

Explanatory Memorandum to the Draft Central Electricity Regulatory Commissions (Unscheduled Interchange Charges and Related Matters) (Amendment) Regulations, 2010

Amendments to Regulations 5 and 7

1. Regulation 5 of the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 (hereinafter "the UI charges regulations") notified on 30.03.2009 , provides for review of UI charges including UI cap rate to be reviewed by the Commission on six monthly basis or earlier, and revised, if necessary through separate orders from time to time.
2. The Regulation 7 (3) of the UI charges regulation provides for review of additional UI charges by the Commission on six monthly basis or earlier and revision, if necessary through separate orders.
3. Though the above Regulations provide for the review and revision of the UI charges and the additional UI charges by an Order of the Commission, for the sake of clarity and completeness of regulation, and to provide flexibility for determining separate additional UI charges for overdrawal/under-injection and under-drawal/over-injection, it is proposed that regulations 5 & 7 (3) be amended by providing that these charges shall be notified through separate Orders of the Commission.
4. Commission is also of the view that it is high time that operating grid frequency range should be narrowed down further from 50.3-49.2 Hz to 50.2-49.5 Hz with effect from 1.4.2010. Similar amendments are also being proposed to IEGC.
5. In line with above, regulations 7(1) to 7 (3) are proposed to be amended to apply limit on UI volumes below frequency of 49.7 Hz instead of 49.5 Hz earlier.
6. With regard to the limit on UI volumes imposed in the regulation, it was not clear whether such limits are to be applied individually on each intra-state entity or collectively. This is being clarified by providing an explanation as follows:

"The limits specified in this clause shall apply to the sum total of overdraws by all the intra-State entities in the State including the distribution companies and others intra-state buyers, and Shall be applicable in the inter-State boundary of the respective State. "

7. Since additional UI charges are not payable to any underdrawing or over injecting entity, it is also proposed to clarify the same with reference to inter-regional exchanges by inserting an explanation after regulation 7(3) as follows:

"Additional Unscheduled Interchange Charges shall not be applicable for net overdrawal by a Region as a whole from other regions when grid frequency is below 49.5."

Amendments to Regulations 9 and 10

8 In line with above, it has been clarified that the net additional UI Charges payable by entities of a region, shall be retained in the Unscheduled Interchange Pool Account Fund of the region in which the regional entity is located as explanation after regulation 9 (3) as follows:

"Any additional UI charges collected form a regional entity shall be retained in the Unscheduled Interchange Pool Account Fund of the concerned region where the regional entity is located."

9 Further, the UI accounting and UI payments are dealt in IEGC (Clause 6.1 (d) Annexure 1 para 5 and 7 of the complimentary commercial mechanism) as well as UI Regulation (Regulations 9 and 10). Since now there is a specific UI Regulation, it is proposed to provide comprehensive stipulations pertaining to UI in to the UI Regulations. Accordingly, Regulation 9 & 10 of the UI Regulation has been further rationalized and amended in the proposal.

Providing for payment security mechanism

10 It is observed that the beneficiaries are not making UI payments in time and there are UI out standings rendering UI mechanism ineffective. Therefore, it is proposed to provide payment security mechanism in UI Regulations through revolving letter of credit of adequate amount.

11 Under the UI commercial mechanism, liability of any of the regional entities namely generator, beneficiary, seller or buyer is not constant. The liability for each regional entity would keep on varying from week to week and month to month and may include outstanding UI and interest thereon, if any. Therefore, in our opinion weekly UI liabilities (UI outstanding and interest liability), if any, during a previous period of one year from 2 weeks prior to start and end of the year, should be considered for arriving at the revolving weekly LC amount. The weekly LC amount may be worked out based on following formulation:

$$LC = 1.1 \times UIL_{wm}$$

Where,

UIL_{wm} = Maximum weekly UI liability in the previous period of one year from 2 weeks prior to start of the year.

