# MoP Draft Electricity (Amendment) Bill, 2025

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The MoP notified the draft on Electricity (Amendment) Bill, 2025, issued on 9th October, 2025.The key objectives of the draft are mentioned below:

**Objective:** The Draft Electricity (Amendment) Bill, 2025 aims to strengthen India's power sector so it can deliver affordable, reliable, and clean electricity for all, while supporting the country's transition toward a sustainable and competitive economy. The amendments seek to ensure the financial health of distribution companies through cost reflective tariffs and timely revisions, while still allowing governments to provide transparent subsidies. They also aim to enhance industrial competitiveness by reducing cross-subsidies, promote greater regulatory accountability and faster decision-making, and modernize the legal framework to reflect emerging needs such as energy storage, renewable energy expansion, cybersecurity, and shared distribution networks. In addition, the bill focuses on improving consumer protection and service quality, strengthening governance through mechanisms like the Electricity Council, and simplifying processes to promote ease of doing business and investment in the power sector.

The document can be accessed here.

## CER Opinion

1. **Treatment of Energy Storage System (ESS) as Generator:** The dual role of ESS as a load and a generator has varying implications for power system operation and the regulatory provisions thereof. Inclusion of ESS as a component of power system (Definition 50) does not address all aspects related to the applicability of various clauses under the Act. For example,
   (i) Definition (5) - Definition of appropriate government in case a standalone ESS (generating company) is partly or wholly owned by the central government
   (ii) Definition (8) – A captive generating plant based on standalone ESS
   (iii) Definition (12) – Can Cogeneration include a ESS ‘producing’ electricity or heat or other energy form?
   (iv) Definition (16) – Definition of dedication transmission line to include an ESS.
   (v) Definition (19) – Definition of distribution system line to include an ESS.

(vi) Definition (22) – Definition of "electrical plant" should include connection with ESS as well.

(vii) Definition (32) – "grid" means the high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants; This does not cover the transmission line connected with the ESS.

(viii) Similarly, Definition 72 and 75 also leave a definitional vacuum.

(ix) Key sections/clauses applicable in the case of a generating company, generating plants or a generating station would also be applicable to an Energy Storage System. For example,

Section 7. (Generating company and requirement for setting up of generating station)

Section 9. (Captive generation)

Section 10. (Duties of generating companies)

Section 11. (Directions to generating companies)

Section 14. (Grant of license)

Section 28. (Functions of Regional Load Despatch Centre)

Section 29. (Compliance of directions)

Section 32. (Functions of State Load Despatch Centres)

Section 33. (Compliance of directions)

**Alternatively, inclusion of an Energy Storage System (ESS) within the definition for a generating company (28) and generating station (30) would address most of the concerns highlighted above and bring about legal clarity minimizing disputes in the future.**

2. **Open Access to Energy Storage System:** Section 40 of the Act needs to be amended to allow open access to a stand-alone ESS functioning as a load or a generating plant.
3. **Storage-based Standalone Captive arrangements:** With the growing integration of ESS on the generation as well as consumption side, it is important that similar eligibility criteria and regulatory oversight be extended to pure storage-based captive arrangements as well. This will ensure consistency in treatment of storage assets when used in standalone or as a part of captive generating plants, thereby promoting regulatory clarity and alignment with evolving technologies in the power sector.

4. **Eligibility Criteria for Captive Generating Plant: Section 9** *"Provided also that the eligibility criteria for captive generating plant and its users shall be as may be prescribed by the Appropriate Government."*

Section 9 of the Electricity Act, 2003 empowers the SERCs to issue rules laying down the definition for Captive Generating Plants (CGPs). This provides a uniform framework applicable across the country, irrespective of whether CGPs are located within the same state as the consumer or in any other state. Even though a few states have chosen to deviate from the eligibility conditions laid down in the rules, which has impacted the level of investment in CGPs in those states, the uniform framework still serves its purpose in a meaningful manner. It is desirable to further strengthen compliance of the unified framework to further encourage investment and reduce scope for disputes.

