

LICENSE (Sec 12 to Sec 24)

1) Why “licensing” exists in the Electricity Act, 2003

The power sector was partly **de-licensed** to increase generation, but the Act also keeps some activities **licensed**.

Meaning: some activities are so sensitive that **no one is allowed to do them unless a licence is granted by the regulator**.

Section 12. (Authorised persons to transmit, supply, etc., electricity):

No person shall

- (a) transmit electricity; or
- (b) distribute electricity; or
- (c) undertake trading in electricity,

unless he is authorised to do so by a licence issued under section 14, or is exempt under section 13.

Which activities need a licence (Section 12)

There are **three licensed activities** under the Act:

1. **Transmission** (carrying electricity long distance through high voltage lines)
2. **Distribution** (supplying electricity to end users in an area)
3. **Trading** (buying and selling electricity as a business)

Generation has already been discussed earlier as **not requiring licence** (de-licensed).

Special exemption: no licence required for rural electrification (under Section 12 context)

Even though distribution is generally licensed, an exception exists for **rural electrification**.

Section 13. (Power to exempt):

The Appropriate Commission may, on the recommendations, of the Appropriate Government, in accordance with the national policy formulated under section 5 and in the public interest, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the provisions of section 12 shall not apply to any local authority, Panchayat Institution, users' association, co-operative societies, non-governmental organizations, or franchisees:

Who can supply in rural areas without licence?

Local authority / Panchayat / Cooperative societies / Users' associations / NGOs can supply electricity in rural areas **without applying for a licence**, when this is done as part of rural electrification.

Because electricity is needed not only for industry but also for **better living**, and remote rural areas need quicker electrification by inviting more players.

But there is a safeguard (this is important)

This exemption is not "automatic". The idea is:

- the **Appropriate Government** (Central or State, as the case may be) should recommend it,
- and such recommendation should be **in pursuance of national policy or in public interest**.

Why is government involvement needed?

Because issues like:

- grid compatibility,
- reliable/quality electricity supply, must still be kept in mind.

So the government assesses whether inviting such entities is necessary or whether planned infrastructure already addresses the area.

2) Who grants a licence (Section 14)

Section 14. (Grant of licence):

The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -

- (a) to transmit electricity as a transmission licensee; or
- (b) to distribute electricity as a distribution licensee; or
- (c) to undertake trading in electricity as an electricity trader,

in any area as may be specified in the licence:

Authority: Licences are granted by the **Appropriate Commission** (Regulator).

“Appropriate Commission” can mean:

- State Electricity Regulatory Commission (SERC),
- Central Electricity Regulatory Commission (CERC),
- or Joint Commission in some cases.

Why regulator (commission) grants licences

The commission is designed as an **independent, autonomous body**, expected to make decisions based on:

- market requirement,
- need of the power sector,
- what is desirable for growth.

“Deemed Licensee” — what it means (Provisos of section 14)

The Act continues certain older arrangements from previous electricity laws, so that the system doesn't collapse when old laws are repealed.

Simple meaning of “deemed”

“Deemed” creates a **legal fiction**:

- even if something has **not actually been done** (like applying for a fresh licence),
- the law **treats it as if it has been done**, for continuity. So “deemed licensee” means: even though a fresh licence was not applied for / granted under the new Act, the entity is treated **as if** it has a licence, because the law says so.

a.Existing entities already in transmission and supply

If a person or company was **already doing transmission or supply of electricity under the old laws** before the Electricity Act, 2003 started, then they do **not need to immediately take a fresh licence** under the new Act.

The law will **treat them as if they already have a licence under the 2003 Act**.

What happens exactly?

- Their old **licence / clearance / approval** will continue for the time mentioned in that existing permission.
- The **old law** will keep applying to that licence for **one year from the start of the Electricity Act, 2003**, or for a shorter period if the licensee asks and the Appropriate Commission allows it.
- **After that**, the **Electricity Act, 2003** will apply to that business.

b. Central Transmission Utility and State Transmission Utility

The professor then discusses the **Central Transmission Utility (CTU)** and the **State Transmission Utility (STU)**. He says they are treated as **deemed transmission licensees**. They need not apply for a licence to enter into the business of transmission because they are presumed to have a licence for all purposes.

The reason, again, is continuity. These institutions already existed before the 2003 Act, and the law wanted to preserve the status they already enjoyed. So deemed licensing here is functioning as a continuity clause for key system institutions.

c. Appropriate Government as a participant in the sector

Another category the professor mentions is the **appropriate government** itself. If the appropriate government is engaged in **distribution, transmission, or trading**, it need not obtain a licence. The idea is that if the government wants to ensure electricity reaches the population and wants to remain present in the sector, the law should facilitate that role rather than block it with a licensing hurdle.

This ties back to the larger public-service dimension of electricity law. Government participation is not treated as something alien to the sector; rather, the statute accommodates it.

d. Damodar Valley Corporation

The professor then gives a specific example of **Damodar Valley Corporation (DVC)**. He notes that DVC had long been active in electricity generation and had contributed significantly to sectoral growth, especially in the eastern region, mentioning Bihar, Jharkhand, and West Bengal. Because of this background role, DVC also need not apply again for a licence under Section 14.

This is another example of the law recognizing historically important public power bodies and preserving continuity for them.

e. Government companies formed through unbundling of State Electricity Boards

The lecture then links deemed licensing with the reform of the old **State Electricity Boards**. The professor recalls that the boards had become a liability and were not living up to consumer expectations. Therefore, reform was introduced through **unbundling**, that is, separating the board into distinct functions such as generation, transmission, and distribution.

