Legislative Brief

The Draft Electricity (Amendment) Bill, 2025

The Draft Electricity (Amendment) Bill, 2025 was released by the Ministry of Power on October 9, 2025 for public feedback.

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Highlights of the Bill

- The Electricity Act, 2003 permits multiple distribution companies to operate in the same area and supply electricity through their own network. Under the Draft Bill, discoms will be allowed to supply electricity using network of others discoms, subject to oversight by State Electricity Regulatory Commissions (SERCs).
- Cross-subsidies paid by manufacturing enterprises, railways, and metro railways must be fully eliminated within five years.
- SERCs may, in consultation with the state government, exempt discoms from their obligation to supply power to consumers whose maximum power demand exceed one megawatt.
- The Draft Bill establishes an Electricity Council comprising union and state power ministers. The Council will advise central and state governments on policy measures and coordinate the implementation of electricity sector reforms.
- Renewable Purchase Obligation (RPO) under the Act requires certain entities to purchase a minimum share of electricity from renewable sources. The Draft Bill broadens this to include non-fossil sources. Additionally, it proposes a penalty for non-compliance with RPO. The penalty will range between 35 paise and 45 paise per unit of electricity purchased in non-compliance.
- The central and state governments will be able to give references to initiate removal proceedings for SERCs and Central Electricity Regulatory Commission (CERC) members, respectively. Presently, each government may do so only for its own appointees.

Key Issues and Analysis

- While the Draft Bill enables multiple suppliers to use a shared distribution network, it leaves several questions unaddressed. These relate to the treatment of existing PPAs, allocation of responsibility for expanding and maintaining the network, sharing of regulatory assets and cross subsidy, framework for consumers to switch between discoms, and distribution of AT&C losses.
- For enabling competition in supply, earlier Bills sought to provide autonomy to discoms in setting tariff. As per the Draft Bill, tariff will continue to be determined by the Regulatory Commission.
- The penalty for non-compliance with RPO is fixed close to the market price of renewable energy certificates (30 paise-40 paise per unit). It may act as a price ceiling and distort market mechanism.
- The power of central and state governments to give reference for removal of members of each other's appointed Regulatory Commissions may amount to interference by one government in the domain of the other.

PART A: HIGHLIGHTS OF THE BILL

Context

Electricity is in the concurrent list of the Constitution.[1] Both Parliament and State Assemblies may make laws on this subject. The Electricity Act, 2003 passed by Parliament is the principal legislation which governs the power sector.[2] The Act demarcates the sector into generation, transmission, and distribution sub-sectors. Generation is the process of producing power using various sources of energy. Transmission refers to carrying high voltage power from generation plants to distribution sub-stations through a transmission grid. Distribution refers to transferring electricity from sub-stations to individual consumers via a distribution network. Generation is a delicensed activity whereas both transmission and distribution are licensed activities.[2]

A persistent challenge for the electricity sector has been the poor financial performance of distribution companies (discoms).[3,4] Between 2018-19 and 2023-24, the total cumulative losses of all discoms were Rs 3.4 lakh crore.[5] In most states, electricity distribution is a local monopoly business i.e. a single company, typically a state government-owned entity, serves all consumers in a given area.[4] Private sector discoms supply electricity in a few places such as Delhi, Mumbai, Kolkata, and Ahmedabad.[4] Discoms have continued to require government support from time to time to be bailed out from financial losses.[3] Underpricing of tariff and high technical and commercial losses (including theft issues) are some of the major reasons for these losses.[3,4]

Different amendments to the 2003 Act have been considered over the years. In 2014, a Bill was introduced that provided separate licences for distribution network and supply businesses.[6] It was examined by the Standing Committee on Energy, however, it lapsed with the dissolution of 16th Lok Sabha.[7] Draft amendments to the Act were also released in 2018 and 2020 for public feedback.[8,9] While the 2018 Draft Bill provided for a distribution structure similar to the 2014 Bill, the 2020 Draft Bill provided for sub-licencees to distribute electricity on behalf of the distribution licensees. In 2022, a Bill was introduced in Lok Sabha and subsequently referred to the Standing Committee on Energy.[10] It mandated sharing of networks among discoms in a given area. It lapsed with the dissolution of 17th Lok Sabha. These Bills also sought to rationalise tariff and cross-subsidy. Cross-subsidy refers to the arrangement where one consumer category subsidises the consumption of another consumer category. In many states, cross-subsidy levels are higher than the long-term policy goal of keeping it within the range of ±20% of the average cost of supply.[3]

