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**STANDING COMMITTEE
ON ENERGY
(1997-98)**

ELEVENTH LOK SABHA

**THE ELECTRICITY LAWS (AMENDMENT)
BILL, 1997**

MINISTRY OF POWER

NINETEENTH REPORT

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**LOK SABHA SECRETARIAT
NEW DELHI**

November, 1997/Kartika, 1919 (Saka)

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MINISTRY OF POWER

Presented to Lok Sabha on.....

Laid in Rajya Sabha on.....



LOK SABHA SECRETARIAT
NEW DELHI

November, 1997/Kartika, 1919 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON ENERGY
(1997-98)

Shri Jagmohan — *Chairman*

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3. Shri Lalit Oraon
4. Prof. (Smt.) Rita Verma
5. Shri Gyan Singh
6. Prof. Om Pal Singh 'Nidar'
7. Shri Ravindra Kumar Pandey
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SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*
3. Shri S.R. Mishra — *Reporting Officer*

*Died on 5th October, 1997.

**Nominated w.e.f. 5.11.97.

INTRODUCTION

I, the Chairman, Standing Committee on Energy (1997-98) having been authorised by the Committee to submit the Report on its behalf, present this Nineteenth Report, on the Electricity Laws (Amendment) Bill, 1997 relating to the Ministry of Power.

2. The Electricity Laws (Amendment) Bill, 1997 was introduced in Lok Sabha on 13th March, 1997. The Hon'ble Speaker referred it to the Committee on 20 March, 1997 for consideration and Report. The Committee took oral evidence of the representatives of Ministry of Power on 1 July, 1997 and 30 September, 1997.

3. The Committee also heard views of Shri Arun Ghosh, Former Member, Planning Commission; Shri N.S. Vasant, Former Chairman, Punjab State Electricity Board, Shri R.K. Narayan, Former CMD, POWERGRID Corporation; Dr. R.K. Pachauri, Director, Tata Energy Research Institute; Shri M. Sambamurthy, Former Chairman CEA and Shri Ashok Rao, President, The National Confederation Officers Association of Central Public Sector. The Committee wish to express their thanks to these experts.

4. The Committee also wish to thank in particular to the representatives of the Ministry of Power 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 4 November, 1997.

NEW DELHI;
November 21, 1997
Kartika 30, 1919 (Saka)

JAGMOHAN,
Chairman,
Standing Committee on Energy.

REPORT

Introductory

The Electricity Laws (Amendment) Bill, 1997 was introduced in the Lok Sabha on 13th March, 1997 to replace Electricity Laws (Amendment) Ordinance 1997 dated 24th January, 1997. The Bill was referred to Standing Committee on Energy by the Hon'ble Speaker on 20th March, 1997 for examination and to report thereon under Rule 331 (E) 1(b) of the Rules of Procedure and Conduct of Business in Lok Sabha.

2. The Bill seeks to encourage transmission of electricity as an independent activity and to widen the scope of private sector participation in transmission projects. Presently, electricity generation, supply and distribution are regulated by two Central Acts viz. the Indian Electricity Act (IEA), 1910 and the Electricity Supply Act (ESA), 1948. The Indian Electricity Act, 1910 concerns with the provisions for supply and use of electrical energy and the rights and obligations of licensees. It has also outlined procedures to regulate the licensees. The Electricity Supply Act, 1948 deals with the statutory powers and functions of State Electricity Boards, (SEBs) Central Electricity Authority (CEA) and generating companies, providing for rationalisation of the production and supply of electricity and generally taking measures conducive to electrical development. Under the existing provisions, the generating company as well as a distribution licensee/bulk licensee can establish and operate transmission lines under part II and Clause IX of the Schedule of Indian Electricity Act, 1910. A generating company under Section 18 (A) of the Electricity Supply Act, 1948 can establish sub-station and main transmission lines. A distribution licensee/bulk licensee can establish transmission lines within the distribution areas specified in the license. The existing provision of the Electricity Laws provide for transmission projects being taken up either by generating company or the distribution licensees as an adjunct to generation or distribution respectively. However, these laws do not provide for a transmission project being taken up as an independent activity. If transmission is to be recognised as an independent activity, there is need to amend these laws for the purpose.

3. Explaining the need for the Bill, the Ministry of Power in their preliminary Material furnished to the Committee mentioned that the Government had adopted the policy of encouraging independent power producers (IPPs) in the field of generation in 1991. There is now a need for promoting private capital in transmission projects for evacuation of power from large sized power stations being established by IPPs. This can only be achieved by recognising transmission as a distinct and independent activity in the Electricity laws.

4. The Chief Ministers and Ministers for Power of the State Governments met under the Chairmanship of the Prime Minister on 16.10.96 and 3.12.96 to discuss issues relating to the power sector. The Conference evolved a Common Minimum National Action Plan for Power and resolved that:

“The future expansion and improvement of power sector cannot be fully achieved through public resources alone and it is essential to encourage private sector participation in generation, transmission and distribution. It was also resolved that the Government of India will carry out necessary amendments in the relevant Acts/Rules to allow private sector participation in transmission.”

5. The Committee were informed that there was mismatch between generation and transmission. Asked to clarify why transmission system lagged behind the generation projects, the Ministry of Power in their post evidence reply stated:

“While clearing generation projects, the evacuation system is also examined. However, in view of the paucity of resources, the SEBs have been unable to provide the required resources for commissioning the transmission system. Therefore, there is a need to supplement the effort of the Public Sector/SEBs”.

6. Section 18A of the Electricity Supply Act 1948, make it obligatory on the part of IPPs to construct and maintain the required transmission lines. Asked about the need for undertaking alternate measures for laying the transmission lines when the existing provisions do not preclude private participation in setting up of transmission system, Ministry of Power clarified as under:

“Even though generating companies can construct transmission lines for evacuating power upto the load centre and distribution companies can undertake investment in sub-transmission system within the area

of the licence, there is a need to facilitate investment for system improvement, establishment of inter-regional links and integrated system development for bulk transfer of power with economy, reliability and security. For example, in the Mangalore area in Karnataka additional generating capacity of 2000 MW is being established by several power producers and there is need to establish an integrated transmission system for bulk transfer of power to the load Centres. In order to ensure integrated and reliable system operation and to optimise the use of generation capacity, it was considered necessary to entrust the construction, operation and maintenance of all the Central sector transmission lines to POWERGRID and facilitate further investment in system improvement and strengthening of inter-regional lines. To supplement the resources of POWERGRID and SEBs to establish the required transmission system an enabling provision is proposed to be made in the Electricity Laws to facilitate private investment in transmission projects through licensing arrangement”.

7. Asked whether any private generating company has been offered transmission scheme alongwith generation project, the Ministry of Power stated as under:—

“No private generation company has so far offered transmission scheme alongwith the generation project”.

8. While examining the subject “New Policy Initiatives in Power Sector” (26th Report of Standing Committee on Energy) to a question regarding evacuation of Power from private generating units coming up in various States, the Ministry of Power in a written reply had stated:—

“The transmission system needed to evacuate power from private generating stations are identified well in advance based on system studies. The schemes are accorded techno-economic clearance by CEA where the estimated cost of the transmission facilities is more than Rs. 100 crores and processed for investment approval by the Planning Commission. In the case of schemes costing less than Rs. 100 crores, the investment approval is accorded by the concerned State Government. The provision of funds for these transmission schemes is examined by CEA during the Annual Plan discussion and adequate funds are recommended each year”.

9. Secretary, Ministry of Power stressing the importance of segregation of transmission stated as under:—

“The only advantage in segregating this (transmission from rest of the activities) is that in case we want investment in private sector tomorrow. It is much easier for them because there is flexibility. Otherwise, if we say that there is a generating station and a transmission line, the investor may not come forward. If you segregate it and offer it, (to private sector) then the choices would be wider and we would be able to get better terms”.

10. Enquired about the expected investment required for transmission by private sector and steps taken to meet huge capital investment, Ministry of Power stated as under:—

“Based on the current price level the requirement of funds during the next plan for transmission works has been estimated at Rs. 56,000 crores comprising of Rs. 38,000 crores for State Sector and Rs. 18,000 crores for Central Sector by the Working Group on Power. An equivalent amount would be required to strengthen the distribution system. For the transmission and distribution works put together, the Working Group set up by the Planning Commission has indicated that it would be reasonable to expect Rs. 20,000 crores to be mobilised from the private sector”.

11. When it was pointed out that 8th Plan outlay for transmission and distribution was Rs. 22,281 and actual expenditure was Rs. 19,500 crores (88.5%) and in comparison the estimated amount of Rs. 56,000 crores for 9th Plan is an exaggerated amount, Ministry of Power stated as under:—

“If the projected addition to the generation capacity is not fully realised this requirement would be correspondingly less. However, it is important to take note of the fact that there is an accumulated shortfall in investment in transmission and distribution. Having regard to the fact that energy resources are concentrated in a few regions, it becomes necessary to commission large sized generating stations located near pit heads or where hydro generation is possible. This, in turn, will necessitate heavy investment on transmission lines for evacuation of power and would require supplemental funding through private sources”.

