Effectiveness of the Measures

Against Theft of Electricity in EA 2003

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1. Introduction

Developing Indian power sector is the most important, desirable and challenging task for the government. Huge investments are required in generation, transmission, distribution, port infrastructure, coal mining and sourcing alternate fuels. India has an Installed power capacity of 1,68,000 MW with T&D losses of around 29% meaning by only 1,19,000 MW can reach the end consumer at 100% overall PLF. The peak demand for the last quarter was 1,20,000 MW which led to the peak deficit of more than 12% because the PLF at which all plants run is much less than 100%.

This problem of peak deficit could be easily met if these T&D losses are not to the extent what they are at the present moment and in fact we would have electricity surplus. This loss of 29% led to a total loss of approximately 45,000 Crores in fiscal year 2009-10. With this amount we could plan to build two UMPP of 4000 MW capacity each in any given year which would further solve our problem of power not reaching to the rural areas of the country by strengthening and penetrating our transmission area for the evacuation of the extra power which we would have. Also, 1,00,000 Crore are invested in India for power support equipment which could be brought down by supplying reliable power to the consumers as it is the case in Mumbai.

Out of these T&D losses approximately 8-12% is due to technical reasons which are inevitable due to basic physics law while the other part is due to the commercial reasons such as theft, improper billing, unmetered losses and free power. In this also, the maximum loss is due to the theft of electricity at various levels right from small retail consumers, farmers to large industrial consumers. What power cannot be stolen is provided free of cost by government to the farmers. One unit of energy saved at the consumption level is much more valuable than one unit of energy produced at the generating station because that unit of energy at consumer has come after all the technical losses in the transmission and distribution lines. Various measures have been taken by the government to decrease the theft of power but a very less achievement is being made towards it. Power loss in 2001-02 was 32.86% and increased to 34.78% in 2003-04. In 2008-09, it stood at 28.44% but currently the figure is again 29%. It is as high as 51% in Jharkhand, 45% in Madhya Pradesh and 40% in Bihar.

Following sections will bring out the policies/acts made against the theft of electricity and will tell about the reasons why these measures have not been so effective in bringing down the losses to 15% targeted in fiscal year 2006-07 till date.

2. Different provisions for theft of electricity in EA, 2003 & comments

2.1 Focus on revenue realization rather than criminal proceedings.

(Sections 126, 135)

The real focus after the identification of the activity of electricity theft by any class of consumer is on the collection of revenue which is chargeable to the offender according to the financial gain incurred by him brought out by the assessment of the assessment officer. There are very low measures for severe punishments so that it is ensured that the same crime does not take place again. The tempting condition behind collection of revenue as a fine at the first place may be because of the poor financial condition of the distribution utilities.

There is no act of imprisonment to a consumer with a load of less than 10 kilowatts. These are mainly the retail customers and many cases have been found with these customers leading to a huge loss to the utilities. Theft by these consumers is majorly done by tapping an electric cable/pole or by tampering of meters. Also, to the consumers above the load of 10 kilowatt imprisonment clause is only after the repeated offence.

2.2 Penalties linked to the connected load and quantum of energy and financial gain involved in theft.

(Section 135)

For the case where the load abstracted, consumed or used/attempted does not exceed 10 kilowatt, the fine imposed on first conviction will not be less than three times the financial gain realized due to such an activity. For second conviction the fine has not to be less than six times the financial gain realized out of such activity.

For the case where the load abstracted, consumed or used/attempted exceeds 10 kilowatt, the fine imposed on first conviction is not less than three times the financial gain derived from such activity. Upon second conviction the consumer can be imprisoned for a period not less than six months and which may extend to five years along with the penalty of six times the financial gain realized.

Here, if the period of theft/pilferage cannot be ascertained it is taken to be 12 months from the date of noticing the theft. There is no proper method to reach to the actual period of theft.