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Key Features

- **Network sharing among discoms in the same area:** The Act allows multiple discoms to operate in the same area of supply and distribute electricity through their own networks. Under the Draft Bill, a discom may supply electricity using the network of another discom, subject to oversight by the State Electricity Regulatory Commissions (SERCs). Further, every discom must: (i) provide open and non-discriminatory access of its network to other discoms, subject to payment of charges as set by the SERC, and (ii) develop and maintain distribution system avoiding any duplication as specified by the Regulatory Commission.
- **Cost-reflective tariff and removal of cross-subsidy for certain entities:** Under the Act, the retail tariff for electricity must progressively reflect the cost of supply of electricity and that cross-subsidies must be reduced in a specified manner. The Draft Bill instead requires that the tariff must reflect cost of supply of electricity. It also requires that cross-subsidies paid by manufacturing enterprises, railways, and metro railways must be fully eliminated within five years.
- **Exemption from power supply obligations to certain consumers:** Discoms have a universal service obligation to supply power to all categories of consumers. This includes consumers permitted to source power directly from generators (referred to as open access). As per the Act, these are consumers whose maximum power demand exceeds one MW. The Draft Bill allows SERCs to exempt a discom from this obligation for such consumers, in consultation with the state government.
- **Establishment of an Electricity Council:** The Draft Bill proposes to establish an Electricity Council. It will be chaired by the Union Minister of Power. Power ministers of state and UT governments will be members of this Council. The Union Power Secretary will be the convenor of the Council. The Council will advise central and state governments on: (i) policy measures in the power sector, (ii) facilitate consensus on reforms, and (iii) coordinate implementation of such reforms.
- **Penalty for non-compliance with Renewable Purchase Obligation:** The Act empowers SERCs to mandate discoms to purchase a certain percentage of electricity from renewable sources known as Renewable Purchase Obligation (RPO). The Draft Bill modifies this to be an obligation to purchase electricity from non-fossil sources. Additionally, SERC's mandated percentage of electricity under RPO

will not be less than the percentage prescribed by the central government. The Draft Bill also provides for penalties for non-compliance in meeting RPO. The penalty will range between 35 paise and 45 paise per unit of electricity purchased in non-compliance.

- **Expansion of powers to initiate removal of Regulatory Commission members:** As per the Act, no member of Regulatory Commission can be removed unless the chairperson of the Appellate Tribunal for Electricity has conducted an inquiry. The reference to initiate this inquiry may be made by the central government for CERC members or by the state government for SERC members. The Draft Bill adds that the central government may also make a reference for the removal of SERC members, and the state government may also make a reference for the removal of CERC members.
- **Additional grounds for removal of members of Regulatory Commissions:** The Act specifies grounds for removal of members of Regulatory Commissions such as: (i) insolvency (inability to pay debts), (ii) conviction for offences involving dishonesty, (iii) physical or mental incapacity, (iv) prejudicial financial interests i.e., financial interests that may compromise the member's impartiality, (v) abuse of position, and (vi) proved misbehaviour. The Draft Bill adds two further grounds: (i) wilful violation of the 2003 Act and associated rules or regulations and (ii) gross negligence in performing duties.
- **Establishment of an Electric Line Authority:** The Draft Bill establishes an Electric Line Authority. It will exercise powers previously held by the Telegraph Authority under the repealed Telegraph Act, 1885.[11] The Authority may place, maintain, repair, or remove electric lines over any property, subject to payment of compensation. State governments will prescribe the manner for determining such compensation.
- **Criteria for captive generation:** The Act allows a person to construct, maintain, or operate a captive generation plant (i.e., generation units set up by consumers for their own use). The Draft Bill enables both the central and state governments to specify eligibility criteria for captive generation.

PART B: KEY ISSUES AND ANALYSIS

Introduction of a shared distribution system

Act: Section 14, 42

Bill: Clause 5, 9

Encouraging competition is one of core objectives of the Electricity Act, 2003. To promote competition, the Act permits multiple distribution licensees to operate in the same area. Under the Act, each distribution licensee must supply electricity using their own network. However, such a mandate can lead to duplication of network infrastructure which raises costs for consumers.[12,13,14] To address this, the Draft Bill allows a discom to supply using a shared distribution system i.e., by utilising network of another discom. This will be in accordance with the framework specified by the Regulatory Commission. It also requires every discom to provide non-discriminatory open access to its network to other discoms, upon payment of charges determined by SERC. Further, a discom will also have a duty to develop and maintain network, as required, and avoid duplication, as specified by the Regulatory Commission. We discuss certain issues with these changes below.

