

Draft Electricity (Amendment) Bill, 2025: background, overview and salient features

The Ministry of Power (“**MoP**”) has issued the Draft Electricity (Amendment) Bill, 2025 (“**Draft Bill**”), along with an explanatory note on October 9, 2025. The proposed amendments to the Electricity Act, 2003 (“**Act**”) through the Draft Bill, aims to ensure cost-reflective tariffs, rationalisation of high industrial rates, improve the financial viability of distribution companies (Discoms), among others. Comments on the Draft Bill can be submitted by November 8, 2025.

Background

The Act was enacted after a nation-wide consultation¹ to consolidate laws² relating to generation, transmission, distribution, trading and use of electricity in India which had evolved over a century. The Act sets out clear objectives to:

1. promote development of the industry³;

¹ Post Orissa privatisation with studies undertaken by World Bank, it became obvious that the T&D losses reported by SEBs were understated since assessed consumption for agriculture was estimated at much higher levels than reality. AT&C losses were found to be higher than 40% in most states – a serious creditworthiness problem. To address these issues and get the states on board, the first Chief Ministers’ conference was organized in December of 1996 followed by ones in 1998 and 2001. Key decisions in 1996 included charging minimum 50 paise per kWh for agricultural consumption which would move to charging 50% of the cost of supply over 3 years, with setting up of regulators in the sector. By 1998, the minimum agricultural tariff decision was replaced by State Governments being required to pay subsidy to the SEB for free power supply to farmers.

² Provisions of the Act are in addition and not in derogation of other laws in force in terms of Section 175, subject to the following:

- Accepting overriding effect inconsistent provisions of the Consumer Protection Act, 1986 (now 2019); the Atomic Energy Act, 1962 and the Railways Act, 1989, in terms of Section 185(1).
- Expressly repealing the Electricity Act, 1910; the Electricity (Supply) Act, 1948; and the Electricity Regulatory Commissions Act, 1998, in terms of Section 185(1)
- Expressly repealing inconsistent provisions of the 9 State Electricity Reform Acts listed in the Schedule enacted during 1995 to 2003, in terms of Section 185(3)
- Expressly repealing inconsistent provisions of all other laws including the Damodar Valley Corporation Act, 1948, in terms of Section 175.

³ Functionally unbundling and corporatizing the vertically integrated State Electricity Boards into generation, transmission and distribution entities by operation of law, such that the governments were distanced from regulation and operations of the sector. Generation was delicensed with safeguards for grid safety and energy security issues. A national and state specific architecture was established for a unified national grid development.

2. promoting competition⁴;
3. protecting consumer interest;
4. universal supply⁵;
5. tariff rationalisation⁶;
6. transparent policies regarding subsidies⁷;
7. promoting efficient and environmentally benign policies⁸; and
8. institutional governance mechanism, redefined role for the Central Electricity Authority (“CEA”), the Central, Joint and State Electricity Regulatory Commissions (“ERCs”) and the Appellate Tribunal for Electricity⁹ (“APTEL”).

The Act has been amended on 6 (six) occasions since 2003:

1. in January 2004, to suitably strengthen the superintendence by APTEL over ERCs under Section 121, as also stronger revenue focus in assessment of compensation for theft of electricity under Sections 135, 139, 140 and 146;
2. in June 2007, a significant set of amendments were made to the Act:
 - a) Vesting shared responsibility amongst Centre and State Governments for rural electrification [*Section 6*];
 - b) Exempting supply of power from captive plants to licensees from licensing requirements [*Section 9(1)*];
 - c) Specifying that GoI may specify 3 additional conditions that may be specified for second distribution license in an area [*Section(s) 14, 6th Proviso and 176(2)(b)*];
 - d) Specifying that open access to transmission and distribution networks respectively will be subject to cross subsidy surcharge while requiring that the level of cross subsidy will be reduced though removing requirement for elimination of cross subsidies [*Sections 38, 39, 40, 42(2) and 61(g), 178(2)(k),(m)&(r) and 181(2)(j),(m),(p)&(zc)*];
 - e) Clarifying citizen’s right to get supply in a time bound manner with conditions and obligations of distribution licensee [*Sections 43 and 50*]; and
 - f) Clarifying revenue focus in assessment for theft of electricity and strengthening the enforcement regime [*Sections 126, 135, 150, 151A, 151B, 153 & 154*].
3. in August 2010, Section 110 was amended to extend the jurisdiction of the APTEL to hearing appeals against orders of ERCs in matters arising out of any law other than the Act (thus covering the Energy Conservation Act, 2001);

