

**THE ELECTRICITY ACT, 2003
(CENTRAL ACT NO. 36 OF 2003)**

As amended upto, by Central Act No. 26 of 2007

Introduction:

The Electricity Act, 2003 came into existence repealing the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commission's Act, 1988.

However, some of the enactments by various States that have been listed in the Schedule to the Electricity Act, 2003 (e.g., the Karnataka Electricity Reform Act, 1999), to the extent that their provisions are not inconsistent with the provisions of the Electricity Act, 2003, continue to be in force (Ref: Sub-section (3) of Section 185).

The Electricity Act, 2003 came into force with effect from the 10th June 2003 vide GOI Notification No. SO 669 (E) dt. 10/06/2003.

However, clause (d) of Section 172 of the Electricity Act, 2003 enables the State Governments to declare by Notification that any or all of the provisions of the Electricity Act, 2003 shall not apply in that State for such period, not exceeding six months from the appointed date.

Amendments to Electricity Act, 2003:

Since the Electricity Act, 2003 came into existence, there have been three amendments to the Act by the Centre. They are:

1. Notification No. SO No. 1039 (e) dt. 10/09/2003 amending the Schedule to the Act.
2. Electricity (Amendment) Act, 2003 – Notification No. SO 119 (e) dt. 27/01/2004.
3. Electricity (Amendment) Act, 2007.

The Electricity Rules, 2005:

The Electricity Rules, 2005, framed in exercise of the powers conferred by Section 176 of the Electricity Act, 2003, came into force vide GOI Notification No. 23/54/2004-R&R dt. 08/06/2005.

The last amendment to the Electricity Rules, 2005 was vide GSR 667 (e) vide Notification No. 23/23/2005 R&R dt. 26/10/2006.

Definitions: Section 2 of the Electricity Act, 2003 (some of the important definitions of terms as are more relevant to the co-generation, are extracted below)

1. **“Appellate Tribunal”** means the Appellate Tribunal for Electricity established under Sec. 110;
4. **“Appropriate Commission”** means the Central Regulatory Commission referred to in sub-section (1) of Section 76 or the State Regulatory Commission referred to in Section 82 or the Joint Commission referred to in Section 83, as the case may be;

8. **“Captive generating plant”** means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association;
12. **“Co-generation”** means a process which simultaneously produces two or more forms of useful energy (including electricity);
15. **“Consumer”** means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;
16. **“Dedicated transmission lines”** means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in Sec. 9 or generating station referred to in Sec. 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;
17. **“Distribution licensee”** means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
25. **“Electricity system”** means a system under the control of a generating company or licensee, as the case may be, having one or more:-
 - (a) generating stations; or
 - (b) transmission lines; or
 - (c) electric lines and sub-stations,and when used in the context of a State or the Union, the entire electricity system within the territories thereof;
26. **“Electricity trader”** means a person who has been granted a licence to undertake trading in electricity under Sec. 12;
27. **“Generating company”** means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;
32. **“Grid”** means the high voltage backbone system of inter-connected transmission lines, sub-station and generating plants;
39. **“Licensee”** means a person who has been granted a licence under Sec.14;
47. **“Open access”** means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in

- generation in accordance with the regulations specified by the Appropriate Commission;
54. **“Real time operation”** means action to be taken at given time at which information above the electricity system is made available to the concerned Load Despatch Centre;
56. **“Regional Load Despatch Centre”** means the Centre established under sub-section.(1) of Sec.27;
64. **“State Commission”** means the State Electricity Regulatory Commission constituted under sub-section (1) of Sec.82 and includes a Joint Commission constituted under sub-section (1) of Sec.83;
66. **“State Load Despatch Centre”** means the centre established under sub-section(1) of Sec.31;
67. **“State Transmission Utility”** means the Board or the Government company specified as such by the State Government under sub-section (1) of Sec.39;
71. **“Trading”** means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly;
75. **“Utility”** means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or licensee under the provisions of the Act;
76. **“Wheeling”** means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under Sec. 62;