Allowing each state to set out its own definition would be a philosophical shift away from the general uniformity that has emerged in several key regulatory areas. Such a departure would not only set back the reform process but also significantly increase the scope for disputes. This is explained below:

This would lead to the emergence of two definitions of eligibility conditions for CGPs:

(i) **Inter-state CGPs**
(ii) **Intra-state CGPs**

A change in either ownership or share of consumption could cause an inter-state CGP to become an intra-state CGP or vice versa. Differentiating the definition of CGPs for such scenarios would create significant challenges for CGP developers to ensure compliance with eligibility conditions across jurisdictions. It would also increase the regulatory burden for ERCs and the dispute-resolution load for APTEL, High Courts, and the Supreme Court. **It is suggested that the existing framework be retained and further strengthened for compliance.**

5. **Carriage and Content Separation as Preferred Model for Retail Supply Competition:**

Unbundling of generation, transmission and bulk supply and distribution and retail supply

was the hallmark of the onset of reform process in the power sector across states. Post Electricity Act 2003, **Separation of transmission from energy procurement and its supply to the distribution licensee, along with open access and delicensing enabled emergence of a competitive wholesale electricity market and provided limited choice to the eligible consumers** (Singh, 2006[1], 2010[2]).

The success of an evolving competitive wholesale electricity market cannot be ensured without a clear separation of transmission and electricity trading. The Electricity Act 2003 specifically forbids transmission licensees from engaging in trading. Without such separation, challenges in segregating network and supply costs would increase, along with greater scope for discrimination in providing open access. **Clear separation of the two would also have led to increase the regulatory burden and frequency of disputes. This is why separation of carriage and content (C&C) has been adopted as the preferred model for introducing retail competition across the world.**

The provision for multiple distribution licensees (MDLs) in the EA 2003 was not intended to serve as the primary model for retail supply competition. It emerged from a historical context wherein multiple licensees already existed within the same geographical area, such as in Mumbai. These arrangements were allowed to continue at least for the tenure of existing licenses.

A conceptual argument may also be seen in the **credible threat** that a regulator could use against potential abuse of monopoly power by a single distribution licensee. In fact, the framework for a 'shared' distribution network is already in place in the Mumbai license area. With its own share of the regulatory and legal implications as highlighted below.

Similar to transmission, **the distribution network is also a natural monopoly.** Economic and regulatory literature strongly supports this proposition. Duplication of networks would add to overall system costs and impose additional cost burden on the society. Since distribution licensees are already guaranteed a regulated return on equity

[1] Singh, A. (2006), "Power Sector Reforms in India: Current Issues and Prospects", Energy Policy, Elsevier, Volume 34, Issue 16, November 2006

[2] Singh, A. (2010), "Economics, Regulation and Implementation Strategy for Renewable Energy Certificate in India" India infrastructure Report 2010, Oxford Univ. Press. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3440253

(RoE), they have strong incentives to argue for network expansion in anticipation of future load growth. Allowing each licensee to undertake parallel network expansion would not only increase costs but also create a higher regulatory burden.

6. **Phases for Introducing Retail Supply Competition:** Based on economic principles, criteria for cost efficiency, avoidance of discrimination, the prevailing conditions and attributes of the Indian power sector, and the international experience, the following phased strategy for introduction of retail supply competition is proposed.
    A. Accounting separation of distribution and retail supply businesses
    B. Unbundling of the Distribution & Retail Supply Business
    C. (Selective Privatization of Distribution / Retail Supply Business of Government owned Discoms)
    D. Retail Supply Competition