12. Commenting on the imperative need to induct more funds for power sector one ex-member, Planning Commission in his

Memorandum stated as under:—

“First, a World Bank study carried out a few years ago concluded that the capital need of developing countries power sector is so huge that even if the Bank increases its power sector lending by 15 times, all multilateral and bi-lateral agencies will not be able to meet more than 20% of their capital needs. The recently published Rakesh Mohan Committee’s report also concludes that “even in the most optimistic scenario the foreign investors would provide for only 15% of the investment required”. The point in turn emerge from the above is the fact that in any case, external (private) capital can at best supply some 15% of the resources to meet the power sector requirements.”

13. On a question whether sufficient Power capacity is available for the use of proposed transmission lines. Ministry of Power in their note clarified:—

“It is proposed to supplement the efforts of POWERGRID and SEBs for the construction of critical transmission lines required for bulk transfer of power and for system improvement by offering identified lines/sub-station to the private sector”.

14. Asked further, whether power stations have been identified from which evacuation by private sector is needed, Ministry of Power in their Post Evidence Reply stated:—

“The POWERGRID is taking advance action for establishment of transmission system including HVDC arrangement for evacuation of bulk power from Mega power projects to the load centres. POWERGRID has provisionally identified the following six projects for private participation:—

- | | |
|------------|--|
| Project 1. | “AC interconnection between Eastern Region and Western Region—Estimated cost Rs. 300 crores. |
| Project 2. | Power Evacuation arrangement to Northern Region from CEPA Project—Estimated cost Rs. 3,335 crores. |
| Project 3. | Power Evacuation arrangement to Western Region from CEPA project—Estimated cost Rs. 1,300 crores. |
| Project 4. | Scheme for Chicken Neck Area—Estimated cost Rs. 350 crores. |

- Project 5. HVDC Line associated with transmission system for Talcher-II project of NTPC—Estimated cost Rs. 1,250 crores.
- Project 6. HVDC Terminals associated with transmission system for Talcher-II project of NTPC—Estimated cost Rs. 1520 crores.”

15. The proposed legislation is for new transmission lines and not for existing lines. When the Committee asked whether in the event of this Bill, will it empower the Government to lease out the existing lines the Secretary (Power) stated as under:—

“If there is any possibility, we will inform you”.

Performance of SEBs

16. The financial health of the State Electricity Boards has been deteriorating on account of the continuing negative rate of return during the successive Plan periods. The average realisation from sale of power does not match with the cost of generation, transmission and distribution resulting in losses. According to the estimates available from Planning Commission, during 1996-97, the average unit revenue realisation for sale of electricity in 19 SEBs/utilities was 149 paise, compared to average unit cost of 186 paise resulting in a loss of 37 paise per unit of electricity supplied. The total commercial losses incurred by the 19 SEBs/ utilities during 1996-97 have been estimated to be of the order of Rs. 7420 crores. Consequent result of poor financial health of SEBs is inadequate investment in generation, transmission and distribution.

17. While according techno-economic clearance to generation projects, the CEA examines arrangements made for evacuation of power. While examining the State plans, CEA again ensures that allocations are made for such schemes. However, at times, it is found that even though investments required for evacuation of power have been recommended by CEA, on account of the poor financial health of the SEBs, the latter are unable to mobilise resources for the transmission projects. Taking these factors into consideration, the Common Minimum National Action Plan for Power (CMNAPP) provides for private participation in transmission projects.

18. One expert mentioned that proposed changes in the power sector are based on the following reasons:—

- (i) The SEBs are making huge losses, due to combination of increasing subsidy for farmers and mismanagement/inefficiency in power supply.
- (ii) The country is facing severe shortage of capital and neither the Government nor the SEBs are in a position to raise the required financial resources.
- (iii) The country is facing huge power shortages and immediate drastic action is needed to solve the crisis.

19. Commenting on the problems of SEBs the expert mentioned that some SEBs do have problems, *e.g.* of out moded and inefficiency machinery but they have never been given the resources to modernise and improve their performance and they are required to subsidies both the farmers and domestic consumers so that they are always strapped for cash even for normal maintenance. Presently, the SEBs have not been given a chance to operate under conditions similar to those proposed for the private sector.

20. The expert opined as under:—

“If the public sector SEBs are allowed to operate under the conditions as prescribed for Government sector then their performance will automatically improve, and they will generate enough resources required for the power development in the future. What is needed to solve the present crisis is to ensure autonomy of the SEBs and making them accountable to the public”.

21. While the proposed bill seeks to enable private investment in the transmission sector only and not in the distribution sector. Secretary, M/o Power during oral evidence mentioned:—

“In my view distribution is the most important thing. Everything depends on distribution. Some of the States are trying to bring in some reforms at the distribution stage but these have started only two-three years ago. But distribution is a very difficult area in power sector because very few people understand this except the Electricity Board people. A private sector will take two to three years to understand the system. So this is a difficult area, but in my view that is top on the agenda.”

22. When Committee apprehended that once only transmission sector is opened to private sector nobody will be interested in investing in distribution, Secretary mentioned as under:—

“I agree with you. But our efforts should be more on distribution because that is where the losses take place. In many rural and urban areas, if I just make investment by upgrading the transmitters and revamping the system. I can reduce the losses and improve the quality. But many people are not willing to come there. It is very difficult but, if they realise the rate of return, perhaps they will come. We will definitely step up these efforts as part of our Ministry’s programme. We have to proceed on all fronts otherwise, the process cannot take off.”

23. In the context of present bill when the Committee enquired as to how proposed extra transmission lines without any improvement in the distribution system will be able to improve the power scenario, the Secretary, Ministry of Power in the evidence stated:—

“In most of the States, we are looking at agglomeration where we are trying to have private transmission. That is probably the only way out”.

24. Advocating reforms in the operations of SEBs, Director, Tata Energy Research Institute during oral evidence mentioned:—

“We believed, erroneously, that the State Electricity Boards would not be relevant once you get the private power producers in the business. That idea was a grievous mistake. If I could use an analogy, getting a healthy private power producer into a State Electricity Board system is like taking a diseased body and transplanting a healthy organ in it. Therefore, our attempt, at the same time, should have been to reform and restructure the Electricity Boards to ensure that they are financially viable. As long as Electricity Boards are in a state of financial difficulty and are unable to pay for the power that they purchase, there would be very little confidence on the part of any investor to set up a power plant.”

25. When it was pointed out that with the segregation of generation from transmission and both these activities being offered to private sector, the profit of SEBs will be less, the Director, TEHRI was candid to admit and averred:—

“I would agree with you. We should be concerned about it. It is because certainly a large part of the revenue generating activities will not be with the SEBs”.

26. When the Committee pointed out that most of the problems in Transmission system lies in the sub-transmission area and the distribution area and asked how these can be overcome, Director, TEHRI mentioned that unless the distribution side is strengthened the country is going to incur very heavy losses.

Problems of Coordination

27. Commenting on the impact of segregating transmission one ex-member, Planning Commission mentioned during oral evidence that the electricity is an industry that requires unified control over generation transmission and distribution. It is considered to be a natural monopoly. Fluctuation in demand for electricity during day and night, winter and summer require planning of generation for a base load capacity which will supply power all the time and a certain peaking capacity which can be switched on and off at will. Unless these functions are well coordinated, there will be no economy of scale and generation would be inefficient.

28. Commenting on the problems of coordination, after recognition of transmission as a distinct activity, an expert opined:—

“Power supply in Delhi comes from four States plus the NTPC. If you are not able to achieve coordination among five agencies, it will be very difficult. If you break up these five agencies into fifteen—one for generation, one for transmission and one for distribution—who is going to co-ordinate their activities the whole business of separation of generation, transmission and distribution is a misconceived one”

29. The expert commenting on the need for such a bill during oral evidence stated:—

“This is in conflict with the spirit of the electricity statutes, both the Indian Electricity Act and also the Electricity Supply Act, which look at generation, transmission and distribution aspects as complimentary activities and they do not give separate identity to any one of these activities. In fact when the Electricity Supply Act was introduced it was introduced as a separate legislation to promote and make electricity available in all parts of the country as quickly as possible in the cheapest possible manner”.

30. He also mentioned as under:—

“I feel that unless sufficient safeguards are built in to co-ordinate their activities such creation of multiplicity of organisations to deal with various functions will not be of much use”.

31. The expert further stated:—

“If this kind of disintegration of the industry is done, then the focus on power development at the State level would be lost. In my view it will be a retrograde step and it will result in frustration of all the good work done so far by the SEBs, REBs and CEA in creating an integrated Power Grid at the State and regional level and moving towards the unified National Grid which we have been talking about for some time. So, I feel any reorganisation that we are trying to do at this stage should be done very carefully”.

32. When asked to comment on the problems of coordination, Secretary, Ministry of Power during oral evidence stated:—

“Sir, it is a fact that the moment you recognise transmission as an independent activity there are more points. There is no dispute on that. That again means, there are extra responsibilities cast on us to coordinate these activities. Whenever there are two activities, there is a division, there is an interface problem. These interface problems have to be dealt with. It is not as though it is new.....we have to strengthen our regulatory agencies to be able to co-ordinate this”.

