

MINUTES OF THE
TENTH MEETING OF CENTRAL ADVISORY COMMITTEE
HELD AT INDIA HABITAT CENTRE, NEW DELHI.

Date : 18th March, 2009

List of Participants : At Annexure-I (enclosed).

Dr. Pramod Deo, Chairperson CERC welcomed the Members of Central Advisory Committee (CAC). He informed that this was his first meeting with the Advisory Committee and said that he looked forward to valuable suggestions from the distinguished Members on issues of critical nature facing the power sector. He also underscored the need for holding more frequent meetings of CAC. He suggested that at the end of the meeting, the Members could suggest the topic(s) of discussion for the next meeting of the CAC. Dr. Deo, in his opening remarks said that the issue of open access was not new for the sector and the experts present. The issues at stake on implementation of the framework of open access had been highlighted in the agenda note already circulated and that he would like to invite the Members to share their thoughts.

2. The introductory remarks of the Chairperson, CERC were followed by a brief presentation made by Shri Alok Kumar, Secretary, CERC who highlighted the constraints hindering the implementation of open access in inter-State transmission as well as in distribution. The presentation reiterated the issues covered in the agenda note for discussion. He also mentioned the major recommendations of the Forum of Regulators (FOR) on open access and informed that the recommendations had been evolved based on the inputs of Working Group constituted by the Forum on “Open Access – Theory and Practices”. He also highlighted that the illustrative examples being displayed in the FOR website, of various open access charges vis-à-vis tariff of

the respective consumer categories had led to realisation that there was an urgent need for rationalization of such charges to make open access possible.

3. After the presentation, the Members of the Committee expressed their views on specific issues raised in the agenda note for discussion :

ISSUE – I : INDEPENDENCE OF STATE LOAD DISPATCH CENTRES (SLDCs)

ISSUE – II : ROLE OF STATE GOVERNMENTS

ISSUE – III : REGULATORY INTERVENTIONS FOR FACILITATING OPEN ACCESS

ISSUE – IV : POWER AVAILABILITY

ISSUE – I : INDEPENDENCE OF STATE LOAD DESPATCH CENTRES (SLDCs) :

4. Shri R.V. Shahi, Secretary (Retd.), Ministry of Power agreed that the SLDC was the weakest link in the chain of implementation of open access. He, however, felt that the Centre should set an example by ring-fencing the Regional Load Despatch Centres (RLDCs). He suggested that the decision of the Committee of Secretaries (COSs) on the need for creating a separate company for operation of RLDCs should be implemented in a time bound manner. It was informed that a subsidiary has been created to run the operation of RLDCs. He welcomed the creation of subsidiary but felt that the next step should be distancing of governance of the Load Despatch Centres (LDCs) and a time line should be stipulated for creating a separate company on lines of the COS decision. He further reiterated that CERC had jurisdiction under sections 35 and 36 of the Electricity Act, 2003 for determining charges for intervening transmission charges and that the Commission should exercise its power effectively to determine charges right up to consumer level for open access. He felt that the example when set by Centre, especially in terms of ring

fencing the RLDCs would go a long way in driving the States to take similar steps for making SLDCs independent.

5. Shri T.L. Sankar, Advisor, Administrative Staff College of India (ASCI), stated that skill sets of the functionaries involved in the LDCs were of critical importance and felt that the selection process should be robust and the compensation packages should be attractive enough to meet the objective of independent functioning of the LDCs.

6. Shri P.S. Bami, Ex-Chairman & Managing Director, NTPC felt that “autonomy” would be a better word for ‘independence’” and for real autonomy of SLDCs, there was a need for a common cadre and a policy for enhancement of the skill level of the personnel. In his opinion, these issues were more important than creation of a separate company.

7. Shri Pradeep S. Mehta, Secretary General, Consumer Unity & Trust Society (CUTS) felt that there was a need for exploring the experience of other countries (e.g., Brazil etc.) on implementation of open access and take lessons from such experience to find solution for our problems. He also underscored the need for a political will for implementation of the framework of open access.