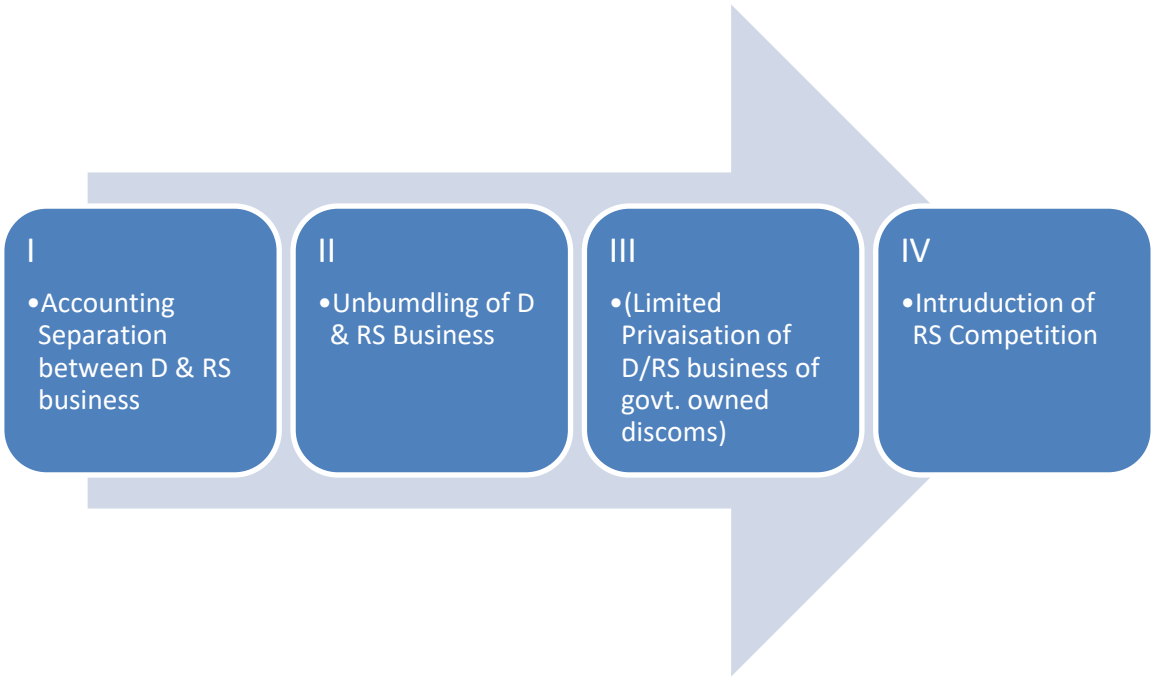



**Figure 1**: Phases for Introducing Retail Supply Competition in the Electricity Sector

One of the key ingredients to introduction of retail supply competition in India is the separation of the network and the energy business of the discoms. A phased plan to introduce accounting separation leading to unbundling of the distribution and retail supply business

holds key to the overall process (Figure 1). This can be implemented under the current legal and regulatory framework. With transparency of costs associated with the network and the energy business, discrimination to network access by competition retails would be avoided. In contrast, lack of transparency of costs and significant scope for disputes would be the hall mark of shared distribution network under the multiple distribution licensee (MDL) model.

While we do not propose that privatization is a panacea to the problems across all the discoms, as a number of government owned discoms are performing as well as the private discoms, poorly performing discoms that drain the state government's finances and have displayed significant inertia rooted in poor operational and financial performance, Thus, this is only a limited option that may be opted for selected poorly performing discoms. **Finally, the amendment to the Electricity Act 2003 should be built around carriage and content separation model as discussed herein.**

7. **Approach to introducing Retail Supply Competition: C & C Separation vs. multiple Distribution licence:** *In the sixth proviso, for the words "through their own distribution system within the same area", the words "through their own or shared distribution system within the same area in accordance with the framework as specified by the* ***Commission****" shall be substituted.*

