

# DECONSTRUCTING THE DRAFT ELECTRICITY (AMENDMENT) BILL, 2020

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## FOREWORD

On April 17, 2020, the Ministry of Power, Government of India (**MoP**) issued the draft Electricity (Amendment) Bill, 2020 (**Amendment Bill**) proposing to amend the Electricity Act, 2003 (**EA03**). The statement of reasons accompanying the draft Amendment Bill provides the intended purpose of these amendments, which *inter alia* includes:

- Promotion of privatization of distribution companies
- Promotion of renewable and hydro generation and purchase
- Cost-reflective electricity tariff without subsidy
- Strengthening of payment security mechanism
- Establishing an Electricity Contract Enforcement Authority
- Strengthening enforcement capabilities of the Appellate Tribunal for Electricity

It is apparent that with the proposed amendments, various decision and policy making powers are being vested with the Central Government by allowing it to prescribe norms or parameters through policies, thereby curtailing to an extent the discretions exercised earlier by the ERCs or State Governments. The structural reforms proposed vide the Draft Amendment Bill bridge the disconnect between central and state level policy narratives and at the same time distance the state government's influence on the regulatory regime. While some may see this as excessive centralization of powers, whether the same will pass the test the constitutional validity is yet to be ascertained. As per the notification of MoP, comments are invited on the said Amendment Bill and the same are required to be submitted by June 05, 2020.

Broad overview of the Amendment Bill and our views on the same are set out below. For the ease and convenience, the amendments have been captured conceptually and the flow of these amendments may not be the same as that provided under the Amendment Bill. Our suggestions on the proposed language is annexed along with the Appendix.

Projects, Energy & Infrastructure Team  
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## Applicability of the Electricity Act, 2003

- The Act is proposed to be made applicable throughout the country including the State of Jammu and Kashmir and the Union Territory of Ladakh. Previously, the subject matter of electricity generation, transmission and distribution was governed by a separate legislation in Jammu and Kashmir & Ladakh. On many occasions, such legislative independence caused a disconnect between the provisions of EA03 and the state electricity legislation.
- Having a uniform applicability of Electricity Act, 2003 will help in creating a unified market as well as capturing the hydro potential in the State of Jammu and Kashmir and the Union Territory of Ladakh. Evidently, the power produced in this part of the country is not consumed fully and, therefore, evacuation of the same to other parts of the country in a consistent manner will facilitate entities to achieve their respective hydro power generation and purchase obligations.

## Distribution sub-licensee and franchisee

- The draft amendment introduces the concept of 'Distribution Sub-Licensee' (**DSL**), while the existing provision in relation to 'Franchisee' (**DF**) has been modified.
- A DSL and DF have been entrusted with similar obligations/responsibilities under the proposed amendments. A DSL or a DF would be a person recognised or authorised by a Distribution Company (**DISCOM**) and will be responsible for distribution of electricity on behalf of the Distribution Licensee in a particular area within the area of its supply. Both the entities are not required to undertake separate license from the Electricity Regulatory Commissions (**ERCs**). The difference between the two is that, in case of a DSL, the DISCOM is required to obtain permission from ERCs prior to engaging such DSL, while in case of a DF, only an intimation of such engagement to ERC is mandated. Further, while the DSL will continue to be responsible for the obligations/responsibilities of a DISCOM, as specified under EA03, the DF may be excluded to perform certain obligations, by way of a contractual arrangement agreed between a DF and a DISCOM.
- Although the intent for introducing the DSL/DF is to bring private capital investment by carving out smaller areas within the DISCOM area of supply, especially where the entire DISCOM cannot be privatised, the perpetual mirroring of regulatory framework for DSL/DF may lead to creation of monopolies instead of creating competition in the wires and content business of the DISCOM and may also result in curtailing the prospects of having a parallel licensee.
- Certain aspects pertaining to appointment of DSL/DF, parameters for their selection and whether the DSL/DF's area of supply within the DISCOM area of supply will be carved out through regulatory or policy intervention, need to be addressed. While creating an enabling environment for a DSL/DF, certain parameters such as capex, revenue entitlement, tariff categorisation with possible differential tariffs, independence to procure power, treatment of employees and capital grants, etc. may need careful consideration.
- In our view, it is incumbent to have a provision equivalent to Section 61 of the EA03 in relation to DSL/DF that provides broad economic principles as well as standard bidding documents as contemplated under Section 63 regime in order to bring uniformity to the terms of the engagement of DSL/DF across the country. Therefore, it would be advisable to issue some broad guidelines or framework for DSL/DF.