⁴ Providing for private sector participation in various activities, with trading, market creation and requirements of non-discriminatory open access and consumer choice.

⁵ Making right to get electricity a legally enforceable right.

⁶ Balancing between affordability and viability in tariff while keeping cross subsidy within defined limits. In addition, anti-theft and enforcement provisions have been given a higher revenue focus rather than punitive.

⁷ Requiring upfront payment of subsidy by a state government to pay the differential in case it chose to reduce economic tariffs for a consumer category.

⁸ Providing for promotion of renewable energy sources, cogeneration, captive power generation and rural electrification.

⁹ CEA was responsible for establishing of technical standards and norms for functioning of the sector as also national perspective planning. CERC, JERCs and SERCs being multi-disciplinary expert bodies were vested with diverse functions ranging from legislative (framing tariff, grid and operational regulations); executive (licensing, tariff determination); adjudicatory (deciding disputes and referral of disputes to arbitration); and advisory (for overarching sectoral issues). All decisions of ERCs except for regulation making bare appealable to an expert Appellate Tribunal for Electricity (whose jurisdiction has since been extended to cover energy conservation and petroleum & natural gas).

4. in May 2017 and April 2021, to incorporate a new Section 117-A¹⁰ to alter the qualifications, terms and conditions, and tenure of Chairperson and Members of APTEL; and in October 2019, to extend the Act to Jammu & Kashmir [Section 1(2)].

Overview of the Draft Bill

The Draft Bill contains the most comprehensive set of 34 (thirty-four) amendments of which there are 13 (thirteen) new provisions besides amendments to 21 (twenty-one) existing provisions spread across the value chain in 13 (thirteen) out of the 18 (eighteen) Parts of the Act to effectively herald the next phase of power sector developments and reform in India. The Draft Bill expressly seeks to:

1. address the severe financial stress in the sector; the regulatory delays; the adverse effect of high level of cross subsidies on competitiveness of Indian industry besides constraining economic growth;
2. facilitate promotion of captive generation, energy transition (including recognizing energy storage) while securing ease of living and doing business;
3. strengthen the regulatory accountability; and
4. address concerns regarding transmission right of way, cybersecurity and optimizing distribution networks.

Taking a cue from the cost-reflective tariff principles and regulatory accountability concerns in Hon'ble Supreme Court's recent judgement titled '*BSES Rajdhani Power Ltd. & Anr. v. Union of India & Ors*': (2025) SCC OnLine SC 1637 ("**BSES Judgment**"), the Draft Bill seeks to rationalise the legal framework to address chronic structural inefficiencies, while facilitating India's transition to a clean, competitive, consumer-centric electricity sector. The main changes may be summed up as under:

1. re-emphasising the pivotal role of the Electricity Regulatory Commissions in securing time-bound, transparent and cost-reflective tariffs for sectoral financial health while strengthening the mechanism to hold them accountable;
2. eliminating cross subsidy burden from manufacturing and logistics in 5 (five) years to secure competitiveness of Indian Micro, Small and Medium Enterprises and industry, ease of doing business and ease of living;
3. securing consumer interest by heralding competition in distribution with shared network, prescribing minimum standards and reducing unnecessary costs by rationalising the Universal Service Obligation ("**USO**") obligations;
4. facilitating energy transition through pricing of the externality in not meeting Renewable Purchase Obligation ("**RPO**") targets, recognising energy storage systems, and renewable energy integration;
5. strengthening governance though deeper role for Central and State Governments in evolving and implementing transmission systems, qualifying criteria for captive power, centre-state coordination along the lines of GST council, and supply standards; and
6. proving for deepening of the electricity markets, cyber-security norms.

