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REPORT ON

Know Your Regulator (KYR) Series Kerala State Electricity Regulatory Commission (KSERC)

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Organised by:

Forum of Indian Regulators (FOIR) Centre, Indian Institute of Corporate Affairs (IICA) in collaboration with The State Capacity Initiative at the Centre for Policy Research (CPR)

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Speaker



Shri Preman Dinaraj

*Chairperson,
Kerala State Electricity Regulatory Commission (KSERC)*

Mr Preman Dinaraj is the Chairman of the Kerala State Electricity Regulatory Commission (KSERC). He is an Indian Audit and Account Service Officer of the 1984 batch, and a wonderful personality who continued his education, presently pursuing his PhD from the Auckland University of Technology.

He was the Principal Accountant General in the States of Kerala, Bihar and Chhattisgarh, and during his career, he handled assignments in various departments/ministries. He worked as the Director at L&T Special Steels & Heavy Forgings Pvt Limited for around 5 years and as the Chairman at NPCIL-NALCO Power Company Limited for more than 4 years.

He has done MDP in Financial Management from IIM Bangalore. He has completed his Master's Degree from Jawaharlal Nehru University, New Delhi and Bachelor's Degree i.e. Bachelor in Science from Sacred Hearts College, Thevara.

Convenor & Moderators



Dr Abha Yadav

Associate Professor, School of Competition Law & Market Regulation and Director Forum of Indian Regulators (FOIR) Centre, Indian Institute of Corporate Affairs (IICA)

Dr Abha Yadav (PhD) is a faculty at IICA who leads research and capacity-building initiatives at the School of Competition Law & Market Regulation. She is also the Director of the Forum of Indian Regulators (FOIR) Centre at IICA which is the knowledge and capacity-building hub for the Central and State government regulators of the country. She steers policy discussions, thematic discourses and enhancement of capacity-building initiatives that are an integral and vibrant part of this unique Centre. She serves as Course Director of the prestigious Certificate Course in Competition Law and Advanced Professional Course in Competition Law and Market Regulation.

She is faculty for Competition Law, Law and Public Policy, Freedom of Information, Regulatory Affairs, Laws for Women, Regulatory Impact Assessment, Labour laws etc. She is a recipient of the prestigious Fox International Fellowship at Yale University, U.S.A. and the Lok Sabha of India Fellowship. She is an eminent scholar who has lectured widely on various legal issues in India and internationally.



Ms Arkaja Singh

Fellow, State Capacity Initiative, Centre for Policy Research

Arkaja Singh is a Fellow at the State Capacity Initiative at the Centre for Policy Research (CPR). Her areas of interest include municipal government, informal settlements, land, water and sanitation (and especially the issues around sanitation labour and manual scavenging), and the interface of law and the Indian administrative state. The comparative project, 'Elevating Water Rights to Human Rights' in collaboration with the Chr. Michelsen Institute, Bergen considers varying and multiple mobilisations of the 'right to water' in an international context. Recently completed a study of state response to India's 'crisis of hunger' brought about by the COVID-19 pandemic, considering issues of state capacity in the organisation and delivery of the response.

Other recent work includes a study of federal relations in the context of water resources and environmental governance in India. Previously managed SCI-FI II (sanitation), in which she was responsible for managing research on institutions and finance, the social interface of technology and engineering and on social and gender dynamics of sanitation. Her work included the development laws and institutional frameworks for the management of wastewater and faecal sludge, and various laws and legal responsibilities relating to sanitation work and the elimination of manual scavenging. Before that, she worked in the development sector consulting and research. Arkaja studied law at the National Law School of India University, Bangalore and has an LL.M. from the School of Oriental and African Studies, London.

Convenor & Moderators



Dr Ashwini K Swain

Fellow, Initiative on Climate, Energy and Environment,
Centre for Policy Research

Ashwini K Swain is a fellow at the Centre for Policy Research. His research interests include the political economy of electricity, the interface between energy service needs and climate mitigation goals, and the water-energy-food nexus, especially in the Indian context. He has also worked on public participation in service delivery and has a keen interest in the political economy of India and political analysis. In addition, he has been actively engaging with civil society organisations and public agencies at the national and sub-national levels on these issues.