He explains that one way of unbundling is by handing over the responsibilities of the board to a **government company**. If such a company has come into existence as a result of unbundling, then it also need not obtain a fresh licence. So the Act supports restructuring and reform by ensuring that successor government companies can continue operations without being paralysed by immediate relicensing requirements.

f. Parallel licensing in distribution: a pathbreaking feature

The professor then introduces what he calls a **very pathbreaking provision: parallel licensing in the distribution sector**. He says that more than one distribution licensee can operate in the same area, and such a new licensee can lay down its own distribution system.

He explains it geographically. If one distribution licensee already has permission to operate in a particular area, another distribution licensee may also operate there and supply electricity through its own system. This means more than one player can exist in the distribution segment in the same geographical area. He says this provision has advantages and disadvantages, though he will discuss those later in the detailed lecture on distribution.

What matters in this lecture is the policy point. He says this is pathbreaking because it gives the consumer **choice** regarding from whom to buy electricity. That choice can promote **competition**, lead to a more **economic or competitive tariff**, and ultimately benefit the consumer. So parallel licensing is presented as a competition-oriented reform within a traditionally regulated part of the sector.

g. Franchisee of a distribution licensee

The lecture next explains that if a distribution licensee engages another entity to supply electricity within the area assigned to the licensee, that other entity need not obtain a fresh licence. The professor says such an entity may be called a **franchisee** under the Act.

The logic is straightforward. The main distribution licensee already holds the licence for that area. If it ropes in another entity for supply within that same area, it is unnecessary to make that

franchisee undergo a separate licensing process. So the law recognizes operational delegation within the licensed structure.

h. Distributed generation for rural electrification

Another special relaxation discussed by the professor concerns **distributed generation**. He says that, to facilitate rural electrification, an entity engaged in both **generation and distribution** need not obtain a licence. He describes this as a major reform for rural sectors.

His explanation is very practical. Such players need not get unnecessarily trapped in approval processes. They can set up a small-scale generation facility and distribute electricity within a small area. So what the law is visualizing here is a localized, small-scale model of electricity generation and supply that helps rural areas without the burden of full licensing. He says this too will be discussed more fully when the course reaches the topic of distribution.

i. Distribution licensee engaging in trading

The professor then adds another point that is easy to miss. He says a **distribution licensee** does not need to take a separate licence if it wants to engage in **trading**. He reminds the students that, under the 2003 Act, trading is recognized as a distinct activity for promoting the market. Therefore, allowing distribution licensees to participate in trading may help give necessary impetus to the electricity market.

So the statute is not only controlling participation; in some places it is also trying to facilitate participation where it helps market development.

Section 15: Procedure for grant of licence

This section tells us **how a licence is obtained** under Section 14 of the Electricity Act, 2003.

15(1) — Application must be made in the proper form and with fee

If a person or company wants a licence, they cannot apply casually. They must:

- use the **form** prescribed by the Appropriate Commission,
- follow the **manner/procedure** prescribed by it,
- and pay the **required fee**.

So this means the application must be properly filed as per regulatory rules.

15(2) — Applicant must publish notice within 7 days

After making the application, the applicant must **publish a notice of the application within 7 days**.

Why?

Because electricity licences affect the public, the market, and infrastructure. So people must know that such an application has been made.

A licence cannot be granted until two things are done:

15(2)(i) – Objections must be considered

If people file objections after seeing the public notice, the Commission must consider them.

But there is one limit:

those objections must be received **within 30 days from the date of publication of the notice**. If objections come after 30 days, they need not be considered.

So the law gives a fair chance to the public, but not an unlimited chance forever.

15(2)(ii) – Central Government’s no-objection in defence-sensitive areas

If the licence area includes places like:

- cantonment,
- aerodrome,
- fortress,
- arsenal,
- dockyard,
- camp,
- or any building/place occupied by Government for defence purposes,

then the Appropriate Commission must first make sure that the **Central Government has no objection** to granting the licence.

So where defence/security is involved, an extra safeguard is added.

15(3) – Special rule for a transmission licence applicant

If a person wants to act as a **transmission licensee**, then immediately after filing the application, they must send a copy of it to:

- the **Central Transmission Utility (CTU)**, or
- the **State Transmission Utility (STU)**,

depending on the case.

This requirement is only for **transmission licence** applications.

15(4) — CTU/STU can give recommendations within 30 days

After receiving the copy, the CTU or STU may send its recommendations to the Appropriate Commission within **30 days**.

But these recommendations are **not binding** on the Commission.

That means the Commission must consider them, but does not have to blindly follow them.

15(5) — Before granting licence, the Commission must publish notice and consider all material

Before actually granting the licence, the Commission must do two things:

15(5)(a)

Publish a notice in **two daily newspapers** stating the name and address of the person to whom it proposes to issue the licence.

So there is another stage of publicity, now from the Commission's side.

15(5)(b)

The Commission must consider:

- all objections/suggestions received,
- and the recommendations of the CTU/STU, if any.

So the grant of licence must be based on proper consideration, not on secret decision-making.

15(6) — Commission should decide within 90 days

As far as practicable, within **90 days** of receiving the application, the Commission must either:

- **grant the licence**, or
- **reject the application**.

If it rejects the application, the reasons must be **recorded in writing**.

The application can be rejected if it does not comply with:

- the Electricity Act,
- rules/regulations under it,
- or any other law in force.

