Chapter III
Governance of Power Sector: Orissa Electricity Regulatory Commission

3.1: Introduction

One of the major components of the ongoing reforms in the infrastructure sector is the independent regulation and, for this purpose, the regulatory commissions are being constituted to regulate power sector. The purpose of the independent regulation is to insulate the infrastructure sector from political interference from day-to-day operation, to regulate the market players in the sector and to ensure consumer interest in terms of quality service and reasonable price. Over the last few years several regulatory agencies have come up. The Central Electricity Regulatory Commission (CERC), the State Electricity Regulatory Commissions (SERCs), Telecom Regulatory Authority of India (TRAI) and the Insurance Regulatory Authority of India (IRAI) are some of the examples. The agencies like the Central Electricity Authority (CEA), the Tariff Authority for Major Ports (TAMP), the National Highway Authority of India (NHAI), the Inland Waterways Authority of India (IWAI) and the Airport Authority of India (AAI) have also been discharging some of the regulatory functions along with their normal functions of advising the concerned ministries on policy making. A discussion on India’s regulatory process has been made in Garg (2003).

Orissa is not only the first state to implement reforms in its power sector but also it is the first state where the first independent regulatory commission was constituted and put to operation. The Orissa Electricity Regulatory Act, 1998 passed by the Orissa Legislative Assembly constituted Orissa Electricity Regulatory Commission (OERC). Traditionally, the governance has been carried out with different branches of government performing different roles – legislature rule making, executive implementing and judiciary overseeing the activities of the legislature and executive to ensure justice. In case of the regulatory commissions, however, the single body performs the role of a lawmaker, an executive and a judge.
Before examining the question of how effectively the OERC is regulating the Orissa Power Sector, an analysis has been made to discuss on the aspects of regulation, their meaning and definition, its goals of independent regulation, characteristics and parameters of the regulation.

3.2: Defining Regulation

The term regulation refers to various instruments by governments to impose restrictions or set conditions through certain laws, formal and informal orders, administrative guidance, rules for the businesses, citizens and organizations to behave in a particular manner. In Blacks Law Dictionary, ‘regulation’ is defined as the act of regulating; a rule or order prescribed for management or government; a regulation principle; a precept, rule or order prescribed for superior or competent authority relating to action of those under its control. There is a difference between legislation and regulation. Legislation is the making of laws within the constitutional framework. The laws, which are made by the legislature, are the state policies. These laws are very broad and reflect the policies followed by the state. So far as the actual implementation of these laws is concerned, there is a need of the regulations, rules and guidances, which are made by the policy executives while implementing a specific law. Therefore, regulation is the activity of a policy executive who converts the legislation into rules, regulations and procedures that make it possible to achieve the intentions of the legislation.

In Craise on Statute Law, it is stated that if the legislation enables a body for something to be done, it gives power at the same time ‘by necessary implication, to do everything, which is indispensable for the purpose of carrying out the purposes in view’ (cited in Rao 2004). The executers of the policy require powers to implement the broad policies and they are delegated the required powers through ‘delegated legislation’ which means the legislatures delegate the executive with law making power on a variety of complex issues. It empowers the administrators to design the detailed rules and regulations within their discretion. With the expansion of the functions of the government, laws have to be made on a variety of issues. Many of
them are complex. Legislators may not have the expertise or the time needed to understand them. This gives the executive to interpret and make rules that would otherwise have been in the legislation (Rao 2004:23). Traditionally this is the context in which the concepts like regulation, policy, rules and delegated legislation is understood. In the present context of regulation in general and the regulation of the infrastructure sector is considered, its nature is different as the regulatory commissions which have been constituted to regulate the distribution companies and to set the standards of the service assume the role of legislator executive, and judiciary. In the 1980s and 1990s many countries turned to the private sector to provide infrastructure and utilities, such as gas, telephones, power, and highways—with the idea that market-based incentives would control costs and improve the quality of essential services. Along with privatization of the infrastructure services, efforts are being made for the independent regulation. Modern regulatory systems typically comprise three distinct but related elements:

(i) a set of *regulatory rules* embodied in laws, licenses, contracts or similar instruments that define acceptable conduct;

(ii) one or more *regulatory bodies* responsible for administering and enforcing those rules, and

(iii) a set of *regulatory processes* undertaken or managed by regulatory bodies to discharge their responsibilities.

Now goals, characteristic and problems of regulation is mentioned below.

### 3.3: Goals of Regulation

(Kessides 1997) discusses the goals of regulation. According to him, the goals of regulation are as under:

- Pursuing social fairness and promoting universal service-through pricing that balances economic efficiency and social equity.
- Ensuring incentives for investment reforms draw resources into the sector to expand, modernize, and improve infrastructure facilities and services.
• Promoting fair competition – by lowering entry barriers and giving entrants access to entrants to network infrastructure
• Facilitating innovation – by focusing on the goal to be achieved and giving operators and investors leeway to introduce more efficient technologies and innovative service arrangements.
• Protecting public health and safety, and avoiding harm to the environment
• Ensuring that even where the private sector takes the lead, services are reliable and networks interoperable.

In developing countries the following two special aspects are to given importance so far as the regulation of infrastructure is concerned.

3.3.1: Expanding access

Unlike the developed countries where the regulators main responsibility is to maintain overall incentives for efficiency and modernization, in developing countries most people do not have access to these services at even a basic standard level. Therefore the effectiveness of any regulatory strategy must include the expansion of the services. In industrialized countries, the majority of citizens have access to modern infrastructure services, and regulatory strategy focuses on overseeing established industries and customer relationships. In contrast, large proportions of the populations of developing countries lack access to formal infrastructure services. Two billion people lack access to adequate sanitation, two billion lack access to electricity, and one billion access to clean water. Transportation and communication networks also remain poorly developed. Those living in urban slums and in rural communities are least likely to have access. The effectiveness of any pro-poor regulatory strategy must thus be tested against the goal of expanding access to services, rather than just improving the convenience of those who already have service.

