

പതിമൂന്നാം കേരള നിയമസഭ
പതിനാലാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നമിടാത്ത ചോദ്യം : 350

29. 06. 2015 ൽ മറുപടിക്ക്

വൈദ്യുതി ഭേദഗതി ബിൽ

ചോദ്യം

ഉത്തരം

ശ്രീ. എ. കെ. ബാലൻ

ശ്രീ. ആര്യാടൻ മുഹമ്മദ്
(ഊർജ്ജ വകുപ്പ് മന്ത്രി)

<p>(എ) കേന്ദ്ര സർക്കാരിന്റെ വൈദ്യുതി ഭേദഗതി ബിൽ ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ടോ; എങ്കിൽ ബില്ലിലെ വ്യവസ്ഥകളോട് യോജിക്കുന്നുണ്ടോ; ഇല്ലെങ്കിൽ അക്കാര്യം കേന്ദ്ര സർക്കാരിനെ അറിയിച്ചിട്ടുണ്ടോ;</p> <p>(ബി) ബില്ലിലെ ഏതെല്ലാം വ്യവസ്ഥകൾ കെ. എസ്. ഇ. ബി യെ പ്രതികൂലമായി ബാധിക്കും, ഈ പ്രതിസന്ധി തരണം ചെയ്യാൻ എന്ത് നടപടിയാണ് സ്വീകരിക്കുന്നതെന്ന് വിശദമാക്കുമോ?</p>	<p>(എ)&(ബി) ഇലക്ട്രിസിറ്റി ആക്ട്, 2003 ഭേദഗതി ചെയ്യുന്നതിനുള്ള നിർദ്ദേശങ്ങളടങ്ങിയ വൈദ്യുതി ഭേദഗതി കരട് ബിൽ, 2013 ഒക്ടോബർ 17-ാം തീയതി കേന്ദ്ര ഗവൺമെന്റ് പ്രസിദ്ധീകരിച്ചിട്ടുണ്ട്. കരട് വിജ്ഞാപനത്തിന്റെ പ്രധാന നിർദ്ദേശങ്ങൾ താഴെ പറയുന്നവയാണ്.</p> <p>(1) വൈദ്യുതി വിതരണ മേഖല വിഭജിച്ച്, വിതരണ ലൈനുകളുടെ ചുമതലയുള്ള വിതരണ കമ്പനിയും, വൈദ്യുതി വാങ്ങി വിതരണ കമ്പനിയുടെ ലൈനുകൾ ഉപയോഗിച്ച് വൈദ്യുതി വിൽപ്പന നടത്തുന്ന സപ്ലൈ ലൈസൻസിയും രൂപം കൊള്ളണമെന്ന് ടി കരട് ബിൽ നിർദ്ദേശിക്കുന്നു.</p> <p>(2) വൈദ്യുതി വാങ്ങി വിൽപ്പന നടത്തുന്നതിന് ഓരോ പ്രദേശത്തും ഒന്നിലധികം സപ്ലൈ കമ്പനികൾ ഉണ്ടാകുമെന്നും ടി കരട് ബിൽ പ്രതിപാദിക്കുന്നു.</p> <p>(3) ഉപഭോക്താക്കൾക്ക് ഇഷ്ടമുള്ള സപ്ലൈ കമ്പനികളിൽ നിന്നും വൈദ്യുതി വാങ്ങാൻ അവസരം നൽകുമെന്നും, ഇത് മത്സരം സൃഷ്ടിക്കാനും മെച്ചപ്പെട്ട സേവനം നൽകാനും അവസരം ഒരുക്കുമെന്നും ടി ബിൽ നിർദ്ദേശിക്കുന്നു.</p> <p>(4) കേന്ദ്ര ഗവൺമെന്റ് കാലാകാലങ്ങളിൽ പുറപ്പെടുവിക്കുന്ന ദേശീയ ഇലക്ട്രിസിറ്റി പോളിസി, ദേശീയ താരിഫ് പോളിസി എന്നിവ കേന്ദ്ര വൈദ്യുതി റെഗുലേറ്ററി</p>
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കമ്മീഷൻ, സംസ്ഥാന വൈദ്യുതി റെഗുലേറ്ററി കമ്മീഷൻ, സംസ്ഥാന ഗവൺമെന്റുകൾ, വൈദ്യുതി ഉത്പാദകർ മറ്റ് എല്ലാ ലൈസൻസികൾ എന്നിവർക്ക് നിർബന്ധമാക്കിയിട്ടുണ്ട്.