The Draft Bill does not provide clarity on various aspects of competition in supply

The Draft Bill seeks to enable competition in supply. This is expected to provide consumers choice and improve efficiency. Towards this objective, the Draft Bill requires every incumbent discom to share its wire network with new discoms on payment of charges specified by SERC. Sharing of the network as well as potential migration of customers could lead to several issues. Earlier Bills sought to address some of these.

Treatment of existing PPAs

Discoms mainly procure power through long-term Power Purchase Agreements (PPAs) with generating companies.[15] These agreements include two types of costs: (i) fixed cost (capacity cost) that must be paid even if the power is not drawn and (ii) variable cost (energy cost) that is paid for the actual electricity produced.[16] Under the proposed amendments, multiple discoms will be allowed to use the same network to supply electricity to consumers in an area. This may lead to migration of consumers from the incumbent discom to new discoms. However, the incumbent will still be liable to pay fixed charges under existing PPAs for the contracted capacity. The Draft Bill does not specify any principle on how such costs will be allocated between discoms and consumers. Without a clear mechanism for sharing these costs, the incumbent discom may be adversely affected. The Electricity (Amendment) Bill, 2022 had specified that existing PPAs will be shared among all discoms operating in an area.[10] The Electricity (Amendment) Bill, 2014 and the 2018 Draft Bill provided for existing PPAs to be pooled into an intermediary company.[6,8]

Responsibility for network augmentation

Under the 2003 Act, a distribution licensee must operate own network to supply electricity and also has a duty to develop distribution system. The Draft Bill allows a discom to supply electricity by utilising other discom's network. At the same time, the Bill adds that all discoms have a duty to develop network, as required and avoid duplication, as specified by the Regulatory Commission. It is unclear how network expansion responsibility will be shared among discoms in an area. As network expansion is capital intensive, it remains unclear who will bear the risk and the cost. This may lead to uncertainty over network investments.

Apportionment of regulatory assets

Due to under-pricing of tariffs, a few discoms have generated regulatory assets.[4] A regulatory asset is an intangible asset that is created by a regulatory commission when a discom cannot fully recover its costs through the current year's tariffs.[17] The shortfall is not included in that year's tariff but can be recovered by discom from consumers in future tariffs.[17] The Draft Bill does not specify how regulatory assets will be treated when another discom enters the market. It allows migration of consumers from one discom to another. It is not clear whether the burden of recovering these regulatory assets will fall on all consumers in the area or only on the remaining consumers of the discom that has the regulatory asset.

Changes in consumer mix and balancing of cross-subsidy

Currently, certain consumer categories cross-subsidise consumption of other consumer categories.[2,18] The Draft Bill retains the provisions for cross-subsidy, but requires reducing cross-subsidy progressively. When multiple discoms will operate in the same area using a shared network, consumer base with each discom may keep shifting. The Bill does not specify how cross-subsidies will be shared among multiple licencees operating in the same area. The Electricity (Amendment) Bill, 2022 had proposed to setup a Cross-Subsidy Balancing Fund.[10.] Any surplus with a distribution licensee on account of cross-subsidy was to be deposited into the fund. The fund would then be used to finance deficits in cross-subsidy for other discoms in the same area or any other area. The Draft Bill does not provide for any such mechanisms to address the issue.

Switching by consumers

The underlying rationale to promote multiple distribution licensees in the same area is to provide consumers with a choice of suppliers. Consumer choice is expected to drive competition and incentivise supply licencee to provide cheaper tariffs and better service quality to attract and retain customers. This, in turn, is expected to incentivise suppliers to improve operational efficiencies as well as negotiate better power purchase agreements, and pass these benefits to consumers. However, for such competition to work, consumers must be able to easily switch from one supply licensee to another. This requires a framework ensuring smooth and uninterrupted supply of power during switching. The Draft Bill does not explicitly provide: (i) how switching will work and (ii) what will happen during the transition from one supplier to the other. The Standing Committee on Energy that examined the 2014 Bill had suggested that the Bill should provide certain details regarding consumer switching between supply licencees.[7] These include: (i) the mechanism for providing the consumer with the option to choose a supply licencee, (ii) the transfer from one supplier to another based on the consumer choice, and (iii) the cost involved in such choice and transfer. The 2025 Draft Bill does not specify such measures.

Treatment of AT&C losses

The Draft Bill does not specify how Aggregate Technical and Commercial (AT&C) losses in distribution will be apportioned in a shared distribution system. It does not explicitly delegate this function to the Regulatory Commission either. AT&C losses refer to the ratio of power for which the discom did not receive any payment to the total electricity procured by the utility. In 2023-24, the AT&C losses in India were 16%.[4] If these losses are more than the normative levels, it is unclear who will bear the financial impact of the excess loss. Normative levels in AT&C losses refer to loss levels that the Regulatory Commission allows discoms to incur. Absence of clarity on losses may lead to disputes among licencees and regulators.

