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Advancing India's Power Sector: Analysis of the Electricity (Amendment) Rules, 2024

Introduction

The Ministry of Power ("**MoP**") has introduced the Electricity (Amendment) Rules, 2024 ("**Amendment Rules, 2024**") marking a notable transformation in the power sector. These rules are effective from January 11, 2024 and has brought about modifications to the existing Electricity Rules, 2005 ("**Rules, 2005**").

Incorporated within the Amendment Rules, 2024 are three new rules i.e., Rule 21, Rule 22, and Rule 23, with the former Rule 21 now changed as Rule 24. These amendments address various aspects of power generation, transmission, and open access charges.

Amendments

- Rule 21 - Establishment, operation and maintenance of dedicated transmission lines

Prior to the amendments, entities establishing transmission lines to connect to the grid required a license under the Electricity Act, 2003 ("Act"). This prerequisite often posed a barrier for independent power producers, captive power plants, and large consumers seeking to bypass the state transmission network and reduce transmission losses.

Amendment Rules, 2024 waives the obligation for generating companies, entities establishing captive generating plants, Energy Storage Systems, or consumers with load demands of at least twenty-five (25) Megawatts (for Inter-State Transmission System) and ten (10) Megawatts (for Intra-State Transmission System) to acquire a license under the Act. Nonetheless, adherence to regulations, technical standards, guidelines, and procedures outlined under the Act is obligatory. This change is a positive development as it encourages private investments in transmission infrastructure and fosters competition in the industry. Moreover, it facilitates the creation of a more decentralized and adaptable power grid.

- Rule 22 - Open Access Charges

Wheeling charges

Transporting electricity from a generating station to consumers involves the participation of several entities, including transmission licensees, distribution licensees and transmission utilities. These entities impose wheeling charges thereof. Open-access consumers who purchase electricity from any State are required to pay such wheeling charges to these entities. Sub-rule 1 of Rule 22 of the Amendment Rules, 2024 specifies a formula for calculating wheeling charges to standardize it across States, which is as follows:

$$\text{Wheeling Charge} = \frac{\text{Annual revenue requirement towards wheeling}}{\text{Energy wheeled during the year}}$$

- Rule 22 (2) Charges for using network of State Transmission Utilities –

Amendment Regulation, 2024 provides that, for consumers opting for short-term open access or temporary general network access, charges for using the State Transmission Utility network should not surpass one hundred ten percent (110%) of those imposed on long-term or general network access users.

- Rule 22 (3) Additional Surcharge

The extra surcharge imposed on open access consumers is restricted to the per-unit fixed cost of power purchase of the relevant distribution licensee. However, for those opting for General Network Access or Open Access, there will be a gradual reduction in the additional surcharge from the value at the time such access was granted, with the aim of eliminating it within four (4) years from the date when such access was granted. Further, the additional surcharge shall not be applied to the open access consumers to the extent of their contract demand with the distribution licensees.

- Rule 23: Gap between approved Annual Revenue Requirement and estimated annual revenue

According to section 62 of the Act, generation companies, transmission and distribution licensees are required to submit estimated revenue before the commission for tariff determination. The said estimation covers the costs related to their business (i.e., generation, transmission, and distribution). Rule 23 of the Amendment Rules, 2024 specifies that tariffs should reflect costs accurately and there should ideally be no gap between the annual aggregate revenue requirement and the estimated annual revenue from the approved tariff, except in cases of natural calamities. The Amendment Rules, 2024 also stipulate that the gap between the annual aggregate revenue requirement and the estimated annual revenue from the approved tariff should not exceed three percent (3%). Furthermore, this gap, along with carrying costs at the base rate of Late Payment Surcharge as specified in the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (“LPS Rules, 2022”), should be cleared in a maximum of three (3) equal yearly installments from the next financial year. Any existing gap between the approved annual aggregate revenue requirement and estimated annual revenue from the approved tariff at the time of these rules' notification, along with carrying costs at the base rate of LPS Rules, 2022, will be settled in a maximum of seven (7) equal yearly installments beginning from the following financial year.

