

23 DEC 2005

Bill No. 165 of 2005

THE ELECTRICITY (AMENDMENT) BILL, 2005

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BILL

further to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new section for section 6.	2. For section 6 of the Electricity Act, 2003 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—	36 of 2003
Joint responsibility of State Governments and Central Government in rural electrification.	"6. The concerned State Governments and the Central Government shall jointly endeavour to provide access to electricity to all areas including villages and hamlets through rural electricity infrastructure and electrification of households."	5
Amendment of section 38.	3. In section 38 of the principal Act, in sub-section (2), in clause (d),— (i) in the second proviso, the words "and eliminated" shall be omitted, (ii) the third proviso shall be omitted	
Amendment of section 39.	4. In section 39 of the principal Act, in sub-section (2), in clause (d) — (i) in the second proviso, the words "and eliminated" shall be omitted; (ii) the third proviso shall be omitted	10
Amendment of section 40.	5. In section 40 of the principal Act, — (i) in the second proviso, the words "and eliminated" shall be omitted, (ii) the third proviso shall be omitted.	15
Amendment of section 42.	6. In section 42 of the principal Act, in sub-section (2),— (i) in the first proviso, for the words "such open access may be allowed before the cross-subsidies are eliminated on payment of a surcharge", the words "such open access shall be allowed on payment of a surcharge" shall be substituted; (ii) in the third proviso, the words "and eliminated" shall be omitted.	20
Amendment of section 61.	7. In section 61 of the principal Act, for clause (g), the following clause shall be substituted, namely:— "(g) that the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission;"	26
Substitution of new section for section 151.	8. For section 151 of the principal Act, the following section shall be substituted, namely:—	
Cognizance of offences	"151. (1) No prosecution shall be instituted against any person for any offence punishable under this Act except at the instance of the Appropriate Government or Appropriate Commission or any of their officers authorised by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be.	30
	(2) For the purposes of investigation of any offence punishable under this Act, the police shall have powers as available under the Code of Criminal Procedure, 1973.	2 of 1974
	(3) The cognizance of the offence under this Act shall not in any way prejudice any action under the provisions of the Indian Penal Code:	35
	Provided that the court may also take cognizance of an offence punishable under this Act upon a complaint in writing made by the Appropriate Government or Appropriate Commission or any of their officers authorised by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be:	40
	Provided further that a special court constituted under section 153 shall be competent to take cognizance of an offence under section 135 to section 138 (both inclusive) without the accused being committed to it for trial."	

9. In section 176 of the principal Act, in clause (2), in clause (b) for the brackets and words "(including the capital adequacy, credit worthiness or code of conduct)", the words "relating to the capital adequacy, credit worthiness or code of conduct" shall be substituted. Amendment of section 176

5 **10.** In section 178 of the principal Act, in sub-section (2) Amendment of section 178

(i) in clause (k), the words "and elimination" shall be omitted;

(ii) in clause (m), the words "and elimination" shall be omitted;

(iii) for clause (r), the following clause shall be substituted, namely:—

"(r) the manner for reduction of cross-subsidies under clause (g) of section 61,".

10 **11.** In section 181 of the principal Act, in sub-section (2), -- Amendment of section 181

(i) in clause (j), the words "and elimination" shall be omitted;

(ii) in clause (m), the words "and elimination" shall be omitted;

(iii) in clause (p), the words "and elimination" shall be omitted;

(iv) for clause (zc), the following clause shall be substituted, namely:—

15 "(zc) the manner of reduction of cross-subsidies under clause (g) of section 61 "

STATEMENT OF OBJECTS AND REASONS

The law relating to generation, transmission, distribution, trading and use of electricity is contained in the Electricity Act, 2003. The Act has been reviewed by the Government as per the commitment made by it in the National Common Minimum Programme and in view of the concern expressed by a number of States. It is proposed to amend the Act to give effect to certain changes as have been considered necessary.

2. Section 6 of the Act provides that the appropriate Government shall endeavour to supply electricity to all areas including villages and hamlets. There has been a concern that the onus of rural electrification has been put only on the State Governments. It is proposed to amend section 6 so as to provide that the concerned State Governments and the Central Government shall jointly endeavour to provide access to electricity to all areas including villages and hamlets through rural electricity infrastructure and electrification of households.

3. Sections 38, 39, 40, 42, 61, 178 and 181 of the Act, *inter alia*, provide for reduction and 'elimination' of cross subsidies. There have been a concern that though the cross-subsidies may be reduced but elimination of such subsidies may not be feasible for the present. It is, therefore, proposed to amend the said sections so as to do away with the 'elimination' of cross-subsidies. However, reduction of cross subsidies will continue.

4. As per the provisions contained in section 151 of the Act, the offences relating to theft of electricity, electric lines and interference with meters are cognizable offences. Concerns have been expressed that the present formulation of section 151 stands as a barrier to investigation of these cognizable offences by the police. It is proposed to amend section 151 so as to clarify the position that the police would be able to investigate the cognizable offences under the Act. To expedite the trial before the special courts, it is also proposed to provide that a special court shall be competent to take cognizance of an offence without the accused being committed to it for trial.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 20th December, 2005

PRIYARANJAN DASMUNSI

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to substitute section 6 of the Electricity Act, 2003 relating to obligations of appropriate Government to supply electricity to rural areas. The proposed new section 6 seeks to provide that the concerned State Government and the Central Government shall jointly endeavour to provide access to electricity to all areas including villages and hamlets through rural electricity infrastructure and electrification of households.

