

To,

15th March 2017
01/REG-
AD/DEL/95

Secretary
CERC
Central Electricity Regulatory Commission
3rd & 4th Floor,
Chanderlok Building,
36, Janpath, New Delhi- 110001
Ph: 91-11-23353503 Fax: 91-11-23753923

Subject: Draft CERC Cross Border Trade of Electricity Regulations, 2017

Madam,

In reference to the public notice issued by the Hon'ble Commission on 16th February 2017, inviting comments on the draft of the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2017 please find enclosed our comments and suggestions.

DL (ERO)
We request you to kindly consider the suggestions favorably.

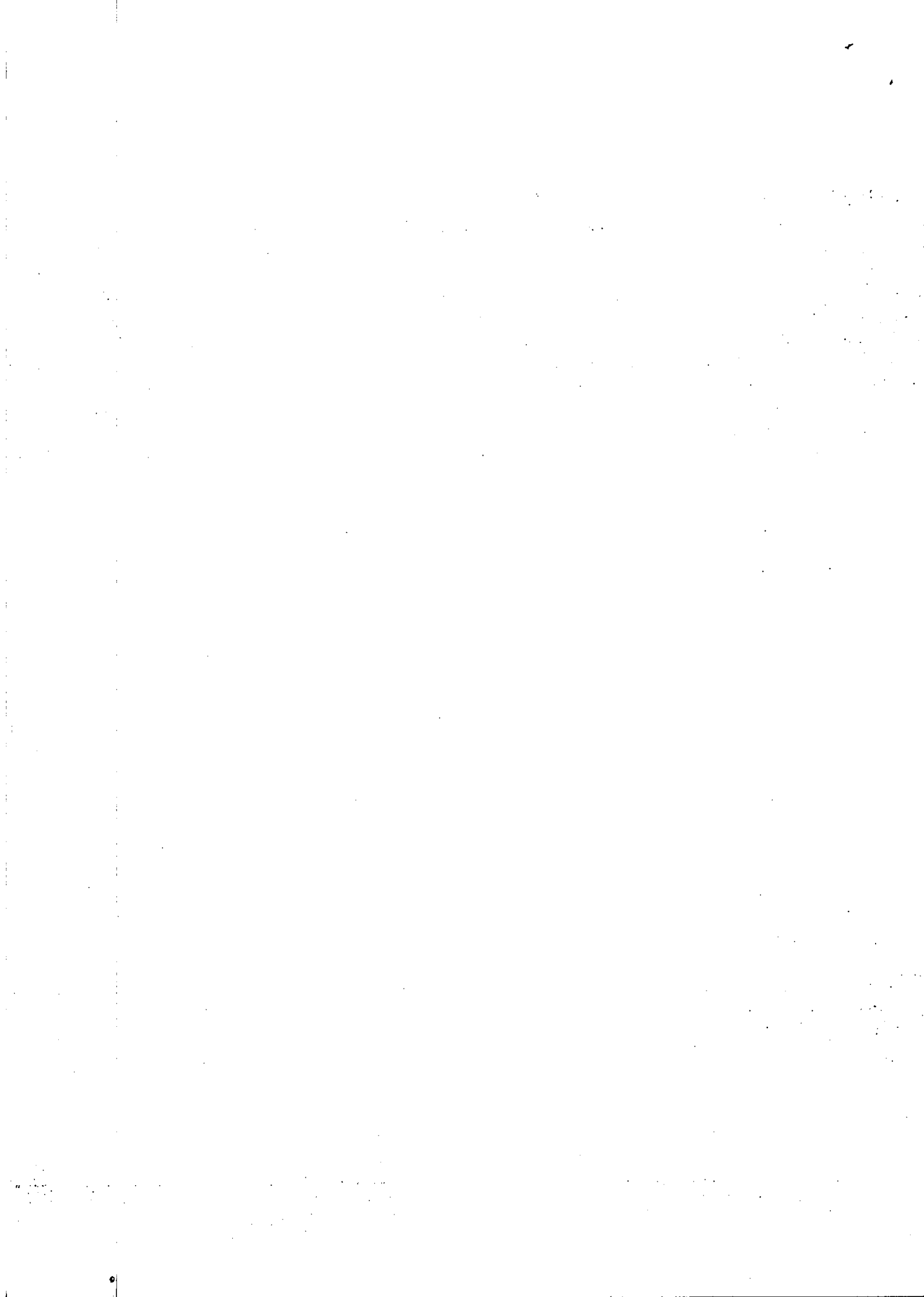
*5/20/18
17/3/18*
Thanking you,

*SRO
NSL
17/3*
Yours faithfully

Puneet Munjal
Chief-Commercial & Regulations

TATA POWER

The Tata Power Company Limited
"Shatabdi Bhawan", B-12&13, Sector 4 Noida 201 301 (U.P.)
Tel.: 91 120 610 2000
Registered Office Bombay House 24 Homi Mody Street Mumbai 400 001
Website: www.tatapower.com Email: tatapower@tatapower.com
CIN: L28920MH1919PLC000567





