penalty which may extend to	In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any generating company or licensee has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction or order issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which the generating company or licensee may be liable under this Act, such person the generating company or licensee shall pay, by way of penalty which shall not exceed one lakh crore rupees for each contravention and in case of continuing failure with an additional penalty which may extend to six thousand rupees upto one lakh rupees for every day during which the failure continues after contravention of the first such direction.	It is not clear whether these will act as ceiling or actual penalty. With depleted Financial Position, such high penalty may create issues in Discom's day to day Operations. MSEDCL submits that there are non-compliance or delay in implementation of any Order of SERC due to various unavoidable reasons which are beyond the control of Licensee. The amount of fine need to be indicative and not onerous which shall not provide unjust enrichment, profit to any party. There is an increase of 100

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	six thousand rupees for every day during which the failure continues after contravention of the first such direction.		times and 20 times in the penalty and additional penalty respectively which is exorbitant. Therefore, MSEDCL submits that such high amount of fine is not only unjust for the Licensee but also onerous which may affect the day to day operations of Licensee. Hence, existing penalties to be continued.
Section 142 (2)	Newly Added	(2) Notwithstanding anything contained in sub-section (1), in case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person, with effect from such date as may be notified by the Central Government, has not purchased power from renewable or hydro sources of energy as specified by it using its powers under the Act, the Appropriate Commission shall after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, a sum calculated at the rate of fifty paise per kilowatt-hour for the shortfall in purchase in the first year of default, one rupees per kilowatt-hour for the shortfall in purchase in the second successive year of default and at the rate of two rupees per unit for the shortfall in purchase continuing after the second year.	Currently, the RPO targets are set by the SERCs after taking State specific realities such as financial position of the Licensee, availability of RE Sources in the State, present power mix, impact on consumer tariff etc. into account. It is pertinent to note that the present approach adopted through proposed amendment of setting single RPO target to all State through policy for diverse country such as India will add unnecessary financial pressure on Discoms Further, as per the MoP Notification dated 8 th March 2019, all hydro projects (more than 25 MW) shall be considered as renewable source of

Clause No.	Existing Clause	Proposed Amendment	Comments
			<p>energy. The said notification also provides for hydro purchase obligation as a separate entity within non-solar RPO. In view of this, rationale behind provision of separate Hydro Targets needs to be brought out judiciously. Further, more clarity regarding Hydro Targets is required. Whether existing Hydro Projects or only New Projects will be considered? Whether existing projects without Long Term PPA will be considered? Answers to these questions need to be addressed before giving such targets.</p> <p>Further, RPO Regulations prepared by the State Commission already have the provisions for penalties for not fulfilment of RPO and at the same time waiver of penalties is also provided if Commission is satisfied that sufficient efforts are taken by Licensee. Therefore, provision of such penalties in Act is not required. Further, considering the REC floor prices and forbearance prices</p>

Clause No.	Existing Clause	Proposed Amendment	Comments
			<p>determined by CERC; the proposed penalties seem to be very high.</p> <p>Before making such penal provisions in the Act, some of the ground realities need to be considered. Nowadays almost all RE purchase is being done on the basis of Competitive Bidding due to which REC availability is a major worry. Further, availability of transmission corridor for interstate RE purchase, availability of RE Sources in a State, Financial position of the Licensee to buy high cost power also need to be kept in mind.</p> <p>The completion of bidding process as per MNRE guidelines and setting up of RE projects has its own time cycle. Further, delay in implementation of projects because of practical difficulties depends on various parameters which are beyond the control of Licensee. The main reasons for delay in execution of RE projects are non-availability of</p>

Clause No.	Existing Clause	Proposed Amendment	Comments
			<p>corridor/ grid feasibility, non-availability of land, low commercial attractiveness of the ceiling tariffs, non-approval of discovered tariff/changes in terms of PPA by Commission while tariff adaptation, ROW issues etc. Further in spite of sufficiently contacted RE capacity, there may be some years when RE generation is lower like in Maharashtra, MSEDCL has contracted around 2400 MW bagasse based cogeneration capacity, however in some years, there is low sugar cane crop and subsequently availability of RE in that year is lower. Hence, holding responsible only to the Licensee for non-fulfillment of RPO targets and penalizing it is not correct. Therefore, MSEDCL strongly opposes the provision of such penalties in the Act. In fact after achieving the grid parity by solar, wind RE power and with the recent RTC power supply bid received from RE project to SECI at competitive rate, the necessity of</p>

Clause No.	Existing Clause	Proposed Amendment	Comments
			<p>RPO targets need to be checked. Hence, SERCs may be continued to decide the RPO targets and penalties for non-fulfilment of such target after considering the State specific conditions.</p> <p>Further, proposed amendment empowers Central Government to make rules or procedures related to Renewable Generation Obligation and has just a mention about Renewable Generation Obligation (RGO). The definition, quantum/target, and manner of meeting the RGO is not mentioned in proposed amendment. With proposed RPO and HPO targets, there is no need of RGO and it will be duplication of the RPO targets. The generation is done for consumption or purchase by consumer/Licensee and there are already RPO targets for them. Hence no need of separate RGO target</p>
Section 146	Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made	Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a	Detailed comments are provided in Section 142 (1)

Clause No.	Existing Clause	Proposed Amendment	Comments
	thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:	term which may extend to three months or with fine which may extend to one lakh one crore rupees , or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand one lakh rupees for every day during which the failure continues after conviction of the first such offence:	