## National Energy Policy for renewables and hydro with committed targets

- Going further than the existing provision providing for National Tariff Policy and Electricity Plan, the proposed Section 3A of the Amendment Bill creates a policy environment for the Central Government to issue a specific energy policy for promotion of generation of electricity from renewable sources of energy and prescribe a minimum percentage of purchase of electricity from renewable and hydro sources of energy.<sup>1</sup>
- With this insertion, the Central Government has been suitably equipped to issue directives for incentivising renewable and hydro generation. Considering the minimum Renewable Purchase Obligations (**RPOs**) and Hydropower Purchase Obligations (**HPOs**) would be prescribed through a policy document, a disharmony at the state level may be avoided. Interestingly, the Amendment Bill proposes to delegate the power with the Central Government to prescribe modalities for bundling the renewable power with the hydro power and prescribe Renewable Generation Obligation (**RGO**). With introduction of Renewable Generation Obligation, the thermal power generating companies (may also include captive thermal generation) could be obligated to generate and invest in renewable energy; however, the extent/percentage of such RGO will be notified by the Central Government.
- The question whether the minimum renewable and hydro purchase obligations will be created for each state separately or will have a common target for the entire nation will only get clarified once the Central Government notifies the policy. Further, it is proposed, that in order to avoid any disconnect between the generated renewable energy in Million Units (**MUs**) and the capacity to be contracted in MW terms, the policy will provide RPOs/RGOs in terms of MUs.

## Cross-border trade of electricity

- In addition to the focus on renewable energy, a substantial makeover in the market of electricity sector revolves around cross-border trade of electricity. The Central Government has been delegated with the power to prescribe rules and guidelines to allow and facilitate cross-border trade of electricity. The Amendment Bill has also amended the existing powers and functions of the Central Electricity Regulatory Commission (**CERC**) to allow it to regulate the cross-border trade of electricity which includes sale, purchase and transmission of electricity.
- With the proposed amendment and expansion of powers of CERC to regulate these transactions (CERC has been regulating the said transactions in terms of the Guidelines in this regard issued by the Ministry of Power in 2018), the clear intent of the Central Government is to provide statutory backing to the cross-border trade of electricity and vest the powers completely for its regulation with the CERC. However, the fate of existing transactions is unknown.

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<sup>1</sup> See Section 3A: "The Central Government may, from time to time, after such consultation with the State Governments, as may be considered necessary, prepare and notify a National Renewable Energy Policy for the promotion of generation of electricity from renewable sources of energy and prescribe a minimum percentage of purchase of electricity from renewable and hydro sources of energy."

## Scheduling & despatch by National Load Despatch Centre

- The draft amendment proposes modification under Section 26 of the EA03 in the functions and responsibilities of National Load Dispatch Centre (**NLDC**), for the purpose of creating clear hierarchy amongst the load despatch centres (**LDCs**) and to remove any jurisdictional contradiction in relation to directions issued by NLDC to the LDCs and other State Utilities.
- The amendments vest NLDC with the responsibility to ensure the optimum scheduling and dispatch of power between regions and act as a supervisory body of inter-regional and inter-state transmission of electricity, for ensuring the stability, safety and security of the national grid.
- This is a welcome step and was much desired, more so since the country now has a functional national grid which is integrated with all regions, which is one of the primary reasons for mandating SLDCs to comply with the directions issued by NLDC. A minor change in the language is suggested wherein in place of NLDC being responsible for “across different regions”, the phrase “between two or more regions” should be used.

## Payment security mechanism

- With a view to introduce an adequate payment security mechanism to avoid the frequent payment defaults that render certain generating assets as NPAs, the amendments propose to statutorily mandate the Regional Load Despatch Centres (**RLDCs**) and State Load Despatch Centres (**SLDCs**) to treat the payment security, as may be agreed upon between the parties under the contract, a condition precedent to scheduling and despatching of electricity by them.
- There have been instances where clauses related to payment security have not been expressly provided in recent contracts/RFPs. Instead of “as agreed upon by the parties to the contract”, the Act should make clauses relating to adequate payment security mandatory in every PPA/PSA. After the recent order mandating LCs, it has been observed that multiple generators are giving the consent for scheduling irrespective of the implementation of payment security (i.e. LC) as per their contract, due to coercive conduct of licensees. The Act should provide enabling clauses to identify and prohibit such conduct.
- In case a payment security mechanism is not maintained, power will not be scheduled. While thermal generating companies in such scenario may still be able to receive capacity charges, renewables generating companies may not be able to receive generation compensation in absence of “deemed generation” being expressly recognised contractually. Therefore, it is proposed that the amendments should introduce the definition and concept of deemed generation and allow a level playing field for renewables, where the capacity is not scheduled due to want of payment security mechanism.