Ashwini is also a (non-resident) fellow at Energy for Growth Hub. He has earlier served at Centre for Energy, Environment & Resources, CUTS Institute for Regulation & Competition, Agence Française de Développement, University of York, University of Wisconsin-Madison, and National Institute of Public Finance and Policy. He holds a PhD in Politics from the University of York and an MPhil and MA degrees in Political Studies from Jawaharlal Nehru University.

Participants Profile

FOIR Regulatory officials from regulatory bodies across India, Researchers, industry experts in the power sector & FOIR Member Organizations facilitated the session with their kind presence.

64 participants attended the webinar.



Program Outline

The Forum of Indian Regulators (FOIR) Centre at IICA, along with the State Capacity Initiative at the Centre for Policy Research (CPR) conducted 'Know Your Regulator' talk series.

'Know Your Regulator' with Mr Preman Dinaraj, Chairperson, Kerala State Electricity Regulatory Commission (KSERC)

Speakers:

Mr Preman Dinaraj in conversation with Dr Abha Yadav, Associate Professor, Indian Institute of Corporate Affairs and Director of the Forum of Indian Regulators (FOIR) Centre at IICA, Ms Arkaja Singh, Fellow, State Capacity Initiative, Centre for Policy Research and Dr Ashwini K Swain, Fellow, Initiative on Climate, Energy and Environment, Centre for Policy Research.



About KSERC

Dr Abha Yadav took the initiative to give a brief overview of the Kerala State Electricity Regulatory Commission. She opined that in the year 1958, the electricity department of Kerala was converted into the Kerala State Electricity Board under the Electricity Supply Act 1948, and the board was held responsible for generating, transmitting and distributing electricity within the state. However, by the mid-1990s there was a shortage in generation facilities coupled with growing demand, which resulted in a deficiency in power supply causing a financial burden on the board.

Therefore, the Kerala State Electricity Regulatory Commission was constituted in November 2002, under the Electricity Regulatory Commission Act 1998, and later came under the purview of the Electricity Act 2003. KSERC regulates the generation, transmission, wheeling and distribution of electricity within the state and it also determines the power purchases, tariffs, and procurement processes and issues licences for electricity operations in the state.

About 'Know Your Regulator' Series

This talk series is jointly organized by the State Capacity Initiative at the Centre for Policy Research (CPR), the Forum of Indian Regulators (FOIR) and the Indian Institute of Corporate Affairs (IICA). The series consists of conversations with the people entrusted with the task of regulating Indian markets and various parts and aspects of the economy. These are the chairpersons and members of India's regulatory agencies.

In the conversations, the organizers seek to explore the public nature of the regulatory activity through questions like, why should the work of regulatory agencies be of interest to people, producers, consumers, professionals, service providers, and citizens? What are the public goals of regulation? In what ways does the work of regulation involve having to make a balance, or make trade-offs, or amicably resolve competing or even conflicting claims of public and private interest? Regulatory agencies are a relatively recent innovation of the Indian state, set up to address the evolving needs of the Indian economy in the decades since the 1990s (although with some notable older instances). The series is directed at exploring the institutional form of the regulatory agencies, their features, norms and values, and their frameworks of decision-making and rationality.

In addition, the series is intended to understand the functional domain and the everyday administration of the regulatory agencies, their staffing, procedures, information systems and operational modalities. Regulatory agencies are envisaged as state agencies that can respond to complex and changing situations, both at the level of policy recommendation and in the case-specific ruling. In the conception of regulatory agencies, this was thought of as a challenge that would be addressed through specialization, expertise and the design of their power and functions. However, each regulatory agency is also unique, in terms of how its regulatory mandate is designed and the nature of the challenges that it is set up to address. In this talk series, we will seek to explore the regulatory debates (both broad and sectoral) that animate the world of regulation, and how it relates to the rest of us.