Important safeguard:

The application cannot be rejected unless the applicant is given an **opportunity of being heard**.

So the Commission cannot reject it without hearing the applicant.

15(7) — After licence is issued, copies must be sent

Once the licence is granted, the Commission must immediately send a copy of the licence to:

- the Appropriate Government,
- the Authority,
- the local authority,
- and any other person it thinks necessary.

This ensures official communication and coordination.

15(8) — Duration of licence

A licence remains valid for **25 years**, unless it is revoked earlier.

So the normal rule is long-term operation, not short-term permission.

Section 16: Conditions of licence

Section 16 says that the Appropriate Commission may lay down **general or specific conditions** for licences.

These conditions automatically become part of the licence.

What is the meaning of “general or specific conditions”?

- **General conditions** = conditions applicable to all licensees or a class of licensees.
 - Example: maintain safety standards, submit reports, comply with grid rules.
- **Specific conditions** = conditions applicable to a particular licensee.
 - Example: complete a certain transmission line by a fixed date, maintain supply in a particular district, create a special substation.

So Section 16 gives the Commission power to shape the licence in practical terms.

Proviso to Section 16

This proviso deals with the licensees referred to in the **first to fifth provisos of Section 14** — that is, persons/entities who were treated specially or as deemed licensees during the transition into the Electricity Act, 2003.

It says the Commission must, **within one year from the appointed date**, specify the general or specific conditions of licence that will apply to those existing/deemed licensees **after the expiry of one year from the commencement of the Act**.

Simple meaning of this proviso

When the 2003 Act began, some old licensees were allowed to continue temporarily. But they could not remain forever under vague old arrangements. So the Commission had to define the conditions that would govern them under the new Act. So this proviso is basically a **transition management clause**.

The commission's role does **not end** once the licence has been granted. The professor says constant monitoring is necessary to protect **public interest**, to ensure that **unnecessary monopoly** does not arise, and to make sure that the licence conditions are properly maintained and followed. So the commission is not merely an entry gatekeeper. It is a continuing sectoral regulator. This is essential to understand the structure of electricity regulation under the Act.

SECTION 17 — LICENSEE NOT TO DO CERTAIN THINGS

This section tells us that a licensee cannot freely buy, merge, transfer, assign, or dispose of its licence or utility as if it were an ordinary private business asset. Because electricity is a regulated public utility, these actions need the **prior approval of the Appropriate Commission**.

17(1) — No acquisition or merger without prior approval

A licensee cannot, without prior approval of the Appropriate Commission:

- buy or take over the utility of another licensee, or
- merge its utility with the utility of another licensee.

Simple meaning

If one electricity company wants to take over another electricity company's utility, or combine the two utilities into one, it must first get permission from the Commission.

This is because such a transaction can affect:

- supply of electricity,
- competition,
- monopoly,
- public interest,
- and consumer welfare.

So the law does not allow such restructuring privately and secretly.

Proviso to Section 17(1) — Exception for utilities in different States

This sub-section does **not apply** if the utility of one licensee is in one State and the other utility is in another State.

Simple meaning

If the two utilities are located in **different States**, this specific requirement under Section 17(1) does not apply in the same way.

So this sub-section mainly targets acquisition/merger involving utilities within the same State framework.

17(2) — One month's notice to other licensees in the area

Before getting approval under Section 17(1), the licensee must give at least **one month's notice** to every other licensee who transmits or distributes electricity in that area.

Simple meaning

If a licensee wants Commission approval for acquisition or merger, it must first inform other affected licensees in the area at least one month in advance.

Why?

Because such a transaction may affect them too.

For example:

- network coordination may change,
- competition may reduce,
- supply arrangements may be affected.

So the law gives other licensees a chance to know and react.

17(3) — No assignment of licence or transfer of utility without prior approval

A licensee cannot, at any time, without prior approval of the Commission:

- assign its licence, or
- transfer its utility, or any part of it,

by:

- sale,
- lease,
- exchange,
- or any other method.

Simple meaning

A licence is not a normal tradable asset.

A licensee cannot say:

- “I am giving my licence to someone else,” or
- “I am selling part of my electricity utility,” or
- “I am leasing it out,”

unless the Commission approves first.

17(4) — Agreement without prior approval is void

If there is an agreement relating to:

- acquisition,
- takeover,
- merger,
- assignment,
- sale,
- lease,
- exchange,
- or any such transfer,

and it is made **without prior approval of the Commission**, that agreement is **void**.

Simple meaning

Such an agreement has **no legal effect**.

In law, “void” means it is treated as invalid from the beginning.

So parties cannot bypass the Commission and then later try to defend the transaction.

The important legal doubt: can a deemed licensee’s licence be revoked?

The professor then raises a particularly interesting legal question: **can the commission revoke the licence of a deemed licensee?** He frames it as a doctrinal issue rather than giving a final answer.

One possible view, he says, is that if a deemed licensee breaches conditions or causes disruption in the market, some punitive action may indeed be taken by the commission. But the technical objection is this: a deemed licensee has not actually received a licence from the commission in the ordinary sense. It has not applied under Section 15; rather, the law itself grants it the status of a licensee. Therefore, if the commission never granted that licence in the first place, can it truly revoke or cancel it?

He strengthens the doubt by pointing out that in the case of a deemed licensee, the commission did not examine the application, financial viability, or creditworthiness in the regular licensing process. So this becomes an important question about how far the commission's power extends when the authorization comes directly from the statute. The professor leaves it as a question "to be looked at," which means it is an issue worth doctrinal reflection.

