

Bill No. 187 of 2022

THE ELECTRICITY (AMENDMENT) BILL, 2022

A

BILL

further to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

36 of 2003.
1 of 1956.
18 of 2013.

2. Throughout the Electricity Act, 2003 (hereinafter referred to as the principal Act),
10 for the words and figures “the Companies Act, 1956”, wherever they occur, the words and
figures “the Companies Act, 2013” shall be substituted.

Substitution of reference of certain expressions by certain other expressions.

- Amendment of section 2. **3.** In section 2 of the principal Act,—
- (i) in clause (31), for the word and figures “section 617”, the words, brackets and figures “clause (45) of section 2” shall be substituted;
- (ii) in clause (50), after sub-clause (j), the following sub-clause shall be inserted, namely:— 5
- “(k) energy storage system;”;
- (iii) after clause (60), the following clause shall be inserted, namely:—
- ‘(60a) “security of payment” means such security of payment as may be prescribed by the Central Government;’.
- Amendment of section 8. **4.** In section 8 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:— 10
- “(1A) The Authority shall, after examining the scheme, concur on the scheme in such manner as may be prescribed by the Central Government.”.
- Amendment of section 14. **5.** In section 14 of the principal Act,—
- (a) for clause (b), the following clause shall be substituted, namely:— 15
- “(b) to distribute electricity as a distribution licensee in an area of supply in accordance with such criteria as may be prescribed by the Central Government;”;
- (b) in the sixth proviso, the words “through their own distribution system” shall be omitted. 20
- Amendment of section 15. **6.** In section 15 of the principal Act, in sub-section (6), after the proviso, the following proviso shall be inserted, namely:—
- “Provided further that if the Appropriate Commission fails to grant the licence or reject the application, as the case may be, within the time so provided, the applicant shall be deemed to have been granted the licence.”. 25
- Amendment of section 26. **7.** In section 26 of the principal Act,—
- (i) in sub-section (2),—
- (a) the words “and functions” shall be omitted;
- (b) in the proviso, after the words “trading in electricity” occurring at the end, the words “except as mandated by the Central Government for implementation of any scheme to ensure the stability of the power system” shall be inserted; 30
- (ii) after sub-section (3), the following sub-sections shall be inserted, namely:—
- “(4) The National Load Despatch Centre shall—
- (a) be the apex body to ensure integrated operation of the power system in the country; 35
- (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: 40
- 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 made;

(c) monitor grid operations and ensure security of the electricity grid and for this purpose give directions as necessary to the Regional Load Despatch Centre or State Load Despatch Centre, as the case may be;

5 (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.

10 (5) The National Load Despatch Centre shall 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.

15 (6) The National Load Despatch Centre shall give such directions to the State Load Despatch Centre, as may be necessary through the Regional Load Despatch Centre concerned.

20 (7) Every Regional Load Despatch Centre, State Load Despatch Centre, 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 from time to time.”.

8. In section 28 of the principal Act, in sub-section (3), in clause (a), the following proviso shall be inserted, namely:— Amendment of section 28.

25 “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 made;”.

9. In section 32 of the principal Act, in sub-section (2), in clause (a), the following proviso shall be inserted, namely:— Amendment of section 32.

30 “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 made;”.

10. In section 40 of the principal Act,— Amendment of section 40.

(a) in clause (c), in sub-clause (ii), after the fourth proviso, the following proviso shall be inserted, namely:—

35 “Provided also that a consumer who requires supply of electricity where the maximum power to be made available at any time exceeds one megawatt shall be entitled to get open access to inter-State transmission system in accordance with the regulations made by the Central Commission, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission.”;

40 (b) after the fifth proviso as so inserted, the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section and section 42, the expression “megawatt” means ten lakh watts.’.

11. In section 42 of the principal Act,—

45 (i) for sub-section (I), the following sub-section shall be substituted, namely:— Amendment of section 42.