8. Dr. Leena Shrivastava, Executive Director, The Energy & Resources Institute (TERI) felt that shared vision between Government and Regulators was missing and in her opinion, face to face interaction with the Government might help resolve several issues on implementation of open access. She said that the focus of open access should not be only on quantum of flows. Open access should be seen more as an instrument of market access. She felt that the need of the hour was to identify the barriers, and the respective roles of the authorities/entities for removal of the barriers. Further, a process of consultation should be initiated to jointly address the issues identified.

9. Shri T.N. Thakur, Chairman & Managing Director, PTC India Limited felt that barrier free environment would automatically lead to higher quantum of power flow. He also felt that political will was crucial to implementation of open access. That a beginning should be made by the Centre by creating an independent system operator (ISO) to be managed by stakeholders. He suggested that a small committee could be constituted State-wise for implementation of open access.

10. Shri Lalit Jalan, CEO & Director, Reliance Infrastructure Limited gave an industry perspective on the issue of open access. He stated that in reality it was very difficult to move power from seller to buyer and expressed his disenchantment over the fact that in a situation of such acute shortages prevailing in the power sector, generation capacity was lying idle elsewhere due to restrictive policies and regulations. He felt that the process had to be simple, charges were to be rational and lower and accounting should be uniform to make open access a reality. He also underscored that while talking about open access, we should not limit our focus to issues at inter-State transmission level by ignoring the issues in distribution. He asserted that there existed the example to show that facilitative policy and regulatory framework and incidence of lower taxes had led to better revenue generation and that electricity sector should learn from these experiences to provide for a facilitative framework of open access through removal of barriers and lowering of various charges.

11. Shri R.K. Madan, CEO (Power), Adani Enterprises Limited welcomed the FOR recommendation that the reporting channel of SLDCs should be on the lines of State Election Officers (reporting to Election Commission). He also underscored the need for training and capacity building of personnel deployed in SLDCs for effective functioning of the LDCs. He at the same time underscored the need for a more transparent regulatory framework on connectivity to enable transfer of power.

12. Shri Padamjit Singh, Chairman, All India Power Engineers Federation stated that only those personnel who were self motivated should be deployed in the SLDCs. There

was a need for attractive pay packages. He also agreed with the suggestion that persons certified and trained as system operator should be deployed in the SLDCs and they should be mandated to act as per the Grid Code and not under political compulsion. He also suggested that the person posted in SLDC should not be transferred except under the direction of SERCs. He also warned against the danger of regulatory capture and felt that entire system including the RLDCs and SLDCs should be insulated from political influence.

13. Shri I.C. Sharma, Advisor, Railway Board also felt the need for insulation of the regulatory authorities and other statutory authorities from political influence. He also suggested that the various charges levied on consumers should be transparent and rational.

14. Shri S.N. Goel, General Manager (Commercial), NTPC stated that there should be a common cadre of NLDCs, RLDCs and SLDCs so that the personnel could move from one LDC to the other and also they could have a prospect of better career development.

15. Ms. Rupa Devi Singh, CEO, Power Exchange India Limited felt that open access was not only an issue of right of way but also a tool of market access. She opined that role of the SLDC had changed after the enactment of the Electricity Act, 2003 and there was a need for proper orientation of the personnel employed in such Centres through enhancement of skills.

16. Shri Vivek Pandit, Additional Director (Energy), Federation of Indian Chambers of Commerce & Industry (FICCI) stated that PGCIL could impart training so that we had skilled personnel for deployment in various LDCs.

17. Shri S.K. Soonee, Executive Director (System Operation), NRLDC, PGCIL stated that the issue of open access had been debated at length in various fora and the Committees formed by the Government of India and by the FOR had brought to focus the barriers to implementation of open access. The reports of these Committees which also

provided a road map by identifying the roles of respective authorities/entities on implementation of open access should be given wide publicity through the websites of Ministry of Power, Regulatory Commissions and the FOR. While agreeing to the need for ring-fencing of LDCs, he felt that the provision of deemed approval in the event of SLDCs not conveying consent within three days, was perhaps not practical. He also felt that such a provision could lead to Type-II error which we could hardly afford in system operation.

