

Electricity Consumers' rights in relation to Energy Storage Systems under Draft Amendments to the Electricity Rules, 2005

The Ministry of Power (“MoP”) has, on June 11, 2025, issued draft amendments (“**Draft Amendment**”) to the Electricity Rules, 2005 (“**Rules**”) seeking to amend provisions relating to energy storage systems (“**ESSs**”).

Recognition of ESSs under the electricity regulatory framework under the Electricity (Amendment) Rules, 2022

The Rules were earlier amended in 2022 through the Electricity (Amendment) Rules, 2022 (“**2022 Amendment**”) by the introduction of Rule 18. This Rule 18 provides that ESSs are to be considered as a part of the power system, defined in Section 2(50) of the Electricity Act, 2003 (“**Act**”) as all aspects of generation, transmission, distribution and supply of electricity. This was a significant change bringing recognition to ESSs as a part of generation, transmission, distribution and supply of electricity.

Earlier, stakeholders sought clarification on whether ESSs would be considered a part of electricity generation, transmission or distribution. The MoP had, on January 29, 2022, through the ‘Clarification regarding usage of Energy Storage Systems (ESS) in various applications across the entire value chain of the Power Sector-Reg’ (“**Clarification**”) responded to stakeholders. It stated that ESS was a part of the power system. The Clarification further stated that an ESS could be utilized either on a standalone basis or in complementarity with generation, transmission and distribution, as a generator, grid element or a network asset.

The 2022 Amendment was consistent with the Clarification and further provided that an ESS may be owned developed, owned, leased or operated by a generating company, a transmission licensee or a distribution licensee, a system operator or an ESS service provider and when an ESS is owned and operated by and co-located with a generating station or a transmission licensee or a distribution licensee, it shall have the same legal status as that of the owner. Where the ESS is not co-located, but owned and operated by a generating company or a distribution licensee, the legal status would be that of the owner. However, for the purpose of scheduling and dispatch and other matters it shall be treated at par with a separate storage element.

The developer or owner of the ESS shall have an option to sell or lease or rent out the storage space in whole or in part to any utility engaged in generation or transmission or distribution, or to a Load Despatch Centre.

An independent ESS would be a delicensed activity subject to registration with the Central Electricity Authority.

Significant changes proposed in the Draft Amendment

Under the Draft Amendment, in addition to a generating company, a transmission licensee or a distribution licensee, a system operator or an independent ESS service provider, an ESS may also be developed, owned, leased or operated by a consumer.

The Draft Amendment further provides that the developer of an ESS can sell or lease or rent out storage space to a consumer. The current Rules only permit sale, lease or rental of storage space to utilities and load dispatch centres.

A consumer has been defined under Section 2(15) of the Act as any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other applicable law and includes any person whose premises are connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.

It is important to note that the language stating that an ESS could be utilized as a network asset is absent in the Draft Amendment.

Implications of the Draft Amendment

The Draft Amendment seeks to permit consumers to develop, own or lease their own ESSs unlike in the earlier scenario where ESSs could be considered either as a network asset or a grid element. This opens up different models for energy delivery and infrastructure investment.

Consumers may now have a choice on whether to purchase power from hybrid systems with inbuilt ESS or from an independent ESS service provider or develop its own ESS. For commercial and industrial consumers with large energy needs a captive ESS may offer an interesting proposition and reduce dependence on generating companies. This may further impact tariffs that the generating companies can charge.

*This update has been authored by **Aakanksha Joshi** (Partner); she can be reached at ajoshi@snrlaw.in for any questions. This is intended only as a general discussion of issues and is not intended for any solicitation of work. It should not be regarded as legal advice and no legal or business decision should be based on its content.*

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