33. Commenting on the problems of coordination of Transmission and Distributions, Ministry of Power in their post evidence reply stated:—

“All three are distinct and specialised functions and each needs due attention for overall development of the grid. However, it has been seen that a single agency has had problems in discharging all functions due to the enormity of operation for this reasons, the required investment has not taken place and the transmission and distribution system remains weak and vulnerable. The Central sector generating companies which were earlier responsible for putting up generation as well as its transmission systems laid emphasis on generation, and investment in transmission was not adequate. This has led to underdevelopment of the regional grids and deficiencies in the system. This was also the basic reason for establishment of POWERGRID as sole Central Transmission Company to develop an appropriate national power grid. It needs to be recognized that during the last six years of its operation, POWERGRID has not only contributed significantly in strengthening the transmission system but also has been able to rectify many deficiencies in the system”.

34. One expert mentioned:—

“In U.K. or U.S.A. or European Union, where there is a surplus of power, you can experiment, you can divide, subdivide, have regulator, no have regulator, You can fiddle it out. But in a situation like Indian where the system is growing is already having major problems of growth, is finding resources constraint, manpower constraint, equipment constraint, constraint of modernization, why do you want to disturb the entire system.”

35. Asked about the impact of present piecemeal approach on the generation, transmission and distribution, Ministry of Power in their post evidence reply stated:—

“In view of the realisation that adequate investment was not taking place in the transmission sector in an organized manner, the Government decided to establish Power Grid Corporation of India Ltd. in 1989. All the associated transmission systems of Central Sector generating companies including all on-going projects were transferred under one Umbrella *i.e.* Power Grid Corporation of India Ltd. (POWERGRID). Therefore, the decision to establish public sector company exclusively for transmission was a correct and timely decision. On a similar basis, State Government *e.g.* Orissa have also decided to establish a separate company at the State level to deal exclusively with transmission and distribution. Other States like Haryana and Rajasthan are also contemplating reforms to attract private investment in transmission and distribution. The Electricity Laws (Amendment) Bill seeks to establish the required legal framework for promotion of transmission licences both in the public and private sector”.

36. Emphasizing on the unified control of electricity, one expert mentioned:—

“Unless there is unified control over different types of generation capacity, generation cannot be optimised; there will inevitably be Sub-optimal or inefficient generation of electricity”.

37. Sankarguruswamy Committee recognised the fact that at present there is only one agency at the national/regional level *i.e.* POWERGRID and at the State level *i.e.* SEBs. This arrangement has several advantages from the point of view of contractual and administrative as also from aspect of planning and should be continued. In this arrangement there will be no multiplicity of contracts, commercial arrangements will be

simple and responsibilities clearly demarcated. The SEBs will continue to obtain all their requirements at the national/regional level from POWERGRID. At the State level in the event of restructuring the distribution agencies would obtain the transmission services required by them from a single (new) transmission agency. This new transmission agency will work in close co-ordination with the POWERGRID. By continuing these transmission agencies in the public sector GOI/State Governments will be sending out a strong signal that they intend to ensure that the transmission entities will function and be seen to function as neutral agencies between generators and distributors and among generators and distributors. In the above model, the POWERGRID/SEB will identify specify segments of the approved transmission system for implementation by the private sector—to finance, construct, own, operate and maintain, the latter will make available the entire transmission capacity to POWERGRID/SEB as the case may be. The Independent Private Transmission Company (IPTC) would not be concerned with third party access and wheeling issues. They would be operating in accordance with the instructions of the RLDC/SLDC and as such will not be responsible for maintaining grid parameters (voltages frequency etc.)

Problems and dispute settlement

38. When it was pointed out that there is no provision in the proposed Bill for dispute settlement, Secretary, Ministry of Power stated:

“We have already agreed for that provision”.

39. Asked to furnish the details of mechanism of dispute settlement Ministry of Power in their post evidence reply stated:

“A mechanism is already available under Section 76 of the Electricity (Supply) Act for settlement of disputes. Disputes can arise either between a licensee and the licensor or between the licensee and the generating company. In the case of the former, the transmission licences will be issued subject to terms & conditions, which *inter-alia* would contain clause relating to dispute settlement. In respect of the latter, provisions will be incorporated in the contractual agreements between the transmission licensee and POWERGRID/SEB to provide a mechanism for dispute settlement.

40. To the query regarding problems of land acquisition and forest clearance to be faced by private participant in transmission sector

Secretary, Ministry of Power during oral evidence stated:

“This is a thing where we should generally simplify the procedure—where we have to do that”.

Regulatory Authority

41. The Common Minimum National Action Plan for Power provide for setting up of Central and State Electricity Regulatory Commissions. The scope of work of Central Electricity Regulatory Commission and State Electricity Regulatory Commission is as under:

Central Electricity Regulatory Commission

- Union Government will set up a Central Electricity Regulatory Commission (CERC).
- CERC will set the bulk tariffs for all central generating and transmission utilities.
- Licencing, planning and other related functions could also be delegated to CERC as and when the Central Government notifies it.
- All issues concerning inter-State flow and exchange of power shall also be decided by the CERC.
- To enable setting up of CERC, Central Government will amend Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948.

State Electricity Regulatory Commission

- Each State/Union Territory shall set up an independent State Electricity Regulatory Commission (SERC).
- To set up SERCs, Central Government will amend Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948.
- To start with such SERCs will undertake only tariff fixation.
- Licencing, planning and other related functions could also be delegated to SERCs as and when each State Government notifies it.
- Appeals against orders of SERCs will be to CERC unless any State Government specifically prefers such appeals being made to the respective High Court.

42. Asked why Regulatory Authority is being treated separately from the Electricity Laws (Amendment) Bill, 1997 the Secretary, Ministry of Power mentioned:

“These two are independent Matters. And naturally we will have to process these two things separately—Once the regulatory framework is there, people will be interested in putting in money. Otherwise they may not come. Many investors may be interested in this”.

43. The Government introduced the Electricity Regulatory Commissions Bill, 1997 in Lok Sabha on 14th August, 1997. The Bill is under consideration of the Parliamentary Committee on Energy.

44. On the problems of Reactive Power Management an expert pointed out as under:

“When private sector comes in the operation they would be mainly concerned with the transmission of power. But the reactive power management is very-very important in the case of the flow of power. The provisions for reactive power management will have to be somewhere. Some organisation will have to do this. But, in fact, if we disintegrate the system among many participants, the responsibility for reactive power management should be given to somebody and that should be taken care of. Without that, the efficient use of the transmission system in the private sector would become extremely complex”.

45. The other problems mentioned by the expert are problems of taking care of efficient development of the grid. Who will formulate proposals for the development of the grid and that should be optimal? Who will decide and who will work on this? Then there is a problem of coordination with generation planning at the State level, regional level and the national level.

Load Despach Centres

46. The Electricity Laws Bill, 1997, propose to add a new subsection (4) in section 55 of the “Electricity (Supply) Act, 1948” which state:

“(4) The Central Government in the case of Regional Load Despach Centres and the State Government in the case of load despach centres at the State level, may, by notification, specify the fees and charges to be paid to a person to whom the load despach functions are entrusted by the Central Government or the State Government, as the case may be”.

47. Asked whether the proposed amendment negate the stand taken by the Minister in reply to Rajya Sabha SQ No. 183 dated 6.3.1997 i.e., that operation of the lines established by the transmission licences would be regulated by the State/Regional Load Despatch Centres in respect of inter-state and intra-state lines in order to ensure integrated operation of the system, Ministry of Power stated as under:

“The operation of the lines established by the transmission licensees would be regulated by RLDC/SLDC in respect of inter-state and intra-state lines respectively in order to ensure integrated operation of the system. At present, the regional Load Despatch Centres are being owned and operated by POWERGRID while the SLDCs are under the control of SEBs. The Electricity Laws (Amendment) Bill, 1997 by adding sub-section (iv) to section 55 of the ES Act, 1948 enables the owners of RLDCs and SLDCs to charge specified fees for services provided to transmission licences”.

48. Asked to clarify the term “to a person” in above mentioned clause (4), proposed to be inserted, Secretary, Ministry of Power during oral evidence stated:

“Normally, today, the load despatch centres at the State level is operated by the SEBs and the load despatch centres at the national level is operated by the powergrid Corporation, under the overall direction of the Regional Electricity Board. Basically, the CEA is the apex organisation. The idea here is that load despatch function involves a cost and that cost should be recovered from all the constituents of the region or the State, whatever cost it is. So we are providing is the cost to any entity either the powergrid corporation at the National level or the SEBs at the State level.

49. Asked further to clarify whether load despatch functions can be entrusted to private party, Secretary, Ministry of Power stated:

“It is not the intention to give it to private parties I can go on record. If there is any apprehension, I think we should make it explicit so that there is no dispute at all. We will try to re-draft it and come back to you”.

