



GOVERNMENT OF INDIA
MINISTRY OF POWER

सत्यमेव जयते

The Electricity (Amendment) Bill, 2022

Key Proposals

Proposed Amendments in the Electricity Act, 2003





Proposals of the Bill to be Dropped

Proposals of the Bill to be Dropped

1 Delicensing of Distribution business

2 Cross Border Trade of Electricity

3 Sitting judge of High Court as chairman of the Selection Committee for selection of members of State Commission

4 Section 63 - Timeline for adoption of Tariff and deemed adoption of tariff



Proposals of the Bill to be Retained

Proposals of the Bill to be Retained (1/2)

1

Trajectory of RPO by Government of India and penalties for noncompliance of RPO

2

Improvement in functioning of the Appropriate Commission

- Powers of Civil court,
- Increase in no. of Members from three to four (in case of State Commission),
- Separate benches
- Accountability of Members to ensure compliance of provisions of the Act.

3

Entrusting functions of any State Commission to any other State Commission to ensure proper functioning in case of vacancies

4

Amendment in qualifications for the post of Chairperson and Members in CERC and SERC.

Proposals of the Bill to be Retained (2/2)

5



Payment Security Mechanism, as may be prescribed by the Central Government, mandatory for scheduling of Power by Load Despatch Centres (NLDC/RLDC/SLDC).

6

Ensuring Safety and security of the grid- Detailed NLDC functions (Section 26 (4)-(7)).






7

Creation of mechanism in State Commission for monitoring the compliance of the Act and the rules. (Section 91(1A)).




Proposals of the Bill modified based on stakeholders comments and consultations

Choice to Consumers through Multiple Distribution Licensees (Enabling existing provision in the Act)

- Proviso 6 of Section 14 – phrase “through their own distribution system” to be omitted: To facilitate operation of multiple Distribution licensee in the same area. 
- Mandating Non-discriminatory open access to other distribution licensees in same area of supply. 
- Ceiling and floor Tariff to be determined by State Commission 
- Management of Cross subsidy in case of multiple distribution licensee. 
- Sharing of power and associated costs from the existing PPA with the existing distribution licensee among all the distribution licensees in the area of supply (Section 60A) 

1

2

Section 15- Subsection 6(b)- Deeming provision added to avoid delay in granting license to distribution company. 

Proposals of the Bill modified (2/2)

3

New provision for streamlining process of grant of license in more than one State by CERC

4

Number of Members in APTEL – Maximum 5 instead of 7 as proposed

5

Qualification for the post of Member (Law) in CERC/SERC to be made broad based

6

Section 61 (g) – Modified to ensure cost reflective tariff by linking with Tariff Policy.

7

Section 64(3) – Reduction in time limit for issuing of tariff orders by Appropriate Commission from 120 days to 90 days and new provision for interim tariff in case the tariff is not determined latest by 31st March.

Proposals based on stakeholders comments and consultations (1/2)

1

Inclusion of Energy Storage System in definition of Power System.

2

NLDC being enabled to procure power and dispatch through a scheme notified by Central Government for ensuring stability of the grid (Section-26)

3

New Proviso to enable consumers of more than 1 MW to get open access directly from inter-state transmission system (Section 40 (c) (ii))

4

Licensees to comply and report compliance with guidelines notified by Central Government for robust Corporate Governance (Section – 59).

Proposals based on stakeholders comments and consultations (2/2)

5 Additional function to SERCs to facilitate financial sustenance of the licensees (Section – 86).

6 Provision for periodic review of Resource Adequacy by SERCs (Section – 86).

7 Making compounding of tariff related offences mandatory (Section - 152).
- Decriminalization of the offences.

8 Enabling provisions for making Rules for improving concurrence process by the Authority (Section-176)



Other Suggestions to be taken up through Rules

Other Suggestions

1

Definition of Area of Supply

2

Monitoring of RE by Forum of Regulators

3

Simplification of the procedure for Hydro power project clearance by the Authority under Section 8

4

Provisions enabling only experienced person is appointed as Member of the Commission.