(5) റിന്യൂവബിൾ എനർജി ഉത്പാദകരിൽ നിന്നുള്ള ഉത്പാദനം പ്രോത്സാഹിപ്പിക്കുന്നതിനും ടി കരട് വിജ്ഞാപനം നിർദ്ദേശിക്കുന്നു.

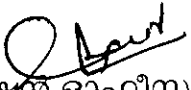
ടി കരട് ബില്ലിലെ ചില ഭേദഗതികൾ സംസ്ഥാന വൈദ്യുതി ബോർഡിനും സംസ്ഥാനത്തിലെ ജനങ്ങൾക്കും ദോഷകരമാണെന്ന് വൈദ്യുതി ബോർഡ് വിലയിരുത്തിയിട്ടുണ്ട്. ടി കരട് വിജ്ഞാപനത്തിന്മേലുള്ള കേരള സംസ്ഥാന വൈദ്യുതി ബോർഡിന്റെ അഭിപ്രായം കേന്ദ്ര ഗവൺമെന്റിനെ അറിയിച്ചിട്ടുണ്ട്. ഇതിന്റെ ഭാഗമായി അനുബന്ധമായി വെച്ചിട്ടുണ്ട്.

കരട് ബില്ലിലെ നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കുകയാണെങ്കിൽ ടി വിജ്ഞാപനം വരുന്ന മൂന്ന് വർഷത്തിനുള്ളിൽ വിതരണ ലൈസൻസികളിൽ നിന്ന് സപ്ലൈ ആക്ടിവിറ്റി മാറ്റേണ്ടതും വിതരണ ലൈസൻസികളുടെ ഉത്തരവാദിത്വം വൈദ്യുതി ശൃംഖലകൾ ഉണ്ടാക്കുന്നതിലും അവയുടെ അറ്റകുറ്റപ്പണികൾ നടത്തുന്നതിലും മാത്രമായി മാറ്റുന്നതാണ്. കൂടാതെ, ഇത്തരം വൈദ്യുതി ശൃംഖലകളിൽ കൂടി സപ്ലൈ ലൈസൻസികൾക്ക് വൈദ്യുതി കടത്തി ഉപഭോക്താവിന് വിൽക്കുന്നതിന് അനുവാദം നൽകേണ്ടതാണ്.

വൈദ്യുതി ഉപഭോക്താവിന് എത്തിക്കുന്നതിനുള്ള പരിപൂർണ്ണ ഉത്തരവാദിത്വം സപ്ലൈ ലൈസൻസികളിൽ മാത്രം നിക്ഷിപ്തമാവുകയും ചെയ്യും. എന്നാൽ ഏതെങ്കിലും വിഭാഗം ഉപഭോക്താക്കൾക്ക് വൈദ്യുതി നൽകുന്നതിന് സപ്ലൈ ലൈസൻസികൾ വരാത്തപക്ഷം ഡിസ്ട്രിബ്യൂഷൻ ലൈസൻസികൾ തന്നെയായിരിക്കും അവരുടെ ഇൻക്യൂബൻ്റ് സപ്ലൈ ലൈസൻസി അഥവാ ഡിസ്ട്രിബ്യൂഷൻ ലൈസൻസികളായിരിക്കും ആ വിഭാഗം ഉപഭോക്താക്കൾക്ക് സപ്ലൈ നൽകുന്നതിന് ബാധ്യതപ്പെട്ടിരിക്കുന്നത്.