“(I) It shall be the duty of all distribution licensees to,—

(a) ensure an efficient, co-ordinated and economic distribution system in their area of supply:

Provided that a distribution licensee may use the distribution systems of other licensees in the area of supply for supplying power through the system of non-discriminatory open access;

(b) give non-discriminatory open access to other distribution licensees on payment of wheeling charges; and 5

(c) provide supply of electricity to the consumers, in accordance with the provisions of this Act and the rules made thereunder by the Central Government and the regulations made by the Appropriate Commission and in accordance with the model regulations laid down by the Forum of Regulators.”; 10

(ii) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) A distribution licensee shall provide non-discriminatory open access through its distribution system to all distribution licensees having licence within the same area of supply, subject to payment of wheeling charges and in accordance with the regulations specified by the Appropriate Commission. 15

(4B) In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that a distribution licensee has knowingly failed to provide open access through its distribution system to another distribution licensee or hindered it in any manner from using its distribution network, the Appropriate Commission may, after giving the distribution licensee an opportunity of being heard, issue such directions as it considers necessary and impose the penalties in accordance with the provisions of this Act.”. 20

Amendment of section 59.

12. In section 59 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:— 25

“(c) the status of compliance of the guidelines issued by the Central Government regarding corporate governance.”.

Insertion of new section 60A.

13. After section 60 of the principal Act, the following section shall be inserted, namely:—

Management of power agreement, cross subsidy, etc.

“60A. (1) Notwithstanding anything contained in this Act, on the issuance of licence 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 licence to another distribution licensee, shall be shared among all the distribution licensees in the area of supply as per such arrangements as may be specified by the State Commission in accordance with the provisions of this Act and the rules made thereunder by the Central Government: 35

Provided that the State Commission shall periodically review the sharing of power as provided in the existing power purchase agreements:

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. 40

(2) In case of issuance of licence 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 in accordance with such regulations as the State Commission may make in accordance with the provisions of this Act and the rules made thereunder by the Central Government. 45

(3) Any surplus with a distribution licensee on account of cross subsidy or cross subsidy surcharge or additional surcharge shall be deposited into the fund 50

referred to in sub-section (2), and the fund shall be utilised to make good deficits in cross subsidy in the same area or any other area of supply.”.

14. In section 61 of the principal Act, for clause (g), the following clauses shall be substituted, namely:—

Amendment
of section 61.

5 “(g) the tariff recovers all prudent costs incurred for supply of electricity;
 (ga) the tariff reduces cross subsidies in the manner specified by the Appropriate Commission;”.

15. In section 62 of the principal Act,—

Amendment
of section 62.

10 (i) in sub-section (1), in clause (d), for the proviso, the following provisos shall be substituted, namely:—

15 “Provided that in case of distribution of electricity in the same area of supply by two or more distribution licensees, the Appropriate Commission shall, for promoting competition among such distribution licensees, fix the maximum ceiling of tariff and the minimum tariff for retail sale of electricity in accordance with the provisions of this Act and the rules made thereunder by the Central Government:

20 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 the Appropriate Commission.”;

(ii) in sub-section (4), the following proviso shall be inserted, namely:—

25 "Provided that the Appropriate Commission may, by an order and for reasons to be recorded in writing, allow the licensee to effect the changes due to amendment in tariff, not exceeding in four stages, during a year in accordance with the Tariff Policy."

16. In section 64 of the principal Act,—

Amendment
of section 64.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

30 “(1) An application for determination of tariff under section 62 shall be made by a generating company or licensee at such time and in such manner and accompanied by such fee, as may be specified by the Appropriate Commission:

Provided that the time specified should be such that the new tariff comes into effect from the beginning of the following financial year:

35 Provided further that if an application is not made by a generating company or licensee on time, the State Commission shall, not later than thirty days of the last date specified in the regulations, initiate proceedings for determination of tariff and call for such information, details and documents as may be required for such determination with the objective of determining the tariff before the beginning of the financial year:

40 Provided also that, where two or more distribution licensees operate in the same area of supply, the State Commission shall fix the maximum ceiling of tariff and the minimum tariff, *suo motu*, after calling for requisite information from such distribution licensees.”;

(ii) in sub-section (3),—

45 (a) for the words “one hundred and twenty days from receipt of an application”, the words “ninety days from the date of receipt of the application or initiation of proceedings” shall be substituted;

(b) in clause (a), the following proviso shall be inserted, namely:—

“Provided that if tariff order cannot be issued due to any reasons which are to be recorded in writing, the Appropriate Commission shall

issue the order for interim tariff within the said period of ninety days from the date of receipt of such application or initiation of such proceedings:

Provided further that the interim tariff shall remain in operation till issue of final tariff order which shall be issued within such period not exceeding one hundred and fifty days of receipt of such application for determination of tariff or initiation of such proceedings." 5

Amendment
of section 77.