Some of the Sections from the Act: some of the Sections of the Act more relevant to the co-generation are briefly touched upon below:

Sl. No.	Section of the Act	Brief particulars
1	3	Provides for formulation of National Electricity Policy and Tariff Policy for optimal utilization of resources including renewable sources of energy.
2	9	Captive generation
3	32	Functions of State load dispatch centres
4	39	State Transmission utilities and functions – STU not to engage in the business of trading in electricity

Sl. No.	Section of the Act	Brief particulars
5	42	Duties of distribution licensee and open access – distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply; the State Commission to introduce open-access in phases and subject to such conditions; open-access shall be allowed on payment of surcharge in addition to the charges for wheeling; surcharge intended to meet the requirements of cross-subsidy and to be progressively reduced; such surcharge shall not be leviable in case open-access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use ; every distribution licensee to establish a forum for redressal of grievances of the consumers; State Commission to appoint Ombudsman to hear non-redressal of grievances by distribution licensees.
6	43	Every distribution licensee to provide supply of electricity to owner or occupier of any premises within one month from date of application.
7	56	Fifteen clear days notice in writing to be given for disconnecting supply for non-payment of electricity charges.
8	61	Tariff Regulations – the State Commission to determine the tariff governed by the guidelines under this Section.
9	62	State Commission to determine tariff for supply of electricity by a generating company to a distribution licensee.
10	63	Notwithstanding anything contained in Sec. 62, the State Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.
11	65	If the State Government requires grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under Sec. 62, the State Government shall, notwithstanding any direction given under Sec. 108, pay in advance, the amount of subsidy.
12	70, 73, 74	Constitution of Central Electricity Authority, its functions, duties, powers and directions.
13	75	In the discharge of its functions, CEA shall be guided by such directions in matters of policy involving public interest as the Central Government may give in writing and in the event of a doubt on matter of policy involving public interest, Central Government's decision is final.

Sl. No.	Section of the Act	Brief particulars
14	76 to 79	Constitution of CERC, functions, and powers etc.
15	80, 81	Setting up of a Central Advisory Committee by the CERC and the objects of the Advisory Committee – to advise the Central Commission on certain matters.
16	82, 84, 85, 86	Constitution, powers and functions of State Commissions.
17	87, 88	State Advisory Committee by the State Commission to advise the State Commission on certain matters.
18	110 to 119	Appellate Tribunal for Electricity – to hear appeals against the Orders of the State Commissions Appeal to ATE to be filed within 45 days from the date on which a copy of the Order made by the State Commission is received by the appellant; delay beyond 45 days can be condoned by the ATE if it is satisfied that there was sufficient cause for not filing the appeal within that period
19	120	The Appellate Tribunal not bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to other provisions of the Act, the ATE shall have powers to regulate its own procedure. ATE's powers include reviewing its own decisions
20	125	Appeal to Supreme Court: any person aggrieved by any decision or Order of the ATE, may, file an appeal to the Supreme Court within 60 days from the date of communication of the decision or Order of the ATE, to him, on any one or more of the grounds specified in Sec. 100 of the Code of Civil Procedure, 1908 (the ground should be either the appellate decree must have been passed ex-parte or must involve a substantial question of law; the delay in filing the appeal may be condoned by the Supreme Court provided the appeal is filed within a further period not exceeding 60 days.
21	176	Power to make rules – Central Government to make rules for carrying out the provisions of this Act.
22	177	The Central Electricity Authority may make regulations generally to carry out the provisions of this Act.
23	178	CERC may make regulations generally to carry out the provisions of this Act.

Sl. No.	Section of the Act	Brief particulars
24	179	Every rule made by the Central Government and every regulation made by the authority and the CERC shall be laid, soon thereafter, before each house of the parliament while it is in session.
25	180	The State Governments may also make rules for carrying out the provisions of this Act
26	181	State Commissions may make regulations to carry out the provisions of this Act.
27	182	Every rule made by the State Government and every regulation of the State Commission shall be laid, soon thereafter, before each House of the State Legislature.