Views of State Governments

50. The Electricity Laws (Amendment) Bill, 1997 comes within the purview of concurrent list of the Constitution. The operation of this bill will affect the States and SEBs. When asked whether opinion of all

State Governments were sought before introducing the Electricity Laws (Amendment) Bill, 1997, Ministry of Power in their note furnished to the Committee stated as that:

“In the Chief Ministers and Power Ministers Conference held on 16th October and 3rd December, 1996 it was noted that the requirements of the future expansion and improvement of power sector cannot be fully achieved through public resources alone and it is essential to encourage private sector participation in generation, transmission and distribution. It was decided that as part of the CMAPP, the Govt. of India will carry out necessary amendments to the relevant Acts/ Rules to allow private sector participation in transmission. In view of this decision taken, the Government of India initiated the process of amending the Electricity Laws to facilitate transmission being undertaken as a distinct activity”.

51. The Committee were further informed that the Government of Kerala is of the view that there is no need for allowing private sector to invest in transmission lines and all the transmission lines be constructed and owned by the State Government or State agencies. The Govt. of Karnataka supported the amendments proposed in the Bill. In fact, the Government of Karnataka has already invited offers from private companies for evacuation of power from Mangalore area to load centres. At Mangalore area, sanction is being accorded to generation companies to set up power plants with a capacity of about 2500 MW (Cogentric 1000 MW, barge mounted power stations 500 MW and Nagarjuna 1000 MW). The Government of Karnataka/KEB are in the process of evaluation of the offers received from pre-qualified firms.

Asked how Karnataka Government has offered transmission line to licencess, it was informed by the Ministry of Power that Govt. of Karnataka felt that a transmission line could be established by grant of license for bulk power transfer under Section IX of the Schedule of India Electricity Act, 1910 within the State boundaries only. They have taken a legal opinion confirming this view.

Fixation of Tariff and Impact on Consumers

53. In the preliminary Material furnished to the Committee. Ministry of Power have stated that at present, generation, transmission and distribution are under one entity, i.e. the State Electricity Boards. As such the transmission charges are not reflected separately, but are

merged in the overall cost to the consumers. These are determined under Schedule V and Section 43 (A) of the Electricity (Supply) Act, 1948.

54. Asked about the expected impact on the consumers due to segregation of transmission, Ministry of Power in a note stated that while the SEBs could continue with low returns a transmission licensee would expect reasonable returns, commensurate to the investment and risk involved. It is, therefore inevitable that the transmission charges for the components of transmission system built by the private sector on Build, own and maintain basis would be marginally higher.

55. Asked to elaborate the term "marginally higher". Ministry of Power stated:

"The transmission charges will depend on the cost of raising capital based on the debt equity ratio and perceptions regarding risk associated with project implementation and operation".

56. Ministry of Power also stated:

"Since only a few lines which are necessary for evacuation of Power and which cannot be fully funded by POWERGRID/SEBs will be posed to the private sector, the overall impact on transmission charges leviable on consumer will not be significant".

57. Clarifying the position further, the Ministry stated that the transmission cost would depend on several factors such as line length, terrain and type of evacuation system (HVDC/AC).

58. Enquired about the minimum returns proposed for private investor in transmission sector, the Ministry of Power in their post evidence reply stated as under:

"Sankaraguruswamy Committee has recommended selection of transmission licences through competitive bidding considering annual transmission charges as the main criteria. However, for critical lines and in exceptional circumstances, the Committee has recommended that joint venture route may be adopted, by selecting joint venture partner through a competitive bidding process. The Government propose to ensure that in such cases also, a minimum resultant tariff emerges in a transparent manner".

59. The Ministry have further informed that the Govt. is examined the recommendations of the Committee.

60. When asked to comment on the proposed transmission tariff/ payments, the Ministry in a post evidence reply stated:

“Having regard to the huge capital investment required for a transmission project for transfer of power over long distances, it is necessary to create a framework by issue of licences to public sector as well as private sector companies to execute, operate and maintain transmission lines. To facilitate such investment, it would be necessary to provide an enabling framework. The transmission tariff/ payments would be in the nature of fixed annual transmission charges so that the investor is able to get adequate returns for the investment made by him. These projects are proposed to be promoted under the build, own and maintain concept in order to ensure that the transmission lines are maintained efficiently. A suitable structure of incentive/ penalty is also proposed to be introduced to ensure that line availability is maintained at a high level. However, having regard to the fact that the transmission is a monopoly, all lines will be operated as per the directions of RLDCs/SLDCs within the broad policy framework of the Regional Electricity Boards”.

61. Asked about the role of Central and State Load Despatch Centre in the event of private transmission lines going out of commission, consequent to a natural disaster or excessive Hailstorm or Dust storm, Ministry of Power in their Post evidence reply mentioned that Regional and state load Despatch Centres will have the responsibility to ensure that the transmission lines are restored quickly.

62. Asked about the reasons for not specifying the norms for determining the transmission tariff payable to transmission licences and whether the financial parameters being drawn up by the Committee of Experts would merely act as guidelines and would not have any legal binding for determining the tariff, Ministry of Power in a note stated as under:

“There is a anomaly in the laws relating to transmission tariff. Since POWERGRID has been construed as a generating company and not as a transmission company, its tariff is regulated under Section 43(A). Once the amendments are enacted, it will be possible to promote licences and regulate their tariff in accordance with the provisions contained under Section 41. The existing dispensation available under

Section 41 relating to transmission tariffs would continue to remain even after the amendments are enacted. The transmission tariff would be based on contractual agreements and since the transmission licensee would be selected through a competitive bidding process, the transmission charges are likely to be competitive. No norms have been specified for determining transmission tariff since the selection of the transmission licensee would be through a competitive bidding process and the criteria used for selection will be the annual transmission charges payable to a licensee for a specified transmission line. In respect of POWERGRID's own transmission system, since there is no competitive bidding, the tariff would not emerge out of the bidding process, and therefore, the transmission charges for POWERGRID would have to be necessarily based on cost plus approach. A similar approach would also apply for state transmission companies as and when they materialise".

63. When asked whether there would be a separate set of norms for usage of surplus capacity transmission lines operated by Powergrid and transmission licensees after the proposed amendments come into effect, the Ministry of Power clarified:

"The transmission tariffs would be regulated under contracts to be executed between the transmission the licensee and SEB/generating company/bulk licensee. Keeping in view the recommendations made by the committee of experts headed by Shri Sakaragurusway, Government would formulate guidelines on the basis of which model contractual arrangements would be made. As regard the use of surplus capacity on the transmission line, the provisions contained in Section 41 (1) will apply".

RECOMMENDATIONS AND OBSERVATIONS OF THE COMMITTEE

64. The Electricity Laws (Amendment) Bill, 1997 was introduced with a view to encouraging transmission of electricity as an independent activity and to widen the scope of private sector participation in transmission projects. The Committee are aware of the fact that policy to encourage private sector in the field of generation was adopted in the year 1991. Under the Electricity Supply Act, 1948 (Section 18A) it is the obligation of the generating companies to maintain the required transmission lines. Central Electricity Authority also approve transmission facilities while according techno-economic clearance for the generation project. It is distressing that in spite of all these safeguards existing in the Acts, the Ministry could not ensure matching investment in transmission sector for upcoming generation. It appears that no private generating company was even offered adjunct transmission projects which could have mobilised resources for the transmission sector. The Committee are of firm view that planning for both generation and transmission should be simultaneous. The Committee do concur with the recommendations of the Sankara-guruswamy Committee report and desire that overall planning of the transmission system should continue to be under the scope of CEA, POWERGRID & SEBs as at present. The Bill, should therefore, be suitably amended to make a similar provision.

65. In view of World Bank Report and Rakesh Mohan Committee's observation the Committee are in doubt whether enough resources would be mobilised into transmission sector in spite of this enabling provision and suggest that efforts should be made to search for alternative sources of funds and not to wholly depend on private finance. The Committee desire that Ministry should ensure that passing of the bill will not enable POWERGRID/SEBs to lease out their existing transmission assets to private parties.

66. The Committee understand that separation of transmission from generation and/or distribution will certainly create a problem of co-ordination among the multiplicity of organisations in generation, transmission and distribution. The Ministry of Power have admitted that in this case of segregation they will have extra responsibilities to co-ordinate these activities and have admitted that regulatory agencies need to be strengthened. The Committee,

however, are sad to note that though the Ministry have hastily placed for enactment the transmission Bill, the more important requirement of regulatory agencies has not been promptly attended to. The Committee stress the need for a strong regulatory authority for optimal grid operation. The Committee are of the opinion that the number of transmission agencies can be minimised by entrusting the main transmission system in an area to a single agency. The Committee therefore recommend that there should be one main transmission agency in each area.

67. The Committee were apprised that recognising the scarcity of resources the Common Minimum National Action Plan for Power stressed the need for private sector participation in generation, transmission and distribution. The Committee are unhappy to note that Ministry of Power have initiated action on its own without having detailed and formal discussions with the State Governments to work out the modalities of private participation in the transmission sector. The Committee find that of the two State Governments whose views are known one has gone against the proposal and the other State has already invited private parties for transmission works without waiting for Central legislation. It would have been better if the draft bill had been circulated to all the States and their comments were also considered before giving a final shape to it.