Welcome Note by Dr Abha Yadav

The conference began with a welcome note by Dr Abha Yadav, wherein she briefly introduced the concept behind the “Know Your Regulator Series”. She also provided a brief about the previously executed series. This talk with Mr Preman Dinaraj is the eighth session of the KYR series. Dr Abha opined that electricity being a Concurrent list subject, consists of a federal dimension in sharing power and responsibility between the State and the Centre and, pointed out that the Central Electricity Regulatory Commission(CERC) regulates tariffs for generating companies owned or controlled by the Central Government and for those concerned with the interstate transmission of electricity, whereas the State Electricity Regulatory Commissions regulates tariff for generations supply transmission and wheeling of electricity within the states.

Highlighting, the historical background of the Electricity Commissions in India, Dr Abha stated that CERC and SERCs were set up under the Act of 1998, and later reconstituted under the Electricity Act 2003 with the objective of depoliticizing the sector and incentivizing private investment. Therefore, the Electricity Act 2003 was designed to consolidate the various laws governing the electricity sector and it brought two key changes:

1. Delicensing of generations and
2. Separation of the State Electricity Boards to convert them in uni functional utilities.

The Discourse

Mr Dinaraj began the conversation by highlighting that KSERC has a setup of 3 Consumer Grievance Redressal Forums (CGRF) located in different parts of the state and a State Electricity Ombudsman within their ambit. Speaking about the establishment of State Electricity Regulatory Commissions (SERCs), he mentioned that Section 86 of the Electricity Act 2003, clearly and elaborately delineates the role expected by the SERCs. Mr Dinaraj identifying the regulators as ‘Trapeze Artists’ professed that the demands, expectations and requirements faced by them are tremendous, and at times it becomes like service where they have to balance the interest of a paying public vis- a- vis subsidising group of consumers, along with the duty to maintain the financial viability of the sector. Post elucidating on the establishment and role of the KSERC, the discourse moved to key functions of the commission, Mr Dinaraj responded that the most important function is the tariff setting dimensions, for which they have Multiyear Tariff Framework (Myt), which provides an overview of the needs in the coming 5 years in order to encourage investment and a sense of certainty to the general public.

Another important function is to frame regulation, the parent act delegates the regulation-making power to the SERCs. Therefore it makes subordinate legislation. Lastly, he mentioned that the compliance of consumer redressal is another important function, and therefore, the Consumer Grievance Reversal Forums (CGRF) and the Electricity Ombudsman are established, but in the case where the redressal forums do not comply with the issue, Section 142 Electricity Act, 2003 can be invoked and the dispute is resolved accordingly.

Describing the process of making regulations, Mr Dinaraj mentioned the steps such as framing, publishing, stakeholder consultation process etc. and gave emphasis on the initiative of public hearing taken up by the KSERC in its regulation-making process. He also mentioned that a regulation which is framed in accordance with the parent act cannot be questioned in the High Court.

After that, Mr Dinaraj touched upon the jurisdictional power of the KSERC and mentioned that under the act, the commission is recognised as Civil Court and it has both civil as well as criminal jurisdiction. Therefore, any decision of the commission can be challenged before the appellate authority.

Ms Arkaja posed the next question, asking Mr Dinaraj to explain the electrification of far-flung areas. Mr Dinaraj responding to it stated that Kerala is one of the states which has done nearly 100% electrification. In fact, they not only have electrified it, but they also ensured that there is supply because both factors are equally important. On the aspect of regulated entities and the consumers, he mentioned that they have approximately 1 crore 32 lakh consumers out of this 1 crore 2 lakh are domestic consumers and about 28 to 29 lakh are non-domestic. And as far as the rate slab is concerned KSERC has achieved the “Regulatory Operating Process”.

Dr Ashwini moving the discourse further asked about cross-subsidization, Mr Dinaraj responded that the State government do not provide money in terms of subsidy, but the commission is tasked with ensuring that cross-subsidy should exist, as it ensures the financial viability of the distribution licensee, failing which there would be no supplier. Therefore, in terms of subsidy, they have to ensure that the cross-subsidisation is reasonable and affordable.

