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REPORT ON

Know Your Regulator (KYR) Series Central Electricity Regulatory Commission (CERC)

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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), the National Council of Applied Economic Research (NCAER)

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Speaker



Shri P K Pujari

*Chairperson, Central Electricity Regulatory Commission and
Vice-Chairperson, Forum of Indian Regulators (FOIR)*

A Post Graduate in Economics from Delhi School of Economics, Shri P.K. Pujari joined the Indian Administrative Service (IAS), the premier civil service of India in 1981 and was allotted Gujarat cadre. During his career, he handled assignments in various departments/ministries in Gujarat as well as Central Government, such as power, commercial taxes, finance and industries. He was Secretary to Government of India, Ministry of Power for more than two years before his superannuation in 2017, after serving for 36 years. Some of the key assignments in the field of finance and industries were (i) financial resource forecast, expenditure planning, annual budget preparation, debt and guarantee management; (ii) transition from sales tax to value-added tax (VAT), administration of commercial taxes by simplifying processes and making it enabled; and (iii) setting up and marketing industrial estates and special economic zones. He worked in the power sector for more than seven years, as Director and Secretary. As Director, he was involved in developing a policy framework for the participation of private power utilities in generation and distribution.

During his tenure as Secretary (2015-17), maximum generation capacity and inter-state transmission capacity was added in the country, resulting in one nation - one grid - one price. As Secretary, he initiated and concluded several far-reaching initiatives and policy changes. These include electrification of all the remaining 18,452 villages (as of 1.4.2015), launching of "UDAY" for sustainable operational and financial turnaround of discoms, revised Tariff Policy 2016, new coal linkage policy for power plants, revised National Electricity Plan, XIX electricity power survey, revised- bid documents for UMPPs, revised power allocation formula for states from CG stations, formulation of new hydro-power policy, formulation of the new policy for universal households electrification by 2019, policy guidelines for integration of renewable energy into the grid, revised rules for captive generators, finalisation of the report for rationalisation of tariff structure and tariff categories. During his tenure, the guidelines for cross border trade of power with neighbouring countries got finalised. The cross border transmission lines also got augmented substantially. This facilitated increased trade of power with Bhutan, Nepal and Bangladesh. Power trade with Myanmar started for the first time. Talks started for submarine cable connection with Sri Lanka. He led the Indian side for the bilateral talks on power trade with these countries.

He was closely associated with the signing of the International Solar Alliance Framework Agreement during COP22 in Marrakech. He led the Indian delegation for the 2nd BRICS Energy Ministerial Summit and also for the 8th Clean Energy Ministerial (CEM) Summit in Beijing. He has been appointed Chairman of the Central Electricity Regulatory Commission in February 2018.

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 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 development law 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.



Ms Amrita Pillai

Consultant, IEPFA Chair Unit on Regulation,
NCAER

Amrita Pillai is a Consultant at NCAER, in the Investor Education and Protection Fund (IEPF) Chair Unit on Regulation and Programme of Economic and Regulatory Research. She is a lawyer and public policy professional who was previously part of the Department of Economic Affairs (DEA), Ministry of Finance Research Programme at the National Institute of Public Finance and Policy (NIPFP), New Delhi. Before this, she worked in the judicial reforms vertical at the Vidhi Centre for Legal Policy, New Delhi and as a socio-legal consultant with the Planning Department, Government of Andhra Pradesh. Amrita holds a degree in law from Government Law College, Mumbai and completed her post-graduate studies in public policy and governance from the Tata Institute of Social Sciences. She has a keen interest in regulatory governance issues and the interface between law, economics and public policy.

Participants Profile

Officials from regulatory bodies across India, researchers, experts in the power sector & FOIR Member Organizations representatives facilitated the session with their kind presence.

110 participants attended the webinar.