## Deemed tariff adoption under Section 63 of the Electricity Act, 2003

- The last two years saw series of litigations initiated across regulatory forums to enforce/expedite tariff adoption by the appropriate commissions under Section 63 of the EA03. The Amendment Bill in order to circumvent the ambiguity that delay of adoption of tariff brings and to streamline the process across the ERCs, introduces sub-section (2) to existing Section 63, which prescribes a 60 (sixty) day time period for adoption of tariff by the appropriate commission from the date of receipt of the application complete in all respects. Failing to adopt tariff in the prescribed timeline of 60 days, the tariff would be deemed to be adopted.
- Tariff adoption under Section 63 has been referred to as a ministerial act by judicial forums since the bidding documents are pre-approved and the bidding is conducted in transparent manner in accordance with the guidelines issued by the Central Government. Giving statutory assent to the expeditious disposal of such proceedings reassures private investors and obviates unnecessary hold-ups at the ERCs.

## Surcharge on open access

- The amendment suggests a modification in the current scheme of determination of surcharge levied upon the open access consumers as per the EA03 and proposes to individually vest the CERC and SERC to determine the transmission charges and the surcharge respectively, in case of inter-state open access. Qua the intra-state open access, both the transmission charges and the surcharge will be determined by the SERCs. It appears that these modifications have been issued pursuant to various pleas made by the DISCOMs in relation to the impact of open access on their recoveries/entitled revenues.
- The proposed amendments should either expressly specify or enable the regulator to specify through regulations the manner in which the surcharge would be recoverable by the Central Transmission Utility (CTU), considering that the surcharge would be utilized towards a distribution asset and not an asset of CTU.
- Also, an upfront clarity in form of issuing statement of reasons will streamline the open access charges to be levied to various consumers, such as clarifying whether wheeling charges are to be essentially paid or the same are to be paid only if applicable.
- Further, for avoidance of doubt, the language “collected by it” should be suitably modified to clarify the entity collecting such transmission charges/surcharges under Section 38 and Section 39 respectively.

## Cost reflective tariff

- The draft amendment proposes to alter the present method of tariff determination by modifying Section 61, Section 62 along with Section 40 and Section 42 of EA03. Presently, the SERCs determines the tariff accounting subsidy granted by the State Government to a consumer or a class of consumers.<sup>2</sup>
- It is proposed that the tariff determined by the SERCs shall be cost reflective and should not account for any subsidy granted by the State Government. Therefore, the licensee shall charge the consumers proportionate to the consumption of electricity as per the tariff determined by State Commission, and any subsidy as may be granted by the State Government shall be paid directly to appropriate consumers by the State Government in advance.<sup>3</sup> This is a much awaited and welcome step in treating electricity a commodity and will help in reducing political interference in tariff determination process.
- While the proposed amendments to Section 42 of EA03 intend to provide charges payable by a consumer availing open access, the reasons for the need for payment of surcharges by an open access consumer for an inter-state open access (to be collected CTU) ideally should have been incorporated in the statement of purpose. Further, considering that there is no redundancy as such in the distribution assets, existing proviso four to Section 42 of EA03 may be deleted.
- Importantly, retail tariff determination under Section 62 of EA03 has been subjected to Tariff Policy. This creates a conundrum given that the Tariff Policy may remain only a guiding document to SERCs while framing regulations, but retail tariff determination will be subjected to such Tariff Policy. Further, the parameters for determination of retail tariff although to be under the exclusive jurisdiction of the state commission, may tend to be prescribed by Central Government through the amendments in the Tariff Policy.