**Comments on draft regulation on Cross Border Trade of Electricity issued by
CERC on 16th Feb 2017**

S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
1.	Clause 2 (i) 'Buying Entity' means the entity which has been granted cross border transmission access and is purchasing electricity through a transaction involving India and a neighboring country and scheduled in accordance with these regulations under short-term open access, medium-term open access or long-term access.	Please clarify whether Trading Licensees will be treated as Buying Entity or Selling Entity In case a DISCOM purchases cross border power through a Trading Licensee, and it is the Trading Licensee which applies for open access for sale to an entity/ Utility in India, who shall be treated as Buying Entity and who shall be treated as Selling Entity	As Trading licensees have been included as in Eligible Entity, it is suggested to include them in Buying Entity too.
2.	Clause 2 (s) 'Cross Border Transmission Access' or 'CBTA' means the access available to an applicant of a neighboring country to get connected to and use the Indian Grid, and the access available to an applicant of India to get	It is suggested that definition may be revised as below: 'Cross Border Transmission Access' or 'CBTA' means the access available to an applicant of a neighboring country	Connectivity and LTA/MTOA can be applied separately and by different entities as per Connectivity, LTA and MTOA Regulations of CERC. The purpose of Connectivity is to decide the point of



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	connected to and use the grid of any neighboring country for cross border trade of electricity under Long term access or medium term open access or short term open access, as the case may be	to get connected to and use the Indian Grid, and the access available to an applicant of India to get connected to and use the grid of any neighboring country for cross border trade of electricity under Long term access or medium term open access or short term open access, as the case may be	interconnection and to ensure that the power station or transmission line or sub-station which is to be connected to the grid complies with the Technical Standards specified by the CEA. On the other hand, LTA/MTOA/STOA is with regard to capacity of the power system to transmit power from the point of injection to point of withdrawal. In view of the above "get connected to and" used in the definition may be deleted.
3.	Clause 2.1 (ii) 'Interface Meters' means interface meters as defined by the Central Electricity Authority under the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.	It is suggested that CEA regulations be suitably modified to incorporate provisions related to cross border participants	



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
4.	<p>Clause 2 (zz)</p> <p>'Scheduled Drawal' at any time or for time block(s) means schedule of despatch in MW or MWh ex-bus given by the concerned System Operator</p>	<p>It is suggested that definition may be revised as below:</p> <p>'Scheduled Drawal' at any time or for time block(s) means schedule of despatch in MW or MWh ex-bus at interconnection point given by the concerned System Operator</p> <p>Currently, scheduling and settlement for Power Exchange transactions are being done at regional periphery. The definition may be suitably modified to include power exchange transactions</p>	<p>The definition of Interconnection Point, as per Clause 2.2 (kk), states that scheduling, billing etc. shall take place at Interconnection Point</p>
5.	<p>Clause 2 (aaa)</p> <p>'Scheduled Generation' at any time or for time block(s) means schedule of generation in MW</p>	<p>It is suggested that definition may be revised as below:</p>	<p>The definition of Interconnection Point, as per Clause 2.2 (kk), states that scheduling, billing</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	or MWh ex-bus given by the concerned system operator.	Scheduled Generation at any time or for time block(s) means schedule of generation in MW or MWh ex-bus at interconnection point given by the concerned System Operator	etc. shall take place at Interconnection Point
6.	Clause 3 (4) Notwithstanding anything done or any action taken or purported to have been done or taken for cross border trade of electricity under the Agreements in force, prior to 5th December, 2016 (date of issue of Guidelines on Cross Border Trade of Electricity by Ministry of Power) shall be deemed to have been done or taken under the provisions of these regulations and the guidelines issued by Govt. of India till the expiry of such Agreements.	It is suggested that definition may be revised as below: Notwithstanding anything done or any action taken or purported to have been done or taken for cross border trade of electricity under the Agreements including commercial agreements in force, prior to 5 th December, 2016 (date of issue of Guidelines on Cross	