3.3.2: Increasing affordability
Among poor people in developing countries affordability for infrastructure services is a problem. Any regulatory strategy should seek to promote affordability by encouraging lower service costs and providing manageable, effective subsidies where needed. Infrastructure prices are sensitive in every country, rich and poor alike. But the world’s poorest people face real constraints on their ability to pay, which impacts both on access and on the consumption possibilities of those with access. At the same time, the costs of providing service to the poor living in rural or peri-urban areas may be higher than average. This does not necessarily imply that the poor must receive services at subsidized prices. Many of the world’s poorest have willingness and the ability to pay cost-covering prices, but are denied this opportunity through lack of access to formal systems, and often pay very high prices for poor quality substitutes. Nevertheless, any strategy to improve services for the world’s poorest must place particular emphasis on affordability concerns, and thus strive to minimize costs, including costs influenced by regulation itself.

The regulatory frameworks must protect the public interest and at the same time, it should ensure that competitive environment is not compromised.

### 3.4: Institutional requirements for Effective Regulation

The structure and process of infrastructure regulation determine how effectively it supports reforms and promotes efficiency and other social objectives (Smith 1997). The following aspects can be considered as the institutional requirements for infrastructure regulation.

#### 3.4.1: Coherence

Regulatory coherence requires that national regulators, ministries, and provincial and municipal regulators have clearly defined responsibilities ensuring that same agency always makes decisions involving specific aspects of regulation. Such arrangements imply continuity in the people and method used to make decisions and make adherence to the rule of law more likely. Same agency should handle regulatory activities that require harmonization. For example in Argentina, the service provider’s access prices and cost reporting are the responsibility of sectors regulatory agency in
privatized telecommunications sector while the end users prices are under the purview of Secretariat of Energy and Communications (Kessides 1997).

3.4.2: Independence

Effective regulation requires that regulators be largely free from political influence, especially on a day-to-day or decision-by-decision basis. Agencies must be objective, apolitical enforcers of policies set forth in controlling statutes. The executive branch should be to ensure that the regulators it appoints are sympathetic to its reforms and to administration policies. But if regulators are not insulated from political intervention, the regulatory process may become politicised, decisions may be discredited, and policies may lack continuity. It is to be ensured that regulators are both independent and responsive to an elected administration’s policy goals. Smith (1997) has given the following safeguards that should be taken in this regard.

- Giving the regulator the statutory authority, free of ministerial control
- Setting clear professional criterion for appointing regulators
- Requiring that both the executive and legislative branches participate in appointments
- Appointing regulators for a fixed period and prohibiting their removal without clearly defined cause.
- Staggering the terms of an agency’s board members so that they can be replaced only gradually by successive administrations
- Funding agency operations with user fees or levies on service providers, to insulate agencies from political interference through the budget process.
- Exempting agencies from civil society salary caps, to enable them to attract and retain well-qualified staff.
- Prohibiting the executive branch from overrunning an agency’s decisions except through new legislation or judicial appeals of existing laws.

3.4.3: Accountability

Checks and balances are required to ensure that the regulators do not become capricious, corrupt and grossly inefficient. The citizens and firms should be able to find out who makes decision and what guides them, and to voice their concerns. The
affected parties should be able to easily and quickly obtain redress if a regulator acts arbitrarily or incompetently. As it is very difficult to maintain a balance between independence and accountability, the following measures can be initiated.

- Writing statutes that specify the rights and responsibilities of each regulatory agency and distinguish between primary and secondary objectives when there are multiple goals.
- Subjecting agency decisions to review by courts and another non-political entity.
- Requiring regulators to produce annual reports on their activities and subjecting their activities to formal reviews by independent auditors or legislative committees.
- Removing auditors that act inappropriately or incompetently.
- Allowing stakeholders to express their views on the matters under review and requiring regulators to publish their decisions and the reasons behind them.

3.4.4: Transparency

All regulatory rules and agreements and principles guiding them should be a matter of public record. This record should be accessible to all market participants, not just service providers, to inform long-term business plans. Transparency helps induce investment by incumbents and new entrants and avoid time consuming, costly regulatory disputes. Transparency also protects against corrupt regulation. It makes citizens less likely to believe that decisions are corrupt.

3.4.5: Predictability

Regulatory agencies are predictable if they follow the rule of law, particularly respect for precedent and the principles of *stare decisis* (the cases with the same underlying facts be decided the same way every time).

3.4.6: Capacity

A well developed economic, accounting, engineering and legal skills are required for regulatory functions such as monitoring industry performance, analyzing cost data, dealing with information asymmetries, and analyzing the behaviour of regulated firms. With the absence of these assets, the regulatory authority cannot perform their
responsibilities well. The regulators should be in a position to hire specialized staff. In many countries, the staff and the budget resources are not allocated on careful and rational planning. High priority is often given to purely technical functions. Accounting, economic and financial analysis gets less importance. Resolving disputes and managing conflicts are among the most important post-privatization tasks for regulators. Dispute resolution and regulatory arrangements suffer from many drawbacks for the reasons like complex administrative proceedings, rigid procedures for coping with the increasingly complex issues, heavy involvement by courts lacking sufficient technical expertise and too little flexibility for creative solutions.

3.4.7: Consumer participation

In regulatory decision making the participation of consumer is very important. Immediately after privatization, regulatory agencies focused on complex economic, financial and technical issues such as tariff, interconnection, technical standards and licencing and market structure. Consumer aspect has been given less importance. Consumers are the end users of the services. Their involvement in service delivery, policymaking and policy implementation can produce better results. Effective consumer participation could provide a needed counterbalance to the strong influence exerted by well-heeled industry representatives. It may also provide regulators the political support and protect them from undue political interference in their rule making. Consumer participation in tariff rebalancing would enhance its credibility and might make it more acceptable to public. Consumers lacking in technical expertise are often constrained from effectively participating in the regulatory process. By contrast, the regulatory bodies hire high-powered academic and other experts to argue in favour of their opinion. However, consumer organizations in variety of countries have forged innovative alliances with academic, labour and other organizations to participate more effectively in regulatory process. In state owned monopolies, especially in transition economies, was their lack of consumer orientation. Consumer opinions were rarely considered and contracts between the consumers and infrastructure service providers often did not include consumer protection clauses. The consumers had no way to pursue legal action. Consumer protection policies can be justified by market failures, including the high transaction
costs and asymmetric information problems for individual consumers dealing with large utilities as well as the market dominance of some of these utilities. It is also argued that the consumer protection policies and the competition are complementary to each other because competition enhances consumer choice and leads to more price and service options. Thus, there is less need of the consumer protection policies once robust competition is established. Since in transition economies, competition is not so perfect, the consumer participation is essential.