Section 18 — Amendment of licence

This section deals with **changing the terms and conditions of an existing licence**.

A licence, once granted, is not always fixed forever. Sometimes changes may be needed because of:

- public interest,
- expansion of supply area,
- technical changes,
- defence-related restrictions,
- or other practical reasons.

So Section 18 allows the Commission to amend the licence.

18(1) — Commission may amend licence in public interest

If the Commission thinks that **public interest allows it**, then it may make alterations or amendments in the terms and conditions of the licence.

This can happen:

- on the application of the licensee, or
- even otherwise, meaning the Commission may itself propose it.

Simple meaning

The Commission can change the licence if public interest requires it.

This could mean changing:

- the area of supply,
- certain obligations,
- technical conditions,
- operational responsibilities,
- or other licence terms.

Proviso to 18(1) — Consent of licensee normally needed

Normally, no such alteration or amendment can be made **without the consent of the licensee**.

But if, in the opinion of the Commission, the licensee is **unreasonably withholding consent**, then the Commission may still proceed.

Simple meaning

Usually, the licensee must agree before its licence is changed.

But if the licensee refuses without good reason, and public interest requires the change, the Commission can go ahead.

So consent matters, but it is not an absolute veto.

Section 18(2) — Procedure before amendment

This sub-section explains the procedure that must be followed before changing the licence.

18(2)(a) — If the licensee applies for amendment, it must publish notice

If the licensee itself wants alteration or modification in its licence, it must publish a notice of that application with the required particulars and in the specified manner.

Simple meaning

The licensee cannot quietly ask for a change in its licence. It must make the request public.

18(2)(b) — Central Government consent for defence-sensitive areas

If the proposed alteration affects the area of supply and includes the whole or part of:

- cantonment,
- aerodrome,
- fortress,
- arsenal,
- dockyard,
- camp,
- or any government place/building used for defence purposes,

then the Commission cannot make the alteration unless the **Central Government consents**.

Simple meaning

If the licence change affects defence-sensitive places, Central Government approval is necessary.

This is similar to the safeguard we saw earlier in Section 15.

18(2)(c) — If Commission proposes amendment on its own, it must publish notice

If the proposed change is **not made on the application of the licensee**, but is proposed by the Commission itself, then the Commission must publish the proposed changes with required particulars and in the specified manner.

Simple meaning

Even when the Commission itself wants to amend the licence, it must make the proposal public.

So there is transparency in both situations:

- when the licensee asks for change,
- and when the Commission initiates the change.

18(2)(d) — Suggestions and objections within 30 days must be considered

The Commission cannot make the alteration or modification unless it has considered all suggestions or objections received within **30 days from the first publication of the notice**.

Simple meaning

Once notice is published, people get 30 days to respond.

The Commission must consider those responses before changing the licence.

This protects fairness and public participation.

Section 19 — Revocation of licence

This section tells us **when and how the Appropriate Commission can cancel/revoke a licence.**

A licence is not permanent no matter what. If the licensee seriously fails in its duties, the Commission can revoke it. But this cannot be done casually. The law requires:

- an **enquiry**,
- **public interest**,
- **notice**,
- and a chance for the licensee to explain.

19(1) — When can the Commission revoke a licence?

If, **after making an enquiry**, the Commission is satisfied that **public interest requires it**, it may revoke the licence in the following cases.

So two things are necessary first:

1. **Enquiry must be done**
2. **Public interest must justify revocation**

Then the Commission may revoke in these situations:

19(1)(a) — Wilful and prolonged default

If the licensee deliberately and continuously fails to do something required under:

- the Act,
- the rules,
- or the regulations.

Simple meaning

The failure must not be minor or accidental. It must be:

- **wilful** = intentional,
- **prolonged** = continuing for a long time.

19(1)(b) — Breach of licence conditions

If the licensee breaks a condition of the licence, and that particular breach is expressly stated in the licence as a ground for revocation.

Simple meaning

Not every small breach automatically causes revocation. But if the licence itself says, “If you break this condition, your licence may be revoked,” then revocation becomes possible.

19(1)(c) — Failure within the time fixed by licence

If the licensee, within the time fixed in the licence or within a longer time allowed by the Commission, fails:

(i)

to satisfy the Commission that it is in a position to fully and efficiently discharge its duties and obligations;

or

(ii)

to make deposit, furnish security, or pay fees/charges required by the licence.

Simple meaning

If the licensee cannot show that it is ready and capable to perform properly, or if it does not provide the required money/security/fees, revocation can happen.

19(1)(d) — Weak financial position

If the financial condition of the licensee is so bad that it cannot fully and efficiently perform its duties.

Simple meaning

If the licensee is financially too weak to run the electricity business properly, the Commission may revoke the licence.

19(2) — Revocation with application or consent of the licensee

The Commission may also revoke the licence, wholly or partly, if:

- the licensee applies for it, or

- the licensee consents to it,

and public interest requires it.

This can be for the whole or part of the area of:

- distribution,
- transmission,
- or trading.

Simple meaning

Sometimes revocation is not punitive. The licensee itself may want to surrender or give up part of its licensed area, and if public interest allows, the Commission may permit that on suitable terms.

19(3) — Minimum 3 months’ written notice before revocation under 19(1)

Before revoking a licence under Section 19(1), the Commission must give the licensee:

- **at least 3 months’ written notice,**
- stating the grounds for proposed revocation,
- and must consider the reply/explanation given by the licensee during that period.