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<sup>2</sup> Section 65 of EA03

<sup>3</sup> Ref. Point 16(i) and 18 of the Draft Electricity (Amendment) Bill, 2020, i.e. Section 28 (3)(a) in EA03

## Electricity Contract Enforcement Authority

- The Central Government shall establish an Electricity Contract Enforcement Authority (ECEA) which will be vested with the powers similar to that of a civil court and will be headed by a Judge of a High Court. The scope of the adjudicatory jurisdiction of the ERCs has been reduced and the power to adjudicate disputes and enforce performance of contracts related to purchase or sale or transmission of power is now vested ECEA. Regulation and determination of tariff and the disputes arising therefrom continue to remain with ERCs.<sup>4</sup> Consequently, adjudicatory powers of ERCs as specified under Section 79 (1)(f) and Section 86 (1) (f) of the EA03 are proposed to be restricted only to extent of tariff related disputes.<sup>5</sup>
- Considering that previously the regulatory forums have taken a broad view<sup>6</sup> in relation to what may qualify as a tariff related dispute, it is desirable that the language of Section 109 A (2) be clarified further. The usage of term “regulation” in Section 109 A (2)<sup>7</sup> may have a wide import and be interpreted to include disputes that may have a bearing on tariff, thereby making the reference and the jurisdiction of ECEA redundant. Notably, by using a non-obstante clause against the provisions of the EA03 and any other law in force, the scope of the jurisdiction of ECEA appears to be wide enough to include the arbitration proceedings initiated under agreements executed for unregulated transactions.<sup>8</sup>
- Another important aspect that requires to be clarified is the requirement of filing of contract between generating company and licensee with the Appropriate Commission. Sub-section (3) to Section 109 A of the Amendment Bill<sup>9</sup> provides that every contract between a generating company and a licensee (presumably including contract entered into with a trading licensee) be filed with the Appropriate Commission in a prescribed period.
- Introduction of sub-section (3) attempts to create submission of the contract with the Appropriate Commission a pre-requisite for invoking jurisdiction of ECEA. However, in case such submission does not take place (after conclusion of contracts) due to reasons not attributable to the party claiming breach of the contract, whether such party can still invoke the jurisdiction of ECEA has to be clarified. It is desired that the responsibility to submit the contract be not restricted to any particular party to the contract.
- Further, under proposed sub-section (5) to Section 109 B of Amendment Bill, language may be suitably modified subject to grant of compensatory relief to the extent permissible under respective contracts and avoid any possible interpretation for giving relief beyond the contract.
- Notably, the appeals from ECEA shall be preferred to Appellate Tribunal for Electricity (APTEL) within 60 (sixty) days from the date of communication of the decision or order of the ECEA. Considering that an outer limitation has been provided under the proposed amendment itself, i.e. a total period of 120 days<sup>10</sup>, an appeal cannot be preferred beyond the period of limitation. Previously, there had been inconsistency in adopting the parameters for considering the “date of communication of the order”. Therefore, it is only desirable that instead of the date of communication of the order, the same be specified as

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<sup>4</sup> See Section 109 A (2) of the Draft Electricity (Amendment) Bill, 2020.

<sup>5</sup> See Section 76 (1) (f) and Section 86 (1) (f) of the Draft Electricity (Amendment) Bill, 2020.

<sup>6</sup> See *Tata Power Ltd. v. Reliance Energy Ltd.* 2009 Vol.7, SCALE 513; *Jiyajirao Cotton Mills v. M.P.Electricity Board* 1989 Supp(2) II SCC 52

<sup>7</sup> See Section 109 A (2): “... ..”*...it shall not have any jurisdiction over any matter related to regulation or determination of tariff or any dispute involving tariff”... ..*

<sup>8</sup> See Section 109 A (2): “*Notwithstanding anything contained in this Act or any other law in force, the Electricity Contract Enforcement Authority shall have the sole authority and jurisdiction to adjudicate upon matters regarding performance of obligations under a contract related to sale, purchase or transmission of electricity, provided that it shall not have any jurisdiction over any matter related to regulation or determination of tariff or any dispute involving tariff.*”

<sup>9</sup> See Section 109 A (3): “*Every contract between a generation company and a licensee shall be filed with the Appropriate Commission within 30 days of the said contract having been concluded.*”

<sup>10</sup> See Section 109 N: “*...Provided that the Appellate Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.*”



the date of receipt of order or the date on which the order was uploaded on the website of the Authority.

- In furtherance to above, it is noted that due to addition of ECEA as an adjudicatory authority, Section 79(1)(f) and Section 86(1)(f) have been amended. However, the word “and” is incorrectly placed in the said provisions<sup>11</sup>, due to which it appears that despite ECEA being notified as adjudicatory authority, ERCs will still continue to have power to refer matters for arbitration including on those issues which have statutorily vested with ECEA. Also, since ECEA is intended to have powers of a civil court, it is only desirable that the powers to issue ex-parte direction(s)/order(s) be retained by such authority. Therefore, suggestion has been made in the language of the provision and the same is indicated in the annexure to this note.