17. In section 77 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Chairperson of the Central Commission shall be a person of ability, integrity and standing, who is or has been,— 10

(i) head of an organisation dealing with generation, transmission or distribution of electricity; or

(ii) Secretary to the Government of India or its equivalent:

Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.”; 15

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Members, other than the Chairperson of the Central Commission shall be persons of ability, integrity and standing, having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy or public administration or management and shall be appointed as follows:— 20

(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, commerce, public policy, public administration or management; and 25

(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.”. 30

Amendment
of section 78.

18. In section 78 of the principal Act,—

(i) in sub-section (1), in clause (a), for the words “Planning Commission”, the words “Niti Aayog” shall be substituted;

(ii) in sub-section (2), for the words, figure and letter “specified in section 4A”, the words, brackets and figures “defined in clause (72) of section 2” shall be substituted; 35

(iii) in sub-section (9),—

(a) for the words “vacancy in the Selection Committee”, the words “vacancy, other than that of Chairperson, in the Selection Committee” shall be substituted; 40

(b) the proviso shall be omitted.

Amendment
of section 79.

19. In section 79 of the principal Act, in sub-section (1),—

(a) for clause (f), the following clauses shall be substituted, namely:—

“(f) to adjudicate upon the disputes including those relating to performance of obligations under a contract related to sale, purchase or transmission of electricity, involving generating companies or licensees in regard to matters connected with clauses (a) to (d); 45

(*fa*) to adjudicate upon the disputes involving the National Load Despatch Centre or the Regional Load Despatch Centre in regard to matters connected with sections 26, 28 and 29;”;

(*b*) after clause (*j*), the following clause shall be inserted, namely:—

5 “(*ja*) to grant licence for distributing electricity in more than one State;”;

(*c*) after clause (*k*), the following proviso shall be inserted, namely:—

10 “Provided that the Chairperson of the Central Commission shall constitute a Bench consisting of a Member appointed under clause (*c*) of sub-section (2) of section 77 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions as provided in clauses (*f*) and (*fa*).”.

20. In section 82 of the principal Act,—

Amendment
of section 82.

(*i*) for sub-section (4), the following sub-section shall be substituted, namely:—

15 “(4) The State Commission shall consist of a Chairperson and three other Members.”;

(*ii*) after sub-section (5), the following sub-section shall be inserted, namely:—

20 “(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 necessary.”.

21. In section 84 of the principal Act,—

Amendment
of section 84.

(*i*) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Chairperson of the State Commission shall be a person of ability, integrity and standing, who is or has been,—

25 (i) the head of an organisation dealing with generation, transmission or distribution of electricity; or

(ii) a Principal Secretary to the State Government or its equivalent:

Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.”;

30 (ii) for sub-section (2), the following sub-section shall be substituted, namely:—

35 “(2) The Members, other than the Chairperson of the State Commission, shall be persons of ability, integrity and standing having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy, public administration or management and shall be appointed as follows:—

(*a*) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

40 (*b*) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and

(*c*) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.”.

45 **22.** In section 85 of the principal Act,—

Amendment
of section 85.

(*i*) in sub-section (1), for clause (*c*), the following clause shall be substituted, namely:—

“(c) a nominee of the Central Government not below the rank of Additional Secretary to the Government of India—Member.”;

(ii) in sub-section (6), for the words “vacancy in the Selection Committee”, the words “vacancy, other than that of Chairperson, in the Selection Committee” shall be substituted.

Amendment
of section 86.

23. In section 86 of the principal Act, in sub-section (1),—

(a) in the proviso to clause (a), for the words “Provided that”, the following shall be substituted, namely:— 5

“Provided that the tariff recovers all prudent costs incurred for supply of electricity and also provide reasonable returns on investment and take necessary steps to ensure financial stability of the licensees:

Provided further that”; 10

(b) for clause (e), the following clause shall be substituted, namely:—

“(e) promote 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 person, a percentage of the total consumption of electricity in the area of supply of a distribution licensee which shall not be less than such percentage as may be prescribed by the Central Government;” 15

(c) after clause (e), the following clause shall be inserted, namely:—

“(ea) promote co-generation of electricity;”;

(d) for clause (f), the following clauses shall be substituted, namely:— 20

“(f) adjudicate upon the disputes including those relating to performance of obligations under contracts related to sale, purchase or transmission of electricity involving generating companies or licensees:

Provided that in case of reneging of Power Purchase Agreement by a generating company or a licensee, the dispute shall be adjudicated along with appropriate compensation to the affected party, within ninety days from the date of submission of petition to the Appropriate Commission; 25