Simple meaning

The Commission cannot suddenly revoke the licence without warning. The licensee must be told the reasons and must get a real chance to defend itself.

19(4) — Instead of revocation, Commission may impose further conditions

Instead of revoking the licence, the Commission may allow it to continue, but with **additional terms and conditions**.

These added conditions become binding just like the original licence conditions.

Simple meaning

Revocation is not the only option. If the problem can be corrected, the Commission may say:

“You can continue, but now you must follow these stricter conditions.”

19(5) — Notice of revocation and effective date

If the Commission revokes the licence, it must serve a **notice of revocation** on the licensee and specify the **date on which revocation will take effect**.

Simple meaning

The Commission must clearly communicate:

- that revocation has happened,
- and from what date it becomes effective.

19(6) — Licensee may sell utility after notice, with prior approval

After notice for revocation is given, and without affecting penalties or prosecution under the Act, the licensee may, with prior approval of the Commission, sell its utility to a person who is found eligible by the Commission for grant of licence.

Simple meaning

Even after revocation proceedings start, the outgoing licensee may sell the utility — but only:

- with prior approval of the Commission, and
- only to a buyer approved by the Commission.

So the utility cannot be sold to just anyone.

Difference between cancellation and revocation

Toward the end of the lecture, the professor distinguishes **cancellation** from **revocation**. He says that, legally speaking, cancellation refers to non-compliance with something that should have been satisfied **from the very beginning**. In other words, the defect existed right from day one. Revocation, on the other hand, refers to a situation where the applicant may have satisfied the criteria at the beginning, but later it becomes clear that what was promised is not workable or the proposition has become unworkable from the licensee's side. In such a case, the commission may step in, in public interest, and revoke the licence.

This distinction is particularly useful for exam purposes because the professor is trying to show that the two powers are not conceptually identical even though both are serious regulatory interventions.

Section 20 — Sale of utilities of licensees

This section explains **what happens to the utility after the licence is revoked**.

Revocation does not mean the electricity system should collapse. The law makes sure that the utility is transferred properly so that electricity services continue.

20(1)(a) — Commission invites applications to acquire the utility

Once the licence is revoked, the Commission must invite applications from persons interested in acquiring the utility.

Then it decides which application to accept, primarily on the basis of the **highest and best price** offered.

Simple meaning

The Commission starts a process to find a new suitable buyer for the utility.

Price matters, but since the phrase is “highest and best price,” it is not just any high offer in the abstract; it must also be the best acceptable offer.

20(1)(b) — Commission may direct the licensee to sell

The Commission may, by written notice, require the licensee to sell its utility to the person whose application has been accepted.

Then the licensee must sell it to that purchaser.

Simple meaning

The outgoing licensee does not get to choose the buyer on its own. The Commission selects the purchaser, and the licensee must sell to that purchaser.

20(1)(c) — Rights and obligations cease

From the date of revocation, or from the earlier date on which the utility is sold, all the rights, duties, obligations, and liabilities of the old licensee cease, except liabilities that had already accrued before that date.

Simple meaning

After revocation/sale:

- the old licensee stops being responsible as licensee for future operations,
- but past liabilities do not disappear.

So earlier dues or liabilities remain.

20(1)(d) — Interim arrangements

The Commission may make interim arrangements for operating the utility, including appointing an **Administrator**.

Simple meaning

If the transfer is not immediately complete, the Commission can make temporary arrangements so electricity service does not stop.

20(1)(e) — Administrator's powers

The Administrator will exercise such powers and perform such functions as the Commission directs.

Simple meaning

The Administrator acts under the Commission's instructions, not independently.

20(2) — Purchaser pays purchase price

When the utility is sold, the purchaser must pay the purchase price to the old licensee in the agreed manner.

Simple meaning

The outgoing licensee gets paid for the utility being transferred.

20(3) — Delivery of utility

If the Commission requires sale, it may also require the licensee to **deliver the utility** to the purchaser on a specified date, upon payment of the purchase price.

Simple meaning

The Commission can fix the date when actual possession/control of the utility must be handed over.

20(4) — Purchaser may operate utility even before sale is formally completed

If the utility has been delivered to the purchaser, but the sale is not yet formally completed by the fixed date, the Commission may permit the intending purchaser to operate and maintain the utility system until the sale is completed.

Simple meaning

Even if final paperwork is still pending, the Commission may allow the proposed buyer to run the utility temporarily so that electricity service continues without interruption.

Section 21 — Vesting of utility in purchaser

This section explains **what happens after the utility is sold** under Section 20 or Section 24.

Simple meaning

If the utility is sold, then on the date when:

- the sale is completed, or
- the utility is delivered to the intending purchaser,

whichever happens earlier, two things happen.

21(a) — Utility passes to the purchaser free from old debts

The utility will vest in the purchaser or intending purchaser **free from any debt, mortgage, or similar burden** attached to the old licensee or the utility.

What does this mean?

The buyer gets the utility **clean**, not burdened by the old licensee's loan, mortgage, or similar liability attached to that utility.

But the law also protects the persons to whom money is owed.

The proviso says that those old debts or mortgages do not disappear. Instead, they now attach to the **purchase money**.

Very simple meaning

The burden shifts:

- earlier it was attached to the utility,
- now it attaches to the sale amount received for the utility.

So the buyer gets a clean utility, and the creditors can claim against the money.