സംസ്ഥാനത്ത് വൈദ്യുതി ഉപയോഗത്തിന്റെ

	<p>50% തോളം ഉപയോഗം ഗാർഹിക ഉപഭോക്താക്കളാണ്. ഈ ഉപഭോക്താക്കൾക്ക് താരതമ്യേന കുറഞ്ഞ നിരക്കിൽ വൈദ്യുതി നൽകി വരുന്നു. ഇത്തരം കുറഞ്ഞ വൈദ്യുതി നിരക്ക് ഒരു പരിധിവരെ നിലവിൽ കോമ്പൻസേറ്റ് ചെയ്യുന്നത് വാണിജ്യ ഉപഭോക്താക്കളിൽ നിന്നുള്ള ക്രോസ് സബ്സിഡി മുഖേനയാണ്. ഈ കാരണത്താൽതന്നെ ഏതെങ്കിലും പ്രത്യേക ഉപഭോക്താക്കൾക്ക് മാത്രം സപ്ലൈ ലൈസൻസികൾ അനുവദിക്കുന്നതും ക്രോസ് സബ്സിഡി എടുത്ത് കളയുന്നതും കെ.എസ്.ഇ.ബി.യെ പ്രതികൂലമായി ബാധിക്കും. കൂടാതെ, കാലാകാലങ്ങളായി പൊതുജനനാവ് ഉപയോഗിച്ച് വിപുലപ്പെടുത്തിയിട്ടുള്ള വൈദ്യുതി വിതരണ ശൃംഖല ചില വിഭാഗം ഉപഭോക്താക്കൾക്ക് മാത്രമായി ലൈസൻസ് അനുവദിക്കുന്നതിനുള്ള അനൗചിത്യവും വിലയിരുത്തിയിട്ടുണ്ട്.</p> <p>ഈ കാരണത്താൽ വീശദമായ പഠനങ്ങൾക്ക് ശേഷവും സംസ്ഥാനത്തെ കുറഞ്ഞ നിരക്കിൽ വൈദ്യുതി ലഭിക്കുന്ന ഉപഭോക്താക്കളെ ബാധിക്കാത്ത തരത്തിലും സംസ്ഥാനത്തിന്റെ പ്രത്യേക സാമൂഹിക സാമ്പത്തിക സ്ഥിതി പരിഗണിച്ചും മാത്രമെ സംസ്ഥാനത്ത് ഈ കരട് നിർദ്ദേശങ്ങൾ അനുവദിക്കാവൂ എന്ന് കെ.എസ്.ഇ.ബി കേന്ദ്ര ഗവൺമെന്റിനെ അറിയിച്ചിട്ടുണ്ട്.</p> <p>വൈദ്യുതി, ഭരണഘടനയുടെ കൺകറന്റ് ലിസ്റ്റിൽപ്പെടുന്ന വിഷയമായതു കൊണ്ടു തന്നെ സംസ്ഥാന ഗവൺമെന്റ് സംസ്ഥാനത്തിന്റെ സാമൂഹിക സാമ്പത്തിക സ്ഥിതി പരിഗണിച്ച് മാത്രമേ ഈ വിഷയത്തിൽ ഉചിതമായ തീരുമാനമെടുക്കുകയുള്ളൂ.</p>
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 സെക്ഷൻ ഓഫീസർ

STIVASANKAR IAS
AIRMAN
KERALA STATE ELECTRICITY BOARD



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KSEB/TRAC/EA 2003 Amendment

26-11-2013

To

The Secretary,
Ministry of Power,
Government of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi.