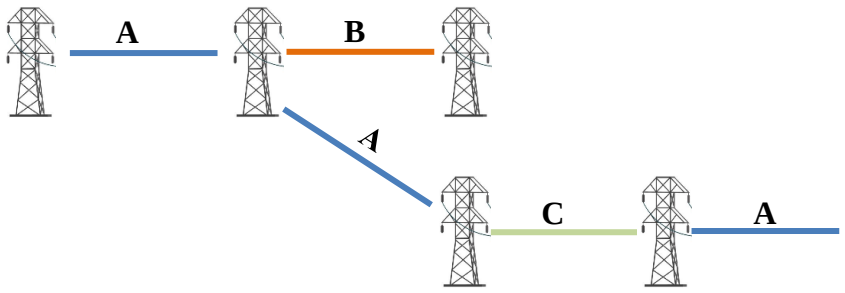
**The importance of C & C Separation**

- Pandorina box for emergence of dispute between the competing distribution licensees. The presence of M - DNAC for coordinating investment in the distribution network between and dispute it encounters in a testimony to enhanced regulating and legal burden across the sector. The multiple distribution licensee is core of Mumbai licence are including two private licence and a professionally managed public sector undertaking. The unfolding of the competition in the areas under the state government owned distribution licensee areas would see a dominance of private competing licensees who would have faster decision-making processes and better access to funds

- **Need for a Distribution System Operator (DSO):** With shared or parallel networks, coordination and system operation will become complex. It is

suggested to define a *Distribution System Operator (DSO)* responsible for network management, data integrity, and coordination among entities, especially under carriage and content separation frameworks.

- **Carriage and Content Separation:** The current amendment merges supply and network functions, leading to possible conflicts. Introducing *carriage and content separation* will help delineate roles between network operation (Discom A, Discom B and Discom C) and energy supply (What if Discom C is bankrupt?), improving efficiency, transparency, and consumer protection.




**Distribution Network with multiple Licences**

8. **Elimination of Cross–Subsidy for Railways, Metro Railways, and Manufacturing Enterprises**: Tariff setting exercise in the Indian power sector has been epitomized by the presence of cross-subsidies. Higher tariff for categories like commercial, industries and bulk consumers, along with government subsidy, have been used to support subsidized tariff primarily for the domestic and agricultural category of consumers. An attempt was made to address this anomaly through the provision to eliminate cross-subsidy under the Electricity Act, 2003. However, the subsequent amendment to the Act in 2007 eliminated the effectiveness of this provision by replacing the word ‘eliminate’ with ‘reduce’.

   The sector has since witnessed only a gradual decline in cross-subsidy with frequent resistance, often due to economic sensitivity attached to tariff paid by the domestic and

agricultural consumers. Notable exceptions in some states are characterized by high tariff, particularly for the domestic category.

Elimination of cross-subsidy would either require immediate increase in tariff or place higher demand for government subsidy — thereby diverting funds away from other priority sectors. In the light of the above arguments, the criteria for selection of specified consumer categories remains difficult to justify. In fact, a number of other consumers, for example data centers, would present similar arguments to be included in this list. A suggested approach would be to avoid discrimination in the choice of consumers to be protected from cross - subsidization.

Industrial consumers account for 30.15% of total electricity sales, while contribution 34.14% of the revenue of discoms (FY 2023 - 24). Commercial consumers account for 9.37% of the electricity sale but contribute 12.81% of revenue (FY 2023 - 24). This skewness clearly indicates the embedded cross – subsidy in tariff for such categories. Further, **power and fuel expenses account for only about 2% of net sales (Apr – June 2025), the lowest recorded in 20 years (CMIE as cited by Business Standard).**. While some of the sectors which have high-cost share for electricity, for example NFM, I&S, cement etc., which already have higher dependence on captive generating capacity.

9. **Period for Assessment of Unauthorised Usage:** Draft Section 6 "*If the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place, and* ***[such period shall be limited to a period of twelve months]*** *immediately preceding the date of inspection.* ***(emphasis added)***

   By limiting the period of assessment, there would be an inherent incentive, in connivance with the discom officials, to postpone the discovery of misuse as much beyond one year as far as possible. It is suggested to extend the "12 months" period with with "2 years"or more. A longer tenure would reduce such an.