21(b) — Purchaser becomes the licensee

All the rights, powers, duties, obligations, and authorities of the old licensee under the licence are transferred to the purchaser.

The purchaser is then **deemed to be the licensee**.

Simple meaning

The buyer does not merely buy wires, poles, substations, or physical assets. The buyer also steps into the legal position of the old licensee.

So the purchaser becomes the new recognized operator.

Section 22 — What happens if no purchase takes place

This section deals with a difficult situation: what if the utility is **not sold** under Section 20 or Section 24?

22(1) — Commission may issue directions or make a scheme

If the utility is not sold, the Appropriate Commission may, to protect consumers or in public interest:

- issue directions, or
- make a scheme

for operation of the utility.

Simple meaning

If no buyer comes or sale fails, the Commission cannot just let the electricity system collapse. It can step in and create temporary arrangements so the utility keeps functioning.

This is mainly for:

- consumer protection,

- continuity of supply,
- public interest.

22(2) — If Commission does nothing, licensee may dispose of utility

If the Commission does **not** issue directions or formulate a scheme, then the licensee may dispose of the utility in any manner it thinks fit.

Simple meaning

If the Commission does not step in, then the old licensee may itself decide how to dispose of the utility.

But there is an important limit.

Proviso to 22(2) — If utility is not disposed of within 6 months

If the licensee does not dispose of the utility within **6 months from the date of revocation** under Section 20 or Section 24, then the Commission may:

- remove the works of the licensee from streets or public land,
- restore the street or public land,
- and recover the cost from the licensee.

Simple meaning

If the old utility just leaves behind poles, wires, structures, or installations on public land and does not clear them, the Commission can get them removed and charge the cost to the old licensee.

So the law does not allow abandoned electricity infrastructure to remain indefinitely on public land.

Section 23 — Directions to licensees

This section gives the Appropriate Commission a general power to issue directions to licensees.

When can this be done?

If the Commission thinks it is necessary or useful for:

- maintaining efficient supply,
- securing equitable distribution of electricity,
- promoting competition,

then it may issue orders regulating:

- supply,
- distribution,
- consumption,
- or use of electricity.

Simple meaning

This section is a broad regulatory power.

The Commission can step in and regulate how electricity is supplied or distributed if needed for three major goals:

1. Efficient supply

Electricity must be supplied properly and efficiently.

2. Equitable distribution

Electricity should not go only where profit is highest. Supply should be balanced and fair.

3. Promoting competition

The Commission may also act to prevent unhealthy market conditions and support competition.

Easy example of Section 23

Suppose there is a power shortage. The Commission may direct that:

- supply to essential services must be prioritized,
- certain high-load consumers may face regulated restrictions,
- electricity must be distributed more fairly across regions.

So Section 23 is about **active regulatory control in the interest of system management and fairness.**

The importance of “equitable distribution”

The professor gives special attention to the phrase **equitable distribution**. He says this term is very important for law students because it brings in an idea close to **distributive justice**. It suggests that electricity should not be supplied only to those who can pay more or whose demand is commercially attractive. It suggests that need also matters.

He illustrates this with an example of a crisis situation in a rural area, such as a tsunami-like disaster causing a complete power cut. In such a case, the commission may instruct the licensee to mobilize resources and restore electricity as soon as possible. So “equitable distribution” has a strong welfare-oriented meaning in his explanation.

This is a nice conceptual contribution from the lecture. He is reading electricity law not just through market efficiency, but also through fairness and need.

Section 24 — Suspension of distribution licence and sale of utility

This section is very important. It deals only with **distribution licensees**, not all licensees.

It says that sometimes the Commission may not immediately revoke the licence. Instead, it may first **suspend** the distribution licence.

24(1) — When can distribution licence be suspended?

If the Commission thinks that a distribution licensee:

(a)

has **persistently failed** to maintain uninterrupted electricity supply according to quality standards;

(b)

is **unable to discharge its functions or duties** under the Act;

(c)

has **persistently defaulted** in complying with directions of the Commission;

(d)

has broken the terms and conditions of the licence;

and the circumstances make it necessary in **public interest**, then the Commission may suspend the licence.

Important points here

First:

This is only for a **distribution licensee**.

Second:

The failure must be serious enough to justify action in public interest.

Third:

The Commission must record its reasons in writing.

Fourth:

Suspension can be for a period **not exceeding one year**.

Fifth:

The Commission can appoint an **Administrator** to discharge the functions of the distribution licensee during suspension.

Proviso to 24(1) — Reasonable opportunity must be given

Before suspending the licence, the Commission must give the distribution licensee a **reasonable opportunity** to make representations against the proposed suspension.

The Commission must also consider those representations.

Simple meaning

No sudden suspension without hearing.

The licensee must get a fair chance to explain its side.

24(2) — Utility vests in the Administrator

Once the licence is suspended, the utility of the distribution licensee will vest in the **Administrator**:

- for a period up to one year, or
- until the date on which the utility is sold under Section 20,

whichever is later.

Simple meaning

During suspension, the Administrator takes control of the utility and runs it.

So the suspended distribution company loses operational control for the time being.

24(3) — Within one year, Commission must choose one of two paths

Within one year of appointing the Administrator, the Commission must either:

- **revoke the licence** under Section 19, or
- **revoke the suspension** and return the utility to the distribution licensee.

Simple meaning

Suspension is temporary. It cannot remain uncertain forever.

The Commission must decide:

- either the licensee improves and gets the utility back,
- or the situation is serious enough that the licence is finally revoked.