(fa) adjudicate upon the disputes involving the State Load Despatch Centre in regard to matters connected with section 32 and section 33;”;

(e) after clause (j), the following clauses shall be inserted, namely:— 30

“(ja) issue directions or guidelines or specify regulations to secure consumer choice and an efficient, coordinated and economical use of the distribution system, where there are more than one distribution licensee in an area of supply;

(jb) review the resource adequacy at intervals of every six months for each of the distribution licensees in accordance with the guidelines issued by the Central Government;”;

(f) in clause (k), after the words “under this Act”, the words “by the Central Government or the State Government:” shall be inserted;

(g) after clause (k), the following proviso shall be inserted, namely:— 40

“Provided that the Chairperson of the State Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 84 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa).” 45

24. In section 89 of the principal Act, in sub-section (1), in the second proviso, for the words “sixty-five”, the words “sixty-seven” shall be substituted. Amendment of section 89.
25. In section 90 of the principal Act, in sub-section (2),— Amendment of section 90.
- (i) after clause (f), the following clauses shall be inserted, namely:—
- “(g) has wilfully violated or overlooked the provisions of this 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 this Act or the rules or regulations made thereunder.”;
- (ii) in the proviso, for the words, brackets and letters “clauses (d), (e) and (f)”, the words, brackets and letters “clauses (d), (e), (f), (g) and (h)” shall be substituted.
26. In section 94 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment of section 94.
- “(4) An order made by the Appropriate Commission or its Bench shall be executable as a decree of a civil court and, for this purpose, such Commission or Bench shall have all the powers of a civil court including but not limited to powers of attachment and sale of property and appointment of a receiver.
- (5) Notwithstanding anything contained in sub-section (4), the Appropriate Commission or Bench referred to in that sub-section 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.”.
27. In section 112 of the principal Act, in sub-section (1), for the words “three other Members”, the words “such number of other Members, not less than three, as may be prescribed by the Central Government” shall be substituted. Amendment of section 112.
28. In section 128 of the principal Act, in sub-section (2), for the word and figures “section 235”, the word and figures “section 210” shall be substituted. Amendment of section 128.
29. For section 142 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 142.
- “142. (1) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any of the provisions of this Act or the rules made thereunder, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed one crore rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six lakh rupees for each day during which the failure continues after contravention of the first such direction. Penalty for contravention of provisions of Act.
- (2) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any regulation, direction or order issued by it, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed ten lakh rupees for each contravention and in case of a continuing failure with

an additional penalty which may extend to sixty thousand rupees for each day during which the failure continues after contravention of the first such direction.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where the Appropriate Commission is satisfied on a complaint filed before it or otherwise, that obligated entity has not purchased power from renewable sources of energy as specified under clause (e) of sub-section (1) of section 86, the Commission shall after giving such entity an opportunity of being heard, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty of a sum calculated at a rate of—

(i) not less than twenty-five paise per kilowatt-hour and not more than thirty-five paise per kilowatt-hour for the shortfall in purchase in the first year of default;

(ii) not less than thirty-five paise per kilowatt-hour and not more than fifty paise per kilowatt-hour for the shortfall in purchase continuing after the first year of default.”

Amendment of section 146. **30.** In section 146 of the principal Act, for the portion beginning with the words “shall be punishable” and ending with the words “for every day”, the following shall be substituted, namely:—

“shall be punishable with fine which may extend to one crore rupees, in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one lakh rupees for every day”.

Amendment of section 152. **31.** In section 152 of the principal Act, in sub-section (1), for the words “may accept”, the words “shall accept” shall be substituted.

Amendment of section 166. **32.** In section 166 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) The Forum of Regulators referred to in sub-section (2) shall discharge the following functions, namely:—

(a) prepare and lay on 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, section 61 and the first proviso to sub-section (1) of section 62, in accordance with the provisions of this Act and the rules made thereunder;

(b) monitor the status of compliance of the provisions of clause (e) of sub-section (1) of section 86 by distribution licensees on annual basis and submit a report to the Central Government; and

(c) any other functions, as may be prescribed by the Central Government.”.