18. IEX supported the proposal of deemed concurrence of SLDCs.

19. Shri U.K. Panda, Director (Finance & Coop. Affairs), GRIDCO felt that common cadre for LDCs was welcome but for this, there was a need for change in legal/regulatory framework. He also highlighted the problems for Government companies in functioning with real autonomy.

20. Shri Satish Jindal, Senior Vice-President, ASSOCHAM felt that political will was crucial in the whole process of implementation of open access.

21. Dr. Pramod Deo, Chairperson, CERC emphasised that the recommendations of the FOR on ring-fencing of SLDCs were very important for consideration by the stakeholders. The recommendations, especially of the reporting channel of SLDCs on lines of State Election Officers, he felt if implemented properly, would go a long way in bringing about the desired immunity. Certification and training of personnel was also at the same time of utmost important. On common cadre, however, he felt that this would be difficult to implement given the fact that personnel from a particular region could have resistance to move to other region or State. Dr. Deo reiterated that the provisions of section 149 of the Act had proved to be effective instruments and the Central Commission had used these provisions, for imposing personal penalties on the Managing Director/Head of the institutions found responsible for obstructing open access.

ISSUE – II : ROLE OF STATE GOVERNMENTS

22. Shri R.V. Shahi agreed with the observation made in the presentation that demands by States on various concessions like free power, mandatory sale of certain percentage of power within the State etc. were hindering the growth of market development in the electricity sector. He felt that CERC should take cognizance of such matters and pass reasoned orders explaining how such actions were against the spirit of the Act and policy.

23. Shri T.L. Sankar felt that the checks and balances envisaged in the Act should be used effectively. He urged that the Central Commission should be pro-active in highlighting in its orders the non-compliance of the provisions of the Act and policy.

24. Shri T.N. Thakur stated that in his opinion the provision in the Tariff Policy mandating future procurement through competitive bidding needed a re-look, as this provision of the Tariff Policy had virtually circumvented the operation of section 62 of the Act. He further reiterated that it was important for State Governments to sign MOUs with the developers in order to ensure financial closure. On free power, he felt that such power belonged to a State and if there was a market the State should have the freedom to dispose it in any manner it suited the State. He dismissed the complaints of buying States by pointing out that such States did not have any case for grievance as they did not invest in capacity addition during these years. He asserted that the Central Government should curtail central allocation, especially allocation from the unallocated share for the States attempting to discourage open access, for instance by issuing orders under section 11 of the Act.

25. Shri Padamjit Singh endorsed the view that Tariff Policy (the provision of mandatory procurement of power through competitive bidding) cannot override the provision (of section 62) of the Act. On the jurisdiction for regulating the sale of free power, he felt that the powers clearly vested with the CERC as tariff setting authority and that there was no need for reference to MoP in this regard. He informed that Himachal

Pradesh sells surplus/free power during summer at high rates and approaches Central Government during winter for allocation from unallocated share. This, he felt was a case of double standards. He opined that competition should bring down prices but in the electricity sector it was just the other way round. Regulatory Commissions should, therefore, necessarily intervene. He also suggested that given the shortage of funds, the surplus generated by the utilities in the power sector should be re-deployed in the sector for capacity addition.

26. Shri P.S. Bami stated that the recommendation of the Planning Commission – that 15% unallocated share be allowed in open access market – should be implemented immediately to ensure greater depth of market. Revenues generated as a result of sale of such unallocated share should be shared between the State and the GENCO in the ratio of 50:50.

27. Ms. Rupa Devi Singh emphasised on the need for a common national market in electricity and also State level power trading platforms.

28. Shri Praveer Sinha of Tata Power Company Limited felt that the MOUs with States should be allowed, as section 62 of the Act was clear and legitimised such agreements.

29. GRIDCO representative opined that single buyer model was required in the transition phase after unbundling till the time the distribution companies developed sufficient expertise for procurement.

