

What consumers need to understand about Electricity reforms of the Govt. of India – Electricity Bill 2021.

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April, 2021

What is the ideology of the Modi Government?

The policy of the Government headed by Shri Narendra Modi is based on the following principles.

- i) The entire infrastructure needs to be privatised. Telecom, Civil Aviation, Railways, banking, insurance or power sector etc.
- ii) Laws need to be changed to attract capital, particularly foreign capital. Foreign capital (invested directly or through an Indian intermediary) or foreign ownership of basic infrastructure and minerals does not compromise either political or economic independence.
- iii) There is no need to consult anybody including the Parliament. Bills need not even be referred to a select committee of Parliament. Numerical majority of BJP, in Lok Sabha is sufficient to radically change laws (Rajya Sabha can be “managed”)
- iv) Even consult the state Governments need not be consulted either in respect of state subjects (like the farm laws or concurrent subjects like electricity) In response to an RTI, the J&K and Himachal Pradesh Govts. stated that they have not even been given a copy of the proposed Electricity Bill 2021.

Starting in 2014, the Govt. of India has relentlessly been trying to bring legislative changes in electricity. Every effort was strongly opposed not only by Trade Unions and Engineers but also by State Governments. Finally, the Govt. of India has decided to amend the Electricity Act 2003 and introduce it as the Electricity Bill 2021. This deceptive method gives an impression that the exercise is merely for making a few changes, when in fact the changes bring about structural changes in the electricity supply industry.

Specifically, in the Private Sector what does the Modi Government want to do?

The Modi Government wants to force the State Governments to privatise the DISCOMS on the following the terms and conditions:

- **Employees of the existing distribution licensee shall be transferred to the successor entity.**

Transferring the employees as if they were cattle to be moved from one owner to another. In BCPP Mazdoor Sangh & Anr, that involved NTPC employees being transferred to the privatised BALCO, the Hon'ble Supreme Court held: *“It is clear that no employee could be transferred without his consent from one employer to another. The Government or its instrumentality cannot alter the conditions of service of its employee.”* Clearly this provision is illegal.

- **Assets of the existing distribution licensee, other than land, will be transferred to the new entity at Net Asset Value.**

This again is illegal. Electricity Act 2003, section 131 (2) it is stipulated. *“Provided that the transfers value of any assets transferred hereunder shall be determined, as far as may be based on the revenue potential of such assets...”*

- **Land owned or in possession of the existing distribution licensee shall be provided to the successor entity on a right to use basis at nominal charges.**

Govt. of India want land of the DISCOMS to be leased in perpetuity on at nominal value (say Re. 1 per year)

- **The successor entity shall be provided with a clean balance sheet free of accumulated losses/ unserviceable liability.**

The accumulated and combined losses of the DISCOMS run into lakhs of rupees. These are be written off and the new owners given only assets with no losses. If a similar write off is done for DISCOMS, they would become profitable even today. Who will pay for the write off? You and I, as citizens, will pay.

In 1991, private Independent power plants IPPs were allowed, State governments signed long term power purchase agreement (PPA). These agreements required payment to be made in two parts – fixed to be paid even

if a single unit of power is not purchased and variable to be paid on the basis of power purchased.. States have to pay for power that has not been purchased or consumed. The amounts paid, without consuming a single unit, runs into thousands of Crores. For example, for the last few years, Madhya Pradesh alone pays on an average about Rs. 5000 Crores annually. Similarly, for solar power, as per the PPA, Gujarat has to pay Rs. 15 per unit for 25 years even though, today, solar power is available for Rs. 2.2 per unit.

What has been the experience of privatisation across the World?

The Electricity Bill 2021 makes the following amendment to the Electricity Act 2003:

“distribution company” means a company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, registered under section 24B”

“Provided also that a distribution company may propose to undertake distribution of electricity for a specified area through another person and such person shall not be required to register separately”

This means that not only can any group of individuals become a DISCOM, but they can have sub-licensees or Franchisees who do not even have to be registered.

Experience of privatisation in various countries is briefly given below:

- i) **Higher energy bills:** In Uganda, Ghana, Nicaragua and other countries corporations have increased electricity bills after taking control of state DISCOMS. In the UK, energy prices have risen eight times faster than average earnings since 2010.
- ii) **Disconnections:** Private energy companies impose pre-payment meters on households. Then, if a family cannot afford to pay for their electricity, they are automatically disconnected. This has happened from Uganda to the UK. There were even riots in South Africa.
- iii) **Corruption breeds, accountability diminishes:** Privatisation contracts can be linked to poor transparency and weak accountability. In Nigeria, the adviser of President Jonathan who is overseeing privatisation, has a commercial interest in one of the companies which will be selling electricity to the grid. Transparency International has rated the privatised Ugandan energy company one of the most corrupt institutions in Uganda. Several such examples can be quoted.
- iv) **Private financing costs more:** Unlike public financing, loans to companies have higher interest rates. These higher rates are passed on to users who then have to pay more for repairs, upgrades and other maintenance. In India private power companies' default in bank payments in lakhs of Crores. The Banks then write off these unpaid loans with your and my money.
- v) **Jobs are lost:** Energy privatisation is associated with job losses and poorer conditions for staff. In the Philippines, unions recently won back-pay or reinstatement for 5,000 workers who were illegally dismissed when the national energy company was privatised.
- vi) **Being taken back into Public ownership:** In Germany, cities are taking their electricity systems back into public ownership because of the failure of private suppliers. The Dominican Republic renationalised its electricity distribution companies five years after privatisation following protests over high prices. In Brazil, the regulator had to take over privately owned distribution companies when the power supply in five states was threatened by the danger of the owner going bankrupt. Re-nationalisation has taken place even in Bolivia, Argentina, Venezuela.
- vii) **Conclusion of World Bank study of reforms in England and Wales:** *“The ultimate aims of the U.K. reforms were to remove the sector from government funding and increased efficiency of private sector operation and the pressure of competition, The first objective has been accomplished, but the second objective has yet to be convincingly achieved”*