3.4.8: Expertise

Regulatory frameworks for most infrastructure sectors require a body to administer pricing and interconnection rules, to monitor compliance with these and other norms and to enforce those rules, directly or through the courts. These are demanding tasks, requiring skills in economics, finance, law and other disciplines, as well as integrity and some measure of political acumen.

Smith (2000) mentions objectives of regulation. According to him, the main objectives of regulation are controlling market entry, controlling price and controlling quality.

The reforms initiated in Orissa are designed to address these questions in the sector. The reforms include unbundling of the vertically integrated Orissa State Electricity Board (OSEB), constitution of the Orissa Electricity Regulatory Commission (OERC), privatization of distribution of electricity services by four Distribution Companies (DISTCOs) etc. The institution of regulatory commission is an important institution, which is designed to reduce political interference with the day-to-day activities like power generation, transmission and distribution. After reforms the power industry has gone to the private companies and these private companies represent the market forces. The market may not be expected to show concern for social justice and protect the interest of the consumers and disadvantaged sections of society. The direct state interference has also proved to be ineffective so far as the activities like generation, transmission and distribution of power is concerned. Thus, an independent body is best suited to deal with the monitoring and protecting the interests of the consumers are concerned.
One of the objectives of this doctoral study is to assess the effectiveness of the OERC on the basis of the stipulated objectives of the independent regulation in the power sector of Orissa. In this study, the indicators selected to assess the effectiveness of the OERC are:

3.5: Indicators to Assess the OERC Effectiveness

Accessibility - whether or not OERC makes effort for the expansion of electrification,
Affordability - to what extent the OERC takes a reasonable tariff decision,
Independence- whether OERC is working independent of political interference and have sound financial status,
Accountability - to whom it is accountable or how it makes the distribution companies accountable
Transparency - whether the information regarding to OERC is open
Participation- whether the consumers participate in the OERC decision-making
Quality service - how OERC ensures effective service delivery and service quality and Controlling the DISTCOs

3.5.1: Orissa Electricity Regulatory Commission

Independent regulation of the power sector is considered as an important requirement as the regulation by the government involved lot of politisation of the sector. The Orissa Electricity Regulation Act 1998 created an independent body for the regulation of the Orissa power sector. The commission looks into the matters like issuance and enforcement of licenses, determination of tariff and charges, monitoring of financial viability of operators, setting service standards and enforcement of compliance of the rules and regulations issued by it or enshrined in the Act, arbitration of disputes between licensees and consumers and submission of information and advice to the Government in the electricity matters, handling of consumer grievances and protection interests of the consumers and promotion of competition in all sectors of electricity industry.

OERC performs following the functions
• to aid and advise, in matters concerning generation, transmission, distribution and supply of electricity in the State;
• to regulate the working of licensees and to promote their working in an efficient, economical and equitable manner;
• to issue licenses in accordance with the provisions of the Reform Act and determine the conditions to be included in the licenses;
• to promote efficiency, economy and safety in the transmission, distribution and use of electricity in the State including and in particular in regard to quality, continuity and reliability of service so as to enable all reasonable demands for electricity to be met;
• to regulate the purchase, distribution, supply and utilization of electricity, the quality of service, the tariff and charges payable keeping in view both the interest of the consumer as well as the consideration that the supply and distribution cannot be maintained unless the charges for the electricity supplied are reasonably levied and duly collected;
• to promote competitiveness and progressively involve the participation of the private sector, while ensuring a fair deal for the customers;
• to collect data and forecast on the demand for and use of electricity and to require the licensees to collect such data and make such forecasts;
• to require licensees to formulate perspective plans and schemes in coordination with others for the promotion of generation, transmission, distribution and supply of electricity; and
• to undertake all incidental or ancillary things.

3.5.2: OERC Regulations

After the constitution of OERC, exercising its regulatory power it has passed a number of regulations. The OERC has made a number of regulations which include OERC Notification on Amendment (GRF & Ombudsman) Regulation 2005 OERC (Terms and Conditions for Open Access) Regulation, 1998 OERC (Conduct of Business) Regulation, 2004 OERC (Method of Recruitment and Conditions of Service of Officers and Staff) Regulation, 1997 OERC (Exception from Licence)

After the constitution of the commission, it has dealt with a large number of cases on different aspects.

3.5.3: OERC and Issue of Accessibility

The Orissa Electricity Regulatory Commission does not enjoy the power to decide upon the investment issues in the sector. The state government through the Ministry of Power takes decision on policy matters of specific interest like investment, contracting out to the distribution and generation companies, rural electrification, tariff etc. From this angle, it can be said that the Orissa Regulatory Commission is not independent in this matter. Similarly, issues like rural electrification are the policy subjects of government. Sometimes the decisions of the commission are ignored by the popular politics of the state government. On the issue of accessibility to electricity service in Orissa, the OERC is not in a position to compel the distribution companies to electrify the rural areas due to the lack of statutory provisions for so doing. The matters pertaining to rural electrification is the policy matter of the state government. Thus, the important matter like accessibility of the service is out of the OERC’s jurisdiction.

3.5.4: OERC and Quality Service and Service Delivery

The Orissa Electricity Regulatory Commission has dealt with many cases, as it is evident from the Appendix 1. These cases are related to tariff setting, settling the disputes between the DISTCOs and the IPPs (Independent Power Producers). So far as the performance of OERC in matters of grievance redressal is concerned, the following table presents the statistics.
Table 3.1: Complaints Disposed off by OERC during 1999 to 2006.

<table>
<thead>
<tr>
<th>Year</th>
<th>Consumers</th>
<th>Non-Consumers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CR</td>
<td>CD</td>
</tr>
<tr>
<td>1999-00</td>
<td>288</td>
<td>276</td>
</tr>
<tr>
<td>2000-01</td>
<td>649</td>
<td>544</td>
</tr>
<tr>
<td>2001-02</td>
<td>708</td>
<td>565</td>
</tr>
<tr>
<td>2003-04</td>
<td>134</td>
<td>113</td>
</tr>
<tr>
<td>2004-05*</td>
<td>629</td>
<td>593</td>
</tr>
<tr>
<td>2005-06*</td>
<td>721</td>
<td>683</td>
</tr>
<tr>
<td>Total</td>
<td>3129</td>
<td>2874</td>
</tr>
</tbody>
</table>

Source: OERC Annual Report-2001-02 and 2003-04

* data collected from OERC office

(CR-Complaints received CD- Complaints Disposed)

The above table shows the number of cases received and disposed off by the commission. This is very impressive. By organizing *Bijuli Adalats*, the commission has solved many problems faced by the consumers. Out of a total of 78,255 grievances received in 2001, it has disposed off 64,855. Similarly, out of a total of 109,535 grievances it received in 2002, it has disposed off 103,705. Out of a total 58,007 number of grievances it received in 2003, it has disposed off 51,099 and in 2004 it received 90,923 grievances and disposed off 84,112, in 2005 out of the total 95,028 received cases it disposed off 89,673 and in 2006 out of the total 1,23,489 received cases, it disposed 1,12,452 cases (data collected from the Commission’s office).