30. Chairperson, CERC clarified that the issue of single buyer model was raised in the discussion paper in the context of open access. He explained that such an arrangement in which the State Governments took over the function of procurement of power by the distribution companies were seriously hindering the implementation of open access. As regards the practice of States signing MOUs, he stated that the Commission would not like to get into the legal issue as it was for the Central Government to see as to how to

harmonise the provisions of section 3 (under which Tariff Policy was issued) and section 62 (which provided for regulation of supply of power between a Genco and Discom through a negotiated route). He, however, clarified that the issue raised by the Commission was important in the context of the mandatory provisions in such MOUs for sale of specified minimum percentage of generation within the State, which he underscored was against the spirit of market development and also the determination of tariff of such electricity by ERCs was not possible in view of the provisions of Tariff Policy.

ISSUE – III : REGULATORY INTERVENTIONS FOR FACILITATING OPEN ACCESS

31. Shri R.V. Shahi stated that there was an urgent need for regulatory intervention through the provisions of section 35 and 36 of the Act. The definition of “inter-State transmission” together with provision of sections 35 and 36 established the jurisdiction of CERC in fixing charges for intervening transmission lines and CERC should act immediately.

32. Shri T.N. Thakur underscored that UI was a mechanism for enforcing grid discipline and that regulation should not encourage indiscipline. On the revision of schedule, he opined that source and sink should be allowed to be changed for valid reasons. He also suggested that generation based on non-conventional energy source – should not be subjected to UI mechanism. He also underscored the need for transparent charges for open access. He suggested that OA regulations should be on MYT pattern to give certainty to stakeholders.

33. Shri Sambit Basu of IDFC stated that information on availability of total transmission capacity for open access should be on display on line. He also felt that defaults by SLDCs should be dealt with all the more effectively.

34. Shri S.K. Soonee informed that the websites of RLDCs were replete with information on open access inter state transmission and RLDCs do display in advance on line information on availability of surplus transmission capacity for open access.

35. Shri Padamjit Singh said that energy banking was a good arrangement which states generally engaged in and that regulatory framework should encourage such arrangements. Such arrangements should be kept out of the framework and incidence of charges for open access.

ISSUE – IV : POWER AVAILABILITY

36. Shri R.V. Shahi opined that open access would be possible only when there was surplus power. In his opinion, if CERC specified charges reasonably under sections 35 and 36 of the Act, availability of surplus power would increase. On trading margin, he suggested that the regulation needed review. He also felt that power exchanges should facilitate development of market. Week ahead and day ahead market should be encouraged. On the issue of jurisdiction of week ahead/month ahead, he felt that the legal position was very clear in that the Electricity Act, 2003 being a later Act would prevail over the FMC Act, 1952 and CERC had clear jurisdiction over any kind of trading in electricity.

37. Dr. Kewal Ram, Senior Economic Advisor, Ministry of Consumer Affairs explained the view point of his Ministry and stated that the provisions of Forward Contract Regulations Act would need to be complied in the cases of transferable specific delivery contracts. Even in such cases, notification under FCRA was possible for exemption from application of Act if the Central Government so decides. He said that issue of regulatory jurisdiction could be resolved by mutual consultations.

38. Shri Pradeep S. Mehta stated that the issue of dual jurisdiction was not new. Competition was one such issue on which the Competition Commission of India had the jurisdiction along with the jurisdiction of the sectoral regulators.

39. Shri T.N. Thakur opined that CERC had clear powers under the EA, 2003 to regulate trading and make regulations on market development in electricity sector. On trading margin, he felt that since the margin had no relationship with the cost of traded power, it should be reviewed by the Commission.

40. APTRANSCO felt that unregulated revision of schedule was fraught with risk and should be discouraged. On trading margin, he also felt that the Commission should review this since trading had no relationship with cost of power being traded. He also suggested that first we should start with week ahead transactions and based on the experience, the month ahead transactions should be allowed. He also underscored the need for minimum guaranteed power flow through Power Exchanges.