10. **Market-Linked Penalty Mechanism: Draft Section 23** "*Notwithstanding anything contained in sub-section (1), where the Appropriate Commission is satisfied on a complaint filed before it or otherwise, that a person has not consumed power from non-fossil sources of energy as specified under Section (e) of sub-section (1) of section 86, the Commission shall 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 of a sum calculated at a rate of not less than thirty-five paisa per kilowatt-hour and not more than forty-five paisa per kilowatt-hour for default;"* ***(emphasis added)***

It is recommended that the fixed penalty rate be replaced with a market-linked mechanism, such as: ***"Penalty shall be equivalent to the average REC price over the previous six months, subject to limits prescribed by the Commission."***

This approach ensures that the penalty remains dynamic and reflective of prevailing market conditions. By aligning the penalty value with REC market prices, obligated entities are encouraged to fulfil their Renewable Purchase Obligations through actual market participation rather than opting to pay a static penalty. This would also strengthen overall compliance and enhance market liquidity.

**11. Multiple Distribution Licensees and RoW Duplication: Section 14** ***"****In the sixth proviso, for the words "through their own distribution system within the same area", the words "through their own or shared distribution system within the same area in accordance with the framework as specified by the Commission" shall be substituted;"*

Duplication of network due to emergence of MDL would place extra demand for ROW. Enhanced footprint of the DLs network due to duplication would create additional problem particular for the urban local bodies (ULBs) in ensuring upkeep of public space while minimizing disruption of public access to scarce space in urban localities.

**12. Multiple Distribution Licensees and Over-capitalisation:**

As per the ***Averch–Johnson hypothesis,*** regulated entities would have a tendency to overinvest in the presence of rate of return regulation. Multiple distribution licensees would place a greater pressure for such overinvestment as the competition distribution licensees may hedge risk to their returns from the retailing business by over investing in the distribution network. The overall capital employed in the sector will rise, leading to an increased financial

burden on consumers.

13. **MDLs with Exemption from Obligation to Serve and Cost Segregation:**

Separation of network and supply costs would become more complex for the DLs and would also place greater regulatory burden due to their differential regulatory treatment — network cost (regulated, with ROE) and power purchase cost (pass-through). With the onset of the exemption from obligation to serve, it would become increasingly more complex to segregate the power purchase cost across obligated and non-obligated consumers leading to potential disputes in the sector. In the future, **retail supply will further have to be split between consumers with *obligation to serve* and those without it, requiring clear cost and accounting segregation. In the true spirit of competition, only network components of retail tariffs would be determined by the Commission while the energy cost would be governed by the market forces subject to a vigilant regulatory oversight.**

14. **Exemption from obligation to serve may lead to De-facto Cherry picking**: The provision for exempting a licensee from obligation to serve may lead to de-facto cherry picking by the entrant private licensees. For example, if a government owned distribution licensee is exempted from obligation to serve, say, HT industrial and commercial consumers, such consumer would likely to migrate to a private distribution licensee, thereby further weakening the financial position of the incumbent the discoms. A delayed operative condition, say 2-3 years from such notification may give sufficient time to the state owned discoms to set their house in order and improve performance, strengthen operational efficiency, and enhance service quality, thereby reducing the likelihood of large-scale migration of high -value consumers

15. **Tariff Determination for Non-obligated consumer Categories:** Once the State Government has decided to exempt a licensee from the obligation to serve, some additional aspects need to be addressed.

(i) Some consumers belonging to the category exempted from the obligation to serve may choose to remain with one of the distribution licensees. Would the tariff for such consumers be regulated by the respective commission? Would such tariff have cross subsidy build therein?

(ii) Would exemption from the obligation to serve also be accompanied by non – obligation to cross – subsidize other categories? It is notable to highlight that under the existing regulatory framework for multiple distribution licensees in Mumbai, cross – subsidy continues to be embedded in the tariff.

In either case, there would be need to identify the cost of serving regulated as well unregulated tariff categories. The distribution licensee would be obligated to share such data, including 'commercially sensitive' data in case of unregulated tariff.