Conclusion

The Amendment Rules, 2024 denotes a positive advancement in enhancing the flexibility and efficiency of the Indian power market. These amendments aim to encourage specialized transmission lines and streamline open access, fostering competition and potentially reducing electricity costs for consumers. Nonetheless, the sustained effectiveness of these initiatives hinges on their diligent execution and the establishment of transparency and accountability within the industry. Vigilant oversight and assessment are imperative to guarantee that the anticipated advantages of these reforms come to fruition in the long term.

SEBI's New Guidelines: Modernizing Alternative Investment Funds for Enhanced Market Integrity

Security Exchange Board of India ("**SEBI**") recently issued circulars outlining guidelines for Alternative Investment Funds ("**AIFs**") regarding the dematerialization of their investments and appointment of custodians. These guidelines are in consonance with the SEBI (AIFs) (Amendment) Regulations, 2024 ("**AIF Amendment Regulations**"), introduced on January 5, 2024, which requires AIFs to hold their investments in dematerialized form. Furthermore, AIF Regulations stipulate that the sponsor or manager of the AIF must appoint a custodian registered with SEBI for the safekeeping of securities.

Under the new framework introduced by SEBI, institutional investors must disclose their intention to short sell at the time of placing the order, while retail investors must make such disclosure by the end of the trading hour. These disclosures will be compiled by brokers and reported to the Stock Exchange on a scrip-by-scrip basis. The circular also includes the following:

(a) Short selling is prohibited in the Indian securities market, and all investors must fulfill their obligation to deliver securities during settlement;

(b) Institutional investors are not permitted to engage in day trading i.e., they cannot square off their transactions intraday;

(c) A scheme for Securities Lending and Borrowing ("**SLB**") will be established to facilitate short selling; and

(d) Securities traded in the Future and Options segment are eligible for short selling.

- **Holding investments of AIFs in dematerialized form**

Investments made by AIFs on or after October 1, 2024, must be held exclusively in dematerialized form. However, investments made by AIFs before October 1, 2024, are exempted from this requirement unless:

the investee company is legally obligated to dematerialize its securities, or
AIFs, either independently or in conjunction with other SEBI registered intermediaries/entities mandated to hold investments in dematerialized form, exert control over the investee company. In such cases, these investments must be dematerialized by AIFs on or before January 31, 2025.

- **Appointment of custodian for AIFs**

The AIF Amendment Regulations have extended the mandate of appointment of custodians to schemes of Category I and II AIFs with corpus less than or equal to INR 500 crores (previously only Category III AIFs and Category I and II AIFs with a corpus exceeding INR 500 crores were required to appoint a custodian). The sponsors or managers of AIFs shall be required to appoint a custodian prior to the date of first investment of the scheme. Further, custodians of AIFs that are associates of their manager or sponsor, can only act as a custodian under certain specified conditions set out under the AIF Amendment Regulations. Managers of AIFs are to ensure that these specified conditions are met on or before January 31, 2025.

- **Reporting of investments of AIFs under custody**

The Standard Setting Forum for AIFs ("**SFA**"), in collaboration with SEBI, will develop implementation standards for reporting AIFs' investment data held by custodians. These standards will outline the format and procedures for AIF managers to report data to custodians, and subsequently for custodians to report to SEBI. The standards will be published on the websites of industry associations within the SFA, including the Indian Venture and Alternate Capital Association, Indian Private Equity and Venture Capital Association and Trustee Association of India, within sixty (60) days of the circular's issuance.

CONCLUSION

SEBI's latest circular is a significant step towards modernizing India's Alternative Investment Funds. While it presents immediate challenges in terms of compliance and adaptation, the long-term benefits in terms of market integrity, investor protection, and alignment with global practices are substantial. This move is expected to strengthen the foundation of India's investment landscape, making it more attractive to both domestic and international investors. The guidelines, focusing on the dematerialization of AIF investments and the appointment of custodians, represent a significant shift towards enhancing the transparency and security of the investment environment in India.

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