68. The Committee note that the power sector is being opened up to private sector without adequate regulatory mechanisms. The regulatory mechanism should take care of the interest of producers, transmitters and distributors as well as of the consumers. The Committee, however, note that the regulatory mechanism will be in place as the bill has already been introduced for the purpose and is under consideration of the Committee.

69. The Committee recommend that sub-section (4) of section 9 of the present Bill should be suitably amended to ensure that load despatch functions are not handed over to any private person or party. The Committee also stress the need to suitably include the provision for disputes settlement, land acquisition, forest clearance etc. in the Bill itself.

70. The Committee are of the view that State Electricity Boards are the backbone of the power sector and no reform can yield benefits when the SEBs are neglected. The Committee note that the

financial weakness of the SEBs has compelled the Government to open up the power sector for private participation. The Committee recognise the fact that the losses of the SEBs are not their own creation. But the present Bill does not attempt to make the SEBs financially viable. The Committee are sad to note that this piecemeal legislation may break their control in the field of generation and transmission and will make SEBs still poorer. The Committee fail to understand when Common Minimum National Action Plan for Power of Ministry of Power stress for restructuring and corporatisation of the SEBs, why no significant step have been taken in this regard. The Committee are of the view that restructuring of the SEBs should have preceded these piecemeal legislations separately for transmission and regulation.

71. The Committee note that Ministry recognise that distribution is the most important area for electricity supply. The Committee are also aware that due to fund constraints SEBs are not capable of improving their sub-transmission and distribution lines and suffer major losses. While the Committee recognise the need for funds in the transmission area, they are also deeply concerned to note that the SEBs are left with the monopoly of loss making distribution sector. The Committee, stress the need for making the SEBs commercially viable units so that they themselves can gain investor confidence and encourage private investment.

72. The Committee were informed that the cost of electricity to consumers will be marginally higher after the Electricity Laws (Amendment) Bill, 1997 is passed. The Committee note that Ministry are aware of the higher transmission tariff due to private participation in the transmission sector. The Committee are aware of the fact that transmission charges for the component of transmission system built by the private sector will be based on the annual transmission charges decided through competitive bidding. The Committee desire that adequate steps should be taken to ensure that the impact of this increase on the consumer is the minimum possible.

73. The Committee find that in the case of a private transmission line going out of commission consequent to natural disasters, the RLDC/SLDC will have the responsibility to restore the line. The Committee also note that it has been proposed to give suitable incentives for higher availability of transmission lines. The Committee are in agreement with the recommendation of the Sankaraguruswamy Report and recommend that the transmission company should operate and maintain its assets according to the directions of RLDC/SLDC.

74. The Committee note that Government had set up an Expert Committee under the Chairmanship of Shri D. Sankaraguruswamy, former Chairman, PFC with the following terms of reference:

- (a) for determination of transmission tariff(s) which includes suggestions on operational parameters to be laid down in this regard such as for line availability incentive structure etc.
- (b) for negotiation of transmission service agreement including risk allocation modalities for wheeling third party access etc. and implementation agreement relating to role and responsibilities of the various parties;
- (c) for selection of private companies in the field of transmission including principles for bid solicitation and evaluation;
- (d) to review the existing arrangements for planning and approval of transmission projects and suggest changes if any, including modalities for issue of transmission licences both for inter-State and intra-state transmission schemes;
- (e) on regulation of transmission projects/licensees and coordination of regional grid operation;
- (f) on any other issue related to transmission of power.

75. The Committee note that the Expert Committee has made vital recommendations for private participation in transmission project taking into consideration the interest of private and state-owned transmission companies. The salient features of recommendations are given as Annexure-I. The committee have been informed that Government are still examining the recommendations of the Expert Group.

76. The Committee recommend that while this the proposed Bill should be passed by incorporating the above mentioned conclusions/ observations/recommendations at appropriate place. An integrated view of th entire power scenario be taken and in future Government should bring a comprehensive legislation only. The Committee also desire that the Government should consider the investment proposals in transmission projects in the light of guidelines enunciated by the Sankaraguruswamy Committee.

NEW DELHI;
November 21, 1997
Kartika 30, 1919 (Saka)

JAGMOHAN,
Chairman,
Standing Committee on Energy.

NOTE OF DISSENT

Note on amendment of Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948

Electricity business has three components generation, transmission and distribution. Over and above, there is a vital component of grid operation and control to ensure security and discipline of the grid. Capacity addition, therefore, must fit in an overall technical plan so as to ensure the stability (both steady state and dynamic) of the respective grid or power system. The aforesaid existing Acts allow independent investment and control on 'generation and transmission' or 'transmission and distribution'. Private investment in transmission is also allowed as an extension of generation for evacuation of power or an extension of distribution for bulk purchase of power.

The new Bill proposes to isolate the transmission as an independent business for opening up to private investors as licensee inspite of the fact that transmission is a natural monopoly in electricity business. This will lead to trifurcation of electricity business into three components *viz.* generation, transmission and distribution, thus multiplying the number of agencies in an already complex techno-commercial scenario of the power sector. Each component will try to attain operational profit resulting in higher tariffs.

It would create more problems in the safe operation and control of the grid both at the regional and State levels. It would raise more commercial disputes which shall have to be referred frequently for arbitration and legal opinion vitiating the deficit ridden power sector. Generation from power station of more than one agency may have to be bottled up until the issues are resolved, thus affecting both the generating agency and the consumers.

The amendment of bill is being proposed for EHT lines only without addressing the problem of distribution which is presently the weakest link, both financially and operationally, in the power system. The consumers will have to pay for the generation loss caused by the non-availability of transmission line and to pay for fixed cost of the transmission purchase even when the generation availability is less.

Transmission activity also encompasses other specialised activities like, protection coordination, coordination and upgradation of

equipments due to rise of fault level caused by addition/augmentation in the neighbouring agencies. This will render equipment of one agency unsafe for use and may raise very complex technical disputes. The third party access may cause shifting of demand from one composite agency to the other creating uncertainties in the possible return on investment for the latter agency.

It is apprehended that in most of the cases the private sector transmission line would link up the independent power producers as source of power and would supply dedicatedly to bulk industrial consumers, thus isolating the cream of business leaving the State Electricity Boards/Agencies with unremunerative part of the business causing further financial instability to these agencies. Transmission lines for transmitting power to difficult and remote areas like N.E. State, Himachal Pradesh, Northern U.P. Sikkim etc. may become the responsibility of public sector agencies like Power Grid Corporation and respective SEBs causing them more financial hardship.

Apart from techno-commercial aspect, socio-political issues have also great relevance in the present context. Grid operation and control in the Indian situation cannot be done only on commercial consideration. Maintaining regional balance, flow of power from surplus regions to the deficit regions are linked with inter-State and State-Centre relationship. Within a State, for maintaining law and order situation or for providing supply to essential and strategic consumers, social and executive priorities at times may over-ride commercial considerations. Private investors obviously will try to extract commercial benefits which would be conflicting with these issues.

In view of the above, it is felt that it is premature to go in for measures as proposed in the Bill in the form of major amendments in the existing Electricity Acts.

Sd/-

Shri Haradhan Roy
Shri Anil Basu
Shri Dipankar Mukherjee
Shri Ramendra Kumar
Shri Gaya Singh

(Vide Para 75 of the Report)

**SALIENT RECOMMENDATIONS OF THE COMMITTEE
OF EXPERTS CONSTITUTED TO SUGGEST GUIDELINES
REGARDING PRIVATE INVESTMENT IN
TRANSMISSION PROJECTS**

1. Overall planning of the transmission system should continue to be under the scope of CEA, POWERGRID and SEBs as at present.
2. There should be only one main transmission agency in each area. For the transmission system within a State it would be the respective SEB, its successor organisation (in case of restructuring) and/or the State transmission company. At regional/national level it should be POWERGRID.
3. The above main transmission agencies should continue under Government ownership.
4. The above main transmission agencies have to decide as to which part of the new transmission augmentation within their responsibility they would like to entrust to private sector.
5. Even in the case of transmission system to be entrusted to private company, the SEB/POWERGRID should continue to be responsible for preparation of Feasibility Report/Detailed Project Report and obtaining necessary clearances, the procedure for which should continue to be generally as followed at present.
6. The main transmission agency should then issue a specification and obtain offers from private companies for taking up the construction of new transmission facilities on ownership basis.
7. The selection of the private transmission company should be on the basis of competitive bidding, for which the quoted annual transmission charge (under specified conditions) should be the main criteria which should also be used for arriving at the transmission charge to be paid.
8. Annual transmission charge should be linked to the availability of the concerned transmission component. For AC systems 98.5% has been suggested as the normative availability, above which

an incentive would be payable and below which there would be a steeper reduction in the annual transmission charge to be paid.