In India, twice re-nationalisation has taken place in Orissa. Experience with privatisation of distribution has so far been a total failure. In almost all the cities where privatisation was attempted - Gaya, Samastipur and Bhagalpur in Bihar; Kanpur in Uttar Pradesh; Gwalior, Sagar and Ujjain in Madhya Pradesh; Nagpur, Aurangabad and Jalgaon In Maharashtra, Ranchi and Jamshedpur in Jharkhand.

The Modi Government wants the consumers to ignore all the above evidence and blindly agree to their claim that delicensing the electricity distribution sector will induce competition and empower consumers to switch suppliers.

How should farmers be charged for electricity?

For cultivation, the farmer wants water not electricity? For example, if we assume that the yield of wheat is 2.5 tons per ha, water required for producing one ton is 2 million litres. There are two ways a farmer can get water – 1. from an irrigation canal or 2. from ground water. In 1965, Dr. K.L. Rao wrote “It is impractical to expect the farmer to pay the full cost of electricity. In any case, how is the cost of electricity supplied to the tube wells be computed? There is no understandable reason, for not subsidizing irrigation from underground water. Surface water is being highly subsidised. What is recovered, as water charges, amounts only to half or less of interest on investment”

Is it not injustice, if the cost of water under the two systems is not equal? The farmer’s demand should be **“I will pay for electricity at rates that would equalise the cost of water under both the systems of irrigation – canal (including lift irrigation) and farmer owned borewell irrigation”**

Is there a need for meters?

As explained above, if you pay for water and not electricity, where is the need for meters? There are many ways of determining what and how much has been grown. This could be from tax assessment or from satellite images etc. If what and how much is grown is known, then how much water is used can be calculated. And based on that how much power has been consumed can be estimated quite accurately. Besides that, to install a meter costs at least Rs. 10,000. In addition, there would be the cost of billing. The investment would be huge, considering that there are lakhs of borewells. Would it not be better to invest these scarce resources on improving the distribution system and thereby saving on electrical line losses.

Why the insistence on metering?

During the privatisation of Delhi Vidyut Board, an ingenious index was invented, called the Aggregate Technical and Commercial losses (AT&C losses). (Technical loss occurs due to resistance in the flow of electrons and are therefore determined by the laws of physics. On the other hand, commercial losses are governed by the laws relating to criminality - theft, collection efficiency hampered by corruption and political interference etc.) Except India, no country uses this index. There is no reference to such an index in any standard text book related to power sector engineering, economics or management.

Instead of getting a commitment of how much investment would be made to reduce the technical losses, privatisation is done on the basis of commitment to targets to reduce the AT&T losses, with penalties if they do not meet the target. So, if the private companies can improve on the commercial losses, then the AT&C target can be met without of making investments to reduce technical losses.

If instead of free electricity given to the farmer, the farmer is made to pay the full cost (and subsidy is provided by Direct Cash Transfer), overnight the collection will increase and commercial losses will reduce. This will benefit the private power companies by achieving AT&C loss target. Surreptitiously enables the private company to escape the obligation to invest in T&D assets.

Would domestic consumers gain from “competition”?

As far as big consumers are concerned, they are already a provision for competition called open access. That means, if a big industrial unit located in Punjab, can bargain electricity cheaper from a source in Tamilnadu, it can buy the cheaper power by paying the cost of transmitting the power from Tamilnadu to Punjab. The so-called competition is for small power consumers, like domestic consumers. Assume that there are three suppliers of power in your locality (like the mobile companies) and you and your two neighbours chose different suppliers. Would there be three sets of distribution lines from the transformer to your and your neighbour’s houses. No. There would be only one wire, but different metering. A World Bank study of power Sector reforms in England and Wales says “*Introducing retail competition in this segment of the market appears difficult. Metering is expensive, and the cost may not be worth it below 75 kW*”. Most domestic consumers and small shop keepers would have from 2 to 10 kW sanctioned loads. The promise of competition is just a slogan to justify privatisation.

Privatising Profits and nationalising losses

The Electricity Bill 2021 provides”

Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any registration for such generation and distribution of electricity.

This provision creates a distinction between urban and rural areas and effectively privatises the profitable areas urban concentrated load and loss making rural distributed load. Also there would be no security of service since the power distributors in rural areas need not be registered.