These data show that the complaint handling performance of the Commission has been very effective. However, a detailed discussion on the problems faced by the consumers in terms of billing, metering and mechanical breakdown etc. and how the Commission has failed to force the DISTCOs to comply with the regulations and service standards has been made in the fifth chapter. In brief, it can be said here that the commission has prescribed the standard of service quality, which the distribution commission is required to confirm. In this regard the commission is expected to
ensure the compliance of the service standard rules or conditions. As per the findings of this study so far as the status of service delivery is concerned, the results are very discouraging. There is much deviation of the service standards delivered by the distribution companies from the commission prescribed standards of the service. A detailed discussion has been made in the fifth chapter of this dissertation. The important question here is what steps have been taken by the commission with regard to service delivery and making the distribution company accountable? There are widespread complaints of low quality service and protests against the privatization. However, the OERC performance in making the distribution companies to render quality service has not been satisfactory.

3.5.5: Affordability

The commission has given nine tariff orders so far. Every time the commission is making efforts to reconcile the conflicting demands/interests made by the DISTCOs and the consumer organizations in tariff setting. This is evident from the following table.

<table>
<thead>
<tr>
<th>DISTCo</th>
<th>Demanded</th>
<th>Permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>CESCO</td>
<td>18.8</td>
<td>9.6</td>
</tr>
<tr>
<td>WESCO</td>
<td>26</td>
<td>8.3</td>
</tr>
<tr>
<td>NESCO</td>
<td>37.7</td>
<td>11.6</td>
</tr>
<tr>
<td>SOUTHCO</td>
<td>37.7</td>
<td>11.3</td>
</tr>
<tr>
<td>DRIDCO</td>
<td>13</td>
<td>9</td>
</tr>
</tbody>
</table>

Source: OERC Annual Report-2001-02

For the year 2006-07, the commission has not hiked any tariff keeping in the interest of the consumers. This is the sixth consecutive year Orissa Electricity Regulatory Commission (OERC) has not hiked the retail supply tariff (RST) for the consumers despite a stiff rise of Rs 200 crore in the input cost of coal for the power producers.

3.5.6: OERC and Transparency
The Orissa Electricity Regulatory Commission publishes annual reports, news letters and keeps its tariff orders in its website. Other information relating to the administration and consumer are also available in commission’s website. All the Acts, rules and Regulations of the Commission are also available in the website. Steps have been taken to educate consumers on the tariff charged on them, how to make energy calculation, information on rebate if the electricity bills are paid in time, the punishments prescribed in the Electricity Acts by the commission through its website. The forms for lodging complaints for different problems faced by the consumers are also available in the commission’s website. Thus, the Orissa Electricity Regulatory Commission has taken adequate steps for the dissemination of information.

The OERC has brought in lot of transparency by publishing annual reports, posting the information in its websites and has given ample scope for public participation in the decision making process in respect of standard setting for the service, tariff setting in the power sector etc. It has created office of Ombudsmen and organized Bijuli Adalats for the speedy delivery of the consumer problems. It has created the institution of State Advisory Commission to represent different categories of consumers and to express their views on different matters.

3.5.7: Participation in Commission Meetings

The decision making of the commission is very much participatory. Mainly the decision which is taken with regard to tariff, commission invites the consumer associations, consumer advocates, individual consumers, the members of the Commission’s Advisory Committee to represent their respective view points on the service quality, service standards, price structure, the activities of the distribution companies and also suggest measures to be taken for the improvement in the quality of the service. The representatives of the distribution companies are also remain present while the decisions relating to tariff are taken. Thus, the decision making by the commission is participatory. After hearing the view points of the different parties to be affected by the commission’s decision, the commission takes the decision. Sometimes, the proposed decisions are kept in the website for the comments from
public. Following table shows the participation of different stakeholders in the Electricity Regulatory Commission’s decision making process across states in India. It is mentioned earlier that the Regulatory Commission has taken efforts to constitute Commission Advisory Committee to advise the commission in matters of decision making on various issues pertaining to electricity. The table shows the participation of stakeholders from agriculture, industry, commercial, research bodies, political parties, labour unions, media etc.

**Table 3.3: Representation of Various Stakeholders on SERCs’ CACs**

<table>
<thead>
<tr>
<th>Categories</th>
<th>KERC</th>
<th>WBERC#</th>
<th>RERC</th>
<th>APERC</th>
<th>UPERC</th>
<th>HPERC</th>
<th>OERC</th>
<th>GERC</th>
<th>MPERC</th>
<th>MERC</th>
</tr>
</thead>
<tbody>
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<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Industry</td>
<td>5</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>6</td>
<td>3</td>
<td>9</td>
<td>4</td>
<td>9</td>
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<tr>
<td>Domestic</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td></td>
<td>1</td>
<td>3</td>
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<td></td>
<td></td>
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<td>1</td>
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<td>Research Bodies</td>
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<td></td>
<td></td>
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<td>5</td>
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<td>Political Parties</td>
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<td>Labour Unions</td>
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<td>Media</td>
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<td>Others</td>
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<td>Total</td>
<td>15</td>
<td>15</td>
<td>21</td>
<td>17</td>
<td>15</td>
<td>16</td>
<td>22</td>
<td>16</td>
<td>15</td>
<td>23</td>
</tr>
</tbody>
</table>

Source: Prayaspune Energy Group 2003

NOTE: # - CAC is not yet formed and the numbers indicate representation proposed by the WBERC.

$- Though MERC’s response mention that there are no domestic category representative on the CAC, Prayas is a member of the MERC CAC, and as per our information MERC has couple of representatives of ‘domestic’ category also. The category of ‘Others’ : include ex-officio members.