9. Since the power flows and grid parameters would not be under the control of the private company, the payment of transmission charge is not proposed to be linked to power flows and grid parameters.
10. Since the annual transmission charge itself would get decided through competitive bidding, it would not be necessary to go into the capital cost and various individual components of the transmission charges.
11. Joint ventures between the main transmission agencies and the private company are not recommended. However, in case it is found to be necessary to form a joint venture for any particular transmission project, it has been recommended that the main transmission agency should have equal participation in the operation of the joint venture, and the selection of joint venture partner should again be based on a competitive bidding process.
12. The private transmission company would be required to enter into a Transmission Service agreement with the concerned SEB/POWERGRID, for making available its transmission assets to the latter, in entirety, for use, and getting paid for the same by the latter. The private company would then not be concerned with wheeling and third party access issues.
13. The transmission company would have to operate and maintain its assets according to the directions of the State Load Dispatch Centre/Regional Load Dispatch Centre, which should continue to be owned and operated by the respective SEB/successor organisation/State Transmission company and POWERGRID.
14. The private transmission company should be issued a transmission license by the concerned Government on the basis of a recommendation from the concerned main transmission agency.

As Introduced in Lok Sabha on 13.03.1997

Bill No. 38 of 1997

THE ELECTRICITY LAWS (AMENDMENT) BILL, 1997

A
BILL

*further to amend the Indian Electricity Act, 1910 and the Electricity
(Supply) Act, 1948*

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

Short title
and
commence-
ment.

1. (1) This Act may be called the Electricity Laws (Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 24th day of January, 1997.

CHAPTER II

AMENDMENTS TO THE INDIAN ELECTRICITY ACT, 1910

Amend-
ment of
section 2.

2. In the Indian Electricity Act, 1910 (hereafter in this Chapter referred to as the Electricity Act), in section 2,—

(i) after clause (b), the following clause shall be inserted, namely:—

‘(ba) “area of transmission” means the area within which alone a transmission licensee is for the time being authorised by his license to transmit energy;’;

(ii) after clause (g), the following clauses shall be inserted, namely:—

‘(ga) “inter-State transmission” means transmission from one State to another State;

(gb) "intra-State transmission" means transmission within the Stage;";

(iii) after clause (m), the following clauses shall be inserted, namely:—

(ma) "transmission license" means a license granted under Part IIA to transmit energy;

(mb) "transmission licensee" means any person who holds a transmission license;

(mc) "transmit" means conveyance of energy by means of main transmission lines and the expression "transmission" shall be construed accordingly;".

3. After Part II of the Electricity Act, the following Part shall be inserted, namely:—

Insertion
of new
Part IIA.

PART IIA

TRANSMISSION OF ENERGY

27A. (1) The State Government or any authority notified by that Government may, on application made in the prescribed form and on payment of the prescribed fee, if any, grant a transmission license, subject to such terms and conditions as may be prescribed, to any person for intra-State transmission of energy in the area of transmission within the State.

Grant of
transmission
license.

(2) The Central Government or any authority notified by that Government may on application made in the prescribed form and on payment of the prescribed fee, if any, grant a transmission license, subject to such term and conditions as may be prescribed, to any person for inter-State transmission of energy in the area of transmission.

(3) The provisions of sections 12 to 19 (both inclusive) and clauses XIV to XVII (both inclusive) of the Schedule shall, as far as may be, apply to a transmission license subject to the modification that references to "license" and "licensee" shall be construed as references to "transmission license" and "transmission licensee", respectively.

Amend-
ment of
section 30. 4. In section 30 of the Electricity Act, in sub-section (I),
after the word "licensee", the words, " transmission licensee"
shall be inserted.

Amend-
ment of
section 37. 5. In section 37 of the Electricity Act, in sub-section (2),—

(i) in clause (a), for the word "licenses", the words
"licenses and transmission licenses" shall be
substituted;

(ii) after clause (c), the following clause shall be inserted,
namely:—

"(ca) prescribe the terms and conditions for grant of
transmission license;"

Amend-
ment of
section 51. 6. In section 51 of the Electricity Act, for the words "licensee
or any other person engaged in the business of supplying
energy", the words "licensee, transmission licensee or any other
person engaged in the business of transmission or supplying
energy" shall be substituted.

CHAPTER III

AMENDMENTS TO THE ELECTRICITY (SUPPLY) ACT, 1948

Amend-
ment of
section 2. 7. In the Electricity (Supply) Act, 1948 (hereafter in this ⁵⁴ of 1948.
Chapter referred to as the Supply Act), in section 2, in clause
(12), for the word "distribution", the words "distribution or
transmission of energy" shall be substituted.

Substitu-
tion of
new
section for
section 41. 8. For section 41 of the Supply Act, the following section
shall be substituted, namely:—

Use of
transmission
lines. "41. (1) Where the Board or a Generating Company
considers it necessary to use for any of its purposes any
transmission lines or main transmission lines of a licensee,
the Board or the Generating Company shall have power
to use such lines to the extent to which the capacity thereof
is or thereafter remains surplus to the requirements of the
licensee for the transmission of electricity, for such time
and upon such terms as may be agreed with a licensee

and on payment of charges calculated in accordance with the provisions of the Fifth Schedule.

(2) A transmission licensee may enter into an agreement with any Board, Generating Company, bulk licensee, supply licensee or any other transmission licensee for the transmission or supply of electricity.”.

9. In section 55 of the Supply Act,—

Amend-
ment of
section 55.

(a) in sub-section (1), for the words “Every licensee shall comply with”, the words “Every licensee or transmission license for intra-State transmission shall comply with” shall be substituted;

(b) in sub-section (2), for the words “Every licensee or Generating Company”, the words “Every licensee, transmission licensee or Generating Company” shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The Central Government in the case of Regional Load Despatch Centres and the State Government in the case of load despatch centres at the State level, may, by notification, specify the fees and charges to be paid to a person to whom the load despatch functions are entrusted by the Central Government or the State Government, as the case may be.”.

CHAPTER IV

MISCELLANEOUS

Ord. 8 of
1997.

10. (1) The Electricity Laws (Amendment) Ordinance, 1997 is hereby repealed.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

9 of 1910.
54 of 1948

STATEMENT OF OBJECTS AND REASONS

With a view to encourage transmission of electricity as an independent activity and to widen the scope of private sector participation in transmission projects, the Electricity Laws (Amendment) Ordinance, 1997 was promulgated amending the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

2. The amendment provides for grant of transmission license by the Central Government in the case of inter-state transmission of energy and by the State Government in the case of intra-State transmission of energy in the area of transmission to be specified in the license.

3. It also makes some consequential changes in the aforesaid Acts to bring within its scope the transmission of electricity as an activity independent of generation and distribution.

4. The Bill seeks to replace the above Ordinance.

NEW DELHI;
The 5th March, 1997.

S. VENUGOPALACHARI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 27A of the Bill empowers the State Government or any authority notified by the Central Government to prescribe the form of application, fee to be deposited alongwith the application and the terms and conditions on the basis of which a transmission license for transmission of energy within the State may be granted. Sub-clause (2) of the said clause empowers the Central Government or another authority notified by that Government to prescribe the form of application and the fee to be deposited along with the application and the terms and conditions on the basis of which transmission license for inter-State transmission of energy may be granted.

2. Sub-clause (2) of clause 37 empowers the Central Electricity board to frame the rules for specifying the terms and conditions for grant of transmission license.

3. Sub-clause (4) of clause 55 empowers the Central Government in respect of Regional Load Despatch Centre and the State Government in respect of load despatch centres at the State level to specify, by a notification, the fee and the charges to be paid to a person to whom the load despatch functions have been entrusted.

ANNEXURE

EXTRACTS FROM THE INDIAN ELECTRICITY ACT, 1910
(9 OF 1910)

** ** *

13 of 1885. 54 of 1948. 2. In this Act, expressions defined in the Indian Telegraph Act, 1885, or in the Electricity (Supply) Act, 1948, have the meanings assigned to them in either of those Acts, and, unless there is anything repugnant in the subject or context.— Definitions.

** ** *

30. (1) No person other than a licensee or a person to whom sanction is granted under section 28, duly authorised under the terms of his license or sanction, as the case may be shall transmit or use energy at a rate exceeding two hundred and fifty watts and one hundred volts— Control of transmission and use of energy.

** ** *

37. (1) ** ** * Power for Board to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the form of applications for licenses and the payments to be made in respect thereof;

** ** *

Supplementary

51. Notwithstanding anything in sections 12 to 16 (both inclusive) and sections 18 and 19, the State Government may, by order in writing, for the placing of electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying energy to the public under this Act Exercise in certain cases of powers of telegraph-authority.

subject to such conditions and restrictions (if any) as the State Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph-authority possesses under that Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained. 13 of 1885.

EXTRACTS FROM ELECTRICITY (SUPPLY) ACT, 1948

(54 OF 1948)

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Interpreta-
tion.

2. In this Act, unless there is anything repugnant in the subject or context,—

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(12) "transmission lines" means all works mentioned in sub-section (7) used wholly or partially for the purposes of distribution;

**

**

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Use by
Board of
transmis-
sion lines.

41. (1) Where the Board or a Generating Company considers it necessary to use for any of its purposes any transmission lines or main transmission lines of a licensee, the Board or a Generating Company shall have power to use such lines to the extent to which the capacity thereof is or thereafter remains surplus to the requirements of the licensee for the transmission of electricity, on payment of charges calculated in accordance with the provisions of the Fifth Schedule.