Program Outline

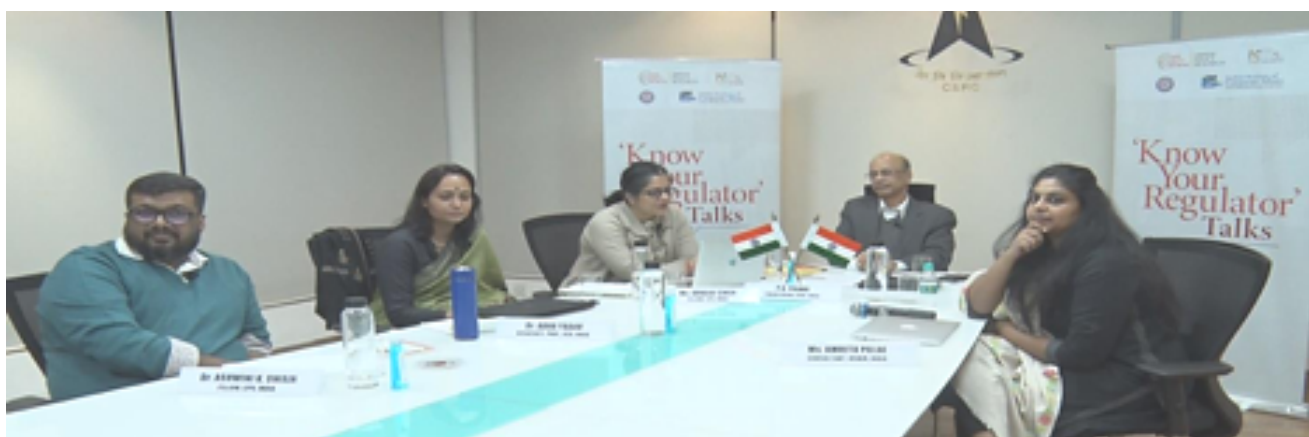
The State Capacity Initiative at the Centre for Policy Research (CPR), the National Council of Applied Economic Research (NCAER), the Forum of Indian Regulators (FOIR) and the Indian Institute of Corporate Affairs (IICA) conducted 'Know Your Regulator' talk series' session:

'Know Your Regulator' with Shri P K Pujari, Chairperson, Central Electricity Regulatory Commission (CERC)

SPEAKERS:

Shri P K Pujari 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, **Dr Ashwini K Swain**, Fellow, Initiative on Climate, Energy and Environment, Centre for Policy Research and **Ms Amrita Pillai**, Consultant, IEPF Chair Unit on Regulation, NCAER.

Welcome note by **Dr Mekhala Krishnamurthy**, Senior Fellow, State Capacity Initiative, Centre for Policy Research and Associate Professor of Sociology and Anthropology, Ashoka University.



About CERC

The Central Electricity Regulatory Commission (CERC) was set up by the Electricity Regulatory Commissions Act, 1998. It was subsequently reconstituted under the Electricity Act, 2003. CERC regulates those aspects of the electricity sector that fall within the domain of the Centre. It has a wide range of powers, including licensing, tariff-setting, adjudication of disputes, and specifying and enforcing various types of standards. Aspects of electricity that fall within the domain of states are similarly regulated by State Electricity Regulatory Commissions. These regulatory commissions, central and state, have been a significant feature of reform and restructuring efforts in the electricity sector starting from the 1990s. They also have a key role to play in the future of the electricity sector and the shift towards renewables.

About 'Know Your Regulator' Series

This talk series is jointly organized by the State Capacity Initiative at the Centre for Policy Research (CPR), the National Council of Applied Economic Research (NCAER), the Forum of Indian Regulators (FOIR) and the Indian Institute of Corporate Affairs (IICA). The series consists of conversation 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 to make trade-offs, or to 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 in 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 in 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 Mekhla

The conference began with the welcome note by Dr Mekhala Krishnamurthy, 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 Pujari is the fourth session of the KYR series. The first session was with Dr MS Sahoo, the then Chairperson, Insolvency and Bankruptcy Board of India (IBBI) and Dr KP Krishnan. The second session of the series was with Ms Rita Teotia, Chairperson, Food Safety Security Association of India (FSSAI) and the third was with Mr Navreet Singh Kang, Chairperson, Real Estate Regulatory Authority (RERA), Punjab.

Ms Amrita Pillai gave a brief introduction about Mr Pujari and CERC followed by brief introduction of Mr Swain, Ms Arkaja and Dr Abha.

The Discourse

Mr Pujari began the conversation by elaborating on the establishment of Central Electricity Regulatory Commission (CERC) and its organizational structure in adherence and furtherance to the Electricity Act, 2003. He also detailed on the division of work, power and all kinds of responsibilities between the SERCs and the CERC as prescribed in the Act. The establishment of CERC has distanced the government of the day from getting into running of the sector post establishment of the Act.