**It is important to insert a proviso mandating such data sharing, else this would not only lead to gaps in regulatory process, but also lead to legal disputes. This will also necessitate a proviso clarifying the regulatory proviso for tariff determination for such consumer categories.**

16. **Absence of Reference to Telecommunication Network and Need for Section Rephrasing:** In Section 164 **"***The Appropriate Government may, by order through notification in the Official Gazette , for the placing of electric lines or electrical plant for the transmission of electricity necessary for the proper co- ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Act, any of the powers which the Electric Line Authority possesses under the Act with respect to the placing of electric line for the purposes of conveyance of electricity*."

The transmission and the distribution licensees, apart from building and operating the electric network component also setup the required communication network the draft amendment, while removing reference to the ***Indian Telegraph Act, 1885*** **and introducing the concept of an *Electric Line Authority***, does not make any reference to **telecommunication or communication networks**, which are increasingly integrated with modern electricity systems. The absence of such reference may create interpretational and operational gaps, particularly in cases where co-location or shared use of infrastructure is necessary for both electricity and telecommunication/data transfer purposes. To maintain consistency with contemporary grid requirements, the Section may be **rephrased as:**

Section 164 rephase as: *"The Power of placing and maintaining electric lines.— (1) The Appropriate Government may, by order through notification in the Official Gazette, for the*

*placing of electric lines or electrical plant* **and required communication network** *for the transmission of electricity necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Act, any of the powers which the Electric Line Authority possesses under the Act with respect to the placing of electric line for the purposes of conveyance of electricity."* ***(emphasis added)***

17. **Clarity on Exercise of Powers, Advance Intimation, and Dispute Resolution Mechanism:**

The draft Section, while referring to the *exercise of powers by the Electric Line Authority and licensees*, does not clearly provide for **prior notice or intimation** to affected persons before undertaking works. There is no stipulation requiring a minimum notice period say, 5-10 working day allowing the concerned individual or entity to raise objections or seek intervention from the District Magistrate. To ensure procedural fairness and transparency, the Section should include a provision mandating prior written notice before initiating works and a defined window for filing objections.

Further, the amendment should establish a **transparent, searchable, and digital dispute resolution mechanism**. A dedicated **web portal** may be created for filing, tracking, and accessing information on disputes. This will ensure that affected parties can directly approach the competent authority without intermediaries and that all dispute decisions are publicly accessible for accountability and consistency.

18. **Constitution and Role of the Electricity Council: In Section 166** *"(1A) (a) The Central Government shall, by notification, establish an Electricity Council.*

*(b) The Minister-in-charge of the Ministry dealing with Power (Electricity) in the Central Government shall be the Chairperson of the Electricity Council. The Ministers-in-charge of the departments dealing with Electricity in the State Governments shall be its members. Secretary-in-charge of the Ministry of the Central Government dealing with Power (Electricity) shall be the Convenor of the Electricity Council.*

*(c) The Electricity Council shall advise the Central and State Governments on policy measures, facilitate consensus on reforms, and coordinate the implementation of such reforms to ensure achievement of the objects of this Act."* ***(emphasis added)***

The draft amendment introduces an *Electricity Council* to advise and coordinate reforms between the Centre and States. This would provide a platform for policy makers to arrive at a broader consensus. However, its proposed functions may overlap with those of the *National Electricity Policy (NEP)* and *Tariff Policy*, which already provide policy guidance through wider stakeholder consultation. Certain aspect needs clarification io avoid duplication and ensure inclusivity, the Council's composition may include representation from other stake holders particularly the *Forum of Regulators* and the CEA. The proposed sub-clause is standalone in nature and does not link up with any other provision of the Act. For e.g. no provision is suggested whereby an advisory from the Electricity Council may be considered. Further, it is not clear if such an advisory is found to be in conflict with National Electricity Policy, Tariff Policy, regulations, rules or order of the respective bodies. A provision may be introduced to bring about such a safeguard.