(2) The Board or a Generating Company may by agreement with any licensee or other person, use any transmission line or main transmission line of that licensee or person for such time and upon such terms as may be agreed.

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Compli-
ance of
directions
of the
Regional
Electricity
Board, etc.,
by licences
of
Generating
Compa-
nies.

55. (1) Every licensee shall comply with such reasonable directions as the Board may, from time to time, give him for the purpose of achieving the maximum economy and efficiency in the operation of his undertaking or any part thereof.

(2) Every licensee or Generating Company shall follow all the directions of the Regional Electricity Boards and shall conduct their operations in accordance with the instructions of the Regional Load Despatch Centre so as to ensure integrated grid operations.

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further to amend the Indian Electricity Act, 1910 and the
Electricity (Supply) Act, 1948

(Dr. S. Venugopalachari, Minister of State in the Ministry of Power)

MINUTES OF THE SEVENTEENTH SITTING OF THE STANDING
COMMITTEE ON ENERGY ON 4TH JUNE, 1997

The Committee sat from 16.00 hrs. to 18.00 hrs.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Prof. (Smt.) Rita Verma
3. Shri Muni Lal
4. Shri Sriram Chauhan
5. Shri A.K. Panja
6. Shri Prithviraj D. Chavan
7. Shri P. Kodanda Ramiah
8. Shri Anil Basu
9. Shri Haradhan Roy
10. Shri P.R.S. Venkatesan
11. Shri Prem Singh Chandumajra
12. Shri Chitta Basu
13. Shri Ramendra Kumar
14. Shri Madhavsinh Solanki
15. Shri S.M. Krishna
16. Shri Ramjilal
17. Shri Vedprakash Goyal
18. Shri Lakhiram Agarwal
19. Shri Dipankar Mukherjee
20. Shri Gaya Singh
21. Shri Vizol
22. Shri Rajnath Singh Surya

SECRETARIAT

1. Shri P. K. Bhandari — *Deputy Secretary*
2. Shri A.S. Chera — *Under Secretary*

WITNESSES

1. Shri N. S. Vasant — President, National Working Group on Power
2. Shri Arun Ghosh — Economist and Former Member, Planning Commission

At the outset, the Chairman welcomed the non-official witnesses and Members of the Committee.

2. The Committee heard the views of Shri N.S. Vasant, President, National Working Group on Power and Shri Arun Ghosh, Former Member, Planning Commission on "The Electricity Laws (Amendment) Bill, 1997". The important points that were discussed with the experts witnesses are indicated below :—

- (i) Privatisation of generation, transmission and distribution;
- (ii) Minimum tariff for power sector;
- (iii) Dismantling of Central Electricity Authority;
- (iv) Creation of separate Regulatory Authority;
- (v) Proposal for restructuring the State Electricity Boards and accountability of State Electricity Boards.

3. A copy of the verbatim proceedings of the Committee was kept for record.

The Committee then adjourned.

MINUTES OF THE EIGHTEENTH SITTING OF THE STANDING
COMMITTEE ON ENERGY ON 5TH JUNE, 1997

The Committee sat from 11.00 hrs. to 13.30 hrs.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Prof. (Smt.) Rita Verma
3. Shri Muni Lal
4. Shri Sriram Chauhan
5. Shri Sriballav Panigrahi
6. Shri Prithviraj D. Chavan
7. Shri Ishwar Prasanna Hazarika
8. Shri P. Kodanda Ramiah
9. Shri Anil Basu
10. Shri Haradhan Roy
11. Shri P.R.S. Venkatesan
12. Shri Chitta Basu
13. Shri Ramendra Kumar
14. Shri Madhavsinh Solanki
15. Shri Ramji Lal
16. Shri Vedprakash Goyal
17. Shri Lakhiram Agarwal
18. Shri Prem Chand Gupta
19. Shri Dipankar Mukherjee
20. Shri Gaya Singh
21. Shri Rajnath Singh Surya

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri A.S. Chera — *Under Secretary*

WITNESSES

1. Shri R.K. Narayan — **Former Chairman, Power Grid Corporation of India Limited**
2. Dr. R.K. Pauchauri — **Director, Tata Energy Research Institute**

The Committee heard the views of Shri R.K. Narayan, Former Chairman, Power Grid Corporation of India Limited and Dr. R.K. Pauchauri, Director, Tata Energy Research Institute.

2. The important points discussed with the witnesses are indicated below :

- (i) Necessity of power evacuation from private power generating units.
- (ii) Existing provisions of Electricity Laws regarding private investment in transmission lines.
- (iii) Investment in power sector.
- (iv) Rate of Return proposed on private investment in transmission activity.
- (v) Augmentation of internal resources of State Electricity Boards for investment in transmission activities.
- (vi) Effect of the proposed Bill on power scenario in the country.

The Witnesses then withdrew.

3. The Committee, decided to meet again on the 1st and 2nd July, 1997.

The Committee then adjourned.

EXTRACTS OF MINUTES OF THE NINETEENTH SITTING
OF THE STANDING COMMITTEE ON ENERGY HELD
ON 1ST JULY, 1997 IN COMMITTEE ROOM 'C',
PARLIAMENT HOUSE ANNEXE, NEW DELHI

The Committee met from 15.00 hrs. to 17.00 hrs.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Prof. (Smt.) Rita Verma
3. Shri Gyan Singh
4. Shri Ravindra Kumar Pandey
5. Shri Manoj Kumar Sinha
6. Shri Sriballav Panigrahi
7. Shri Parasram Bhardwaj
8. Shri Prithviraj D. Chavan
9. Shri Anil Basu
10. Shri Haradhan Roy
11. Shri N. Ramakrishna Reddy
12. Shri Prem Singh Chandumajra
13. Shri Ramendra Kumar
14. Shri Madhavsingh Solanki
15. Shri M. Rajasekara Murthy
16. Shri Ramjilal
17. Shri Dipankar Mukherjee
18. Shri Gaya Singh
19. Smt. Basanti Sharma
20. Shri Rajnath Singh 'Surya'

SECRETARIAT

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|-----------------------|----------------------|
| 1. Shri P.K. Bhandari | — Deputy Secretary |
| 2. Shri R.K. Bajaj | — Assistant Director |

WITNESSES

Ministry of Power

- | | |
|------------------------------|--------------------------------------|
| 1. Dr. E.A.S. Sarma | — Secretary, Ministry of Power |
| 2. Shri Pradip Baijal | — Addl. Secretary, Ministry of Power |
| 3. Shri Srivastava | — Acting Chairman, CEA |
| 4. Shri D.P. Sinha | — Member (GO), CEA |
| 5. Shri K.N. Sinha | — Member (Plg), CEA |
| 6. Shri Rajesh Kacker | — JS (IPC), Ministry of Power |
| 7. Shri P.K. Basu | — JS (PP&EA) Ministry of Power |
| 8. Ms. Gayathri Ramachandran | — JS, Ministry of Power |
| 9. Shri Rajinder Singh | — CMD, NTPC |
| 10. Shri R.P. Singh | — CMD, POWERGRID |
| 11. Shri Bhanu Bhushan | — ED (Engg.) POWERGRID |
| 12. Shri Rakesh Nath | — Member Secretary I/C., NREB |
| 13. Shri P. Ray | — Member Secretary, EREB |

The Committee took oral evidence of the representatives of Ministry of Power in connection with examination of the "Electricity Laws (Amendment) Bill, 1997".

2. The following important points were discussed by the Committee :

- (i) Issues involved in the Power Sector *viz.*, resource requirements for meeting the demand for power, financial state of the State Electricity Boards (SEBs), Power subsidies, regulation of Power Sector.
- (ii) Policy changes underway in the power sector *viz.*, privatisation of generation, segmentation of transmission as a distinct activity

through the proposed legislation for promoting private investment in Transmission & Distribution.

- (iii) Need for finalising the norms for selection of private promoters and for determining transmission tariff before privatisation of transmission systems.
- (iv) Likely impact of privatisation of transmission systems on the cost of power.
- (v) Need for an integrated legislation covering regulatory aspects etc., to address the issues involved in privatisation of transmission systems.
- (vi) Legal infirmities in the proposed Bill.
- (vii) The Ministry should go through all earlier papers and reports of the Committee and give a comprehensive note covering all the points raised by the members in the meeting.

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

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The Committee then adjourned.

**Part relating to other matters of the Committee have not been included.

MINUTES OF THE TWENTIETH SITTING OF THE STANDING
COMMITTEE ON ENERGY HELD ON 2ND JULY, 1997 IN
COMMITTEE ROOM 'C', PARLIAMENT HOUSE ANNEXE,
NEW DELHI

The Committee met from 11.00 to 13.00 hours.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Prof. (Smt.) Rita Verma
3. Shri Gyan Singh
4. Shri Ravindra Kumar Pandey
5. Shri Sriballav Panigrahi
6. Shri Tariq Anwar
7. Shri Parasram Bhardwaj
8. Shri P. Kodanda Ramiah
9. Shri Haradhan Roy
10. Shri N. Ramakrishna Reddy
11. Shri Ramendra Kumar
12. Shri Madhavsingh Solanki
13. Shri M. Rajasekara Murthy
14. Shri S.M. Krishna
15. Shri Ramjilal
16. Shri Dipankar Mukherjee
17. Smt. Basanti Sharma
18. Shri Rajnath Singh 'Surya'

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*
3. Shri R.K. Bajaj — *Assistant Director*

Personal hearing of Experts

1. Shri M.K. Sambamurthi — Former Chairman, Central Electricity Authority.
2. Shri Ashok Rao — Convenor, National Working Group on Power and President, National Confederation of Officers' Association of Central Public Sector Undertakings.