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
		<p>Border Trade of Electricity by Ministry of Power) shall be deemed to have been done or taken under the provisions of these regulations and the guidelines issued by Govt. of India till the expiry of such Agreements.</p>	
7.	<p>Clause 4 (2) (a) Tariff for import of electricity by Indian entities (directly or through trading licensees) from the generating stations located outside India shall be determined under long term/ medium term/ short term agreement, through a process of competitive bidding, which shall be adopted by the Appropriate Commission under Section 63 of the Electricity Act, 2003. Provided that in case of hydro generation projects, the tariff shall be determined by the</p>	<p>It is suggested that Central Commission may determine tariff for hydro generation projects for sale of power on medium term also and the Clause 4(2)(a) may be modified to read as " Tariff for import of electricity (from sources other than Hydro-electric projects) by Indian entities (directly or through trading licensees) from the</p>	<p>i. Hydro projects have been exempted from competitive bidding. Hence, tariff may be determined by CERC for hydro projects, in case of medium term sale of hydro power</p> <p>ii. Open Access consumers shall be allowed the flexibility to purchase power on mutually negotiated tariff from cross border projects, as is the case</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	<p>Central Commission as per the Tariff Regulations notified from time to time, if approached by the generator through the Government of the neighbouring country and agreed by the Indian entities, including Public Utilities/ DISCOM(s).</p>	<p>generating stations located outside India shall be determined under long term/ medium term/ short term agreement, through a process of competitive bidding, which shall be adopted by the Appropriate Commission under Section 63 of the Electricity Act, 2003."</p> <p>i. Indian entities shall have option to purchase power from cross border hydro projects at a tariff which may be lower than that determined by Central Commission</p> <p>ii. It is proposed that the hydro</p>	<p>for buying power from Indian generators</p> <p>iii. As per the judgment of APTEL, the power imported from the neighboring country after import will be governed by the CERC Regulations within the Indian territory. As per Section 49 of the EA, 2003, the tariff for direct purchase by an open access consumer from any person is not required to be determined by the Appropriate Commission</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale clarification/ amendment for
		<p>generator may also be permitted to approach CERC through Indian trading licensee, engaged by a Cross border generator as an intermediary.</p> <p>iii. It may be clarified that Open access consumers shall be permitted to buy power from cross border projects through trading licensees on a mutually negotiated tariff</p>	
8.	<p>Clause 4 (2) (a) Tariff for import of electricity by Indian entities (directly or through trading licensees) from the generating stations located outside India shall be determined under long term/ medium term/ short term</p>	<p>i. It is suggested that Competitive bidding documents shall be revised to incorporate clauses related to cross border</p>	<p>i. The current provisions of bidding documents are aligned to Indian laws which needs to be suitably modified to enable cross border participants</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	<p>agreement, through a process of competitive bidding, which shall be adopted by the Appropriate Commission under Section 63 of the Electricity Act, 2003</p>	<p>trade. For example - Force Majeure, Change in law etc.</p> <p>ii. It may be clarified that cross border projects will be permitted to participate along with Indian generators in tenders called by DISCOMs</p>	<p>ii. Reading of the Clause gives an impression that separate tenders shall be invited for purchase of power from cross border generators</p>
9.	<p>Clause 4 (2) (a)</p> <p>"----- Provided that in case of hydro generation projects, the tariff shall be determined by the Central Commission as per the Tariff Regulations notified from time to time, if approached by the generator through the Government of the neighboring country and agreed by the Indian entities, including Public Utilities/ Discom(s)."</p>	<p>It may be ensured that Tariff Regulations being referred to in this Clause 4(2) (a) and the Regulations for Cross Border Trade of Electricity, are issued simultaneously</p>	<p>In case both the regulations are not issued simultaneously, there may be a situation wherein, a hydro project is unable to sell power in Indian market</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
10.	<p>Clause 5 (2)</p> <p>All entities of the neighboring countries participating in the cross-border electricity trade with the entities in India shall abide by the Policies, Laws, Rules and Regulations prevailing in their respective countries <i>which shall be clearly enumerated in the Agreements</i></p>	<p>How would this enumeration be done? Will a reference to relevant regulations/acts suffice</p>	<p>It may not be possible to enumerate the laws in detail in the Agreements</p>
11.	<p>5 (2)</p> <p>Provided that in case of any ambiguity or conflict between the laws, rules and regulations of the neighboring countries and that of India, the Indian laws, rules and regulations will take precedence for the purpose of cross border trade of electricity with India</p>	<p>It is suggested that the clause may be modified as under:</p> <p>Provided that in case of any ambiguity or conflict between the laws, rules and regulations of the neighboring countries and that of India, the Indian laws, rules and regulations will take precedence, <i>within the territory of India,</i> for the purpose of cross border trade of electricity with India</p>	<p>It may not be possible that Indian laws take precedence in neighbouring countries</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
12.	<p>Clause 6 (2) (b) Settlement Nodal Agency (SNA) "-----Ministry of Power, Government of India shall notify SNAs for each neighboring country"</p>	<p>TPTCL is already performing functions of SNA in relation to import of power from Dagachhu Hydro Power Project, Bhutan. The same may be allowed to continue till the term of its agreement with the Generator.</p>	<p>As per Clause 1.4 of Guidelines on Cross Border Trade of Electricity issued by Ministry of Power and Clause 3(4) of the Draft Regulations, any action taken for cross border trade prior to 5th December, 2016 is deemed to be taken under the provisions of the Guidelines and Regulations.</p> <p>CERC vide its order dated 11th September 2014 had approved a mechanism for scheduling and energy accounting from Dagacchu Project. In accordance with the order TPTCL has been acting on behalf of DHPC to settle DSM charges, scheduling etc. The arrangement was subsequently reviewed by CERC and was found to be working smoothly, as</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
			per CERC order dated 16 th February 2016 In view of the above, TPTCL shall be permitted to continue acting as SNA for DHPC power.
13.	Clause 7 (2) Any other participating entity shall be eligible to participate in cross border trade of electricity after obtaining approval of the Designated Authority on case to case basis.	It is suggested that the approval shall be granted for a longer period instead of approval on a case to case basis for each transaction	in case of sale through short term tenders/power exchange the process will become cumbersome if approval is required for each transaction
14.			
15.	Clause 8 (1) A Participating entity as specified in Regulation 7(1), with approval of the Designated Authority, after complying with the <i>relevant regulations</i> of the Commission, shall be eligible for cross border trade of electricity through Indian Power Exchange(s) under the categories of Term Ahead Contracts, Intra Day Contracts	i. It may be clarified that cross border Participating entity shall be permitted to access Power Exchange through trading licensees too ii. Please clarify whether a separate approval will be required for trading on Power	i. It seems from the reading of the clause that Participating entity has to access the power exchange directly. Participating entities may be allowed to sell/buy power through trading licensees ii. Participating Entities in 7(1) need only one time approval for participation in cross



