CURRENT discussions on electricity
A webinar series

Webinar 1: Effective Dispute Resolution in the Indian Power Sector

Background

It has been 17 years since the enactment of Electricity Act 2003. It brought significant structural reforms aiming to restore creditworthiness in the sector – distancing governments from regulation of the sector; inducing private participation with competition in generation and supply segments besides creating market mechanism with traders and power exchange/s et al. During this period, the installed generation capacity rose from 1,12,058 MW to 3,71,054 MW and the share of private sector increased to 46.9% of the total installed capacity. Further, share of renewable sources of energy today stands at 23.6% of total installed capacity, projected to rise to 40% by 2030. Distribution essentially remains in government hands. With a strategic role being allocated to regulatory commissions vested with legislative, executive, advisory and adjudicatory functions, the 17 years of development have brought its share of complexities. The daunting delays in regulatory processes and pending disputes including enforcement of contracts have resulted in risk of a sector-wide solvency contagion threatening viability of several stakeholders in the sector, with mounting NPAs and distressed assets across the power sector value chain. As on May'20, the total outstanding dues of the power generators have accumulated to around Rs. 1,17,092 crores. In addition, upholding and enforcing contracts in a timely manner have turned out to be the Achilles' heel for the sector.

The need to ensure sustainability of the sector and create a level playing field which protects the interests of all utilities and consumers forms the backdrop of the proposed revisions to the Tariff Policy and the Draft Electricity Act (Amendment) Bill 2020. Amongst other measures, the Bill has proposed a relook at the dispute resolution giving stronger powers to the Appellate Tribunal and Regulatory Commissions, and creation of Electricity Contracts Enforcement Agency (ECEA) for enforcement of contracts while leaving "disputes involving tariff" out of its purview. Most of the contractual disputes have linkage to tariff.

These amendments must be evaluated in context India's commitment to improve our global standing in Ease of Doing Business focusing on enforcement of contracts: and a series of judgements of Supreme Court of India on independence and efficacy of statutory tribunals over the past decade culminating in judgement dated 13th November 2019 in **Rojer Mathews vs South Indian Bank 2019 SCC Online SC 1456**.

Webinar –Effective Dispute Resolution in the Indian Power Sector

To critically examine the efficacy of the proposed dispute resolution mechanism under the Draft amendments to Electricity Act 2003, FICCI is hosting a brainstorming webinar titled **'Effective Dispute Resolution in the Indian Power Sector'** on **21st July 2020**. The webinar shall bring together leading policy makers, experienced regulators, legal practitioners, utilities and consumer representatives to deliberate upon issue.

Objectives of the Webinar

- Initiate a dialogue amongst the key stakeholders on effectiveness of dispute resolution in Indian power sector towards efficacy, timeliness and independence
- Evaluate the proposed enactment of Electricity Contracts Enforcement Agency (ECEA) with an objective to achieve resolution of disputes in an effective and time bound banner
- To take up the key recommendations from the Webinar with the Government for consideration