Sir,

Sub: Proposed amendments in EA 2003 - comments - forwarding - reg
Ref: 1. No. 42/6/2011 - R&R (Vol-III); Gol, MoP, dated 17-10-2013

1. Kind attention is invited to the above wherein the Government has directed to submit comments on the proposed amendments to Electricity Act 2003. The proposed amendments have a far reaching impact on the way power sector operates in the country. It seeks to comprehensively redefine the Distribution function of the Electricity sector which has remained squarely in the domain of the State Governments and the enabling provision of state governments to define strategies based on the local specificities is substantially diluted. It also seeks to streamline the functioning of the regulatory commissions within the policy framework prescribed by the Government. The amendments have a focus in ensuring the financial soundness of the sector through timely revisions in tariff.
2. The power distribution sector in each State had evolved in its own unique manner and at present is at different stages of development. While Kerala has achieved 100% village electrification during late 1970's itself, the situation is different in many other States. The distribution of natural resources used for power generation is not even across the states and hence the cost of power within each State and consequently the level of cross subsidy required to be maintained differ from State to State. The following comments are offered keeping in mind these aspects as well as the flexibility provided under the federal structure of the Nation which empowers the national and state level governments to deal with such situations.
3. Kerala has a unique consumer pattern with the domestic consumer group constituting around 80% of the consumer base of KSEB and they consume about 50% of the electricity distributed within the State. Unlike in other parts of the country substantial portion of the consumption in the domestic sector is in the low income group. Households consuming around 1 to 3 units a day constitute around 75% of the domestic consumers. The consumption by this section needing tariff support comes to about 52% of consumption in the domestic category.

4. While the low end consumer segment has proliferated in the State, partly due to conservation efforts, the consumption in the heavy industry segment has stagnated due to a variety of reasons. The contribution from this sector is only 23% and thus the much needed base load of the power system is remaining at a narrow level. The unique consumption pattern in the State has resulted in a peculiar load curve with the summer evening peak demand recording more than double the off-peak monsoon demand, creating attendant problems including higher cost of delivered power.
5. Further, the tariff for the industrial segment has been retained at the level of average cost of supply and there is no significant cross subsidy support from this segment. The support for cross subsidy mainly comes from the commercial and services sector which is presently having a lower base but is growing. However, this small segment has to bear a significant burden of cross subsidy at present and can easily be cherry picked by subsequent supply licensees in the unique context of Kerala.
6. The lack of natural resources for power generation within the State has resulted in the use of higher quantum of imported fuels like Naptha, LSHS and now R-LNG which also jacks up power generation costs resulting in higher average cost of power delivered. The combined impact of low base of subsidising consumers, higher proportion of costly power and high proportion of low end domestic consumers call for a different approach in handling the cross subsidy content in tariff within the State.
7. The introduction of multiple Supply licensees who could cater to the specific needs of high end consumers in this unique situation could lead to cherry picking by new players leading to unintended adverse impacts on other segments of the society. The State Government which has to directly handle the issues of social needs and ensure equitable development of the society has to play a decisive role in such situations and the Constitution of the Nation adequately provides for the same by including Electricity as an item in the Concurrent list (List III of seventh Schedule). However, the proposed amendments leads to a situation where the authority of State Government on matters related with distribution and supply of electricity within the state is severely undermined and is in direct conflict with this provision in the Indian Constitution.
8. The measures suggested in the draft amendments to bring back overall supervision of the Central Government over the development of the inter-state generation, transmission and trading of power are welcome in this context. The restrictions proposed in invoking section 11 of the Act are also welcome.
9. At the same time, considering the Federal nature of governance enshrined in the Constitution, the powers to be exercised by the Governments needs to be appropriately shared among the State and Central governments. Thus while the National tariff policy, National electricity policy etc notified by GoI shall be binding on CERC on matters related to inter-state generation, transmission

and trading, the State Governments shall be similarly authorised to issue State Electricity policy applicable to each State which shall be binding on the state regulators on matters related to distribution and supply within the state as well as intra-state transmission and trading.