12 The weekly LC amount so arrived at, as per above formulation, shall remain fixed for a year in normal course but in case the UI liability during any of the week of the year exceeds the UIL_{wm} by more than 20% then the LC amount would be increased by such percentage for that entity.

13 A regional entity has to open LC in favor of RLDC/ PGCIL. The LC should be opened by regional entities by 01.04.2010 to start with based on above formulation and replenish it from time to time if so warranted. The LC charges would be to the regional entity account. The above formulation will discourage beneficiaries from any default due to its implication in increase in LC amount in case of payment default.

14 Any of the UI bills remaining unpaid after the expiry of 10 days period, in part or full, from the date of issue of statement shall constitute a payment default entitling RLDC/ PGCIL to get the LC en-cashed. In the event of such encashment of the LC by the RLDC/ PGCIL, the regional entity concerned should replenish the LC within 3 days.

Providing for adjustment of any payment against the outstanding UI dues towards interest first and then towards UI outstanding

15. The existing IEGC and UI regulation provide for payment of simple interest @ 0.04% for each day of delay by the defaulting constituent if the UI payments are delayed beyond 12 days from date of issue of UI statement. The interest charges so collected are paid to the constituents who had to receive the UI payments.

16. Further, the UI outstanding amount and interest amount on UI outstanding are presently being maintained separately and any payment received against the UI outstanding and interest thereon is first being adjusted towards the UI outstanding. This is not in line with the prevailing accounting practice being followed uniformly in all financial institutions. As per prevailing accounting practices any payment towards outstanding amount is first adjusted against interest accrued and the balance towards principal outstanding.

17. It is therefore proposed to amend the UI regulation to provide for appropriation of all payments received in the Unscheduled Interchange Pool Account Fund in the following manner:

- (a) First Towards any cost or expense or other charges incurred on recovery of UI charge
- (b) Next towards over dues or penal interest, if applicable
- (c) Next towards normal interest
- (d) Lastly, towards UI and additional UI charges

Payment from UI pool account to the regional entities without waiting for UI payments to be received in UI pool account

18. However, it has come to our notice in Petition NO. 8/2009 (Suo moto) in the matter of default in payment of UI charges for the energy drawn in excess of drawal schedule by the Uttaranchal Power Corporation Limited (UPCL) that UPCL had to pay a sum of Rs. 56.96 Crs as the UI payment as on 28.12.2008 for the energy overdrawn from the grid. The UPCL has argued during the hearing that it has to receive a sum of Rs. 59.96 Crs from UI pool account on account of interest for the period from 2004-05 to 2007-08. From the statement of outstanding UI as on 30.06.2009 also it can be seen that States like U.P. J&K, MPPTCL, KPTCL, DVC, GRIDCO, Mizoram etc have to pay the outstanding UI where as states like Delhi, Rajasthan, Chandigarh, H.P. , JSEB etc have to receive UI. It is therefore, proposed to amend the regulation 10 of the UI Regulation providing for payment of UI to the constituents who have to receive UI payments within in a period of 12 days from the UI pool accounts without waiting for payments by the constituents who have to pay in to the UI pool account.

19. This appears feasible in view of the UI surplus that is being generated in the UI pool account due to differential UI rate for overdrawal/ under injection and underdrawal/ over injection. However, in case the UI surplus is not sufficient to meet the payment obligation of the constituents from the UI pool account then the pay-out should be made on pro-rata basis from the pay-in into the UI pool account.

20. However, the UI outstanding and the interest liability of the defaulting constituents would remain intact irrespective of the payment to the constituents from the UI pool account.

21. Regulations 9 and 10 of the UI regulations have been amended accordingly.

Amendments to Regulations 11

22. It is also proposed to transfer surplus arising from UI pool account in to a separate fund account to be specified by the CERC which could be utilised for the specified purposes as described in the UI regulations. Regulation 11 is being amended accordingly.