Amendment of section 176. **33.** In section 176 of the principal Act, in sub-section (2),—

(i) for clause (a), the following clauses shall be substituted, namely:—

“(a) the security of payment under clause (60a) of section 2;

(aa) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3;

(ab) the manner of concurrence by the Authority under sub-section (1A) of section 8;

(ac) the criteria for area of supply under clause (b) of section 14;”;

(ii) after clause (i), the following clause shall be inserted, namely:—

“(ia) the percentage of total consumption of electricity in the area of supply of distribution licensee under clause (e) of sub-section (I) of section 86;”;

5 (iii) after clause (q), the following clause shall be inserted, namely:—

“(qa) the number of members of the Appellate Tribunal under sub-section (I) of section 112;”;

(iv) after clause (x), the following clause shall be inserted, namely:—

10 “(xa) any other functions to be discharged by the Forum of Regulators under clause (c) of sub-section (3A) of section 166;”.

34. In section 178 of the principal Act, in sub-section (2), in clause (v), for the words “the manner of making an application”, the words “the time, manner of making an application” shall be substituted. Amendment of section 178.

35. In section 181 of the principal Act, in sub-section (2),—

15 (a) after clause (l), the following clause shall be inserted, namely:—

“(la) the payment of transmission charges and a surcharge thereon by the consumer under proviso to sub-clause (ii) of clause (c) of section 40;”;

(b) after clause (zb), the following clauses shall be inserted, namely:—

20 “(zba) the arrangements for sharing of power and associated costs amongst the distribution licensees in the area of supply under sub-section (I) of section 60A;

“(zbb) the managing of cross subsidy balancing fund by a Government company under sub-section (2) of section 60A;”;

25 (c) in clause (zg), for the words “the manner of making an application”, the words “the time, manner of making an application” shall be substituted;

(d) after clause (zi), the following clause shall be inserted, namely:—

“(zia) securing the consumer choice under clause (ja) of sub-section (I) of section 86;”.

30 **36.** In section 183 of the principal Act, after sub-section (I), the following sub-section shall be inserted, namely:— Amendment of section 183.

35 “(IA) Notwithstanding anything contained in sub-section (I), if any difficulty arises in giving effect to the provisions of this Act as amended by the Electricity (Amendment) Act, 2022, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Electricity (Amendment) Act, 2022.”.

STATEMENT OF OBJECTS AND REASONS

The Electricity Act, 2003 (the Act) was enacted to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

2. The Act has facilitated the development of the power sector. The investments in all segments of the electricity sector, that is generation, transmission and distribution have brought a significant improvement in outcomes. The transmission grid has been unified into a "National Grid" and all households have access to grid electricity. However, the continuing as well as new challenges of sustainability of the power sector, contract enforcement, payment security mechanism, energy transition and the need to provide choice to consumers in order to promote competition and the like, it has become necessary to make certain amendments in the Act.

3. The amendments to the Act are also necessary in view of the importance of green energy for our environment in the context of global climate change concerns and our international commitments to increase the share of renewable energy. Further, it has become necessary to strengthen the regulatory mechanism, adjudicatory mechanism in the Act and to bring administrative reforms through improved corporate governance of distribution licensees.

4. The Electricity (Amendment) Bill, 2022, *inter alia*, provides for the following, namely:—

(i) to amend section 8 of the Act so as to streamline the concurrence of the hydro generating station by the Authority to facilitate development of the hydro sector in the country;

(ii) to amend section 14 of the Act in order to facilitate the use of distribution networks by all licensees under provisions of non-discriminatory open access with the objective of enabling competition, enhancing efficiency of distribution licensees for improving services to consumers and ensuring sustainability of the power sector;

(iii) to amend section 26 of the Act so as to strengthen the functioning of the National Load Despatch Centre for ensuring the safety and security of the grid and for the economic and efficient operation of the power system in the country;

(iv) to amend section 42 of the Act so as to facilitate non-discriminatory open access to the distribution network of a distribution licensee;

(v) to insert a new section 60A in the Act so as to enable management of power purchase and cross-subsidy in case of multiple distribution licensees in the same area of supply;

(vi) to amend section 62 of the Act so as to make provision regarding graded revision in tariff over a year and for mandatory fixing of maximum ceiling as well as minimum tariff by the Appropriate Commission;

(vii) to amend section 142 of the Act so as to enhance the rate of penalty for non-compliance of the provisions of the Act and the rules and regulations made thereunder;

(viii) to amend section 146 of the Act so as to convert the rate of punishment from "imprisonment or with fine" to "fine";

(ix) to amend section 152 of the Act so as to facilitate decriminalisation of offence as it would be mandatory to accept compounding;

(x) to amend section 166 of the Act so as to strengthen the functions to be discharged by the Forum of Regulators.