**An environment friendly Reform
for
Financial viability of the Power sector**

Thank You

Trajectory of RPO by Government of India and penalties for noncompliance of RPO

Section	Provision
86 (1) (e) {substitution}	(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of, such distribution licensee not less than as may be prescribed by the Central Government from time to time;
142 (3) {Substitution}	<p>Notwithstanding anything contained in sub-sections (1) and (2), in case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has not purchased power from renewable sources of energy as prescribed by the Central Government, such Commission shall after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under the Act, such person shall pay as penalty a sum calculated at a rate of:</p> <ul style="list-style-type: none"><li data-bbox="529 1148 2252 1229">(i) not less than twenty-five paisa per kilowatt-hour and not more than thirty- five paisa per kilowatt-hour for the shortfall in purchase in the first year of default;<li data-bbox="529 1268 2252 1349">(ii) not less than thirty - five paisa per kilowatt-hour and not more than fifty paisa per kilowatt-hour for the shortfall in purchase continuing after the first year of default .



Improvement in functioning of Appropriate Commission

Section	Provision
94 (4) & 94 (5) {insertion of new subclauses}	(4) An order made by the Appropriate Commission or its Bench shall be executable as a decree of civil court and, for this purpose, the Appropriate Commission shall have all the powers of a civil court including but not limited to powers of attachment and sale of property, arrest and detention in prison and appointment of a receiver (5) Notwithstanding anything contained in sub-section (4), the Appropriate Commission or Bench referred to in sub-section (4) may transmit an order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court
82(4) {substitution}	(4) The State Commission shall consist of a Chairperson and three other Members.
86 (1) (k) {Proviso insertion}	Provided that the Chairperson of the State Commission shall constitute a Bench consisting of the Members appointed under clause (c) of sub-section (2) of section 84 and at most one more Member, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa);”.
79 (1) (k) {Proviso insertion}	Provided that the Chairperson of the Central Commission shall constitute a Bench consisting of the Members appointed under clause (c) of sub-section (2) of section 77 and at most one more Member, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa);
90 (2) (g) & (h) {new insertion}	The Central Commission, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member , if he- (g) has wilfully violated or overlooked the provisions of the Act or the rules or regulations made thereunder; or (h) has been grossly negligent in performing one or more functions assigned to him or the Commission under the Act or the rules or regulations made thereunder



Entrustment of functions of a Commission to other one

Section	Provision
82 (6) {new insertion}	(6) If any State Commission is unable to perform its functions on account of vacancies, the Central Government may, in consultation with the State Government concerned, entrust its functions to any other State Commission or Joint Commission, as it deems proper.



Qualifications for the post of Chairperson and Members in CERC/SERC

Section	Provision
77(1) {substitution}	<p>The Chairperson of the Central Commission shall be a person of ability, integrity and standing, who is or has been,-</p> <ul style="list-style-type: none"> (i) head of an organisation dealing with generation, transmission or distribution of electricity; or (ii) Secretary to the Government of India or at any equivalent post in the Central Government or State Government <p>Provided that preference shall be given to a person having adequate knowledge of and experience of not less than two years in the power sector;</p>
77(2) {substitution}	<p>The Members, other than the Chairperson of the Central Commission shall be persons of ability, integrity and standing, having adequate knowledge and experience in the fields of engineering, law, economics, commerce, finance, public policy or administration or management and shall be appointed in the following manner, namely:-</p> <ul style="list-style-type: none"> (a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity; (b) one person having adequate qualifications and experience in the field of finance, economics or commerce; and (c) one person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to be appointed as a Judge of the Supreme Court or Chief Justice of High Court.
84 (1) {substitution}	<p>The Chairperson of the State Commission shall be a person of ability, integrity and standing, who is or has been,</p> <ul style="list-style-type: none"> (i) head of an organisation dealing with generation, transmission or distribution of electricity; or (ii) atleast Principal Secretary to the State Government or at any equivalent post in the Central Government or State Government <p>Provided that preference may be given to a person having adequate knowledge of and experience of not less than two years in the power sector</p>
84 (2) {substitution}	<p>(a) and (b) same as for CERC</p> <ul style="list-style-type: none"> (c) one person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to be appointed as a Judge of the High Court or a District Judge.