## Enhancement of the powers of the Appellate Tribunal of Electricity

- APTEL is proposed to have the powers of a High Court to deal with wilful non-compliance by persons and/or entities of its orders/directions and to treat the same as contempt. Notably, such proceedings can be initiated on its own motion or on a motion made by the Advocate General or such Law Officer as the Central Government may specify.
- While this is a laudatory attempt to expand APTEL’s enforcing ability by statutorily allowing it to possess contempt powers, the language of the provision requires to be quite clear. Also, questions may arise as to why initiation of contempt proceedings can only be done either by a Government Lawyer or on its recommendation. Such a stipulation ignores the fact that if non-compliance of APTEL orders is done Government-owned entities or Statutory Authorities such as ERCs then what option is available to the private players. Therefore, it would be advisable to modify the proposed amendment and provide that contempt can also be initiated on a complaint made by any party and the APTEL will necessarily entertain such petition only if it is prima facie satisfied that a case of contempt is made out. Suitable change in the language of is proposed in the annexure to this note.
- Further, the number of members at the APTEL is proposed to be increased to a minimum of 8 (eight) members. Hopefully, this will ensure creation of new benches and expeditious disposal of pending matters.

## Inclusion of Judicial Members & expeditious filling of vacancy

- Pursuant to the Supreme Court direction, the proposed amendments under Section 77 of EA03 intends to mandatorily include presence of judicial members in the regulatory forums. Despite specific directions of the Supreme Court, many ERCs did not appoint judicial members to fulfil such vacancies. This is a welcome step to allow much-needed judicial rigor to the ERC proceedings.
- Further by amending provisions of Section 78 of EA03, strict timelines are enforced for fulfilling of vacancies to avoid pendency of matters, including but not limited to instances where the ERCs remained in operation for over a year. Through the proposed amendments, the Central Government has been vested with powers wherein in specific instances where there is no chairperson and member in a State Commission to perform its functions, the Central Government, in consultation with the relevant state government, may entrust the functions of a State Commission to any other State Commission or Joint Commission as it deems proper. However, the usage of term “if there is no chairperson and member” may result in confusion as to whether such powers may be exercised by the Central Government even when one member is present or will it only be exercised when there is absolute vacancy. Accordingly, suggested language is proposed in the annexure to this note.

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<sup>11</sup> See Section 79 (1) (f): “...to adjudicate except matters referred to in section 109A upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above **and** to refer any dispute for arbitration;...”

