

Will the draft Electricity (Amendment) Bill revitalise the power sector?

This article revisits some of the key amendments proposed in the draft Electricity Act (Amendment) Bill, 2020.

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The Indian power sector is going through a major transformation owing to extensive generation from sustainable energy sources such as solar and wind and the introduction of newer market mechanisms such as real-time market, which provide the opportunity to trade power within half-hour windows. However, there are challenges that hinder the evolution of the sector into a sustainable model. These include the poor financial health of electricity distribution companies (DISCOMs), slow momentum in attaining renewable energy targets, and the desynchronized functioning of various stakeholders. To resolve these, the Ministry of Power introduced the draft Electricity Act (Amendment) Bill, 2020 (the Electricity Act, 2003). Let's revisit some of the key amendments proposed in the Bill.

Improving the functioning of DISCOMs

The amendment to introduce cost-reflective tariff makes it mandatory for DISCOMs to specify each parameter related to distribution costs in tariff designing. The finalised distribution costs shall be approved by the state/central electricity regulatory commission (SERC/CERC).

The proposed amendment on the Direct Benefit Transfer (DBT) scheme will ensure that subsidy is distributed to beneficiaries directly. The SERC should not take subsidy into account while determining tariffs. Presently, the cross-subsidy decision requires the involvement of state regulators, but the amendment states that cross-subsidy should be followed strictly as specified under the National Electricity Tariff Policy (NETP).

The amendment on adequate payment security mechanisms mandates that state or regional load despatch centres should develop secure payment mechanisms and

ensure transactions before scheduling power. Hence, power cannot be dispatched until the advance payment has come through.

Reforming regulatory institutions

Similar to civil courts, an Electricity Contract Enforcement Authority (ECEA) is proposed to be established, headed by a retired judge of the High Court. Disputes relating to contracts of power purchase, sale or transmission between power sector stakeholders will be brought under the ECEA's purview.

Further, the reinforcement of the Appellate Tribunal (APTEL) is proposed with the setting up of multiple benches to resolve long pending cases. The amendment also proposes the establishment of a new single selection committee. The committee would have the responsibility of selecting the chairperson and members of APTEL, CERC, SERCs, and ECEA.

Increasing the renewable energy trade

The amendment on the National Renewable Energy Policy (NREP) aims to establish the trajectories for renewable purchase obligations (RPOs) and hydro purchase obligations (HPOs) for each state. It proposes DISCOMs to mandatorily purchase a minimum percentage of electricity from RE generators as specified under the NREP. Non-compliance will attract heavy penalties.

Stakeholder concerns and solutions

The All India Power Engineers Federation (AIPEF) and engineers from many states are opposing specific amendments, including the DBT scheme, as the subsidy payments from states are unreliable. Further, identifying the beneficiaries is difficult as many of the subsidised consumers, including agricultural consumers, are not metered and are paying bills based on approximate load requirement. The absence of metering makes the consumption-based subsidy distribution challenging.

Therefore, it is necessary to develop small-scale and medium-scale pilot projects in various states to understand the operational viability of DBT schemes and their financial impact on beneficiaries and DISCOMs. To identify worst-case scenarios, these projects should be implemented in power distribution areas that have agricultural consumers. Also, a framework should be developed for reporting subsidy payments and monitoring the implementation of DBT schemes.

The powers of SERC have also been curtailed with regards to cross-subsidy decisions in states, as NETP shall define the specific trajectory for cross-subsidy every year. Additionally, the amendment does not specify the dependency of cross-subsidy on subsidy being transferred to the beneficiaries. The amendment, while talking about passing on the benefits of subsidy also mentions the need for reducing cross-subsidy. The gap in the recovery of subsidy has to be balanced by an increase in government expenses; therefore, an increase in other tariff segments, such as electricity duties, would be necessary. This means that cross-subsidy will persist in other forms, and the objective to reduce it would go unrealised. Hence, SERC should be consulted while deciding cross-subsidy.

The formation of a specified single selection committee also raises questions regarding transparency and the balanced involvement of state and central governments. The committee will have chief secretaries from any two states at a time; the appointees are rotated in alphabetical order. There could be ample instances of the selection committee for a SERC member not having the respective state representative. This could strip states of their power to appoint their representative member. The selection of an APTEL member by the selection committee also poses a similar challenge, affecting the independence of the tribunal courts. Therefore, it would be ideal to ensure the compulsory involvement of at least one chief secretary from the state for which selections are taking place.

As for power purchase obligations, the NREP should include inputs from state regulators for the respective RPO and HPO targets. As the states used to regulate the RPOs earlier, it would be prudent to consider their inputs on the matter. The NREP should also consider the availability of natural resources, development plans, and the financial strength of DISCOMs. Additionally, the penalty amount for non-compliance to RPOs/HPOs should be fixed after extensive consultations with power sector stakeholders, especially DISCOMs.

That said, the clauses in the proposed amendments need to be widely discussed for a buy-in from various stakeholders. This will ensure that coordinated governance between state and central ministries are not be adversely affected when these amendments become laws.

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