Beginning from the year 1991, the electricity generation sector was opened up for private participation as a result of which several generating stations came into operation. Dealing with them on commercial issues was probably not envisaged by the then government. Therefore, CERC as the regulatory body was created and entrusted with responsibility to look at the various commercial aspects of private generating stations. However, subsequently, this philosophy was extended in 2003 and eventually the government distanced itself from the tariff setting and other commercial aspects of the operation of the power sector as well. The mandate of the regulatory commission has been to strike a balance between the suppliers i.e. the generating stations from the transmission utilities and the consumers. CERC in the process of striking balance also ensures that the cost of the electricity is recovered affordably, making it inexpensive for the consumers. Another purpose of establishing CERC was to bring competition and efficiency into the system.

The power sector all over the world including India is undergoing a tremendous change because of the occurrence of various new technological interventions. Therefore, the regulator needs to keep itself abreast with these development and creative legal framework which enables and facilitates these changes to come into the sector. Another crucial task of being the regulator is to anticipate what changes are likely to occur and accordingly create a suitable background so that those changes get assimilated into the system for the benefit of the consumer and the generator. The regulators have the mandate to cope up with the innovations and changes through its capacity building programmes and also interact with the experts in the area.

Post elucidating on the establishment and role of the CERC in India, the discourse moved to futuristic role of CERC, to which Mr Pujari responded that The Government of India has announced setting up large-scale renewable energy with capacity of 450 GW, so that the energy generation needs to be integrated into the Indian grid. Therefore, the biggest challenge that CERC has to facilitate is the integration of this renewable energy and clean hydrogen, which is a promising area, but has both commercial and operational issues. Then addressing the technical issues such as forecasting and scheduling in the electricity sector, Mr Pujari opined that the emergence of electricity vehicles is another upcoming challenge in the coming years.

Dr Abha moving the discourse further asked Mr Pujari to throw light on whether CERC has been able to fulfil its mandate of serving the consumers and promoting competition in the market. In response, Mr Pujari stated that the structure of utility regulators is different and they are designed differently. As far as the bulk generation is concerned, there are two ways in which tariff can be determined - the cost-plus approach and competitive bidding. For example, NTPC plant comes under cost plus approach as it basically determines the capital cost and tariff.

The electricity sector falls under the concurrent subject (list 3 given in the Seventh Schedule of the Constitution of India). So we have state regulators and the central regulator. The state regulator determines the tariff of the distribution utilities so they take the price that is or the tariff that has been set by the central regulator either through the cost-plus approach or the competitive approach.

Since CERC is the central electricity regulator, it does not directly deal with the consumer tariff. But CERC's generation cost becomes a bigger input in consumer tariff, and the regulator is fully responsible for discovering tariff that is competitive.

The approach that CERC takes is to fix the tariff within competitive and tight normative parameters, discover tariff through competitive bidding and make sure that the transmission system is planned in an efficient manner so that there are no stranded assets, and lastly, ensure that the efficiency is passed on to the consumer. This is to make sure that the transmission system is plain and efficient so that there are no stranded assets. And, thereafter, utilize to the highest maximum possible extent so that the efficiency is passed on to the consumer. Conclusively, these are the three areas that CERC operates but the bidding guidelines based on which the competitive bid takes place is framed by the government.

After that Mr Pujari touched upon the mandate of CERC, the discourse moved onto the micro aspects of CERC as an organization because as a regulator one finds that a regulator has more autonomy. After all, the organization encompasses the legislature, the executive and the judiciary.

Dr Abha posed the next question, asking Mr Pujari, "how do you think the multiple roles of CERC translate into the institutional and administrative structure of the authority?" Mr Pujari responding to it stated that each of the regulatory bodies is different. CERC has legislative power and the regulations that CERC makes are subordinate legislation and they are placed in the parliament. CERC needs resources or expertise on these three matters i.e. technology, finance and law, and the biggest challenge is to get competent people in all three areas. As far as CERC is concerned, it has people with technical backgrounds and finance. For law-related issues, CERC has in-house people who acquire capacity and then they contribute a huge amount into the system. As far as autonomy is concerned, CERC need not to report its day to day activities to the ministry or any other body.

However, there are general financial guidelines under which the creation of the post beyond a level needs the approval of the government.

