

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:—

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

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

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“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:—

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“(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:—

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“(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:—

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

(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.”;

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

“(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:—

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

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(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.”.

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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 renegeing 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;” 35

(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