

The Electricity (Amendment) Act, June 2007

July 2007

Highlights

- The term 'elimination' has been omitted in relation to cross-subsidies.
- Captive units will not require a licence to supply power to any user.
- Strict action against unauthorised usage of power.
- Power theft has been recognised as a criminal offence, punishable under Section 173 of the Code of Criminal Procedure, 1973.

Contact details

Client Servicing: (clientservicing@crisil.com) 022-66913561

*This is a Product of **CRISIL Research & Information Services Ltd., (CRIS)**, a wholly-owned subsidiary of **CRISIL Limited**. **CRIS** has taken due care and caution in developing this Product based on the information in the public domain but its adequacy or accuracy or completeness is not guaranteed. **CRIS** operates independently of, and does not have access to information obtained by **CRISIL Limited's Ratings Division**, which may have in its regular operations obtained information of a confidential nature. The views of **CRIS** expressed herein cannot be compared with the rating assigned or outlook developed on the same Company by the Ratings Division or any other Division or Subsidiary of **CRISIL Limited**. The views expressed herein do not constitute the opinion of **CRIS** on the timely payment of interest and principal on debt instruments, nor is it a recommendation to purchase, sell or hold an instrument. **CRIS** is not responsible for any errors or omissions in the financial analysis/inferences/views or for the results obtained from the use of the Product. **CRIS** especially states that **CRIS/CRISIL Limited** has no financial liability whatsoever to the subscribers/users/transmitters/distributors of this Product. This Product is for the information of the subscriber only and no part of this Product may be published/reproduced in any form without prior written permission of **CRIS**.*

The Electricity (Amendment) Act, June 2007

In May 2007, the government passed the Electricity (Amendment) Bill, 2007 recommending amendments to the Electricity Act (EA), 2003. Subsequent to this, it passed the Electricity (Amendment) Act in June 2007. Certain sections of the EA 2003 were amended, after considering views of the affected parties. The amendments broadly relate to:

- The term ‘elimination’ has been omitted in relation to cross-subsidies.
- Captive units will not require a licence to supply power to any user.
- Strict action against unauthorised usage of power.
- Power theft has been recognised as a criminal offence, punishable under Section 173 of the Code of Criminal Procedure, 1973.

The government has omitted the term ‘eliminated’ in the context of cross-subsidies. (Earlier, the Act stated that ‘the cross-subsidy surcharge and cross subsidies shall be progressively reduced and eliminated’.) In the earlier Tariff Policy of January 2006, the government suggested that by the end of 2010-11, tariffs should be +/- 20 per cent of the cost of supply, in conjunction to the EA, which envisaged a complete elimination of cross-subsidies. For this, the policy suggested that State Electricity Regulatory Commissions (SERCs) prepare a road map to achieve this target. However, the amendment suggests that cross-subsidies would be reduced gradually, and not completely eliminated, as per the earlier provision of ‘elimination of cross-subsidy’. Hence, the amendment is likely to make states more lenient in setting targets for cross-subsidy reduction. Consequently, this may act as a setback to the reformation process, as elimination of cross-subsidies is an important pre-requisite for tariff rationalisation and improving the financials of state utilities.

The amendment specifies a gradual reduction of cross-subsidy, and does not stipulate a strict timeframe or set targets (except reduction of cross-subsidies to +/- 20 per cent of the cost of supply by 2011) for reducing the same. Going forward, the respective State Regulatory Commissions will have to set the targets and timeframes. In the past, most states have missed deadlines with respect to unbundling, open access implementation, multi-year tariffs, intra-state availability based tariffs (ABT), etc. Therefore, in such a scenario, the omission of a strict measure like ‘elimination of cross-subsidies’ will only ensure continued slow pace of reforms.

Hence, CRISIL Research expects this amendment to have a moderately negative impact on the power sector.

The Amendment Act has added a provision to Section 9, which discusses captive generation. The new provision of the Act states that licences will not be required to supply electricity generated from captive generating plants to any licensee. Further, the amendment seeks to clarify ambiguity regarding a captive plant being a deemed generator that can sell electricity directly to a distribution licensee or a consumer (as a generator). However, charges related to open access and cross-subsidy would still be applicable to a captive generator, in the event where electricity is sold to a consumer directly as defined under Section 42 (2).

Amendments related to penalties for unauthorised usage of power and recognition of power theft as an offence punishable under Section 173 of the Code of Criminal Procedure, 1973, are to ensure strict action against power theft. These amendments would simplify the process of identifying those consumers stealing power, as well as increase the assessment amount, which would help curb losses in the system. This is expected to further strengthen the drive by respective state utilities to eliminate power theft and improve operational efficiencies. The country faces T&D losses of around 30 per cent, which implies that one-third of the power is lost due to theft, pilferage and technical inefficiencies. In fact, a large part of the power lost is through theft and unaccounted agricultural consumption. Therefore, focused efforts towards eliminating theft of power can help reduce distribution losses substantially.