5. The Bill seeks to achieve the above objectives.

R. K. SINGH

NEW DELHI;
The 2nd August, 2022.

NOTES ON CLAUSES

Clause 1.—This clause provides for the "Short Title and commencement" of the proposed Legislation.

Clause 2.—This clause seeks to substitute the reference of certain expressions by certain other expressions.

Clause 3.—This clause seeks to amend section 2 of the principal Act to amend the definition of "Power System" by including 'Energy storage system' and to insert the new definition relating to "security of payment".

Clause 4.—This clause seeks to amend section 8 of the principal Act to streamline the concurrence of the hydro-generating station by the Authority so as to facilitate development of the hydro sector in the country.

Clause 5.—This clause seeks to amend section 14 of the principal Act to facilitate the use of distribution networks of other licensees under provisions of non-discriminatory open access with the objective of enabling competition, enhancing efficiency of distribution licensees for improving services to consumers and ensuring sustainability of the power sector.

Clause 6.—This clause seeks to amend section 15 of the principal Act which acts as a deeming provision to avoid delay in granting license.

Clause 7.—This clause seeks to amend section 26 of the principal Act to strengthen the powers and functions of the National Load Despatch Centre for ensuring the safety and security of the grid and for the economic and efficient operation of the power system in the country.

Clause 8.—This clause seeks to amend section 28 of the principal Act to provide for scheduling and despatch of electricity only if, a payment security mechanism has been established to ensure timely payment of dues.

Clause 9.—This clause seeks to amend section 32 of the principal Act to provide for scheduling and despatch of electricity only if, a payment security mechanism has been established to ensure timely payment of dues.

Clause 10.—This clause seeks to amend section 40 of the principal Act to enable access to large consumers to inter-state transmission system.

Clause 11.—This clause seeks to amend section 42 of the principal Act to facilitate operation of multiple distribution licensee in the same area and to avoid parallel network and optimise usage of the distribution network.

Clause 12.—This clause seeks to amend section 59 of the principal Act to enable administrative reforms through improved corporate governance of distribution licensees.

Clause 13.—This clause seeks to amend section 60 of the principal Act to enable management of power purchase and cross subsidy in case of multiple distribution licensees in the same area of supply.

Clause 14.—This clause seeks to amend section 61 of the principal Act to ensure cost reflective tariff, which is important for financial viability of the power sector.

Clause 15.—This clause seeks to amend section 62 of the principal Act to provide for mandatory fixing of maximum ceiling of tariff as well as minimum tariff by the Commission for retail sale of electricity for promoting competition in the same area of supply by the distribution

licensees. This clause also seeks to make provision regarding graded revision of tariff in a year.

Clause 16.—This clause seeks to amend section 64 of the principal Act to provide for *suo motu* determination of tariff by the Appropriate Commission, reduce the time required for tariff determination and provision for interim tariff.

Clause 17.—This clause seeks to amend section 77 of the principal Act to improve the Regulatory mechanism and for this purpose, the qualifications for the post of Chairpersons and Members in Central Commission is being amended.

Clause 18.—This clause seeks to amend section 78 of the principal Act so as to incorporate consequential change due to change in nomenclature of Planning Commission and to facilitate timely appointment of Chairperson and Members in the Commission.

Clause 19.—This clause seeks to amend section 79 of the principal Act to facilitate timely disposal of disputes related to contracts, provision for creating separate benches for adjudication of such matters.

Clause 20.—This clause seeks to amend section 82 of the principal Act by increasing number of Members so as to ensure smooth and efficient functioning of the State Commissions, entrusting of work to other Commission under certain conditions.

Clause 21.—This clause seeks to amend section 84 of the principal Act mandating the appointment of the Member from law background so as to improve functioning of the State Commissions.

Clause 22.—This clause seeks to amend section 85 of the principal Act regarding composition of the Selection Committee for State Commissions.

Clause 23.—This clause seeks to amend section 86 of the principal Act to provide for the Renewable Purchase Obligation, not to be less than the trajectory prescribed by the Central Government.

Clause 24.—This clause seeks to amend section 89 of the principal Act so as to ensure that the full tenure is availed by Chairperson and Members of the Electricity Regulatory Commissions.

Clause 25.—This clause seeks to amend section 90 of the principal Act to provide for removal of a Member of the Commission in case of gross negligence and non-compliance of the provisions of the Act and the rules made there under

Clause 26.—This clause seeks to amend section 94 of the principal Act so that the Civil Court powers can be extended to Regulatory Commissions so as to ensure compliance of the orders and regulations of the Commission.