24(4) — If licence is revoked, utility must be sold within one year

If the Commission revokes the licence under Section 24(3), then the utility must be sold within **one year from the date of revocation**, following Section 20.

After deducting administrative and sale expenses, the remaining sale price must be remitted to the distribution licensee.

Simple meaning

If the licence is finally cancelled after suspension:

- the utility will be sold,
- costs of administration and sale will first be deducted,
- the balance money goes to the old distribution licensee.

So the old licensee does not keep the utility, but it is entitled to the net sale proceeds.

Difference between suspension and revocation

The professor carefully distinguishes suspension from revocation. Suspension is not about permanently removing the licensee from business. It is a temporary measure that gives the licensee time to make necessary corrections, improve its conduct, and comply with its obligations. Revocation, by contrast, is the more final step where the licensee is effectively displaced and the utility has to be transferred.

He also adds that if the distribution licensee fails to improve even during suspension, then suspension may **graduate into revocation**. Suspension cannot continue indefinitely. If the problems remain unresolved, the law moves toward revocation.

So suspension works as a corrective warning stage; revocation is the end-stage consequence.

16. Reasonable opportunity before suspension

A very important procedural safeguard emphasized in the lecture is that **no suspension can take place unless reasonable opportunity is given to the distribution licensee**. The professor says the word “reasonable” is legally significant. It does not mean a mere formality or a checkbox exercise.

The opportunity must be real and effective. The distribution licensee must be able to present records, explain its conduct, and rebut the allegations. So the requirement of hearing here is substantive, not symbolic.

He goes further and says the commission must not act with a **prejudiced mind**. It cannot first decide the matter internally and then merely go through the outer form of procedure. If the decision is predetermined and the hearing is just a ritual, the action would be legally fatal and is likely to be struck down by a court or tribunal.

This links the lecture back to principles of natural justice.

Sale within one year and appointment of an administrator

The professor then says that where suspension leads to revocation, the law contemplates that the utility should be sold **within one year**. During the interim period, an **administrator** may be appointed to manage the utility.

He emphasizes that both in situations of revocation and suspension, the law provides for appointment of an administrator. The administrator helps ensure continued operation of the utility while the final transfer is being worked out. But he also repeats an earlier point: the utility will ultimately vest only in the **purchaser**, not in the administrator. Vesting belongs to the purchaser once the appropriate commission has identified and approved that purchaser.

So the administrator is a temporary manager, not the final owner or final statutory successor.

One full example covering Sections 21–24

Let us take one complete example.

Suppose **Metro Power Distribution Ltd.** is a distribution licensee in a State.

For many months:

- it fails to maintain uninterrupted power supply,
- voltage quality is poor,
- it repeatedly ignores Commission directions,
- and it breaks certain licence conditions.

Consumers are suffering badly.

Step 1 — Commission considers suspension under Section 24

The Commission believes that Metro Power has:

- persistently failed in quality supply,
- persistently defaulted in following directions,
- and broken licence conditions.

Since public interest is affected, the Commission thinks suspension may be necessary.

But before suspending, it gives Metro Power a **reasonable opportunity** to explain.

Metro Power submits its reply, but the Commission is not satisfied.

So the Commission records reasons in writing and suspends the distribution licence for a period within the legal limit.

Step 2 — Administrator is appointed

After suspension, the utility vests in an **Administrator**.

The Administrator now runs the distribution system so electricity supply continues.

Metro Power no longer operates the utility during this period.

Step 3 — Commission must decide within one year

During the suspension period, the Commission reviews the situation.

Suppose Metro Power still does not improve and cannot restore compliance.

Then the Commission decides under Section 24(3) to **revoke the licence** instead of restoring it.

Step 4 — Sale process begins under Section 20

After revocation, the utility must be sold within one year.

The Commission invites applications from possible buyers and selects the best purchaser.

Suppose **State Electric Services Ltd.** is selected.

Step 5 — Utility vests in purchaser under Section 21

When the sale is completed, or when the utility is delivered earlier, the utility vests in State Electric Services.

At that point:

- the utility passes free from Metro Power's old debts and mortgages,
- those debts now attach to the purchase money instead,
- and State Electric Services gets all rights and obligations of the old licensee.

State Electric Services is now deemed to be the new licensee.

Step 6 — If sale does not happen

Now imagine instead that no purchaser comes forward, or the sale fails.

Then under Section 22, the Commission may:

- issue directions,
- or make a scheme

to keep the utility running in public interest and protect consumers.

If the Commission does not do this, Metro Power may dispose of the utility itself.

But if Metro Power does not dispose of it within 6 months, the Commission can remove its works from streets and public land and recover the cost from Metro Power.

Step 7 — Separate example of Section 23

Suppose during all this, there is a shortage of electricity in the area.

The Commission may issue directions under Section 23 for:

- equitable distribution,
- efficient supply,
- and controlled use of electricity.

For example, it may direct priority supply to hospitals, water systems, and essential services.

Case law: 2006 Odisha distribution case

The professor then turns to case law. The first major case he discusses concerns **Western Electricity Supply Company of Odisha** and related Odisha distribution companies. He explains the background: Odisha was one of the first states to embrace electricity reform and unbundle the State Electricity Board. As part of those reforms, separate distribution companies were created.

In this 2006 matter, the licences of these discoms were suspended under Section 24 because they were allegedly not following licence conditions. The discoms challenged the action, arguing that the proper procedure was not followed, notice was defective, and they had not been given a fair opportunity to present their case.