Ms Arkaja Singh steered the conversation and asked Mr Pujari about the key features of regulatory authority on the lines of its ability to respond quite fast to complex technical issues and the difference between the work of the ministry and the work of a regulatory authority. Replying to the question, Mr Pujari stated that the ministry undertakes broad policy frameworks which gives guidance to the sector. The vision of the government and that of the regulator will be guided by that policy framework under the Electricity Act, 2003.

Giving an example of policy statement by the concerned ministry i.e. setting up of 450 gigawatts renewables project, Mr Pujari explained the process of regulation making by highlighting the need of understanding the pre-requisites such as the ways of evacuation, flow and integration of power in the said solar generation project - which is then discussed and formulated as regulation by the regulators, according to the guidelines of the concerned ministry.

Ms Arkaja's next question was around the quasi-judicial or the adjudicatory part of CERC to which Mr Pujari responded that the regulatory commissions will be the advocating body for any contractual dispute related to the electricity sector. He mentioned that, it is now a precedent set by the Hon'ble Supreme Court of India that the composite schemes i.e. generation stations which supplies energy to more than one state, are under the domain of CERC. Whereas a private generation station, supplying energy to more than one state also comes under the domain of CERC.

Secondly, the transmission is a natural monopoly that runs across the country is within CERC's domain, whereas the state is having interstate generation stations and interstate transmission utilities within their goal. Therefore, in case of any contractual issue the CERC is having the adjudicatory right, which they resolve by following their own procedure and powers of civil court as provided under the act.

Mr Swain taking over the discourse asked Mr Pujari to elaborate a little more on what it means to integrate the market at the national level and how it helps the consumers in terms of tariff and reliability of supply. Responding to that Mr Pujari said that concept of merchant power plant could be adopted, as the sale of electricity can be done within the market.

Apart from it on the point of transmission, he calls it as natural monopoly without any competition, but now as the transmission lines are bid out, there is emergence of competitive bid route. He also mentioned that, competition in the matter of distribution of electricity is determined according to the distributing entities.

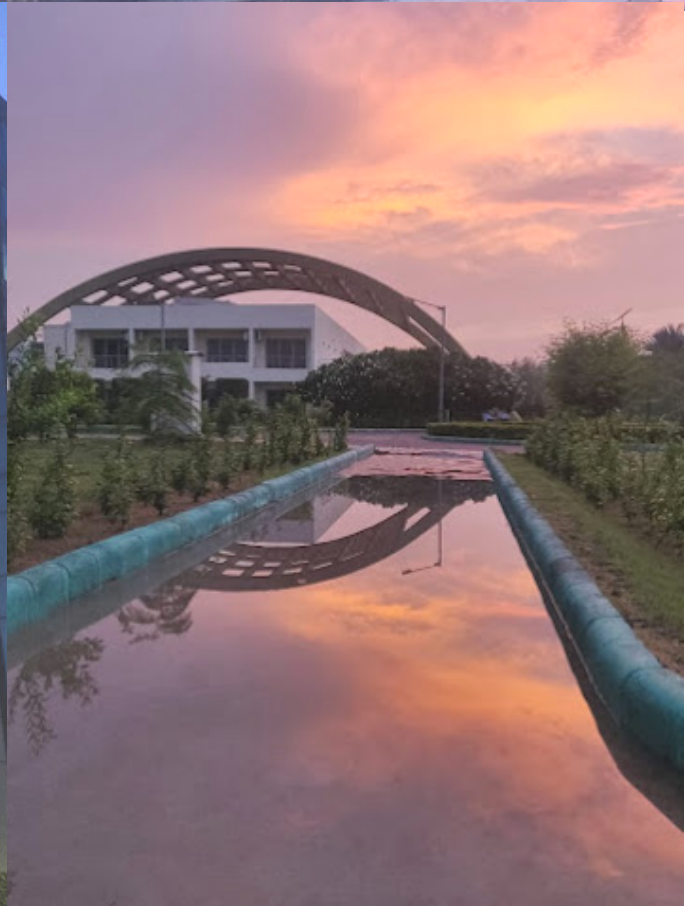
Mr Pujari lastly on the point of light touch regulation, said that in regulation making process, normative approach should be adopted, where certain parameters and benchmarks should be fixed and applied with amendments according to the future needs and demand in electricity generation and compliance.

Vote of Thanks

The discussion ended with a vote of thanks by Dr Mekhala thanking the esteemed speaker and summarizing the discussion.

For Queries and Feedback:

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