Payment Security Mechanism, mandatory for scheduling of Power by LDCs

Section	Provision
<p>26(4)(b)</p> <p>{insertion}</p>	<p>(4) The National Load Despatch Centre shall-</p> <p>(a)...</p> <p>(b) be responsible for optimum scheduling and despatch of electricity in the country across different States and regions in accordance with the contracts entered into with the licensees or the generating companies:</p> <p>Provided that adequate security of payment as agreed upon by the parties to the contract has been provided;</p>
<p>28(3) (a)</p> <p>{proviso insertion}</p>	<p>RLDC shall-</p> <p>(a) be responsible for optimum scheduling....within the region....</p> <p>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been provided</p>
<p>32(2) (a)</p> <p>{proviso insertion}</p>	<p>SLDC shall-</p> <p>(a) be responsible for optimum scheduling.....within a State....</p> <p>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been provided</p>



Ensuring Safety and security of the grid- Detailed NLDC functions

Section	Provision
26(4) to (7) {insertion}	<p>(4) The National Load Despatch Centre shall-</p> <ul style="list-style-type: none">(a)...(b)...(c) monitor grid operations and ensure security of the electricity grid and for this purpose give directions as necessary to Regional Load Despatch Centre or State Load Despatch Centre, as the case may be;(d) exercise supervision and control over the inter-regional and inter-state transmission network; and(e) have overall authority for carrying out real time operations of the electricity grid of the country. <p>(5) The National Load Despatch Centre may give such directions and exercise such supervision and control over the power system as may be required for the safety and security of the electricity grid of the country, for ensuring the stability of grid operation and for achieving maximum economy and efficiency in the operation of the power system throughout the country.</p> <p>(6) The National Load Despatch Centre shall give directions, as may be necessary through the Regional Load Despatch Centre concerned.</p> <p>(7) Every Regional Load Despatch Centre, State Load Despatch Centre, distribution company, licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the National Load Despatch Centre.</p>

Creation of mechanism in SERC for monitoring compliance of the Act/Rules

Section	Provision
91 (1A) {insertion}	<p>The Appropriate Commission shall establish a monitoring unit with sufficient number of officers and employees, with the approval of the Appropriate Government, specifically for the purpose of ascertaining the compliance by the distribution companies, as per the provisions of the Act or the rules and regulations made thereunder including the rules and regulations related to the standards of performance and service and the rights of consumers and prosumers.</p> <p><i>Explanation.</i>- For the purposes of this sub-section, the expression “prosumer” means a consumer with a captive generating plant based on renewable sources of energy established on the same premises as that of the consumer and capable of supplying electricity to a distribution licensee, using the same point of supply.”.</p>

Functions of Forum of Regulators

Section	Provision
166 (3A) {insertion}	<p>(3A) The Forum of Regulators referred to in sub-section (2) shall discharge the following functions, namely: -</p> <p>(a) prepare and publish model regulations for the guidance of State Commission for the purposes of sub-section (1) of section 42, sub-section (1) of section 43, sub-sections (1) and (2) of section 60A and the first proviso to sub-section (1) of section 62, taking into account state-specific distinctive features, in accordance with the rules made by the Central Government; and</p> <p>(b) monitor the status of compliance of the provisions of Section 86 (1) (e) by distribution licensees on annual basis and submit a report to the Central Government.</p> <p>(c) any other function, as may be prescribed by the Central Government.</p>

Choice to Consumers through Multiple Distribution Licensees

Section	Provision
14 {Sixth Proviso}	<p>Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements 1[relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:</p>

Choice to Consumers through Multiple Distribution Licensees

Section	Provision
42(1) (b) {substitution}	“(1) It shall be the duty of all distribution licensees to- (b) give non-discriminatory open access to other distribution companies on payment of wheeling charges; and.