Throwing light on the point, of how public hearings contributed to strengthening the regulatory process and how the interaction between consumers and regulators is evolving over the years, Mr Dinaraj said that the contribution as far as public consultation is concerned is very good, but in the democratic sector there is an element called as sentimental issue caring over the democratic decentralisation of power, that means one may not be able to address all the complaints of an average man.

Moving further, Ms Arkaja asked to throw light on the mechanism of coordination and cooperation in a federal setting, Mr Dinaraj stated that one factor is the regulated-to-regulator interaction and the second is the regulator to the policy maker, which in this case happens to be the government. And stated that the FOR meetings are very detailed, where every decision is well considered.

Mr Ashwini's next question was around the aspect of energy transition to which Mr Dinaraj responded that Kerala does not have any thermal plant, so to that extent, they are relatively away from the fossilisation effect and its impact. Then, on renewable sources, he mentioned that Kerala is not going to face the issue in relation to fossil fuel as they are establishing new renewable plants in which 30 per cent is hydro and others are either wind or solar based.

Secondly, on the point of evolution of the role of regulators, especially in an emerging economy, he stated that it's going to be challenging, as there is a proposal to amend the Electricity Act which will de-license the distribution sector. Such amendment will raise disputes and threaten sustainability by providing open access utilisation to the generation companies.

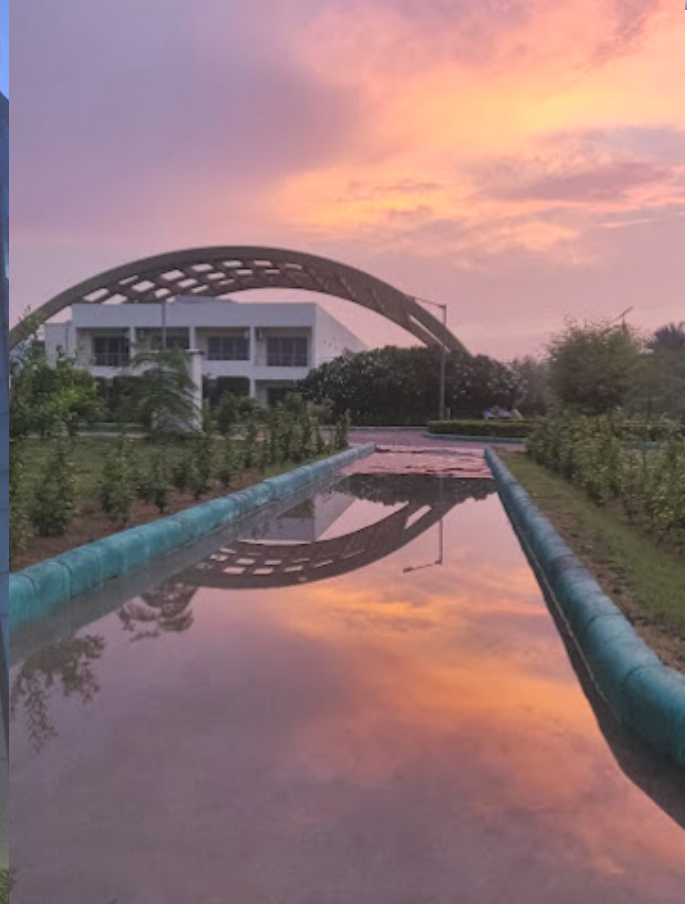
As far as Renewable Purchase Obligation (RPO) mechanism is concerned, Kerala is yet to comply with it. But in the last 3 years, the situation has changed and Kerala is expecting about 1000 megawatts of rooftop solar power projects. And proposal for another four generators in Idukki is under consideration.

Vote of Thanks

The conference ended with a vote of thanks by Dr Abha Yadav thanking the esteemed speaker and summarising the discussion.

For Queries and Feedback:

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