¹⁰ The 2017 Finance Act was struck down by a Constitution Bench of Supreme Court in *Rojer Mathew v South Indian Bank Ltd* : (2020) 6 SCC 1, laying down the principles governing the establishment and functioning of statutory tribunals.

Salient Features

Briefly, some of the salient amendments proposed in the Draft Bill are set out below:-

Distribution of Electricity (6th Proviso to Sections 14; 42(1), 43(4), 58, 61(g)), 64(1)

1. Enabling multiple licensees to operate in the same area of supply using shared distribution networks [Section 14, Sixth Proviso] and mandating non-discriminatory open access between them [Section 42(1)].
2. Empower the Appropriate Commission to frame a regulatory framework for managing multiple distribution licensees in the same area [Section 42(1)].
3. Rationalising the USO by permitting State Commissions to exempt distribution licensees from the mandatory obligation to supply consumers above 1 MW demand [Section 43(4)], while simultaneously introducing the concept of a Supplier of Last Resort ("SoLR") to ensure continuity of supply in case of default.
4. Prescribing national minimum performance standards, creating a uniform benchmark for service quality, while empowering SERCs to prescribe higher norms for their state/s [Section 58].
5. Mandates the Appropriate Commission to determine cost-reflective tariffs [Section 61(g)]. This will require consumer category wise cost of supply-based tariff-determination. Empowers the Appropriate Commission to determine tariffs *suo motu* if the distribution licensee fails to file tariff petitions on time [Section 64, proviso], bringing discipline to the tariff cycle.
6. Mandating complete elimination of cross-subsidies for Manufacturing Enterprises, Railways and Metro Railways within five years from the date of commencement of the Electricity (Amendment) Act, 2025 [Section 61(g)] - eliminating a major barrier to open access and creates a level playing field between the distribution licensees and competing suppliers.

Advancing Efficiency (Sections 15(2)(ii), 18(2)(b), 25, 58, 61(g), 73(ca))

1. Eliminates the requirement of no objection/consent from the Central Government for grant of licence/amendment of licence in case of the licence area includes defence establishment [Section 15(2)(ii) & 18(2)(b)]. This amendment removes an additional procedural requirement that often caused delays in getting the licence or amendment of licence and it enhances regulatory certainty by avoiding dual oversight of the Appropriate Commission and the Central Government.
2. Introduces provisions relating to cybersecurity [Section 73(ca)] for safeguard against the integrated power system and performance standards [Section 58], advancing grid reliability and digital resilience, while Section 25 allows clear approval frameworks for inter- and intra-state transmission systems. Collectively, these measures will operationalize a data-driven, financially sound, and cyber-secure electricity ecosystem.
3. Embeds financial and operational discipline across the power sector mandating cost-reflective tariffs and a time-bound reduction of cross-subsidies [Section 61(g)], reducing distortions and inefficiencies.

Renewable Energy (Sections 2(26a), 2(50)(k), 86(1)(e), 142(2))

1. The Draft Bill codifies the transition to clean energy by explicitly recognising Energy Storage Systems [Sections 2(26a) and 2(50)(k)] as part of the 'power system,' thereby integrating storage into planning, operations, and market frameworks.
2. SERCs must promote electricity from non-fossil sources and comply with a national minimum RPO prescribed by the Central Government. [Section 86(1)(e)]. To secure RPO enforcement, Section 142(2) introduces cost (Rs. 0.35–0.45/kWh) for RPO shortfalls. By harmonising renewable, hydro, and storage obligations (RPO–HPO–ESO), these

provisions create a legally enforceable clean-energy mandate and strengthen grid integration and investor confidence.