### 3.6 Role of OERC in Controlling DISTCOs

The commission has also taken some disciplinary actions against the erring companies violating the principles laid down by the commission. It has taken a position of an excellent umpire in reconciling a balance between the conflicting
interests of the different stakeholders by promoting participatory processes in a transparent manner. The commission has also organized certain awareness camps to educate the consumers regarding the value of electricity and its economical use and the importance of the user fee. The commission makes the distribution companies accountable by ensuring compliance to the rules by them. It encourages public participation in the decision making process in the matters of standard setting of service and compliant redressal. The commission has framed the rules for the quality of supply of electricity to the consumers, framed the business code and the performance standards of the Licensees. The commission has taken steps for the setting of the Office of Ombudsman and Grievance Redressal Forums for the settlement of disputes and redressal of the grievances of the consumers. It has heralded an era of participatory, transparent and consumer friendly process of governance in the power sector. However, the problem is that in many cases as evidenced from the field data, the consumers are not aware of all these changes of the governance process and therefore are not being able to take advantage of these opportunities and many consumers are facing lots of problems from different angles. 

The Orissa Regulatory Commission had taken up various issues with Reliance Energy. Most of it was that Reliance was unwilling to commit any finances to the DISTCO’s and was also not paying GRIDCO’s bill. GRIDCO’s outstanding as of June 30, 2005 was an astronomical Rs 1,814 crore! In other words, it was GRIDCO and the state of Orissa that was back rolling Reliance Energy. Instead of private sector taking over state’s liabilities, in reality it was the state underwriting the private sector’s liabilities. After numerous notices and orders, the Orissa regulator finally ran out of patience. In an order dated January 27, 2006, they cancelled Reliance Energy’s licenses. Of course, Reliance has appealed to the Electricity Tribunal, where the matter is being heard. But the brutal fact that the power ministry needs to accept is that their neo-liberal vision of booming private power and a sick state sector has completely failed.

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position of an excellent umpire in reconciling a balance between the conflicting interests of the different stakeholders by promoting participatory processes in a transparent manner. The commission has also organized certain awareness camps to educate the consumers regarding the value of electricity and its economical use and the importance of the user fee. The commission makes the distribution companies accountable by ensuring compliance to the rules by them. It encourages public participation in the decision making process in the matters of standard setting of service and compliant redressal. The commission has framed the rules for the quality of supply of electricity to the consumers, framed the business code and the performance standards of the Licensees. The commission has taken steps for the setting up of the Office of Ombudsmen and Grievance Redressal Forums for the settlement of disputes and redressal of the grievances of the consumers. It has heralded an era of participatory, transparent and consumer friendly process of governance in the power sector. However, the problem is that in many cases, the consumers are not aware of all these changes of the governance process and therefore are not being able to take advantage of these opportunities and many consumers are facing lots of problems from different angles.

The commission in its report published in its Annual Report 2004, stated that the in order to improve the performance of transmission and distribution business, the Commission has been reviewing the performance bimonthly on regular basis. The performance and the quality of services of the licensees have improved tangibly due to such review. Three BSES managed companies have been able to pay their 100% BST dues apart from managing their liabilities towards staff payments. They have already opened irrevocable revolving letter of credit in favour of GRIDCO for smooth payment of BST dues. Skilled manpower at different levels have been infused to strengthen the day-to-day functioning of the licensees, consumer metering, feeder metering and transformer metering have been done extensively. Efficient internal audit system has been introduced to assess collectable arrears and to augment arrear collection. Serious thrust has been given to timely completion of World Bank projects so that no investment ends up in waste. The annual accounts of the licensees have been updated.
Doubts were raised during tariff hearings and CAC meetings regarding the veracity and accuracy of various annual and quarterly data submitted under License Conditions by the Distribution Companies to the Commission. In order to verify the base date available with the Distribution Companies, and to effectively monitor their operating standards and technical parameters of functioning, several Teams inspected the headquarters and various field offices of the distribution companies.

3.6.1: SOUTHCO

(1) LT Billing was made centrally at Berhampur on the basis of data submitted by divisions. Regarding complaints on wrong billing, the division sends the corrected information in LTB 3 Format to the corporate office. Wrong billing is attributable to non-posting of revenue collected in the ledger. It is further observed that the corporate office was continuing Load Factor billing though the concerned consumer meters had been replaced and correct meter readings were sent to the corporate office. The field engineers reported that due to centralised billing, delay to the extent of 15 days on an average had occurred in serving bills to consumers.

(2) No work schedule or work register was maintained, nor any asset register kept by the Division office.

(3) The Division had already submitted the account for April 03 and May 03 to the corporate office.

(4) Revenue collected by the Divisions was deposited in SBI through challans. The overall percentage of LT Billing to Input worked out to 55%, whereas percentage of Collection to Billing was 77%. The LT collection, especially in Koraput Sub-Division seemed to be encouraging, where collection to billing being 87%. In Laxmipur and Pottangi sections, collection including arrears was more than 100%.

(5) Field officers were not acquainted with Power Supply Reliability Indices and the Annual Overall Performance Standards.
(6) During a consumer meet organized at Jeypore, at the behest of OERC officers, all participants including SOUTHCO officers (of Koraput Circle) expressed the view that centralized billing gave rise to more complaints from consumers. The complaints of the public in general, were poor about maintenance of lines and sub-stations by SOUTHCO.

3.6.2: CESCO

(1) Annual Overall Performance Report of CESCO for the year 2002-03 was found wanting as the data from Nimapada, Athagarh, Angul and Kendrapada Divisions were not submitted to OERC within the prescribed date i.e., 30th June, 2003.

(2) It was observed that the information on Power Supply Reliability Indices was compiled up to the last quarter of 2002, though all divisions except Balugaon, Khurda, Bhubaneswar, Kendrapada, Jagatsingpur and Athgarh had submitted data till the 2nd quarter of 2003, ended in June.

(3) Many field engineers had little knowledge on the following aspects

(i) Distribution System Planning and Security Standards and Operation Standards,
(ii) OERC (Consumers Rights to Information and Standards of Performance Regulation, 1998)
(iii) OERC (Fines and Charges) Regulation, 1998 and
(iv) Consumers Right Statement etc.

(4) 7 disputes had been resolved by the Bhubaneswar Circle II since its inception in 16.09.02.

(5) At the divisional level, it was found that the data of interruption on 11 KV and 33 KV had been considered for computing Annual Overall Performance Standards whereas it should have been used for calculation of Power Supply Reliability Indices.