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	and Contingency Contracts as defined in the CERC (Power Market) Regulations, 2010.	<p>Exchange by Participating Entity as specified in Regulation 7 (1)</p> <p>iii. The relevant regulations as mentioned in this Clause may be specified to bring in more clarity</p>	<p>border trade. Hence, it may be clarified that no separate approval is required for trade through Power Exchanges.</p> <p>Further, we would like to submit that as per Clause 7.3 of Guidelines on Cross Border Trade as issued by MoP, cross border trade of electricity can be extended to other categories of contracts based on review by MoP in consultation with CERC. In this regard, we would request Hon'ble Commission to kindly consider collective transaction under other categories of contract, because the proposed term ahead, intraday and contingency contracts have very low trading volume as compare to day ahead collective transactions.</p>
16.	<p>Clause 8(3)</p> <p>The quantum of electricity that can be traded under cross border trade of electricity in Indian Power Exchange(s)</p>	<p>i. In case quantum on any given day/time the quantum of bids in Power</p>	<p>In case of any ceiling, power shall be distributed on pro-rata basis</p>



S.No..	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	shall be as prescribed from time to time by the Designated Authority	<p>Exchange is higher than the ceiling prescribed by Designated Authority, the process of distribution of power among the participants shall be defined in advance</p> <p>ii. Will this ceiling on quantum of electricity permitted to be traded be on overall basis or on generator/buyer basis</p>	
17.	<p>Clause 10(1)</p> <p>Any entity eligible to participate in cross border trade of electricity shall be required to seek connectivity and/or long term access or medium term open access or</p>	<p>It is suggested that cross border entities already availing of open access may not need to apply again for open access till the time current open</p>	