Environmental Measures (Sections 2(26a), 61(g), 86(1)(e), 142(2))

1. Environmental stewardship is embedded in the legislative framework through provisions that incentivise low-carbon and resource-efficient electricity generation.
2. The inclusion of ESS within the definition of 'power system' supports energy balancing and peak-load management, reducing reliance on fossil-fuel peaking plants.
3. Time-bound elimination of cross-subsidies under Section 61(g) improves cost transparency, while uniform RPO compliance [Section 86(1)(e)] and penal provisions under Section 142(2) institutionalise environmental accountability. These measures align the power sector with India's Nationally Determined Contributions and the Panchamrit vision announced at COP26¹¹.

Development of Market (Sections 25, 66)

1. The Draft Bill strengthens the statutory basis for electricity markets, empowering Commissions to develop and regulate market platforms, intermediaries, and products such as Contracts for Difference, capacity markets, and ancillary services [Section 66]. These instruments enable transparent price discovery, long-term risk hedging, and deeper market liquidity.
2. Harmonising transmission planning with competitive distribution sector using shared network will encourage competition, reliability, and flexibility in power procurement - with greater participation from renewable and storage.

Regulatory Governance (Sections 90, 92, 112, 166(1A), 176–181)

1. The Draft Bill introduces a robust framework to strengthen institutional capacity, transparency, and accountability of electricity regulators by adding wilful violation and gross negligence as explicit grounds for removal of Commission Members [Section 90], while mandating time-bound disposal of regulatory proceedings within 120 days [Section 92], a statutory codification of the principle of timely decision-making reaffirmed in BSES Judgment.
2. Expanding APTEL's strength to up to seven Members [Section 112], while establishing an Electricity Council chaired by the Union Minister of Power, institutionalising Centre–State coordination [Section 166(1A)].

Miscellaneous Amendments (Sections 2(20a), 164, 183)

1. The Draft Bill updates procedural and definitional provisions to modernise the statutory framework. Introduction of the Electric Line Authority replacing the Telegraph Authority [Section 2(20a)] and vesting it with powers for Right-of-Way approvals and compensation [Section 164].
2. Allowing limited transitional powers for removing procedural difficulties within two years of enactment [Section 183]. Collectively, these reforms ensure legal continuity, procedural efficiency, and predictable implementation for stakeholders.

¹¹ 26th Conference of the Parties to the United Nations Framework Convention on Climate Change.

Conclusion

Such far reaching amendments are bound to affect all categories of stakeholders in the Sector and its successful implementation will depend on a calibrated and coordinated transition with various institutions playing their part – across the Centre and State Governments (through aegis of the Union Ministries of Power and of New and Renewable Energy); the CEA and the ERCs.

Electricity and Power Practice

JSA is the leading national practice in the power sector – conventional and non-conventional. JSA provides legal services at all stages of the value chain in the sector - across the spectrum of contractual, commercial, policy, regulatory and legal issues. We represent clients in all segments: generation, transmission, distribution and trading. JSA serves its clients by transaction-specific integrated teams across various locations and practice areas (Banking & Finance, Mergers & Acquisition and Private Equity, Projects and project related contracting, Dispute Resolution, Taxation, Regulatory proceedings and Policy advisory).

JSA has been regularly engaged in; (a) providing policy advice to Governments of Bangladesh and Maldives, as also the Government of India besides various Indian states. Also, JSA partners have presented expert testimony to the Parliamentary Standing Committees and the Forum of Regulators on challenges faced by the power sector and proposed legislative and policy changes, development financial institutions like the World Bank, the Asian Development Bank, DfID, USAID regulatory authorities and industry bodies; (b) advising project developers, investors, suppliers and contractors on commercial / transactional issues and all aspects of licensing, market structures, competition, performance standards and tariffs; (c) advising financial institutions and borrowers in relation to financing transactions; (d) Advising clients on sustainable development issues like clean development mechanism and environmental compliances; and (e) specialised dispute resolution.

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