19. **"Non-Fossil Sources" and Alignment of Obligations under Related Acts in Section 86.1(e)** ***"****promote co-generation and generation of electricity from* ***non-fossil 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, which shall not be less than such percentage as may be prescribed by the Central Government.***" *****(emphasis added)***

The amendment introduces the phrase *"non-fossil sources of energy"* under the provision for promoting co-generation and renewable generation. However, this term "non-fossil" is not presently defined in the *Electricity Act, 2003*. **To avoid ambiguity and ensure consistency in interpretation, it is recommended that *"non-fossil sources"* be formally included in the definition section of the Act, clearly specifying its scope.**

Further, in relation to renewable or non-fossil energy obligations, the framework in the country should maintain a clear demarcation between the regulator's power under the Electricity Act 2003, and those under the Energy Conservation Act 2001. The *designated*

*consumers* are obligated under the *Energy Conservation Act, 2001*, as per the **notification dated 27.09.2025 issued by the Ministry of Power**, through the Bureau of Energy Efficiency (BEE).

It is suggested that the SERC/JERCs should retain their jurisdiction for the obligations related to electricity while those related to other energy forms be covered under the Energy Conservation Act 2001. This separation will provide legal clarity for the obligated entities, ensure development of an effective compliance framework and reduce disputes in the sector.

**20. Ground for Removal of a Member:**

As per draft amendment to Section 90 (2), "Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) ~~and~~, (f), **(g) and (h)** 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."

The following sub-clause (g) and (h) have been added to Section 90 (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-

(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;"

Furthermore, proviso Section 90 (2) states that

"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."

A judicial order or adjudicatory verdict may be challenged in the Appellate Tribunal or the High Court and the Supreme Court. Differences in the legal interpretation may lead to revision of such verdicts. Fear of a disciplinary action would place significant challenge to the continuity of the regulatory process as there may be multiple interpretations of laws, regulations, rules etc. Such ambiguity is often encountered in the regulatory/judicial process. **The proposed clause would adversely impact the regulatory and adjudicatory functions of a Commission as there would be a tendency to postpone decisions on complex issues due to the fear of subjective evaluation of the decisions taken and disciplinary action thereof.**

Most of the regulatory decisions include participation of multiple members as well as the chairperson. It is not clear if the additional sub clause (g) and (h) would also be applicable to the Chairpersons covered under proviso to the sub-section 2**. If not, it would place a greater moral challenge for removal of a member, being party to a decision, while the other one is excluded.**

21. **Inter-jurisdiction Reference for Removal of a Member? –**

    **Proposed amendment to Section 176**

    (iii) "*in the proviso, the words ", **as the case may be**," shall be deleted." **(emphasis added)***

    In the amended proviso to Section 176 concerning the removal of a member, the phrase *"as the case may be"* has been omitted after the reference to the Central Government or the State Government. The omission renders the proviso open-ended and 'enables' cross-jurisdiction authority to make a reference to the Chairperson of the Appellate Tribunal. For example, a govt in state A may be able to make a reference for a member of a commission in state B. This is probably a drafting oversight and need to be corrected.

    It is therefore suggested that the phrase *"as the case may be"* should be retained.

22. **Timely Disposal of Proceedings by Appropriate Commission: In Section 92 (6)** *"Every proceeding (sic) before the Appropriate Commission shall be decided expeditiously and with*

*the endeavour to dispose the proceedings within one hundred and twenty days and in the event of delay, the Appropriate Commission shall record the reasons for delay*." ***(emphasis added)***

The above sub-section brings in an additional step to the regulatory process and hence may need amendment to the Conduct of Business regulations. The additional step pertains to 'recording' the reason for delay as soon as the 120 days limit has been breached. The spirit of the new section would be to do so rather than recording the reason at the time of final disposal. The time line for disposal of proceeding should be linked to the date of admittance except in Suo - moto cases.

It is suggested that the *reasons for delay* should be recorded and posted on the Commission's website to enhance transparency and accountability.

Further, a **centralized monitoring system**, preferably enabled through the *Forum of Regulators (FoR)*, may be developed to maintain a uniform repository of **all cases and their status** across all Commissions. This will facilitate regular review, improve efficiency, and promote consistency in regulatory performance.