Limited freedom in tariff setting

Earlier Bills, which sought to allow competition in supply, also allowed discoms some freedom to set tariff.[6,8,10] For instance, under the Electricity (Amendment) Bill, 2022, a discom may set tariff subject to a floor and ceiling set by the Regulatory Commission.[10] Draft amendments released in 2018 allowed suppliers to charge a tariff below a ceiling determined by the Regulatory Commission.[8] Flexibility in setting tariffs may promote competition and cost efficiency. The Draft Bill does not include such provisions. Under the Draft Bill, tariff will continue to be determined by the respective Regulatory Commission.

Fixed penalty, close to market price, may serve as price ceiling for RECs

Act: Section 142

Bill: Clause 23

The Act empowers SERCs to mandate that a certain percentage of electricity purchased by entities (such as discoms) must be sourced from renewables (known as Renewable Purchase Obligation (RPO)). The Draft Bill modifies this to be an obligation to purchase electricity from non-fossil sources. It also adds that SERCs may impose a penalty for failure to meet the RPO target. It further specifies that the penalty will be between 35 paise and 45 paise per unit of default. The explanatory note to the Draft Bill has observed that the market price of RECs tends to range between 30 and 40 paise per unit. A fixed penalty for non-compliance that is close to the market price of Renewable Energy Certificates (RECs), may cap the prices of RECs at the penalty level.

RECs are tradable certificates representing one megawatt-hour (MWh) of electricity generated from renewable sources.[19] Entities may buy RECs to meet RPO instead of purchasing renewable energy. Currently, REC prices are discovered through trading on power exchanges.[20] The prices vary based on demand and supply. However, a fixed penalty may distort this market mechanism. If REC price is higher than the penalty, there is a greater incentive for entities to simply pay the penalty instead of buying the RECs. Thus, the penalty may effectively act as a maximum price for REC (price ceiling).

Such a fixed penalty for non-compliance under RPO may also influence prices in the carbon credit market. A carbon credit market is being developed in the country as per the Carbon Credit Trading Scheme under the Energy Conservation Act, 2001.[21] Under this scheme, entities that reduce their emissions beyond a specified target earn carbon credits while those that fall short of the target must buy these credits. This mechanism is applicable to all sectors of the economy including power. A fixed monetary penalty under RPO may also act as a reference price for carbon reduction.

Other laws follow a different approach to specify penalty for similar non-compliance. Under the Energy Conservation Act, 2001, specified entities may be obligated to meet a minimum share of energy consumption from non-fossil sources.[22] Failure to do so attracts a penalty up to twice the price of every metric ton of oil equivalent of energy consumed below the prescribed norm.[22] Thus, penalty is linked to the market-determined price of energy instead of being a fixed amount.

Initiation of inquiry for removal of Regulators by another government

Act: Section 90

Bill: Clause 18

Electricity is in the concurrent list of the Constitution, i.e., both the centre and states can make laws on the subject.[1] The Electricity Act, 2003 provides for two sets of regulatory bodies: (i) CERC at the central level for inter-state matters, and (ii) SERC at the state level for intra-state matters. The members of CERC are appointed and removed by the central government, while members of SERCs are appointed and removed by the respective state governments. The Act also provides that no member of CERC or SERC may be removed without an inquiry by the chairperson of the Appellate Tribunal for Electricity (APTEL). This inquiry may be initiated upon a reference made by the respective government. The Bill allows: (i) the central government to make a reference against members of SERC, and (ii) state governments to make reference against members of CERC. The explanatory notes to the Bill observe that the change is necessary to address spillover effects in electricity regulation such as where a SERC member's decisions on intra-state matters might affect inter-state transmission.

Under the principle of federalism, both sets of governments and regulators appointed by them must be able to operate independently in their respective domain. The powers to make reference under the Bill could blur this separation and may amount to interference by one government in the domain of the other. It may also be argued that the final authority to remove members continues to rest with the respective governments that appoint them. This raises the question whether reference to initiate inquiry for removal amounts to a lever of influence or control over the regulatory bodies.

The approach under the Draft Bill is different from other laws creating similar regulatory or statutory bodies. For instance, the Water (Prevention and Control of Pollution) Act, 1974 sets up the Central and State Pollution Control Boards.[23] The Disaster Management Act, 2005 sets up the National and State Disaster Management Authorities.[24] Under these laws, the powers in relation to removal of members rests solely with the government appointing the members.

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