10. Thus a new section 2(a) may be inserted after section 2 as *"The State Governments shall, in consultation with the State Regulatory Commission and the State Transmission Utility, notify a State Electricity Policy for the optimum development of the resources for equitable Distribution and Supply of electricity within the State. Provided that the State Governments shall be guided by the National Electricity and Tariff Policy notified by the Central Government from time to time while framing the State Electricity Policy"*. Also the wording "appropriate governments" appearing in the proposed section 3(a) may be deleted. Similarly the word "appropriate" appearing before the word "Commission" may be replaced with the word "Central". Further, section 3(b) may be added after proposed section 3(a) as *"The State Electricity Policy notified by appropriate Governments shall be binding on the appropriate State Commissions"*.
11. The disintegration of distribution business into distribution and supply business at the current state of development of Indian power sector is too early and may lead to serious coordination issues as well as unintended cherry picking of subsidising consumer segments by subsequent supply licensees. This may lead to twin problems of bankruptcy of incumbent supply licensee and unbridled increase in market price for power. The direct subsidy burden of the state governments is also likely to go up in such a situation.
12. The introduction of supply licensees shall be only after ascertaining the state of readiness of the industry in each state. Thus the mandatory time limit of three years shall be removed. The separation of network and supply business were achieved in developed economies when the distribution network was in a fully developed state and the cross subsidies for bulk consumers were minimum or negative. When the distribution network in the country is underdeveloped there will be serious coordination issues among distribution licensees, supply licensees and consumers at every stage right from availing connection, enhancing contract volume for supply, supply quality etc. The cross subsidy pattern in the country is also different from that prevailing in developed economies. In India large bulk consumers like industries are bearing the burden of cross subsidy and small consumers who are large in number like domestic consumers are getting the benefit of cross subsidy. However in the developed economies the pattern is different with the bulk industries getting subsidised electricity to ensure their competitiveness and the domestic consumers bearing the burden of cross subsidy. The peculiar pattern of cross subsidy in India results in a small section of consumers consuming huge quantum of energy is paying at rates well above the average cost of supply and the same is mostly higher than the price discovered in the market. This pattern of cross subsidy can lead to large scale cherry picking by subsequent supply licensees and thus their entry has to be timed appropriately taking into consideration the prevailing level of cross subsidy in each state.

The present under-developed state of distribution network could create issues in supply side like (i) high distribution loss which has to be borne by the supply licensee as unnecessary power purchase cost (ii) low quality of supply like low voltage, supply interruptions etc leading to low revenue realisation (iii) overloading of lines which may necessitate shedding of loads of supply licensee (iv) low level of access, especially in rural areas leading to unmet demand. One of the identified chronic problems in Indian power sector is the high level of transmission and distribution loss and one of the major performance parameters prescribed now for distribution licensees is the loss reduction targets. If the distribution business is disintegrated without settling these problems it is likely to create anarchy in the whole value chain. The burden of additional power procurement due to high transmission and distribution losses will go unattended in the new arrangements.

Considering the twin issues of under developed distribution network and peculiar cross subsidy structure in Indian power sector, the segregation of distribution business and supply business in one go at this point of time is not advisable. The state governments may be given full freedom to decide the timing in consultation with the state regulatory commissions in a phased manner based on experience gained in each phase.

Thus 7th Proviso under section 14 dealing with issuing license to supply licensees shall be modified with by inserting the sentence "as and when the State Government allows multiple supply licensees in specified areas in such successive phases as specified in the State Electricity Policy and in respect of those applicants who were selected through a competitive process through an empowered agency of the State Government ..." after "Provided also that". Similarly the last proviso under the section proposed to be inserted in respect of intra-state traders, the wordings "deemed to be a supply licensee" shall be replaced with the wordings "shall become eligible through the competitive process for identification of supply licensee".

16. To avoid situations of unintended cherry picking by subsequent supply licensees, the words "take care" in first proviso to section 42(2) related to compensatory charge payable to incumbent supply licensee shall be modified as "fully meet" so as to ensure that the charge is adequate to offset the loss of cross subsidy support. The existing section 42(4) prescribing additional surcharge to meet the fixed cost of the incumbent licensee to meet the fixed cost of stranded generation and transmission assets contracted on long term basis to meet the obligation to supply shall be retained.

17. In order to ensure level playing field to all supply licensees, the onerous responsibility of service provider of the last resort may be removed from the shoulders of incumbent supply licensee. The responsibilities of all supply licensees shall be of similar nature. The wisdom in providing such a provision of 'supply licensee of last resort' unveils the realisation that the country as a whole is not yet mature for introduction of multiple supply licensees in one go. Thus the introduction of multiple supply licensees shall be done concomitantly along with separation of supply business from distribution business in phased manner based on maturity of the sector in each area. Once

the separation is achieved in an area, the responsibilities shall remain similar to all competing licensees.