2.3 Provisions for compounding of offences.

(Section 152)

Any officer authorized by the government may accept from any consumer or the person who committed the offence the sum of money by compounding the offence as mentioned below:

Industrial service:	Twenty thousand rupees
Commercial service:	Ten thousand rupees
Agricultural service:	Two thousand rupees &
Other service:	Four thousand rupees

Although this clause of compounding an offence is beneficial in many cases, it can lead to an easy escapable gate to many offenders. A penalty of twenty thousand rupees to the industrial consumer may be nothing compared to what he had derived from the offence done by him. Also, he might not be forced not to perform any such offence in the future. Many times accountability in such cases is not maintained and the money collected by virtue of this clause may be retained by the officer in-charge by not maintaining any official record for that. This encourages the consumer to continue with the same offence and bribe the official in-charge. Many such complaints have been made against such officers but with no concrete action on them.

2.4 Assessment of electricity charges for unauthorized use of electricity by the assessing officer designated by the State Government.

(Section 126)

The officer in-charge, if by inspection of any place or equipments comes to the conclusion that there is some unauthorized use of electricity, he can provisionally access to the best of his judgment the electricity charges payable by the person benefited by such use. An order of provisional assessment shall be served on the

person who owes the premise. The person may accept the assessment and deposit the assessed amount with the licensee within seven days of the assessment order. After assessment if the person is found guilty the assessment has to be done for the entire period for which the activity has been carried out. In cases where this cannot be ascertained the period of theft is takes as twelve months from the date of first inspection and this assessment shall be at the rate twice the tariff rates applicable for the particular class of consumer.

2.5 Theft punishable with imprisonment.

(Section 135)

Although imprisonment clause is added to the theft of power, it is treated as secondary resort against the power theft. As said earlier there is no imprisonment for a load less than ten kilowatt and for load exceeding ten kilowatt this is only after the first offence and that too only in special cases.

In the highest ever quantum of punishment with imprisonment and fine for the theft of electricity was brought out by BSES who caught a businessman and his son of stealing power of the order of 102 KW. Mr. Pooran Chand and his son Mukesh Lakra were caught of stealing power in a raid by BSES in December 2006. The case was solved in June 2009 in which the accused Pooran Chand was sentenced to a rigorous imprisonment of 4 years while his son was sentenced to a simple imprisonment of seven and a half month. Pooran Chand was sentenced more because this was his third conviction while this was his son's first. Apart from this imprisonment they were also entitled to pay a fine of Rs 1 Crore and if they defaulted in paying the fine, the additional imprisonment of 6 months would enforced upon them.

This leads us to think on the fact that Pooran Chand was sentenced to imprisonment only for his 3rd conviction. Why no action was taken against him for the first two convictions? What was the quantum of power stolen by him for the first two convictions? This can be one of the drawbacks of the whole accountability system in the distribution sector.

2.6 Punishment provision for abetment of theft.

(Section 150)

Any person who abets an offence punishable under EA, 2003 shall be punished, not withstanding anything contained in the Indian Penal Code for the offence. Any officer or the employee of the board or the licensee if agrees to, permits or conceals at any act whereby any theft of electricity is committed he could be punished for three years, with a fine or with both. Cancellation of license or the authorization can be done for electrical contractors, supervisors or workers if he abets the theft of electricity, but not without giving him the chance of being heard.

There are many cases where the distribution company itself indulges into charging more from the domestic consumer by installing fast moving meters or by making wrong calculations. There has also been a petition filed against BRPL, BYPL, NDPL and DERC for fabricating 0.1 million electricity theft cases and collecting hefty amounts as penalty. In this petition filed by Mr. Ravinder Singh, Member URJA it is also said that when asked about their meter running fast BRPL, BYPL and NDPL abused GE technology for having installing meters which run fast. The modus operandi of fabricating cases comes from the fact that the distribution companies do not consider the load factor to be utilized in assessing energy consumption which is 11.13%. This load factor means average duration of running of the connected load. That means, if load factor is 11.13% the connected load is running 11.13 hours out of 100 hours. This is not taken into consideration while calculating the energy consumption, which leads them to tell that almost every consumer is a thief. These types of uncontrolled activities by the distribution companies have also to be controlled if we want to bring the level of electricity theft down in our country. Consumer tries to get back on to them by stealing electricity in one or the other way.

