

## HIGHLIGHTS OF THE RELIEF MEASURES TO THE POWER DISTRIBUTION COMPANIES AND CONTRACTORS

### 1. INTRODUCTION

The ongoing nation-wide lockdown due to COVID - 19 has led to approximately 25% decline in power demand due to very low power offtake from commercial and industrial consumers- this has in turn led to financial stress on the distribution companies ("**Discoms**") and the backlog of tariff payments to power generating and transmission companies by the Discoms. The payment defaults by Discoms can potentially have a significant impact on banks/NBFCs since a lot of project finance facilities availed by the generating and transmission companies can become NPAs.

However, the Government of India on May 14, 2020 has announced certain steps to ease the financial positions of the Discoms by announcing a one-time liquidity infusion of INR 90,000 crores (Rupees ninety thousand crores) under the Atmanirbhar Bharat Abhiyan ("**Government Package**") to enable the Discoms to make payments to the power generating and transmission companies. Another step taken by the Government to ease the issues faced by the infrastructure sector is the relief provided to contractors in the nature of a INR 20 lakh crores (Rupees twenty lakh crores) Government Package, which also includes a 6 (six) months extension to contractors, without additional costs, to perform their obligations under various projects.

### 2. KEY ASPECTS OF THE RELIEF MEASURES TO DISCOMS AND CONTRACTORS

2.1 A brief summary of the relief measures announced for the power sector is discussed below:

#### 2.1.1 INR 90,000 crore liquidity infusion for Discoms

- (a) The Rs. 90,000 crores (Rupees ninety thousand crores) ("**DISCOM Relief Package**") is intended to be used by the Discoms to clear their outstanding dues of central public sector power generation companies, transmission companies, independent power producers and renewable energy generators - which is estimated to be around Rs. 94,000 Crores (Rupees ninety four thousand crores). The DISCOM Relief Package will be infused (in the form of loans) by Power Finance Corporation ("**PFC**") and Rural Electrification Corporation ("**REC**") who will in turn raise the amount of about Rs. 90,000 crores (Rupees ninety thousand crores) from the market against the receivables of the Discoms.

The DISCOM Relief Package will be made available to the Discoms subject to the Discoms drawing up loss-reduction strategy. The Discoms will have to have their loss-reduction strategy approved by

the relevant state government. In the event of any non-compliance by a Discom of the state government approved loss-reduction strategy after PFC/REC has sanctioned the loan pursuant to the DISCOM Relief Package, PFC and REC will be entitled to recall the loan.

The Central Government is in the process of drafting the detailed scheme that will set out the conditions on which loans will be given to the Discoms by PFC and REC. Further, the Ministry of Finance also announced that the central government owned power generating companies will be required to provide a rebate to Discoms subject to such rebate being passed on by the Discoms to the final consumers. Low demand on the part of the industrial users that pay the highest tariffs is a matter of concern for the Discoms and such rebates from the central government owned power generating companies will potentially help lift some of the financial difficulties faced by the Discoms and also held in financial sustainability of various industries taking power from the Discoms. Additionally, the late payment surcharge that Discoms pay to power generators will be reduced from 18% to 8.5% to 9%.

Discoms will also be allowed to defer payment of fixed charges when power is not drawn from Central governed power generators; the same relaxation may also be allowed for industrial consumers subject to the states deciding on such a policy. Further, the Central government owned power generators may offer a discount to the extent of 20% to 25% on the cost of the power supplied to the states during the lockdown.

- (b) **Procedure for financing the loan:** The DISCOM Relief Package will be released in the form of loans in two equal tranches of INR 45,000 crores (Rupees forty five thousand crore) each, which shall be for a tenure of 10 (ten) to 15 (fifteen) years. The first tranche of loan is anticipated to be conditional on a state government backed guarantee and allocation of budget from the relevant state government to clear departmental dues for their respective Discoms. Further, the state governments will be required to draft a mechanism by which subsidies are provided to the consumers on their fixed charge, by routing it through the Discoms. The second tranche of loan is proposed to be disbursed after the Discoms procure evidence to corroborate the initial obligations and fulfillment of conditions at the time of availing the loan under the first tranche. The loans under the second tranche will be subject to the collective efforts of the Discoms and their respective state government to tackle losses which are attributable to several factors including but not limited to difficulty in undertaking any meter reading exercises due to the lockdown, dues owed to Discoms by government departments, lack of subsidy flow to consumers of certain categories by state governments.

2.1.2 The DISCOM Relief Package is not designed a one-time bailout package (various similar relief packages have been provided in the past and have failed to make any difference to the overall inefficiency of Discoms in India) – the loans under the DISCOM Relief Package are linked to reforms including increasing digital payment interfaces, prepaid metering in government departments and making action plans for loss reduction, and this in a welcome step.

2.1.3 The DISCOM Relief Package comes at a time when the government is looking to amend the Electricity Act, 2003 to bring in further reforms in the power sector and has proposed a distribution reforms scheme, tentatively named the Atal Distribution System Improvement Yojana ("**Aditya Scheme**"), to cut electricity losses. The Aditya Scheme envisages make Discoms viable by switching to prepaid smart meters, clearing

their dues, continuous supply of power, adopting models such as privatising state-run Discoms and promoting retail competition. A bailout was expected in the Union Budget for the fiscal year 2021 but has been brought forward due to the ongoing COVID-19 pandemic. Hopefully, like the bailout, even the reforms will be brought forward as the Discoms have for far too long been thorn sticking out in the power sector and have single handedly been able to pull back all the good work done in the power sector over the years. This should be the best time to force reforms in the state run Discoms to make them financially viable, reduce the deficit and resolve the structural issues with Discoms.

## 2.2 Relief to Contractors

The Central Government, under the Government Package, has also announced that the central agencies including but not limited to the Indian Railways, Ministry of Road Transport and Highways, Central Public Works Department, shall grant a 6 (six) months extension period to all contractors for completion of their work, achieving intermediate milestones, completion of construction work, delivery of goods and/or services without any associated penalties.

To tackle cash flow issues, the government authority (which is party to the contract) will also be required to partially release bank guarantee (provided by the contractor as performance guarantee) to the extent the work has been completed by the contractors.

Concession period in public private partnership (PPP) projects has also been extended by 6 (six) months. This blanket extension of 6 (six) months will be applicable to all contracts in the infrastructure sector between central government agencies and contractors for provisions of goods and services and will save contractors from individually approaching the government agencies to seek extension.

This extension of time will allow contractors 6 (six) extra months to fulfil their obligations and the extension in the concession period means that a concessionaire will now be able to run the project for an additional period of 6 (six) months before transferring it to the government authority. However, given the uncertainty with respect to when normal functioning of businesses will resume, if ever, to match the pre COVID-19 estimates on the basis of which these contracts and concessions were entered into, it would be ideal to review the concession and the state of affairs after 3-4 months.

**Authors:** Sabrina Afroze | Srijita Jha

**Practice Area:** Energy, Infrastructure and Natural Resource

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