The Committee first heard the views of Shri M.K. Sambamurthy, Former Chairman, CEA on the 'Electricity Laws (Amendment) Bill, 1997'. The important points that were discussed with Shri Sambamurthy are indicated below :

- (i) Impact of segmentation of generation, transmission and distribution on the power supply industry.
- (ii) Need for building sufficient safeguards before creating multiple organisations dealing with different aspects involved in the Power Sector viz., Generation, Transmission and Distribution.
- (iii) Need for improving the financial performance of the State Electricity Boards before reorganising the power supply industry.
- (iv) Impact of private investment on the price of electricity.
- (v) Need for specifying the norms and procedures applicable to Transmission Licencees in the proposed legislation.
- (vi) Problem of efficient development of the grid in the presence of multiple agencies dealing with Transmission.
- (vii) Role of CEA and expertise available with State Electricity Boards for dealing with private sector participation in power sector.

2. **The Expert then withdrew.** Thereafter, the Committee heard the views of Shri Ashok Rao, Convenor, National Working Group on Power. The important points that were discussed with Shri Ashok Rao are indicated below :

- (i) Need for a national debate on restructuring of power supply industry.
- (ii) Need for an evaluation of private power development policy initiated since 1991.

(iii) Necessity for a comprehensive legislation specifying the rules and regulations relating to private participation in transmission systems.

(iv) Impact of restructuring of power sector on the price of electricity.

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

The Expert then withdrew.

The Committee then adjourned.

EXTRACTS OF THE MINUTES OF THE 2ND SITTING
OF THE STANDING COMMITTEE ON ENERGY
ON 30TH SEPTEMBER, 1997

The Committee sat from 11.00 hrs. to 13.00 hrs.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Shri Karia Munda
3. Shri Lalit Oraon
4. Prof. (Smt.) Rita Verma
5. Shri Gyan Singh
6. Shri Ravindra Kumar Pandey
7. Shri Parasram Bhardwaj
8. Shri Prithviraj D. Chavan
9. Shri Iswar Prasanna Hazarika
10. Shri Sandipan Thorat
11. Shri P. Kodanda Ramiah
12. Shri Haradhan Roy
13. Shri Ramakrishan Reddy
14. Shri Chitta Basu
15. Shri Ramendra Kumar
16. Shri Madhavsinh Solanki
17. Shri M. Rajasekara Murthy
18. Shri S.M. Krishna
19. Shri Ramji Lal
20. Shri Ved Prakash Goyal
21. Shri Dipankar Mukherjee
22. Shri Gaya Singh
23. Shri V.P. Duraisamy

24. Shri Vizol
25. Smt. Basanti Sarma
26. Shri Rajendra Prasad Mody

SECRETARIAT

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|-----------------------|---|-------------------------|
| 1. Shri P.K. Bhandari | — | <i>Deputy Secretary</i> |
| 2. Shri R.S. Kambo | — | <i>Under Secretary</i> |
| 3. Shri R.K. Bajaj | — | <i>Under Secretary</i> |

Witnesses

- | | | |
|-------------------------|---|------------------------------------|
| 1. Dr. E.A.S. Sarama | — | Secretary, Ministry of Power |
| 2. Shri Pradip Bajjal | — | Addl. Secretary, Ministry of Power |
| 3. Shri P.I. Suvrathan | — | Joint Secretary, Ministry of Power |
| 4. Shri J. Vasudevan | — | Joint Secretary, Ministry of Power |
| 5. Shri R.N. Srivastava | — | Chairman, CEA |
| 6. Shri Rajinder Singh | — | Member, (GO), CEA |
| 7. Shri R.P. Singh | — | Member Secretary, NREB |
| 8. Shri H.L. Tayal | — | DGM, POWERGRID |

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

I. Electricity Laws (Amendment) Bill, 1997

- (i) The underlying principle of Electricity Laws (Amendment) Bill was the recognition of transmission as a distinct activity enabling private sector participation in the field.

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5. A copy of the verbatim proceedings of the Committee has been kept on record.

The Committee then adjourned.

**Paragraph 2(II), 3 and 4 relating to the Electricity Regulatory Commission Bill, 1997 have not been included.

EXTRACTS OF THE MINUTES OF THE THIRD SITTING OF
STANDING COMMITTEE ON ENERGY (1996-97) HELD ON
MONDAY THE 13TH OCTOBER, 1997

The Committee sat from 15.00 hrs. to 16.00 hrs.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Prof. (Smt.) Rita Verma
3. Prof. Om Pal Singh Nidar
4. Shri Ravindra Kumar Pandey
5. Shri Sriram Chauhan
6. Shri Prithviraj D. Chavan
7. Shri Iswar Prasanna Hazarika
8. Shri P. Kodanda Ramiah
9. Shri Ram Kripal Yadav
10. Shri Haradhan Roy
11. Shri Anand Mohan
12. Shri Ramendra Kumar
13. Shri Madhavsinh Solanki
14. Shri M. Rajasekara Murthy
15. Shri S.M. Krishna
16. Shri Ramji Lal
17. Shri Ved Prakash Goyal
18. Shri Lakkhiram Agarwal
19. Shri Dipankar Mukherjee
20. Shri Gaya Singh
21. Smt. Basanti Sarma
22. Shri Rajnath Singh 'Surya'

SECRETARIAT

1. Shri P.K. Bhandari	—	<i>Deputy Secretary</i>
2. Shri R.S. Kambo	—	<i>Under Secretary</i>
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2. The Committee then considered "The Electricity Laws (Amendment) Bill, 1997. The Members put forth their considered views which are briefly as follows :

Some members were of the view that the present bill is only for separating 'transmission' from 'generation' and 'distribution'. The provision for private participation in the field of electricity is already there. It has been left to SEBs to decide whether they seek private participation or not. As it is only an enabling provision the bill should be passed.

Some other members however felt that it is better to bring a comprehensive legislation on the power sector, including the various suggestions made in the Common Minimum National Action Plan on Power, instead of bringing various Bill in a piecemeal manner.

3. The Chairman requested the members to send the clause by clause amendments, if any, within 15 days. The Committee then decided to meet again at 15.00 hrs. on 4th November, 1997 to consider draft report on the Bill.

The Committee then adjourned.

*Paragraph I relating to condolence passed on demise of Sh. Chitta Basu, M.P. not included.

MINUTES OF THE FOURTH SITTING OF STANDING
COMMITTEE ON ENERGY (1997-98) HELD
ON 4TH NOVEMBER, 1997

The Committee sat from 15.00 to 16.00 hours.

PRESENT

Shri Jagmohan — *Chairman*

MEMBERS

2. Shri Karia Munda
3. Prof. (Smt.) Rita Verma
4. Prof. Om Pal Singh Nidar
5. Shri Sriram Chauhan
6. Shri Sriballav Panigrahi
7. Shri Parasram Bhardwaj
8. Shri Prithviraj D. Chavan
9. Shri Iswar Parasanna Hazarika
10. Shri Sandipan Thorat
11. Shri P. Kodanda Ramiah
12. Shri Haradhan Roy
13. Shri P.R.S. Venkatesan
14. Shri V. Ganesan
15. Shri Ramakrishna Reddy
16. Shri Prem Singh Chandumajra
17. Shri Ramendra Kumar
18. Shri Madhavsingh Solanki
19. Shri M. Rajasekara Murthy
20. Shri S.M. Krishna
21. Shri Ramji Lal
22. Shri Ved Prakash Goyal
23. Shri Dipankar Mukherjee
24. Shri Gaya Singh

25. Shri V.P. Duraisamy
26. Shri Rajendra Prasad Mody
27. Shri Rajnath Singh 'Surya'

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*

The Committee took up for consideration of the Draft Report on the Electricity Laws (Amendment) Bill, 1997. The Committee decided that it should be clearly mentioned in the recommendations that after passing of the present Bill, SEBs & Power Grid Corporation should not be allowed to hand over their existing transmission assets and RLDC/SLDC functions to any private party. The Committee further recommended that the Government should take an integrated view of the entire power scenario and in future should bring only a Comprehensive Legislation. The draft report was then adopted.

2. Five Members of the Committee Shri Haradhan Roy, Shri Anil Basu, Shri Dipankar Mukherjee, Shri Rramend Kumar and Shri Gaya Singh, M.Ps. submitted a dissent note for inclusion in the report.

3. The Committee authorised the Chairman to finalise the report adopted by the Committee and present to the Parliament.

The Committee then adjourned.