(6) The computerized billing had been fully operational at the divisional level. In Puri Electrical Division, it was observed that average rate of unit billed was Rs. 2.75/kwh during 2001-02 as compared to Rs. 2.63/kwh during 2002-03. This
average rate was much below the rate approved by the Commission i.e. Rs.3.05/kwh.

(7) Age-wise analysis of outstanding arrears had not been effected.

(8) In Puri Electrical Subdivision II, it was noted that 1508 complaints on billing had been received and disposed off during the period April to July, 2003.

(9) The daily collection sheet of a particular day i.e. 18.08.03 was verified with reference to the cash book. Out of a total collection of Rs. 13,35,561.40, Rs. 12,47,000.40 was deposited in the Union Bank Escrow account on 20.08.03 (19.08.03 being a holiday) and Rs. 88,561/- (towards electricity duties and service connection deposits) was deposited in the Syndicate Bank on the same day.

(10) Deficiencies like regular cleaning & painting of structures, replacement of rusted materials and fittings, connection of 11 KV lightening arresters etc. noticed during inspection of 33/11kv s/s at Talabania, 33/11kv s/s at Baliapanda, 11/.04kv 500kva s/s behind Nrusinha Temple and 11/.04kv 100kva s/s at Gosala in Puri were brought to the notice of CESCO authority.

11) A consumer meet was organised by CESCO at Puri on 23.8.03 in which the OERC officers were present. The consumers’ complaints by and large focussed on erroneous billing, poor maintenance of lines and sub-stations, irregular meter reading, irregular disposal of bills & low voltage problem

12) No work schedule, work register or asset register was maintained by the Division office.

3.6.3: WESCO

(1) It was observed that WESCO corporate office has been taking reasonable care for compilation/collection of necessary information on consumer service and power supply quality etc although submission of the report in respect of Annual Overall Performance Standards for the year 2002-03 to OERC was delayed by one month. Reports in respect of Power Supply Reliability Indices and Complaint registration and resolution were submitted on time by WESCO.

(2) Though WESCO had prepared its Annual Revenue Budget for the year 2003-04, it had not yet been approved by the management. No budgetary control seems to be in existence at WESCO. OERC officials were informed that financial control is
automatically ensured due to strict implementation of escrow mechanism and as such, there was no scope for incurring extravagant expenditure.

(3) The company had not yet maintained cost accounting records as per the prescribed format required under Cost Accounting Records (Electricity Industry) Rules, 2001.

(4) The valuation and preparation of Fixed Asset Register work were in progress through a private consultant.

(5) The company has an in-house internal audit cell. It detects misappropriation of funds, abnormal expenditure, major bill revision cases and other high value commercial revenue leakage cases. It also conducts in depth audit of revenue activities of certain divisions, as and when required by the management.

(6) It was noticed that drastic action like suspension and dismissal had been initiated against some of the unscrupulous employees indulging in misappropriation of cash.

(7) It was observed from the billing/collection summary sheet for the period from April to June, 03 that the collection level in respect of LT category was far from satisfactory. The average collection of the company for the first quarter of FY 03-04 was only 42.56 per cent. Sambalpur Electrical Division, which is one of the major urban divisions, achieved only 36 per cent for this quarter.

(8) Remunerative norms approved by OERC were not being followed properly for determination of consumer contribution.

(9) A check made in a Division office (SED Sambalpur) established that all money collected towards energy charges were deposited in the escrow account.

(10) The inspection team visited one franchisee, namely, M/S Laxhmi Sai Enterprises, who has been entrusted with the revenue collection from the villages, covered by 11 kv Godabhangha Feeder. This franchisee model is called 'Input Based Franchisee' where the franchisee has to ensure that the company meters all consumers in the villages. The franchisee is required to coordinate with WESCO staff to ensure that data such as connected load, pole numbers, meter status, voltage of supply, etc for the villages is reflected in the billing database. It is also required to ensure that the work plan drawn up after collecting data (metering, regularisation and giving new connection) is implemented by the licensee. The franchisee is required to provide meter reading, bill distribution and bill collection services. It has to deposit the
collected amount with WESCO within 48 hours, along with the statement of collection.

3.6.4: NESCO

(1) The Corporate office was unaware of its statutory obligation to submit to the Commission Annual Overall Performance Standards (AOPS) as stipulated in the Licence Conditions 9 and 20. In spite of NESCO's commitment to the effect there was no follow up action on the part of the NESCO authorities to instruct field offices to compile and submit relevant data for the period on AOPs, Power Supply System Reliability Indices (SRI), Complaints Registration/Resolution and Bijuli Adalats (CRR). Thus, the base records maintained in field offices could not be validated.

(2) Similarly, with regard to maintenance of records for supply interruption in NESCO area (i.e vide SRI like SAIDI/SAIFI/CAIDI), despite the statutory obligations, neither any quarterly report nor annual report for the year 2002-03 was available at the Corporate office.

(3) Thus, it appears that NESCO's corporate office had not taken due care for compilation/collection/submission of necessary information on consumer service and power supply quality for FY 02-03 to OERC. Hence, NESCO was advised to remedy the situation at the earliest.

(4) Billing and MIS were entrusted to BTL (BSES Telecom Ltd.) which received status of metering reports from the divisions, and tabulated them in consolidated form as per the format prescribed by OERC. NESCO was advised to modify the MIS since the category wise (Voltage wise) sale (MU) and revenue figures for the month of June, 2003 filed in ARR (Annual Revenue Requirement) did not match with the figures submitted for performance review.

(5) No budgetary control appeared to be in existence in NESCO. Answering the queries raised by the OERC inspecting team, NESCO officials stated that financial control was automatically ensured due to strict implementation of escrow mechanism and there was no scope for unwarranted expenditure.
(6) While NESCO is required to maintain quantitative information regarding allocation and apportion of various costs to ascertain expenditure, revenue and profit for each category of consumers (voltage wise), under the Company’s Act, 1956, such Cost Accounting Records as per the prescribed format were not being maintained by the company.

(7) As regards physical verification of assets of the company, no basis for valuation of assets had been finalized. As the verification was not yet complete, the Fixed Asset Register had not yet been prepared.

(8) The company has a small in-house internal audit cell, which performs its duties on special assignment basis. The NESCO management appointed M/s A.K. Sabat & Co., Chartered Accountants, Bhubaneswar as the internal auditors of the Company for the year 2003-04. The firm had recently started its work.

