

MINUTES OF THE
WORKSHOP/RESEARCH CONFERENCE
OF
FORUM OF INDIAN REGULATORS (FOIR)

Venue : Casuarina
India Habitat Centre
Lodhi Road
NEW DELHI

Date : 17th June, 2010

List of Participants : **At Annexure-I (enclosed)**

Chairperson, CERC and FOIR welcomed the Members of the FOIR in the Workshop.

2 Presentations were organized on two topical issues, namely, “Regulation and Regulatory Framework – Issues” and “Interface between Competition Commission of India and Sectoral Regulators”. Shri Sushanta K. Chatterjee initiated the discussion by informing that research, training and information are the primary focus of activities of FOIR as a society. As a part of this objective, workshops are organized on issues relevant and critical to the regulators.

3. The first presentation was made by the Competition Commission of India (CCI). Shri K.K. Sharma, Advisor (Law), CCI made a presentation (copy enclosed at [Annexure-II](#)). He highlighted in his presentation, the basic regulatory framework and the legal provisions delineating the interface between the sectoral regulators and CCI. He felt that the Indian Laws have adequate clarity in terms of defining the roles of CCI and other sectoral regulators. He referred to a couple of instances that have come up before the CCI where issues have been resolved amicably between the CCI and sectoral regulators. He gave the example of issues relating to electricity sector where CCI had to interact with DERC and issues relating to banking sector pertaining to the RBI. In all such instances, the two regulators have honoured the

jurisdiction of each other. Shri Sharma referred to the provision in the Competition Act, 2002 relating to the consultation process with sectoral regulators. He said that these provisions should be used extensively to evolve a harmonious regulatory framework in the country. The presentation evoked discussion on several issues, more so in the light of specific provisions like Section 60 of the Electricity Act, 2003 viz-a-viz the Competition Act, 2002. The presentation was appreciated by the Forum.

4. The presentation of CCI was followed by Shri Arijit Maitra's presentation on "Regulation and Regulatory Framework – issues". The focus of the presentation was the scope of regulation making powers of the Electricity Regulatory Commissions as spelt by the Supreme Court through a landmark judgment _ dated 15th March, 2010. A copy of the presentation is enclosed at [Annexure-III](#) (a copy of the judgment is available on the website of CERC, i.e., cercind.gov.in). He highlighted the key findings of the Supreme Court which have categorically defines the scope of regulation making powers of the regulatory authorities in the electricity sector. There was active participation by the Members in understanding various issues raised and resolved by the Supreme Court. It was felt that although the judgment related to the Electricity Act, 2003, the cardinal principals settled by the Supreme Court in this judgment could be used by any regulatory authority in understanding the scope of its powers in within the ambit of their respective statutes.

5. In course of discussion Shri P.K. Mehrotra, former Chairperson, MPERC wanted to know as to whether the requirement of previous publication of regulations can be construed to empower the State Government to require an SERC to submit before the State Government the draft regulation framed by SERC before publication. It was informed by Shri K.K. Garg, presently Member of the MPERC that this issue has been resolved in MP after the Commission informed the State Government that the Act requires the State Commission for previous publication of a regulation. The Commission follows the procedure of publishing the draft regulation for public comments as part of this procedure. At this stage if the State Government has any comments to offer it can do so. The comments of all stakeholders including that of the State Government will be considered by the SERC before finalizing the regulation.

6. The issue regarding jurisdiction of State legislature on amendment of the regulations framed by the State Commission was also raised. It was informed by Chairperson, OERC that Orissa legislature has amended one of their regulations. It was explained that the Electricity Act, 2003 empowers only the Parliament (and not the State legislature) to amend any regulation framed by any Regulatory Commission. He informed that OERC has challenged the amendment suggested by Orissa State legislature. The matter is sub-judice. The Orissa High Court has heard the matter and has reserved it for judgment. The orders is awaited for more than two years.

7. At the end, Shri Chatterjee extended a vote of thanks to the Chair and Hon'ble Members of the Governing Body and the Members of FOIR. He also extended appreciation for the FOIR Secretariat staff for organizing the workshop successful.