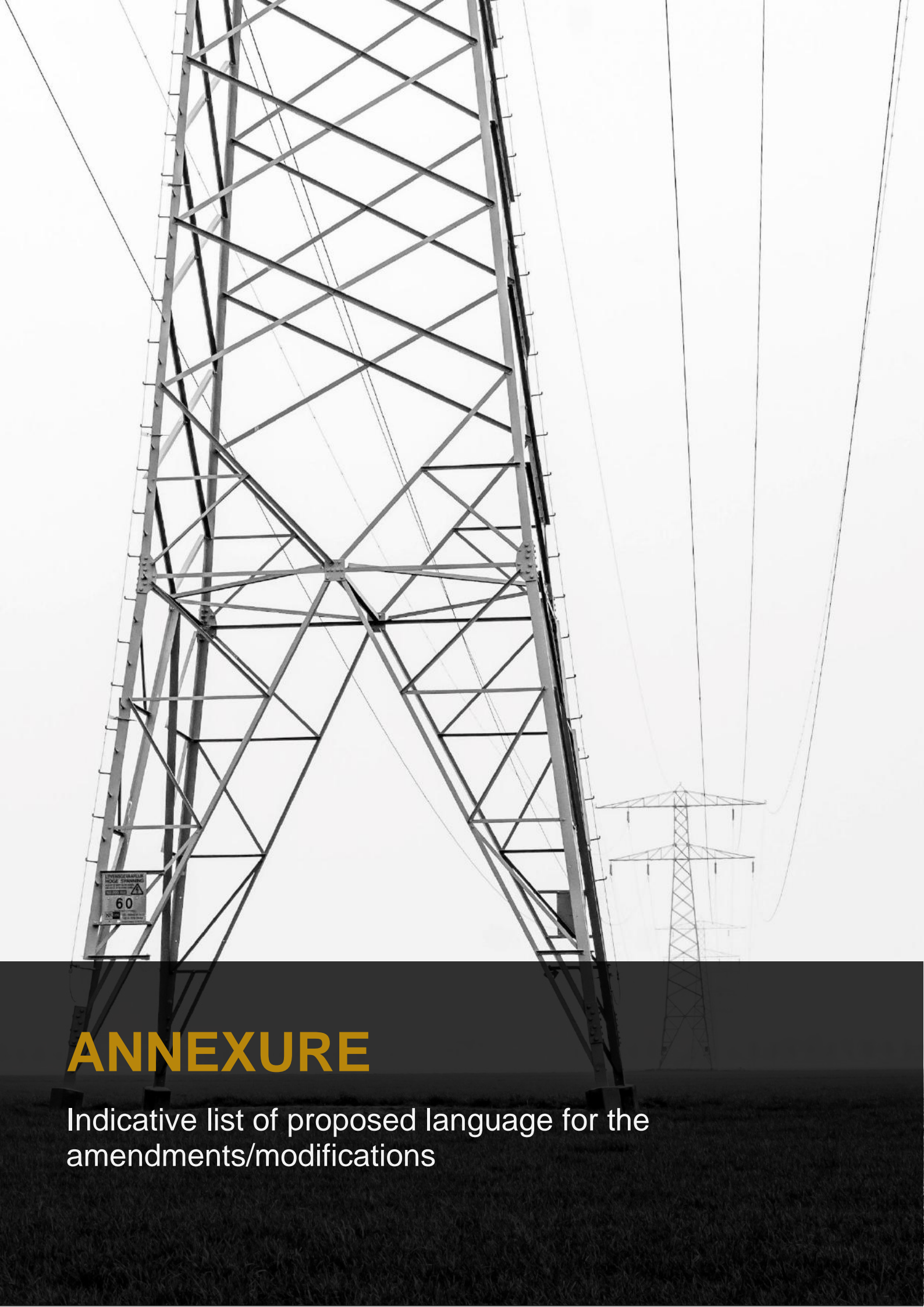
Section 86 (1) (f): “...adjudicate upon the disputes except matters referred to in section 109A between the licensees, **and** generating companies and to refer any dispute for arbitration...”

## Constitution of selection committee to recommend members for commissions/authorities

- There is a slew of provisions for the constitution of a Selection Committee for making recommendations of members to the Appellate Tribunal and the Chairperson and Members of Central Commission, Electricity Contract Enforcement Authority, State Commissions and Joint Commissions. Streamlining of selection process for all commissions and authorities is a step in the right direction and will bring in uniformity and higher accountability.
- Following the direction/recommendation of the Supreme Court for appointment of Judicial Member by the regulatory forums, the proposed amendments pave the way for necessarily appointing a member having background in law/judiciary. For the purposes of uniformity, the definition of 'member' under the Act has also been uniformized in the Amendment Bill. Notably, the selection committee has been given representation from the states as well, where a representative each from two states at any given time will be part of the selection committee. To avoid perceived bias, the amendment proposes representation on rotational basis from two states annually in alphabetical order.

## Enhancement of penalty under Section 142 and Section 146

- In order to ensure compliance with the provisions of the Electricity Act and orders of the Commission, section 142 and section 146 of the Electricity Act are proposed to be amended to provide for higher penalties. The proposed sub-section (2) to Section 142 of the EA03 proposes to penalize non-compliance to meet RPO targets.
- Most SERCs already have a penal framework for noncompliance to meet the RPO targets and it is not clear whether the provisions in the amendment will act like a forbearance penalty. Appropriate Commissions will have to pass corresponding amendments in their Regulations and align with the proposed changes in the Act. Considering that non-compliance of RPO targets have been heavily penalized under Section 142 (2), similar penalties require to be incorporated for RGO targets as well.