(9) Remunerative norms for execution of new construction/extension/upgradation of lines, substations etc. as specified in the Commission's circular (Tariff 2/2001) were not being followed, though during the last visit to NESCO in October 2002 the same defect had been pointed out vide Commission's Show Cause Notice 05.11.2002.

(10) A test check of electricity bills for HT/EHT consumers revealed that incentive for higher consumption was not being allowed to HT/EHT consumers as per OERC Retail Supply Tariff Order Dt. 19.04.2002 though the same was pointed out in the last inspection report.

(11) With regard to removal of hooking, NESCO was advised to maintain a register for the same so that proper monitoring could be effected.

(12) It was observed that most of the streetlights were being billed on the basis of burning hours, contrary to OERC's direction in this regard. NESCO was advised to complete metering of streetlights and to bill them on actual meter reading basis,

(13) Escrow mechanism was being implemented by NESCO, which automatically ensured transfer of all the revenue collection of the Company into the escrow account with the Union Bank of India, Balasore. The funds so deposited had been
transferred to the account of GRIDCO unless the latter made an express relaxation of the same in favour of NESCO.

(14) The consumers presented their grievances with regard to quality of supply and quality of services provided by NESCO in the Consumers’ Meet. The representatives of Small Industries complained about frequent interruptions of power and demanded an exclusive feeder for the Industrial Estate. Representatives of domestic/commercial consumer groups complained that no one was available at the Fuse Call Centres to attend to complaints and suggested that an effectively monitored Centralised Complaint Centre with 24 hour service be instituted. Some of the consumers raised the problem of frequent tripping due to poor maintenance and suggested formation of Committees at the Division level including representatives of consumers, to monitor maintenance work. They also suggested that regular consumer meets be held to sort out various problems and develop congenial relationship between the consumers and the Licensee. The MD, NESCO, assured the consumers that he would address all these complaints.

Thus, OERC has taken initiatives to regulate the activities of the DISTCOs to ensure that they follow the rules and regulations in order to provide quality service to the consumers. This description of the performance of the Commission is impressive. A detailed analysis of the quality of service delivery has been mentioned in chapter V.

3.7: Accountability

The OERC takes decisions in accordance with the rules of the Orissa Electricity Regulatory Act, 1998. If any party felt dissatisfied with the decisions of the OERC, then that party can resort to the intervention of the Central Electricity Tribunal (CET). Thus, CET exercises control over the commission. Therefore, the Commission is accountable to the CET. The other mechanism of exercising accountability the commission is the state Legislature. In fact, the state Legislature has created the Commission and the Legislature has the power to change the structure function of the commission. Third mechanism of accountability is the public participation. The bodies like State Advisory Committee (SAC), consumer associations and individuals having knowledge and interest in power sector participate in the decision making
process of the commission. These organizations and individuals ask different questions and the commission answers. This deliberative process acts as an instrument of accountability for the commission. The functioning of the ERCs is subject to judicial scrutiny and, to a very large extent, this alone has a salutary impact on the manner in which the ERCs conduct their proceedings and pronounce orders that are consistent with the provisions of the relevant statute. Appointment and removal of the members and the chairman of the commission is an important aspect to make the commission accountable and independent.

In this regard, the Panel constituted by Prayas Pune, an organization working on energy issue gave following suggestions, which applies to all the regulatory commissions of India.

The orders issued by the ERCs are not sufficiently exhaustive and self-contained and it becomes difficult to understand the basis underlying them.

This indirectly dilutes their accountability.

• The annual reports of ERCs have tended to be far too cryptic and superficial and it effectively dilutes their public accountability. Their annual reports should be comprehensive and these should be placed before the Parliament or the concerned State legislature within the prescribed time limit.

• Though the present law provides for this, we understand that many ERCs have not either submitted reports at all, or have done so well after the due dates. Such violation of the legal requirement must specifically be brought to the notice of the concerned legislature.

• The reports should be released for publication without waiting for these being placed on the table of the parliament/legislature.

• The Annual Report should contain explicit disclosures on the number of public hearings held, the orders pronounced and their implementation by the concerned government/utility. It should also indicate the directives, if any, issued by the government either under the statute or otherwise and the views of the ERC thereon. The Annual Report should spell out the administrative and financial constraints, if any, imposed by the government on their functioning.
• The Annual Report of the ERCs should also disclose the decisions, statements or announcements of the government on matters that are essentially within the domain of the ERC or such other decisions that tend to pre-empt the decisions of the ERC.

• The accountability of the ERCs will get enhanced considerably if all information made available to the ERC by the government, the utilities and all other petitioners and agencies are placed in the public domain. Exceptions should only be to safeguard public interest and such public interest should be stated through a speaking order that can be challenged in a court of law.

• Where the provisions of the Freedom of Information Act or the Competition Act are inconsistent with the transparency provisions under the ERC Act, the latter should prevail.

• Judicial scrutiny of the functioning of the ERCs is of paramount importance for enhancing their accountability. However, to discourage avoidable litigation, examination by the courts should only be with reference to points of law. On matters related to facts, unless there is a patent miscarriage of justice on the face of it, disputes should be looked into by the ERCs.

• The orders pronounced by the ERCs are subject to judicial scrutiny and no other authority can question the propriety of such orders. The CAG would audit the expenditure of the ERC and to that extent ensure accountability of the ERC to the legislature in budgetary matters.

• The Supreme Court has recently emphasized the need for constituting an appellate tribunal having the necessary technical expertise to decide on appeals preferred against the orders of the ERCs. While the draft Electricity Bill provides for such an appellate tribunal, this Panel’s recommendations on the procedures for the selection etc. of the members of the CERC should be made applicable to the tribunal as well.

3.8: Suggestions to Improve the Commission’s Performance

• The Annual Report of the ERC should be made public even before it has been presented to the legislature, as the current practice is a legacy of our colonial past.
• All proceedings of the ERC should be translated into local languages and made available to the public, if necessary, by suitably pricing them and through publication on the web.
• All ERC orders should be circulated to the print and electronic media, especially in local languages.
• The ERC should hold public hearings at divisional headquarters by rotation.
• The government should formulate a scheme to fund consumer organizations and provide for their training.
• The ERC should institute consumer advocates to argue for consumers.
• CERC should take the lead in bringing out a regulatory law digest for the benefit of the ERC, lawyers and the public.
• The government should have an open mind for suggestions from the public on the functioning of the ERC.

