

POWER

27 September 2021

Expert call: Legal aspects of draft electricity bill

- Once Electricity (Amendment) Bill, 2021, is enacted, states will have little choice but to implement it
- Delicensing proposals unclear on registration, technical constraints and common usage charges
- Proposals to improve legal oversight positive – especially those related to strengthening APTEL and ERCs

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We spoke with Puja Priyadarshini, Regulatory (Power Sector) Partner, HSA Advocates. Key takeaways:

Once enacted, states will have little choice but to implement the bill: Being a concurrent subject, the Centre and State can both legislate on matters relating to electricity. However, states cannot enact provisions contrary to central law – in case of conflict on a concurrent subject, central law will prevail. Thus, states will have to implement the Electricity (Amendment) Bill, 2021, once passed.

Distribution delicensing – grey areas: (a) How is registration different from licensing? (b) Eligibility criteria for new entrants need to be harmonised – currently proposed to be set by the Centre but terms and conditions to be set by SERCs. (c) Who will be responsible for augmenting infrastructure if network sharing between existing and new entrants faces technical challenges?

(d) The parallel distribution licensee concept is currently implemented through the open access route – will insertion of a principal provision itself do away with this route and related charges? Incumbent discoms will lose out if the cross-subsidy issue is not settled.

(e) Will sharing of incumbent discom PPAs mean the incumbent can allocate PPAs at its discretion? Lack of guidelines may be misused to impose high power cost on entrants.

Positive proposals: (a) Add more members on understaffed adjudicatory bodies such as APTEL and systematically fill ERC vacancies. (b) All contract enforcement issues to be heard by ERCs, rendering a Contract Enforcement Authority redundant. (c) Fixed timelines for tariff determination/adoption, bestowing full civil court powers for enforcing and imposing penalties for non-compliance of regulations/orders and renewable purchase obligations (RPO). (d) RPOs to be fixed by the Centre and not SERC, leading to uniformity and helping fulfil the government's ambitious renewables target.

Load dispatch ambiguity: The bill clarifies functions of the NLDC and SLDC (National/State Load Dispatch Centre). The contractual requirement of establishing a payment security mechanism (PSM) will be assigned a statutory force. This is desirable but does not solve larger issues such as the poor financial health of discoms.

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| Ticker | Price | Target | Rating |
|---------|-------|--------|--------|
| TPWR IN | 139 | 161 | BUY |

Price & Target in Rupees | Price as of 24 Sep 2021



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