Choice to Consumers through Multiple Distribution Licensees

Section	Provision
62(1) (d) {proviso substitution}	<p>(d) retail sale of electricity:</p> <p>Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission shall, for promoting competition among distribution licensees, fix only maximum ceiling of tariff and minimum tariff for retail sale of electricity, in accordance with the provisions of the Act and the rules made thereunder by the Central Government and the model regulations published by the Forum of Regulators:</p> <p>Provided further that in such ceiling tariff, the cross subsidy, wheeling charges and adjustment in tariff pertaining to the period prior to the introduction of ceiling tariff, if any, shall be indicated separately by such Appropriate Commission.</p>

Choice to Consumers through Multiple Distribution Licensees

Section	Provision
14 {Sixth Proviso}	<p>Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements 1[relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:</p>
42(1) (b) {substitution}	<p>“(1) It shall be the duty of all distribution licensees to-</p> <p>(b) give non-discriminatory open access to other distribution companies on payment of wheeling charges; and.</p>
62(1) (d) {proviso substitution}	<p>(d) retail sale of electricity:</p> <p>Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission shall, for promoting competition among distribution licensees, fix only maximum ceiling of tariff and minimum tariff for retail sale of electricity, in accordance with the provisions of the Act and the rules made thereunder by the Central Government and the model regulations published by the Forum of Regulators:</p> <p>Provided further that in such ceiling tariff, the cross subsidy, wheeling charges and adjustment in tariff pertaining to the period prior to the introduction of ceiling tariff, if any, shall be indicated separately by such Appropriate Commission.</p>
15 (6) (b) {New Proviso}	<p>Provided further that if the Appropriate Commission fails to grant the license or reject the application, as the case may be, the applicant shall be deemed to have been granted the license.</p>

Choice to Consumers through Multiple Distribution Licensees

Section	Provision
60A (2) (3) {new section}	<p>The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.</p> <p>(2) On the issuing license to more than one distribution licensee in an area of supply, the State Government shall set up a cross subsidy balancing fund which shall be managed by a Government company or entity, designated by that Government, according to such regulations as the State Commission may make in accordance with the provisions of the Act and the rules made thereunder by the Central Government and the model regulations published by the Forum of Regulators.</p> <p>(3) Any surplus with a distribution licensee on account of cross subsidy or cross subsidy surcharge or additional surcharge shall be deposited into this fund, and this fund shall be utilised to fund any deficits in cross subsidy in the same or any other area of supply.</p>

Choice to Consumers through Multiple Distribution Licensees

Section	Provision
60A (1) {new section}	<p>The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.</p> <p>60A. (1) Notwithstanding anything contained in the Act, on the issuing license to more than one distribution licensee in an area of supply, the power and associated costs from the existing power purchase agreements with the existing distribution licensee, as on the date of issuing license to another distribution licensee, shall be shared among all the distribution licensees in the area of supply as per the arrangements specified by the State Commission in accordance with the provisions of the Act and the rules made thereunder by the Central Government and the model regulations published by the Forum of Regulators:</p> <p>Provided that the State Commission shall review the sharing of power from the existing power purchase agreements periodically:</p> <p>Provided further that a distribution licensee may enter into additional power purchase agreements, after meeting the commitments of the existing power purchase agreements, to meet any additional requirement of power without sharing with other distribution licensees.</p>

Deeming provision

Section	Provision
15 (6) (b) {new Proviso}	New Proviso after proviso in sub-section (6) (b): Provided further that if the Appropriate Commission fails to grant the license or reject the application, as the case may be, the applicant shall be deemed to have been granted the license.



Grant of license for distribution in multiple States

Section	Provision
178(2) {new insertion}	Powers of Central Commission to make regulations on (da) the form, manner of the application, conditions of license and the fee for grant of distribution license for supplying power in more than one State;

Number of members in APTEL

Section	Provision
112(1) {modification}	The Appellate Tribunal shall consist of a Chairperson and such number of other Members, not less than five , as may be prescribed by the Central Government.