# ANNEXURE

Indicative list of proposed language for the amendments/modifications

PROPOSED AMENDMENTS	SUGGESTED CHANGES For ease of reference suggested insertions/deletions are added in Golden color or have been struck-off.
<p><b>Section 2 (27):</b> “Franchisee” means a person recognized as such and authorized by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply, under information to the appropriate State Commission. Subject to the provisions of the agreement between the distribution licensee and the franchisee, any reference to a distribution licensee in the Act shall include a franchisee</p>	<p>Provided further that the appointment of the Franchisee would be in accordance with the Guidelines issued by the Central Government in this regard. Also, the distribution licensee shall be required to submit the agreement executed with the Franchisee within 7 (seven) days of the execution of the aforesaid agreement</p>
<p><b>Section 14, Proviso 7:</b> Provided also that a franchisee shall not be required to obtain any separate license from the appropriate State Commission and such distribution licensee shall continue to remain responsible for distribution of electricity in its area of supply</p>	<p><b>Section 14, Proviso 7:</b> Provided also that a franchisee shall not be required to obtain any separate license from the appropriate State Commission and such distribution licensee shall continue to remain responsible for distribution of electricity in its area of supply. However, the process of appointment of a Franchisee should be undertaken after prior intimation to the Appropriate Commission</p>
<p><b>Section 26(4)(a):</b> Be responsible for optimum scheduling and despatch of electricity in the country across different regions in accordance with the contracts entered into with the licensees or the generating companies</p>	<p><b>Section 26(4)(a):</b> Be responsible for optimum scheduling and despatch of electricity in the country <del>across different between</del> two or more regions in accordance with the contracts entered into with the licensees or the generating companies</p>
<p><b>Section 61 (g):</b> That the tariff reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner as provided in the Tariff Policy</p>	<p><b>Section 61 (g):</b> That the tariff reflects the cost of supply of electricity and also, reduces cross-subsidies <del>in the manner</del> as provided in the Tariff Policy</p>
<p><b>Section 63 (2):</b> The Appropriate Commission shall, after receipt of application complete in all respects, adopt the tariff so determined under sub-section (1), in a timely manner but not later than sixty days from the date of application.</p> <p>Provided that on expiry of sixty days from the date of application, if it is not decided by the Appropriate Commission, the tariff shall be deemed to have been adopted by the Appropriate Commission.</p>	<p><b>Section 63 (2):</b></p> <p>Provided further that if the Guidelines issued by Central Government have been followed in the transparent process of bidding and the power purchase agreement is the same as issued by the Central Government being part of the standard bidding documents, then no specific approval of the aforesaid power purchase agreement would be required from the Appropriate Commission. However, such power purchase agreement once executed shall be submitted before the Appropriate Commission within 14 (fourteen) days from the date of execution of the aforesaid power purchase agreement.</p>
<p><b>Section 79(1)(f):</b> To adjudicate except matters referred to in section 109A upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration</p>	<p><b>Section 79(1)(f):</b> Other than the matters referred to in section 109A, to adjudicate <del>except matters referred to in section 109A</del> upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration</p>
<p><b>Section 82 (7):</b> If there is no chairperson and member in a State Commission to perform its functions, 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 proper</p>	<p><b>Section 82 (7):</b> If there is no chairperson and <del>member</del> members in a State Commission to perform its functions, 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 proper</p>
<p><b>Section 86(1)(f):</b> Adjudicate upon the disputes except matters referred to in section 109A between the licensees, and generating companies and to refer any dispute for arbitration</p>	<p><b>Section 86(1)(f):</b> Other than the matters referred to in section 109A, to adjudicate upon the disputes <del>except matters referred to in section 109A</del> between the licensees, and generating companies and to refer any dispute for arbitration</p>
<p><b>Section 109A (2):</b> Notwithstanding anything contained in this Act or any other law in force, the Electricity Contract Enforcement Authority shall have the sole authority and jurisdiction to adjudicate upon matters regarding performance of obligations under a contract related to sale, purchase or transmission of electricity, provided that it shall not have any jurisdiction over any matter related to regulation or determination of tariff or any dispute involving tariff</p>	<p><b>Section 109A (2):</b> Notwithstanding anything contained in this Act or any other law in force, the Electricity Contract Enforcement Authority shall have the sole authority and jurisdiction to adjudicate upon matters regarding performance of obligations under a contract related to sale, purchase or transmission of electricity, provided that it shall not have any jurisdiction over any matter related to regulation determination of tariff <del>or any dispute involving tariff</del></p>