The meeting ended with a vote of thanks to the Chair.

LIST OF PARTICIPANTS ATTENDED THE WORKSHOP / RESEARCH CONFERENCE
OF
FORUM OF INDIAN REGULATORS (FOIR)
HELD ON 17TH JUNE, 2010 AT INDIA HABITAT CENTRE, NEW DELHI.

S. No.	Name	Designation
1.	Dr. Pramod Deo	Chairperson, CERC & Hony. Chairman, FOIR
2.	Shri Yashwant S. Bhave	Chairperson, AERA & Hony. Vice-Chairman, FOIR
3.	Shri Jai Singh Gill	Chairperson, PSERC & Hony. Vice-Chairman, FOIR
4.	Shri A. Raghotham Rao	Chairperson, APERC
5.	Shri B.K. Halder	Chairperson, BERC
6.	Shri Manoj Dey	Chairperson, CSERC
7.	Dr. P.K. Mishra	Chairperson, GERC
8.	Shri Bhaskar Chatterjee	Chairperson, HERC
9.	Shri Mukhtiar Singh	Chairperson, JSERC
10.	Dr. V.K. Garg	Chairperson, JERC for Goa & all UTs except Delhi
11.	Shri K.J. Mathew	Chairperson, KSERC
12.	Shri V.P. Raja	Chairperson, MERC
13.	Shri P.J. Bazeley	Chairperson, MSERC
14.	Shri S.I. Longkumer	Chairperson, NERC
15.	Shri B.K. Das	Chairperson, OERC
16.	Shri Rajesh Awasthi	Chairperson, UPERC
17.	Shri V.J. Talwar	Chairperson, UERC
18.	Shri V.K. Sood	Ex-Chairperson, DERC
19.	Shri V.S. Ailawadi	Ex-Chairperson, HERC
20.	Shri K.S. Chaube	Ex-Chairperson, HERC
21.	Shri S.K.F. Kujur	Ex-Chairperson, JSERC
22.	Shri P.K. Mehrotra	Ex-Chairperson, MPERC
23.	Shri Vijoy Kumar	Ex-Chairperson, UPERC
24.	Shri S. Jayaraman	Member, CERC
25.	Shri V.S. Verma	Member, CERC
26.	Shri M.P. Vijayakumar	Member, AERA
27.	Shri S.K. Jayaswal	Member, BERC
28.	Shri B.K. Sharma	Member, CSERC
29.	Shri Shyam Wadhera	Member, DERC

30.	Shri S.R. Sethi	Member, DERC
31.	Shri Rohtash Dahiya	Member, HERC
32.	Shri K. Srinivasa Rao	Member, KERC
33.	Shri Vishwanath Hiremath	Member, KERC
34.	Shri M.P. Aiyappan	Member, KSERC
35.	Shri K.K. Garg	Member, MPERC
36.	Shri B.K. Misra	Member, OERC
37.	Shri S.S. Pall	Member, PSERC
38.	Shri Virinder Singh	Member, PSERC
39.	Shri K. Venugopal	Member, TNERC
40.	Shri Anand Kumar	Member, UERC
41.	Shri Shahid Hasan	Associate Director, TERI
42.	Shri Gurudeo Sinha	TERI
43.	Shri D.P. Sinha	Ex-Member, CERC
44.	Shri R. Krishnamoorthy	Ex-Member, CERC
45.	Shri P.C. Verma	Ex-Member, JSERC
46.	Shri Jayant Deo	Ex-Member, MERC
47.	Shri A. Velayutham	Ex-Member, MERC
48.	Shri K.L. Vyas	Ex-Member, RERC
49.	Shri V.K. Khanna	Ex-Member, UERC
50.	Shri S.C. Dhingra	Ex-Member, UPERC
51.	Shri R.D. Gupta	Ex-Member, UPERC
52.	Shri Alok Kumar	Secretary, CERC
53.	Shri K.K. Sharma	Advisor (Law), CCI
54.	Shri G.R. Wadhwa	CCI
55.	Shri S.K. Chatterjee	Deputy Chief (RA), CERC