Thus section 51 A (2) shall be reworded as "The Appropriate State Government shall, in consultation with the Appropriate Commission and the State Transmission Utility, provide for separation of distribution and supply of electricity in such successive phases and in accordance with the timeframes specified in the State Electricity Policy notified from time to time and for such purpose issue appropriate transfer scheme and vest the supply functions in a supply licensee as per section 131."

19. In order to ensure level playing field to all competing supply licensees, all the provisos to section 51 B (1) shall be deleted and under the 7th proviso to section 14 the wordings "having specified load profile" shall be deleted.
20. The subsequent supply licensees are getting an opportunity to access scarce infrastructure (transmission & distribution assets as well as its right of way) built by incumbent licensee. The access to such finite resource when allowed in a phased manner shall only be on a competitive basis, the floor price of which shall be prescribed by the state commission. The revenue generated out of this shall be used by the distribution licensee for extending the infrastructure to rural areas as well as for upgrading the system to global benchmarks to facilitate introduction of subsequent licensees in more areas. The State Electricity policy shall prescribe the framework for the introduction of supply licensees. Thus insertion of section 2(a) as suggested in paragraph 10 above is suggested.
21. The power market in the country created in the last decade is still in the nascent stage and the lessons learnt during this phase makes it clear that the market will take time to mature. The low level of liquidity in the market, higher volatility in prices, innumerable disputes propping up from concluded contracts all indicate the immature nature of the market. The Central Government as well the regulatory commissions are responding to the evolving nature of markets through frequent changes in bid documents, regulations etc. The new set of bid documents released by the Central Government is still untested. The situation being so, and India still facing significant power shortages as well as transmission capacity constraints, there is every likelihood of generators in certain regions making wind fall profits while others may be finding the going tough.
22. During the evolving phase of the market, the Regulatory Commissions shall be authorised to prescribe generic tariffs for generating stations using different technologies/fuel from time to time. When there is significant variations in the discovered prices from the generic tariff in Case 1 and Case 2 biddings for long term and medium term the regulatory commissions shall not allow such contracts. In the short term market segment when there is huge volatility due to shortage of generation or transmission capacity, the regulatory commissions shall be authorised to direct the generators to transfer such surplus revenue to a common fund like PSDF the utilisation of which shall be regulated by the appropriate commission.

3. Thus a proviso shall be added under section 63 "Provided that in case the tariff discovered through such bidding process varies significantly from the generic tariff notified by the appropriate commission from time to time for different technologies/fuel, the appropriate commission may direct the procurer to cancel the bid." The second proviso to the section 63 may be inserted as "Provided also that in case of short term procurement of power where the tariff discovered is having significant variation from the generic tariff notified by the appropriate commission from time to time for different technologies/fuel, the appropriate commission may direct the supplier to transfer the difference between such generic tariff and discovered tariff to a common fund created by the appropriate commission for development of the power system."
24. From 2002 onwards Kerala has been prompt in the matter of appointment of State Electricity Regulatory Commissions and thus changes proposed under section 85(1)(a) and insertion of section 85(5A) in the matter of appointment of state commissions is unwarranted and amounts to casting aspersions on the ability of State Governments in taking rational decisions.
25. To ensure level playing field among competing distribution licensees and ensure orderly development of the sector in accordance with the State Electricity Policy notified by the appropriate governments, the following changes are required under section 86. Under section 86(1)(b), the wording "incumbent" may be deleted. Under proposed section 86(1)(jb) add the words "in accordance with the State Electricity Policy", at the end of the sentence. Under section 86(4) insert the words "State Electricity Policy notified by appropriate state government" after the words "tariff policy".
26. Considering the above aspects, the changes in the proposed amendments as suggested above may kindly be taken into consideration while finalising the proposal.


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