**23. Power of Central Government to Make Rules: In Section 176** ***"****(i) in sub-section (1), for the words "provisions", the words "purposes" shall be substituted*;"

The term ***"purposes"*** would significantly enhance the scope of rules, and its use would be subjected to interpretational uncertainty.

It is therefore suggested that either:

(i) the term *"purposes"* be **defined explicitly** in the Act to ensure regulatory clarity and limit discretionary interpretation; or

(ii) the earlier term *"provisions"* be **retained**, as it provides a more precise legal basis for rulemaking linked to specific sections of the Act.

A proviso may be introduced to ensure that the rules made in such a manner do not encroach upon powers already bestowed to the respective commission or the authority. This would reduce regulatory and policy risk in the sector.

24. **Electric Line Authority - Safeguards for Access to Premises**: Additional safeguards should be introduced with respect to access to sites, particularly in the context of distribution networks. This is important as such access may involve entry into residential premises with elderly and women. Appropriate provisions may be incorporated to protect the privacy and security of occupants.

25. **Tariff-based Vs Lump-sum Subsidy:** Addressing inequality in subsidy provision to consumer's the tariff-based subsidy as implemented across the country does not provide the correct price signal to the consumers thus influencing the consumption behaviour and purchase of energy-efficient appliances. Economic literature clearly highlights the inefficiency of replace price-based subsidies vis a vis lump-sum subsidy. Apart from amendment to Section 65 of the Act, a suitable proviso may also be introduced to Sections 65 specifying the mode of subsidisation of a consumer category.

    "If the State Government requires the grant of any subsidy to any consumer or class of consumers **with respect to** ~~in~~ the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:"

    The following proviso is suggested. "Provided that the subsidy would be provided to a consumer in a lump sum manner as a reduction in its total bill for the respective billing cycle as per the tariff approved by the respective State Commission up to the specified amount of subsidy."

26. **Applicability of CS and Additional Surcharge for Consumers Exempted from Obligation to Supply:** Would cross-subsidy surcharge and additional surcharge be applicable for the consumers for whom a distribution licensee has been exempted from obligation to supply? In the absence of this clarity, the sector may witness disputes abound.

27. **Addressing Asymmetry in Representation Capacity of Small Consumers:** Large consumers and generators, due to their size and financial resources, can engage legal and

technical experts to advocate their interests effectively before commissions. Conversely, individual consumers lack institutional and financial support, often resulting in outcomes that are not in their favour.

Additionally, the relatively weaker institutional capacity of distribution companies (DISCOMs) further diminishes the strength of consumer representation in regulatory fora. while regulators, the regulated entities and now the policy maker have a common platform to discuss and coordinate their actions, small consumers do not have such institutional mechanism. The Energy Consumers Australia (ECA) and NASUCA (USA) are the two key examples that serve the need of consumer for fair representation. A legal mandate may be embedded in the Act, providing for an umbrella framework for safeguarding the interest of small consumers with adequate funding through a small regulatory levy on tariffs.

28. **Enhancement in Number of Members of State Commissions:** Given the rising complexity of regulatory issues in the power sector, especially post introduction of distribution of retail supply competition, the regulatory burden would rise significantly. The pending cases with the SERCs and expectation in further rise in regulatory burden would warrant that the number of members for SERCs and JERC be enhanced to four. This would also address a gap in the required functional expertise across commissions. Furthermore, delay in appointment of members/chairpersons also significantly undermines the capacity of Commissions to affectively deliver on their regulatory responsibilities. Enhancement of number of members of the SERCs/JERC would help address these existing and emerging challenges in the sector.

29. **Typographical Error - Definition of Electric Line Authority:** Draft Section (20a) *"Electric Line Authority" means the person authorized by the Appropriate Government, and includes any officer empowered by him to perform all or any of the functions of the* ***Electrical*** *Line Authority under this Act;"* (emphasis added)

In the proposed insertion of Clause 20a, both the terms *"Electric Line Authority"* and *"Electrical Line Authority"* are used, which creates ambiguity as to whether **they denote two different entities or if it is a typographical error**.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