2.7 Special Courts

(Sections 153-158)

For the purpose of having speedy trials of the cases, the state government may constitute as many special courts as may be necessary for the area. There should only be one judge for a special court appointed by the state government in concurrence

with the High Court. These cases should only be tried by those courts within whose jurisdiction such offence has been committed.

2.8 Franchise Model for electricity distribution

Privatisation of distribution utilities has been a limited success due to lack of political support, regulatory uncertainty, unrealistic baseline data, transitional issues etc. A distribution franchisee can mitigate majority of these risks through appropriate contractual structuring. This has emerged as a viable alternative to bring about efficiency gains in challenging areas. If a distribution licensee proposes to undertake distribution of electricity of a specified area by another person, that person shall not be required to obtain any separate license. The franchise model envisages that the franchisee shall have complete control over the distribution operations. The franchise shall have a right to collect the revenues and also have an option to procure and supply additional units of electricity over and above the supply received from the distribution company. This has the following benefits.

- Reduction in distribution losses (theft included)
- Improvement in collection efficiency
- Improvement in the quality of supply to the consumers
- Implementation of distribution best practices
- Minimization of disputes over infrastructure investment issues

Inspite of all these benefits the government is not able to develop the model so that full benefits can be derived from it.

2.9 Restructured – Accelerated Power Development & Reform Program

The APDRP scheme that worked in the Xth five year plan is also continued in the XIth five year plan under revised terms and conditions. The focus of the program is on actual, demonstrable performance in terms of sustained loss reduction. This initiative can be considered as a measure against theft because it is concentrated on reducing losses through modernization of the distribution system by implementation of new, efficient, unalterable and reliable metering system and provide baseline data to record the consumption at various times of the day. Its objective is given as "Carrying out distribution reforms through R-APDRP schemes to bring about

efficiency and commercial viability into power sector." This is not good because it gives a very vague idea of what is to be achieved. Secondly, the APDRP Outcome Budget 2006-07 does not tell the complete story of what happened on the front of the delivery of the APDRP's intended outcomes during the period 2000-01 to 2005-06. Thirdly, the APDRP Outcome Budget 2006-07 does not tell us what the total allocation for the APDRP for 2006-07 is. It puts the Plan allocation at Rs. 650 crore and provides no estimate of the complimentary extra-budgetary resources. Fourthly, the APDRP Outcome Budget 2006-07 does not indicate the targets for each of the APDRP's outcomes for 2006-07. It does have a column with the heading "Projected outcomes". Why is the MOP not presenting the kind of outcome budget for its APDRP that it is supposed to present? Is it the lack of requisite capacity in the MOP? If that is the reason, the MOP could have procured the required help from outside.

3. Conclusion

Various measures have been taken by the government to reduce the loss due to theft and control it so that it does not go out of control. These measures no doubt have controlled in a way that the amount of theft has not increased, but the main aim of removing the theft stigma from the Indian power sector remains the same as it was in 2003. Some amount of public relations work by the utility is needed to tackle this menace. It is to be widely publicized that theft will increase the tariff for the genuine consumers, result in poor voltages, burnt motors, failed transformers and dried crops. The scarce resources of the state meant for social welfare are diverted to feed these power thieves. Also, awareness spreading about various punishable clauses for power theft can lead to reduced attempts to do so. Electricity theft can be reduced by applying technical solutions such as tamper-proof meters, managerial methods such as inspection and monitoring, and in some cases restructuring power systems ownership and regulation. The reason behind the failure of most of the reform program is due to less use of managerial methods of inspection and monitoring while utilizing the other two to the fullest; otherwise all what was brought out can still perform very well.

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