41. Shri S.K. Soonee asserted that revision of schedule should not be allowed under any circumstances. With provision for revision, contracts would no longer have any sanctity. They would become options. It would also lead inter alia to blocking of corridor.

42. Ms. Rupa Devi Singh felt that trading margin should be revised. She also endorsed Shri Soonee's views on revision of schedule. She suggested that the support from CPSUs like REC and PFC should be leveraged to persuade the states for supporting implementation of open access.

43. Shri Padamjit Singh mentioned that there was a decision of the Ministry of Power that whenever frequency fell below 49.5 hz, liquid fuel based generation should be brought in and charges should be recovered from the overdrawing States. This should be implemented. He felt that flexibility of revision of schedule should be allowed only in force majeure conditions faced by generators.

44. IEX representative stated that week ahead/month ahead transaction should be allowed immediately to ensure greater depth in the market.

Topic for Next Meeting:

45. After discussion, it was unanimously agreed that the next topic for the CAC meeting could be “Development of Power Market”. Chairperson requested the Members to send their views on power market to enable the Commission to prepare a background paper for discussion.

The Meeting ended with a vote of thanks to the Chair.

LIST OF PARTICIPANTS ATTENDED THE TENTH MEETING

OF

CENTRAL ADVISORY COMMITTEE (CAC)

HELD AT INDIA HABITAT CENTRE, NEW DELHI

ON 18TH MARCH, 2009

S. No.	NAME	
01.	Dr. Pramod Deo Ex-Officio, Chairperson, CAC	Chairperson, CERC
02.	Shri R. Krishnamoorthy Ex-Officio Member, CAC	Member, CERC
03.	Shri S. Jayaraman Ex-Officio Member, CAC	Member, CERC
04.	Shri V.S. Verma Ex-Officio Member, CAC	Member, CERC
05.	Shri Sutirtha Bhattacharya Chairman & Managing Director	AP Transmission Corporation Limited
06.	Shri Lalit Jalan CEO & Director	Reliance Infrastructure Limited
07.	Shri Padamjit Singh Chairman	All India Power Engineers Federation
08.	Shri Pradeep S. Mehta Secretary General	Consumer Unity & Trust Society (CUTS)
09.	Dr. Leena Shrivastava Executive Director	The Energy & Resources Institute (TERI)
10.	Shri T.L. Sankar Advisor	Administrative Staff College of India (ASCI)
11.	Shri T.N. Thakur Chairman & Managing Director	PTC India Limited
12.	Shri R.K. Madan CEO (Power)	Adani Enterprises Limited
13.	Shri R.V. Shahi Secretary (Retd.)	Ministry of Power
14.	Shri P.S. Bami Ex-CMD	NTPC Limited

15.	Shri B.S. Mann Ex-MP, National President	Bharti Kisan Union
16.	Shri I.C. Sharma Advisor	Representative of Railway Board
17.	Shri M.S. Babu Executive Director (Commercial)	Representative of NHPC
18.	Shri S.N. Geol General Manager (Commercial)	Representative of NTPC Limited
19.	Shri S. Majumdar Director (Projects)	Representative of PGCIL
20.	Shri Praveer Sinha Project Director	Representative of Tata Power Company Limited
21.	Shri Vivek Pandit Additional Director	Representative of FICCI
22.	Shri U.K. Panda Director (Finance & Corporate Affairs)	Representative of GRIDCO Limited
23.	Shri Arun Director	Representative of UPPCL
24.	Shri Satish Jindal Senior Vice-President	Representative of ASSOCHAM
25.	Dr. Sambit Basu Principal, Policy Group	Representative of IDFC Co. Limited
26.	Dr. Kewal Ram Senior Economic Advisor	Representative of Department of Consumer Affairs
27.	Shri Alok Kumar Secretary	CERC
	SPECIAL INVITEES	
28.	Shri S.K. Soonee Executive Director (System Operation)	NRLDC/PGCIL
29.	Shri Jayant Deo CEO	Indian Energy Exchange Limited (IEX)
30.	Ms. Rupa Devi Singh CEO	Power Exchange India Limited (PXIL)