The professor explains the tribunal's reasoning. The tribunal found that even before issuing notice, the commission had already made adverse remarks about the functioning of the appellants. This suggested that the commission had made up its mind in advance, so the later notice looked like an **empty formality**. The tribunal therefore held that this was contrary to the statutory scheme.

He also says the tribunal stressed that the notice must clearly set out the grounds. If the allegation is interruption of supply, it should be shown to be a **persistent** disruption, not just a one-off instance. This clarity is necessary so that the licensee can bring forward proper justification and supporting material. For this reason, the tribunal held that the Odisha commission's action was not according to law, though it gave liberty to proceed afresh after following the proper legal process.

Case law: 2017 follow-up Odisha case

The professor then explains that a later 2017 tribunal decision was effectively a **follow-up** to the 2006 case. After the earlier decision, the regulatory commission started the process again,

followed the procedure, issued notice properly, and then decided to revoke the licences of the discoms.

The allegations against the discoms included:

- transfer of shares without approval of the commission,
- failure to infuse promised capital,
- failure to undertake the work that had been promised,
- failure to maintain obligations owed to the grid and transmission system.

The professor says a detailed inquiry took place through **periodic performance reviews** of the discoms. The tribunal treated those reviews as satisfying the inquiry requirement under Section 19(1), because the law does not prescribe any rigid procedure for inquiry. What matters is that the inquiry should conform to principles of natural justice. Since the appellants were given opportunities during those reviews to explain how they were fulfilling their obligations, the tribunal treated the requirement as met.

On that basis, the tribunal upheld the revocation as lawful and in public interest. It also accepted appointment of an administrator pending sale of the utility. So the professor uses these two Odisha cases together to show an important lesson: **if procedure is defective, the action fails; if procedure is properly followed and inquiry supports the findings, revocation can be upheld.**

Case law: transmission licence revoked due to project delay

The next case discussed involves a **transmission licensee** that had been granted a licence for an important transmission project in the western region. The licensee was supposed to create the necessary infrastructure and lines for evacuation of power, but there was serious delay and the work was not started in time. This allegedly caused huge loss to generating companies.

The licensee argued **force majeure**, saying necessary authorization under the Telegraph Act had not been given for carrying out the construction work. The tribunal accepted that lack of Telegraph Act permission could amount to force majeure. However, the professor explains that even after extension of time was granted, the licensee still failed to show sincerity and seriousness in finishing the work.

Therefore, the tribunal held revocation to be justified because the project was important and further delay could not be allowed. The professor uses this case to illustrate how closely the commission and tribunal monitor the conduct of licensees in order to serve the purposes of the Act.

Case law: NTPC Vidyut Vyapar Nigam and deemed licence

The professor next discusses a case concerning **NTPC Vidyut Vyapar Nigam Limited**, a subsidiary of NTPC engaged in sale and purchase of electricity. The question was whether it could claim the status of a **deemed licensee** under the fifth proviso to Section 14.

The court held that this exemption was intended for situations where an earlier licensed activity or board function had been converted into a company as part of the unbundling process of State Electricity Boards. NTPC Vidyut Vyapar Nigam was not the result of such unbundling. It was simply a company owned by NTPC. Therefore, it did not fall within the exemption and had to apply for a fresh licence.

This case is important because it shows that **deemed licence provisions are interpreted strictly**, with close attention to the reform context in which they were enacted.

Case law: SI Electrical Power and rural area notification

The professor then refers to a case involving **SI Electrical Power** and the issue of **rural electrification**. The government of Delhi had decided not to notify certain areas as rural areas, with the result that the ordinary licensing process would continue to apply there. SI Electrical Power challenged this decision as arbitrary before the Delhi High Court.

The High Court held that demarcating which areas are rural for this purpose is a **policy decision**. Courts should ordinarily stay away from interfering with such decisions. The court also said that no entity has a **vested right** to say that, had the area been notified as rural, it would have become a licensee. Such a claim is not accepted in law.

The professor uses this case to show that certain matters under the licensing framework lie within government policy space and are kept largely outside intensive judicial scrutiny.

Case law: Section 23 directions do not extend to generating companies

Another case discussed concerns the scope of **Section 23**. The question was whether directions under Section 23 could be given even to **generating companies**, especially because the word “supply” in the definition clause is broad enough to seem capable of including generating companies.

The court, however, looked at the **scheme of the Act**. Generation is dealt with in **Part III**, while licensing is dealt with in **Part IV**. Part IV is a self-contained code relating to licensees. Since generating companies do not require licences, the court held that Section 23, which is within the licensing part, cannot be used to issue directions to generating companies.

The professor says this case is a very good illustration of **purposive interpretation**. He also notes that the court considered the significance of marginal notes and statutory headings in resolving ambiguity. The outcome was clear: Section 23 applies only to licensees, not to generating companies.

Case law: Railways and the special status under the Railways Act

Finally, the professor mentions a Supreme Court judgment from 2012 dealing with the **Railways**. The Court held that the Railways need not obtain a licence under the Electricity Act for construction of transmission lines or distribution installations within the railway context, because the **Railways Act, 1989** is a **special law**.

The principle applied is that a **special law prevails over a general law**. Therefore, matters of that nature within the railway system are to be governed under the Railways Act rather than the ordinary licensing requirements of the Electricity Act.

This case shows another way in which the licensing framework is limited: it does not automatically override every sectoral statute.