Member (LAW) in CERC/SERC

Section	Provision
77 (2) (c) {substitution}	<p>The Members (CERC) shall be appointed in the following manner, namely:-</p> <p>(c) one person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to be appointed as a Judge of the Supreme Court or Chief Justice of High Court.</p>
84(2) (c) {substitution}	<p>The Members (SERC) shall be appointed in the following manner, namely:-</p> <p>(c) one person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to be appointed as a Judge of the High Court or a District Judge.</p>

Streamlining process of grant of license

Section	Provision
178(2) {new insertion}	Powers of Central Commission to make regulations on (da) the form, manner of the application, conditions of license and the fee for grant of distribution license for supplying power in more than one State;
112(1) {modification}	The Appellate Tribunal shall consist of a Chairperson and such number of other Members, not less than five , as may be prescribed by the Central Government.
77 (2) {substitution}	The Members (CERC) shall be appointed in the following manner, namely:- (c) one person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law , who has the requisite qualifications to be appointed as a Judge of the Supreme Court or Chief Justice of High Court .
84(2) {substitution}	The Members (SERC) shall be appointed in the following manner, namely:- (c) one person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to be appointed as a Judge of the High Court or a District Judge .

Cost reflective Tariff

Section	Provision
61(g) {substitution}	<p>(g) that the tariff recovers all prudent cost, as defined in the Tariff Policy, incurred for supply of electricity;</p> <p>(ga) that the tariff also reduces cross-subsidies in the manner specified by the Appropriate Commission”</p>



Timeline for issuing Tariff Orders

Section	Provision
64(3) {substitution and proviso insertion}	<p>(3) The Appropriate Commission shall, within ninety days from receipt of application or initiation of proceedings, as the case may be, under sub-section (1) and after considering all suggestions and objections received from the public,-</p> <p>(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;</p> <p>Provided that if tariff order cannot be issued by 31st March that is before the start of the financial year, due to any reason, to be recorded in writing, then an order shall be issued by the Appropriate Commission for interim tariff within the prescribed time of Ninety days from receipt of application or initiation of proceedings, as the case may be.</p>

Inclusion of ESS in definition of Power System

Section	Provision
2 (50) (k) {insertion}	(50) "power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:- (a) To (l).... (k) Energy Storage System (ESS);

NLDC enabled to procure Power

Section	Provision
26(2) {proviso substitution}	<p>(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:</p> <p>Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity except for implementing any scheme notified by the Central Government mandating National Load Despatch Centre to ensure stability of the power system.</p>

Open Access from ISTS

Section	Provision
40 (c)(ii) {Proviso insertion after fourth proviso}	Provided that a consumer, who requires supply of electricity, where the maximum power to be made available at any time exceeds one megawatt , as mentioned in sub-section (2) of section 42 , shall be entitled to get open access to inter-state transmission system in accordance with regulations specified by the Central Commission , on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission.

Corporate Governance compliance by Licensees

Section	Provision
59 (1) (c) {new insertion}	<p>Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-</p> <p>(a)...</p> <p>(b)...</p> <p>(c) the status of compliance of the guidelines notified by the Central Government regarding corporate governance.</p>

Financial sustenance of the licensees

Section	Provision
86 (1) (d) ,(f) {substitution}	<p>The State Commission shall discharge the following functions, namely: -</p> <p>(d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State and take necessary steps to facilitate financial sustenance of the licensees;</p> <p>(f) to adjudicate upon disputes including matters regarding performance of obligations under a contract related to sale, purchase or transmission of electricity, involving a generating company, or licensee and to refer any dispute for arbitration;</p> <p>Provided that in case of reneging of Power Purchase Agreement by a licensee or the generating company, the dispute shall be expeditiously adjudicated along with appropriate compensation to the affected party, within 90 days from the date of submission of petition to the Appropriate Commission.</p> <p>(fa) to adjudicate upon disputes involving State Load Despatch Centre in regard to matters connected with section 32 and section 33;</p>

Resource Adequacy

Section	Provision
86 (1) (j) {new insertion}	<p>(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and</p> <p>(ja).....</p> <p>(jb) review the resource adequacy, in every 6 months, for each of the distribution licensee, in accordance with the guidelines issued by the Central Government</p>

Decriminalization

Section	Provision
152 (1) {substitution}	(1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorised by it in its behalf shall accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:

Concurrence by CEA under Section 8

Section	Provision
176(2) {new insertion}	Power of Central Government to make Rules on- (aa) Concurrence by the Authority for setting up Hydro-electric generation under section 8;