As quasi-judicial bodies, the ERC should be multimember bodies and should function as independent and autonomous institutions. This is important as such independence and autonomy is a prerequisite for instilling confidence among the consumers and the investors in the functioning of the regulators. So far as the matter of appointment and removal of the members and the chairman of the commission is concerned, the Panel constituted by Prayas Energy Group feels that the effectiveness of the ERC would get further enhanced if the procedures for the appointment and removal of the members could be made more objective and free from political interference.

The following steps are needed to realize this.
• The selection of the members of the State ERC should be entrusted to a statutory committee headed by the Lokayukta of the State wherever such an institution exists and in the other States, by a serving High Court judge nominated by the Chief Justice of the High Court. The other members of the committee should include the Chairman of the CERC, the Director of one of the IITs and the chairman of the CAT in the State. The State Power Secretary would be the convener of the committee.
• For the selection of the members of the CERC, a serving judge of the Supreme Court should head the selection committee with the chairman of the UPSC, the
chairman of CAT at the national level and a Director of IIT as members. Secretary (Power) in Government of India should be its convener.

- The selection committee will be a standing committee so that any delay in constituting it would not delay the selection process. It will be the responsibility of the convener of the committee to refer vacancies to the selection committee at least 6 months in advance. Delays in the selection process at every stage, with reasons, if any, should be reported by the government to the State Legislature/Parliament by laying a statement on the table of the House.

- In the normal course, it would not be desirable to select whether serving or retired government officials as members of the ERC as it would send a wrong signal on the independence of the Commission as perceived by the public. However, it was felt that not many candidates would be available at least for some time, from outside the government, whether technical or otherwise, with the necessary background to be able to function as members of the ERCs. In view of this, it was felt that not more than one technical member’s vacancy should be filled from the CEA/utilities and not more than one from any of the all-India/Central Services. In such cases, care should be taken to ensure that persons with adequate background in the power sector alone are selected.

- Under no circumstances should the legislative provisions relating to the ERCs permit the appointment of persons known to represent political party interests on any of the ERCs, as the very purpose of constituting the ERCs is to disassociate economic decision making from politics.

- The Selection Committee should recommend two names for each vacant position for the appointment to be made by the government. The committee should record a speaking order justifying their recommendation. The government should make the appointment from out of those two names. If for some reason, those names are not acceptable, the reasons for not accepting those names must be recorded in writing and the government must ask the selection committee to give a fresh panel.

- Both the recommendatory statement of the committee and the reasons for not accepting the recommended names, in case of rejection, should be placed by the
government in the public domain by laying a statement on the table of the legislature/parliament.

• The age limit for the appointment should be with reference to the date of appointment rather than the date of superannuation so as to permit a full term of five years for the incumbents, which will enhance their insights and efficiency. It should be 57 years for the members and 60 years for the Chairman.

• The procedure for the removal of members should be such that no political considerations could influence the process. In the case of both judicial and non-judicial members, the same procedure as provided for in the ERC Act of 1998 needs to be retained.

• There will be no second term for the chairman or any member of the ERC.

• Once any person has officiated as a member of the selection committee for any of the regulatory commissions, he/she should be precluded from seeking appointment as the chairman or a member of that regulatory commission.

• It is understood that the oath in respect of the Chairmen and members of some ERCs is administered by the Minister in charge of power. This is not in keeping with the objective of ensuring independence and autonomy of the ERCs. In the case of CERC, it should be administered by the President and in the case of SERCs, it should be administered by the Governor of the State.

• To provide financial autonomy to the ERCs, a separate fund should be created to finance the expenditure of the ERC. Such a fund should not form part of the consolidated fund of the state and should be entirely at the disposal of the ERC. The outflows from the fund should be determined at the beginning of each year through a discussion of the chairman of the ERC with the Finance Secretary and any related matter arising thereafter would be decided through mutual consultation at the same level.

• The same procedure as above will be adopted for any funding from external source for technical assistance to the ERCs.
• The ERCs should have the authority to fund in-house consumer advocacy, promotion of consumer organizations and professional consulting support for the ERC.

• There should not be any statutory provision for the government to issue directives to the ERCs. The experience so far has been that such directives are sometimes issued on non-policy matters.

• There should be a bar on any former member of ERC undertaking any assignment, whether on a full time, contractual or consultancy basis, from any utility or on any project in the state in which he was a member. There should also be a bar on such a former member appearing before the ERC. This will be in line with similar provision, which obtains for the high court judges. The draft Electricity Bill with the amendments proposed by the Parliamentary Standing Committee does not seem to capture these requirements fully.

Moreover, the report of the Committee seems to suggest that the selection of the members of the ERCs should be entrusted to the Public Service Commissions. Keeping in view the recent revelations about the Public Service Commissions in several States and the fact that appointments to these Commissions have been highly politicized, the Panel earnestly urges upon the government to revisit the provisions of the draft Electricity Bill and try and set right the relevant clauses in line with our recommendations.

3.9: Chapter Summary

Developments over the last few years show that merely opting for market economy in absence of mechanisms to discipline the market can lead to chaos, placing the consumer at great disadvantage. While the market economy is believed to be successful in mature markets in the developed countries, its application to developing countries and emerging markets is being questioned largely due to the vulnerability of the consumer. This issue can only be addressed by independent regulation. The issue of consumer choice is addressed only in a limited way. For example, in the case of cellular operators, the operators have been allotted specific geographic areas. The
consumer has access to this service but he does not have the choice of say a dozen operators who offer this service on competing terms. In the power sector, while the Independent Power Producers (IPPs) in accordance with its PPA with the concerned electricity board can generate power, the consumer has no choice but to purchase electricity at the price fixed by the State Electricity Board (SEB). He can not opt for an alternative supplier, who may offer electricity at lower prices or with value addition in the terms of supply say, more credit, a free internet connection etc. Even a bulk consumer of electricity, a society or an energy intensive industry has no choice but to purchase electricity from the board. The Orissa experiment with the electricity regulation by an independent body has been encouraging albeit certain problems like lack of *suo-motto* action for the quality assessment and power to oversee rural electrification. In many cases the DISTCOs have neglected the directives of the OERC. The exit of AES from the distribution business is an outcome of regulatory exercise. The above-mentioned suggestions can be taken into consideration for the improvement of independent regulation in India in general and in Orissa, in particular.