

A jolt to national energy security

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Finance Minister **Nirmala Sitharaman's proposal for reform of power tariff policy** — **announced as part of the stimulus package** following the pandemic — is of a piece with the recent comprehensive proposal to amend the Electricity Act 2003; put together, they erode the concurrent status accorded to electricity in the Constitution. If implemented, they will not only weaken the control of States over an industry supplying a basic human necessity such as electricity but also arm the Centre with a pincer-like weapon which could choke the distribution utilities/companies (DISCOM) and jeopardise the country's energy security.

DISCOM troubles

These proposals have to be seen in the context of a continuing centralisation of control over the sector whose main impact in the last 25 years has been to drive up the cost of power purchase to 80% of the total costs of State DISCOMs. At the core of DISCOM woes is the two-part tariff policy, mandated by the Ministry of Power in the 1990s at the behest of the World Bank. As more private developers came forward to invest in generation, DISCOMs were required to sign long-term power purchase agreements (PPA), committing to pay a fixed cost to the power generator, irrespective of whether the State draws the power or not, and a variable charge for fuel when it does.

Tranche 1: Business including MSMEs (May 13, 2020)

The PPAs signed by DISCOMs were based on over-optimistic projection of power demand estimated by the Central Electricity Authority (CEA), a central agency. The 18th Electric Power Survey (EPS) overestimated peak electricity demand for 2019-2020 by 70 GW. The 19th EPS published in 2017, by 25 GW, both pre-Covid 19. In the event, DISCOMs locked into long-term contracts end up servicing perpetual fixed costs for power not drawn. NTPC Limited's Kudgi, in Karnataka, alone received ₹4,800 crore as idle fixed costs during 2018-19, operating at a plant load factor of only 22%. Due to the CEA's overestimates, the all-India plant load factor of coal power plants is at an abysmal 56% even before COVID-19.

Factor of renewable energy

From 2010, solar and wind power plants were declared as "must-run", requiring DISCOMs to absorb all renewable power as long as there was sun or wind, in excess of mandatory renewable purchase obligations. This means backing down thermal generation to accommodate all available green power, entailing further idle fixed costs payable on account of two-part tariff PPAs.

Second, power demand peaks after sunset. In the absence of viable storage, every megawatt of renewable power requires twice as much spinning reserves to keep lights on after sunset. DISCOMs, especially in the southern region, have had to integrate large volumes of infirm power, mostly from solar and wind energy plants which enjoy must-run status irrespective of their high tariffs (₹5/kwh in Karnataka and ₹6/kwh in Tamil Nadu for solar power) even as the demand growth envisaged in the 18th EPS failed to materialise.

Tranche 2: Poor, including migrants and farmers (May 14, 2020)

Third, in 2015 the Centre announced an ambitious target of 175 gigawatts of renewable power by 2022, offering a slew of concessions to renewable energy developers, and aggravating the burden of DISCOMs. Incidentally, China benefited by as much as \$13 billion in the last five years from India's solar panel imports.

The fine print

It is against this backdrop that we must examine the proposals in the Electricity Act 2020.

First, the amendment proposes sub-franchisees, presumably private, in an attempt to usher in markets through the back door. Going by past privatisation experiments, private sub-franchisees are likely to cherry-pick the more profitable segments of the DISCOM's jurisdiction. The Electricity Bill 2020 containing the proposed amendments is silent on whether a private sub-franchisee would be required to buy the expensive power (averaging out the idle fixed costs) from the DISCOM or procure cheaper power directly from power exchanges. If it is the first, the gains from the move are doubtful since the room for efficiency improvements is rather restricted in the already profitable regions attractive to sub-franchisees. If it is the second, DISCOMs will then be saddled with costly power purchase from locked-in PPAs and fewer profitable areas from which to recover it.

Tranche 3: Agriculture (May 15, 2020)

Second, the amendment proposes even greater concessions to renewable power developers, with its cascading impact on idling fixed charges, impacting the viability of DISCOMs even more.

Third, and the most controversial amendment proposed, seeks to eliminate in one stroke, the cross-subsidies in retail power tariff. This means each consumer category would be charged what it costs to service that category. Rural consumers requiring long lines and numerous step-down transformers and the attendant higher line losses will pay the steepest tariffs. Disingenuously, the proposed amendments envisage that State governments will directly subsidise whichever category they want to, through direct benefit transfers. Cross-subsidy is a fact of life in even private industries, soap, newspapers, or even utilities such as telecom. There is undoubtedly a case for reducing the steep cross-subsidies in electricity. But eliminating them in one stroke when State governments are already struggling with direct power subsidies is bound to be ruinous

to their finances, not to mention the myriad problems with Direct Benefit Transfer. Without going into the political arguments relating to subsidies, and the impact of COVID-19 which has not been factored in, this proposal is practically infeasible; if forcibly implemented, it will lead to chaos.

Tranche 4: New horizons of growth (May 16, 2020)

Fourth, State regulators will henceforth be appointed by a central selection committee, the composition of which inspires little confidence in its objectivity, jeopardising not only regulatory autonomy and independence but also the concurrent status of the electricity sector.

Finally, the last claw in this multipronged pincer is the establishment of a centralised Electricity Contract Enforcement Authority whose members and chairman will again be selected by the same selection committee referred to above. The power to adjudicate upon disputes relating to contracts will be taken away from State Electricity Regulatory Commissions and vested in this new authority, ostensibly to protect and foster the sanctity of contracts. This is to ensure that States saddled with high-priced PPAs and idling fixed costs, yet forced to keep increasing the share of renewables in their basket, have no room for manoeuvre.

Tranche 5: Government reforms and enablers (May 17, 2020)

When the country is reeling under the economic impact of the novel coronavirus crisis, the Electricity Bill 2020 is indeed a disingenuous document drafted to shift the burden imposed by the short-sighted policies of the Centre onto hapless States, with serious consequences for the nation's energy security.

Sudha Mahalingam, Tejal Kanitkar and R. Srikanth are, respectively, Raja Ramanna Chair Professor, Associate Professor and Dean in the Energy and Environment Program at the National Institute of Advanced Studies, Bengaluru