

CENTRAL ELECTRICITY REGULATORY COMMISSION

Explanatory Memorandum for draft CERC (Regulation of Power Supply), Regulation,2010

1. Default in payment of dues has been a major issue in power sector. The Government of India has taken steps to resolve this issue by prescribing a scheme for settlement of SEB dues by securitization through State Government bonds guaranteed by RBI. In March, 2001 it was resolved in a conference of Chief Ministers to set up an expert group to recommend a one time settlement of all outstanding dues of CPSUs. On the recommendation of the expert group, a scheme was brought about w.e.f. 17.04.02, to ensure timely payment of current dues. The scheme provided for signing of Tripartite Agreement between the Government of India, the respective State Governments of India and Reserve Bank of India. This scheme had provisions for reduction in supply in case of non-payment of dues of Central Public Sectors Undertakings (CPSU) or non-maintenance of the required Letter of Credit by State Utilities. This scheme is effective upto 31.10.2016.
2. The Commission, vide letter dated 16.12.1999, had directed CTU to forward the procedure for regulation of power supply due to non-payment of dues. CTU, vide letter dated 16.06.2000, forwarded draft generic procedure. The Commission vide Order dated 21.06.2000, gave an interim approval for this procedure, to be followed till the final approval of procedure after hearing of the interested parties. This procedure was based on physical regulation by opening of transmission lines/ICTs.
3. After hearing the interested parties, the Commission, vide Order dated 11.01.2002, have the final approval of the generic procedure for power supply regulation on commercial grounds. The validity of this generic procedure had been extended by the Commission from time to time. But it is felt that this

mechanism should be specified through regulations instead of extending our order repeatedly.

4. Though this procedure had taken care of technical as well as commercial aspects, there were few inherent problems of physical regulation in this procedure. As mentioned in the Order, it was extremely difficult to control power flow for the purpose of curtailment of power supply to a specified beneficiary during the time of regulation, in view of the fact that power would find an alternative path in the integrated grid to the regulated entity. Further, the opening of lines/ICTs for the purpose of regulation would have had an impact on grid security..
5. A draft regulation on “Generic Procedure for Curtailment of Power Supply” was issued by the Commission on 19.05.2005, seeking objections /suggestions /comments of the stakeholders with the objective of formalizing the procedure specified earlier. However, the regulation could not be finalised due to some unresolved issues regarding physical regulation.
6. Meanwhile a committee constituted by Government of India in May,07, under Chairmanship of Shri A.K. Khurana, AS, MoP had inter-alia given following recommendation regarding provision for Payment Security Mechanism (PSM) in Standard Bidding Documents relating to developing transmission lines through tariff based competitive bidding:

“In case of default by the procurer of the transmission services i.e. default in payment of transmission charges , a trigger point of default can be defined in the Transmission Service Agreement (TSA) . A provision can be incorporated in the TSA whereby (once the trigger point is reached) the procurer of the transmission service would authorise the concerned RLDC for altering the schedule of despatch of lowest cost power of the defaulting utility from Central Generating Stations . The quantum of electricity to be rescheduled for dispatch will be equal to the amount of default of the transmission charge. The electricity will then be dispatched to other utilities by the concerned RLDC during the peak hours i.e 7 p.m. to 10 p.m. The price of electricity rescheduled will be determined as per the Unscheduled Inter

Change rate. If the amount so realized is more than the amount of default of transmission charge then the excess will be credited to the defaulting utility and amount equal to the default will be credited to the Transmission Service Provider.”

7. This recommended mechanism has been accepted and incorporated in the Standard Bidding Documents by Central Government .However, CERC needs to empower RLDCs through regulations to implement this mechanism.
The Empowered Committee which is chaired by Member, CERC has also desired to expedite these regulations because the selected bidders are feeling uncertain about implementability of the PSM recommended by Khurana Committee in the absence of regulatory authorisation to RLDC.
8. A discussion paper on “ Remedy for Default in Payment of Dues by Power Utilities” was subsequently floated by the Commission in May, 2007 with the objective of finalizing the approach to the issues related to regulation of power supply. The comments/ suggestions from many stake holders were received in response to the discussion paper. Based on the views by the stakeholders, the draft regulation on “Regulation of Power Supply” has been prepared and is put up for the objection/suggestion/comments of the stakeholders.
9. The main features of this regulation are as under:
 - a. Regulation of Power Supply will be done only if the contracting parties have agreed so in their contracts.
 - b. The regulation has no provision for physical regulation of power supply in view of the difficulties in implementation of regulation by opening transmission lines/ICTs. The earlier procedure formulated by the Commission were mainly based on physical regulation and implementation of which was difficult. As the proposed procedures do not involve physical regulation, and are to be implemented through commercial arrangements only, the implementation of

the procedure is simplified and would require less time for implementation in comparison to the earlier procedure.

- c. The regulation of power supply in case of non - payment of dues of the Generator is proposed to be made effective, by reducing the drawl schedule of the defaulting entity . This surplus power can be sold to other beneficiaries or other buyers in market. In case no buyer is found then generation may be reduced.
- d. The regulation of power supply in case of non payment of dues of the transmission company is proposed to be made effective, by reducing the drawl schedule of the defaulting entity. This surplus power can be sold to other beneficiaries or other buyers in market. The amount received from sale of this power shall be use to pay the transmission company as first charge basis and after payment of energy charges of generator , balance if any shall be passed on to defaulting entity.
- e. The commercial principles for settlement of the dues are prescribed in the regulation, keeping in view the present power market scenario. In deficit market condition the power can easily be sold to other buyer. Earlier, in non-ABT regime this type of arrangement was not possible.
- f. The proposed procedure would also be applicable for non-maintenance of Letter of credit (LC) also, besides for non-payment of dues by the beneficiaries in view of the provisions in Tripartite Agreement and observations of the Hon'ble Appellate Tribunal of Electricity in order dated 28.04.2009 in Appeal No. 102 of 2008. The earlier procedure had provision for regulation of power supply in case of non-payment of dues only. There was no provision for regulation of power supply for non-maintenance of LC.