Clause 27.—This clause seeks to amend section 112 of the principal Act to provide that the Appellate Tribunal shall consist of such number of other Members, not less than three as may be prescribed by the Central Government.

Clause 28.—This clause seeks to amend section 128 of the principal Act so as to substitute "section 235", with "section 210" under the Companies Act, 2013.

Clause 29.—This clause seeks to amend section 142 of the principal Act to introduce a specific provision for penalties for non-compliance of the Renewable Purchase Obligation.

Clause 30.—This clause seeks to amend section 146 of the principal Act to decriminalise the offence by removing imprisonment provisions for ensuring ease of doing business. The maximum permissible penalty amount for non-compliance of the provisions of the Act and the rules, regulations and orders issued under it, is proposed to be enhanced.

Clause 31.—This clause seeks to amend section 152 of the principal Act to facilitate decriminalisation of offence as it would be mandatory to accept compounding.

Clause 32.—This clause seeks to amend section 166 of the principal Act to empower Forum of Regulators to publish model regulations on various matters related to ease of implementation of the provisions of the Act.

Clause 33.—This clause seeks to amend section 176 of the principal Act so as to empower the Central Government to frame rules on certain matters which have been inserted by the proposed amendments.

Clause 34.—This clause seeks to amend section 178 of the principal Act to empower the Central Commission to frame regulations on certain matters which have been inserted by the proposed amendments.

Clause 35.—This clause seeks to amend section 181 of the principal Act to empower the State Commission to frame regulations on certain matters which have been inserted by the proposed amendments.

Clause 36.—This clause seeks to amend section 183 of the principal Act to empower the Central Government to remove the difficulties in giving effect to the provisions of the Electricity (Amendment) Act, 2022.

FINANCIAL MEMORANDUM

The provisions of the proposed Legislation does not involve any expenditure either recurring or non-recurring from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill proposes to amend sub-section (2) of section 176 of the Electricity Act, 2003 (the Act) relating to the power of the Central Government to make rules. The proposed amendments to sub-section (2) of the said section, *inter alia*, are—(a) the security of payment under clause (60a) of section 2; (b) the manner of concurrence by the Authority under sub-section (1A) of section 8; (c) the criteria for area of supply under clause (b) of section 14; (d) the percentage of total consumption of electricity in the area of distribution licensee under clause (e) of sub-section (1) of section 86; (e) the number of members of the Appellate Tribunal under sub-section (1) of section 112; and (f) any other functions to be discharged by the Forum of Regulators under clause (c) of sub-section (3A) of section 166.

2. Clause 34 of the Bill proposes to amend sub-section (2) of section 178 of the said Act relating to the power of the Central Commission to make regulations. The proposed amendment to sub-section (2) of the said section provides for the time, manner of making an application before the Central Commission and the fee payable therefore under sub-section (1) of section 64.

3. Clause 35 of the Bill proposes to amend sub-section (2) of section 181 of the said Act relating to the power of the State Commission to make regulations. The proposed amendment to sub-section (2) of the said section, *inter alia*, are—(a) the payment of transmission charges and a surcharge thereon by the consumer under proviso to sub-clause (ii) of clause (c) of section 40; (b) the arrangements for sharing of power and associated costs amongst the distribution licensees in the area of supply under sub-section (1) of section 60A; (c) the managing of cross subsidy balancing fund by a Government company under sub-section (2) of section 60A; (d) the time, manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64; and (e) securing the consumer choice under clause (ja) of sub-section (1) of section 86.

4. The matters in respect of which the rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE ELECTRICITY ACT, 2003

(36 OF 2003)

* * * * *

2. In this Act, unless the context otherwise requires,—

Definitions.

* * * * *

(31) “Government company” shall have the meaning assigned to it in section 617 of the Companies Act, 1956;

1 of 1956.

* * * * *

(50) “power system” means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:—

* * * * *

(j) works;

* * * * *

(60) “Schedule” means the Schedule to this Act;

* * * * *

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

Grant of licence.

* * * * *

(b) to distribute electricity as a distribution licensee; or

* * * * *

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 relating to the capital adequacy, creditworthiness, 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:

* * * * *

15. (1) *

*

*

*

*

Procedure for grant of licence.

(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application,—

(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

* * * * *

National Load
Despatch
Centre.

26. (1) * * * * *

(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:

Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity.

* * * * *

Functions of
Regional Load
Despatch
Centre.