<p><b>Section 109A (3):</b> Every contract between a generation company and a licensee shall be filed with the Appropriate Commission within 30 days of the said contract having been concluded</p>	<p><b>Section 109A (3):</b> Every contract between a generation company and a licensee, <b>or between the licensees</b> shall be filed with the Appropriate Commission within 30 days of the said contract having been concluded. <b>However, if a contract between a generating company and licensee, and between licensees has been approved by the Appropriate Commission then the requirement of filing shall not be applicable to such contracts</b></p>
<p><b>Section 109 B (5):</b> Upon a finding that there has a violation/breach of obligation under a contract by a party or parties, the Electricity Contract Enforcement Authority shall direct that the said parties immediately perform their obligation under the contract and may direct the payment of costs on account of the breach of contract or non-fulfilment of obligations of the contract and any further amount it may deem fit as compensation</p>	<p><b>Section 109 B (5):</b> Upon a finding that there has a violation/breach of obligation under a contract by a party or parties, the Electricity Contract Enforcement Authority shall direct that the said parties immediately perform their obligation under the contract and may direct the payment of costs on account of the breach of contract or non-fulfilment of obligations of the contract and any further amount it may deem fit as compensation, <b>subject to provision of the said contracts</b></p>
<p><b>Section 109 N:</b> Appeal to Appellate Tribunal:  Any person aggrieved by any decision or order of the Electricity Contract Enforcement Authority, may, file an appeal to the Appellate Tribunal within sixty days from the date of communication of the decision or order of the Electricity Contract Enforcement Authority to him:  Provided that the Appellate Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”</p>	<p><b>Section 109 N:</b> Any person aggrieved by any decision or order of the Electricity Contract Enforcement Authority, may, file an appeal to the Appellate Tribunal within sixty days from the date of <del>communication receipt</del> of the decision or order of the Electricity Contract Enforcement Authority to him <b>or uploading of the decision or order of the Electricity Contract Enforcement Authority on the website of the Authority</b></p>
<p><b>Section 109 J (2) (i):</b> Pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard</p>	<p><b>Section 109 J (2) (i):</b> To pass such interim order <b>(including granting an injunction or stay) after providing the parties concerned an opportunity to be heard</b> in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate</p>
<p><b>Section 121 (2):</b> The Appellate Tribunal shall have the same jurisdiction, powers and authority to take action on willful disobedience to any of its judgment, decree, direction, order or other process or willful breach of an undertaking given to a it, as a High Court under the provisions of the Contempt of Courts Act, 1971 (70 of 1971) on its own motion or on a motion made by the Advocate General or such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer or the Advocate General, and a reference in the Contempt of Courts Act, 1971 to a High Court shall be construed as including a reference to the Appellate Tribunal.</p>	<p><b>Section 121 (2):</b> The Appellate Tribunal shall have the same jurisdiction, powers and authority to take action on willful disobedience to any of its judgment, decree, direction, order or other process or willful breach of an undertaking given to a it, as a High Court under the provisions of the Contempt of Courts Act, 1971 (70 of 1971) on its own motion <b>on a motion made by the Advocate General or such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or on a motion by any other affected person,</b> <del>with the consent in writing of such Law Officer or the Advocate General,</del> and a reference in the Contempt of Courts Act, 1971 to a High Court shall be construed as including a reference to the Appellate Tribunal.  <b>Provided that if a contempt motion is initiated by any other person then the Appellate Tribunal for Electricity prior to issuing notice on such motion shall satisfy itself that a strong prima facie case of contempt is made out.</b></p>
<p><b>Section 142 (2):</b> Notwithstanding anything contained in sub-section (1), in case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person, with effect from such date as may be notified by the Central Government, has not purchased power from renewable or hydro sources of energy as specified by it using its powers under the Act, the Appropriate Commission shall after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, a sum calculated at the rate of fifty paise per kilowatt-hour for the shortfall in purchase in the first year of default, one rupees per kilowatt-hour for the shortfall in purchase in the second successive year of default and at the rate of two rupees per unit for the shortfall in purchase continuing after the second year.</p>	<p><b>Section 142 (2):</b> Notwithstanding anything contained in sub-section (1), in case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person, with effect from such date as may be notified by the Central Government, has not <b>generated or</b> purchased power from renewable or hydro sources of energy, <b>as the case may,</b> as specified by it using its powers under the Act, the Appropriate Commission shall after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, a sum calculated at the rate of fifty paise per kilowatt-hour for the shortfall in purchase in the first year of default, one rupees per kilowatt-hour for the shortfall in purchase in the second successive year of default and at the rate of two rupees per unit for the shortfall in purchase continuing after the second year.</p>

# HSA AT A GLANCE

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