2. The Bill, therefore, if enacted and brought into operation would involve expenditure from the Consolidated Fund of India. It has been estimated that the Rajiv Gandhi Grameen Vidyutikaran Yojana (with an outlay of Rs. 16,225 crore) would have a subsidy component of Rs. 14,750 crore to be funded from the Consolidated Fund of India in two phases. Phase-I of this scheme has begun from the financial year 2005-2006 with a sanction of Rs. 5000 crore of subsidy from the Consolidated Fund of India.

3. It is estimated that no other expenditure, both recurring or non-recurring nature from the Consolidated Fund of India, would be involved.

ANNEXURE

EXTRACTS FROM THE ELECTRICITY ACT, 2003

(36 OF 2003)

	*	*	*	*	*
Obligations to supply electricity to rural areas		6.	The Appropriate Government shall endeavour to supply electricity to all areas including villages and hamlets.		
	*	*	*	*	*
Central Transmission Utility and functions		38.	(1) * * * * *		
		(2)	The functions of the Central Transmission Utility shall be—		
	*	*	*	*	*
		(d)	to provide non-discriminatory open access to its transmission system for use by--		
		(i)	any licensee or generating company on payment of the transmission charges, or		
		(ii)	any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the Central Commission:		
			Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:		
			Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the Central Commission:		
			Provided also that such surcharge may be levied till such time the cross subsidies are not eliminated.		
			Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Central Commission:		
			Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.		
State Transmission Utility and functions		39.	(1) * * * * *		
		(2)	The functions of the State Transmission Utility shall be ---		
	*	*	*	*	*
		(d)	to provide non-discriminatory open access to its transmission system for use by --		
		(i)	any licensee or generating company on payment of the transmission charges; or		
		(ii)	any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:		
			Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:		

Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the State Commission:

Provided also that such surcharge may be levied till such time the cross subsidies are not eliminated:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

49. It shall be the duty of a transmission licensee:-

Duties of transmission licensee

(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra State transmission system, as the case may be;

(b) to comply with the directions of the Central Load Despatch Centre and the State Load Despatch Centre, as the case may be;

(c) to provide non-discriminatory operation of its transmission system for use by:-

(i) any licensee generating, commissioning or operating the transmission charges; or

(ii) any licensee and other such operator as provided by the State Commission under sub-section (2) of section 49, on payment of the transmission charges and a surcharge thereon as may be specified by the State Commission:

Provided that such surcharge shall be utilized for the purpose of meeting the requirement of current level cross-subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the Appropriate Commission:

Provided also that such surcharge may be levied till such time the cross subsidies are not eliminated:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:

Provided also that such surcharge shall not be levied in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

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PART VI

DISTRIBUTION OF ELECTRICITY

Provisions with respect to distribution licensee

47. (1) * * * * *

Duties of distribution licensee and open access

(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies and other operational constraints) as may be specified within one year of its appointment by it and in specifying the extent of open access in successive phases and in determining the charges for opening, it shall have due regard to all relevant factors including such cross subsidies and other operational constraints:

Provided that such open access may be allowed before the cross subsidies are eliminated on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross-subsidy within the area of supply of the distribution licensee:

Provided also that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the State Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:

Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

36 of 2003.

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PART VII

TARIFF

Tariff regulations.

61. The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:—

* * * * *

(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces and eliminates cross subsidies within the period to be specified by the Appropriate Commission;

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Cognizance of offences

151. No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by Appropriate Government or Appropriate Commission or any of their officer authorised by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose.

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Directions by State Government.

176. (1) * * * * *
(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

* * * * *

(b) the additional requirements (including the capital adequacy, credit worthiness or code of conduct) under sixth proviso to section 14;

* * * * *

Powers of Authority to make regulations.

178. (1) * * * * *
(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely: —

* * * * *

(k) reduction and elimination of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 38;

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(m) reduction and elimination of surcharge and cross subsidies under the second proviso to sub-clause (ii) of clause (c) of section 40;

* * * * *

(r) the period within which the cross subsidies shall be reduced and eliminated under clause (g) of section 61;

* * * * *

181. (1) *

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(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely:—

Powers of Central Commission to make regulations.

* * * * *

(j) reduction and elimination of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 39;

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(m) reduction and elimination of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (c) of section 40;

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(p) reduction and elimination of surcharge and cross subsidies under the third proviso to sub-section (2) of section 42;

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(zc) the terms and conditions for the determination of tariff under section 61;

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LOK SABHA

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furthel to amend the Electricity Act, 2003.

*(Shri Priyaranjan Dasgupta, Minister of Information and Broadcasting and
Parliamentary Affairs)*

MGIPMRND—4801LS(S3)—22-12-2005.