28. (1) * * * * *

(3) The Regional Load Despatch Centre shall—

(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;

* * * * *

Functions of
State Load
Despatch
Centres.

32. (1) * * * * *

(2) The State Load Despatch Centre shall—

(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;

* * * * *

Duties of
transmission
licensees.

40. It shall be the duty of a transmission licensee—

* * * * *

(c) to provide non-discriminatory open access to its transmission system for use by—

* * * * *

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:

* * * * *

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

* * * * *

PART VI

DISTRIBUTION OF ELECTRICITY

Provisions with respect to distribution licensees

42. (1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act. Duties of distribution licensee and open access.

* * * * *

59. (1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:— Information with respect to levels of performance.

* * * * *

(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.

* * * * *

PART VII

TARIFF

61. The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:— Tariff regulations.

* * * * *

(g) that the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission;

* * * * *

62. (1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for— Determination of tariff.

* * * * *

(d) retail sale of electricity:

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

* * * * *

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

* * * * *

Procedure for tariff order.

64. (1) An application for determination of tariff under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

* * * * *

(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,—

(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

* * * * *

Qualifications for appointment of Members of Central Commission.

77. (1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge of, or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance or management and shall be appointed in the following manner, namely:—

(a) one person having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

(b) one person having qualifications and experience in the field of finance;

(c) two persons having qualifications and experience in the field of economics, commerce, law or management:

Provided that not more than one Member shall be appointed under the same category under clause (c).

(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

* * * * *

Constitution of Selection Committee to recommend Members.

78. (1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of—

(a) Member of the Planning Commission incharge of the energy sector—
Chairperson;

* * * * *

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Chairperson or managing director, by whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956.

* * * * *

(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court.

* * * * *

79. (1) The Central Commission shall discharge the following functions, namely:— Functions of Central Commission.

* * * * *

(f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;

* * * * *

(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;

(k) to discharge such other functions as may be assigned under this Act.

* * * * *

Constitution, powers and functions of State Commissions

82. (1) * * * * * Constitution of State Commission.

(4) The State Commission shall consist of not more than three Members, including the Chairperson.

* * * * *

84. (1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management. Qualifications for appointment of Chairperson and Members of State Commission.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.

* * * * *

85. (1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of— Constitution of Selection Committee to select Members of State Commission.

* * * * *

(c) the Chairperson of the Authority or the Chairperson of the Central Commission—Member:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

* * * * *

(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

* * * * *

Functions of State Commission.

86. (1) The State Commission shall discharge the following functions, namely:—

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

* * * * *

(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 a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

* * * * *

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary;

(k) discharge such other functions as may be assigned to it under this Act.

* * * * *

Appropriate Commission—other provisions

Term of office and conditions of service of Members.

89. (1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

* * * * *

Removal of Member.

90. (1) * * * * *

(2) The Central Government, 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—

* * * * *

(f) has been guilty of proved misbehaviour:

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.

* * * * *

	*	*	*	*	*	
						Composition of Appellate Tribunal.
	*	*	*	*	*	
						Investigation of certain matters.
1 of 1956.						
	*	*	*	*	*	
						Punishment for non-compliance of directions by Appropriate Commission.
	*	*	*	*	*	
						Punishment for non-compliance of orders or directions.
	*	*	*	*	*	
2 of 1974.						Compounding of offences.
	*	*	*	*	*	
						Power of Central Government to make rules.
	*	*	*	*	*	

(i) the functions and duties of the Central Electricity Authority under section 73;

* * * * *

(q) the form and the manner of verifying such form, and fee for filing appeal under sub-section (2) of section 111;

* * * * *

(x) the powers to be exercised and the functions to be performed by the Inspectors under sub-section (1) of section 162;

* * * * *

Powers of Central Commission to make regulations.

178. (1) * * * *

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:—

* * * * *

(v) the manner of making an application before the Central Commission and the fee payable therefor under sub-section (1) of section 64;

* * * * *

Powers of State Commissions to make regulations.

181. (1) * * * *

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely:—

* * * * *

(l) payment of the transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 40;

* * * * *

(zb) the period within which information to be furnished by the licensee under sub-section (1) of section 59;

* * * * *

(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;

* * * * *

(zi) the manner by which development of market in power including trading specified under section 66;

* * * * *

LOK SABHA

A
BILL
further to amend the Electricity Act, 2003.

(Shri R.K. Singh, Minister of Power)