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	short term open access, as the case may be	access has been granted	
18.	<p>Clause 13 (2)</p> <p>The Generator or a bulk consumer already connected to inter-state transmission network of India or transmission network of the neighbouring country or for which Connectivity is already granted or planned, shall not be allowed to apply for additional connectivity for the same capacity. However, in case of expansion of capacity of generator or load of the bulk consumer, it shall be required to make application for Connectivity as per the provisions of the Regulations</p>	<p>As per our understanding, connectivity by a generator of neighboring country will be required only if it is directly connected to the Point of Interconnection in Indian territory.</p> <p>Further, in our view a generator of neighboring country which is only connected to the transmission system of that country, need not take Connectivity from CTU of India even in case of expansion of capacity.</p> <p>We would request confirmation of the above</p>	<p>Most of the cross border generators are connected to their country's network and the country's network is in turn connected to Indian grid.</p> <p>Hence such generators should not be required to sign or apply for connectivity</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
19.	<p>Clause 13 (4)</p> <p>The grant of connectivity shall be considered as provisional till the cross border long term access application for a minimum of 50% of Installed capacity (minus auxiliary consumption) is filed by the Applicant. Under no circumstances, applicant shall be allowed physical connection with the grid before filing the application for cross border long term access and furnishing Access Bank Guarantee thereof.</p>	<p>It is suggested that the condition related to tying up 50% of power on long term basis may be considered to be relaxed</p>	<p>This is contrary to the prevailing regulations for Connectivity, LTA and MTOA of CERC, the Guidelines and the draft regulations which allow for application only for MTOA and Cross Border trade in medium and short term also.</p> <p>Further, many cross border projects are being constructed for exporting only surplus power to India. In such cases, the surplus itself may be less than 50% of installed capacity.</p>
20.	<p>Clause 17 (1)</p> <p>Access Bank Guarantee</p> <p>The CBTA applicant applying for long term access shall be required to furnish to the CTU, an Access Bank Guarantee, along with application, for an amount of INR 1 Crore/ per Mega Watt corresponding to</p>	<p>The amount of bank guarantee could be considered to be reduced to Rs 5 lakh/MW</p>	<p>The amount shall be aligned to CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations</p> <p>Such high bank guarantees will result in</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	the quantum of long-term CBTA sought.		increase of project cost and in turn will lead to higher cost power
21.	Clause 17 (4) In case, any of the developers fails to construct the generating station /dedicated transmission system by the timelines agreed in the CBTAA, CTU shall have the right to encash the Access Bank Guarantee in accordance with Regulation 29 of these regulations	It is suggested that in case of delay in construction of generating station the penalty shall be limited to transmission charges payable for the period of delay, provided the power evacuation system has been completed and also that adequate notice of a possible delay in completion of generating project was not made available to the agency executing the power evacuation system.	The construction in project may be delayed for reasons which are beyond the control of the generator. Further, this would mean that even for small delay of 1 month the whole guarantee of Rs 1Cr/MW is forfeited
22.	Clause 17 (5) If CBTA Customer makes an exit from Cross Border Transmission Access under	It is suggested that the bank guarantee may not be encashed in case	



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	these Regulations, or relinquishes Cross Border Transmission Access at any stage after the augmentation of the transmission system has been awarded, the Access Bank Guarantee shall be encashed.	relinquishment is due to any Force Majeure event affecting the generator/buyer	
23.	Clause 27 (2) Settlement Nodal Agency shall co-ordinate with System Operators of respective countries for scheduling of cross border transactions and revisions during the day of operation	It is suggested that any scheduling/ revisions of cross border transaction shall be coordinated directly between the System operators of India and relevant neighboring country	Scheduling/revisions may be required to be done on real time basis. Hence, it is advisable that scheduling to be done by system operators
24.	Clause 27 (5) In case of multiple generators located in a neighboring country selling power to India through common interconnection point, the schedule at interconnection point shall be arithmetic sum of generation schedules. The actual generation attributable	Timelines for submission of data should be defined Further a mechanism to validate the submitted data may also be defined	



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	to each generator shall be informed by System Operator of the neighboring country.		
25.	<p>Clause 30 (2)</p> <p>Subject to provisions of the Grid Code and any other regulation specified by the Commission, the short-term access shall be curtailed first followed by the medium-term open access, which shall be followed by the long-term open access and amongst the accesses of a particular category, curtailment shall be carried out on pro rata basis</p>	<p>It may be clarified that run of river hydro projects are treated as must run projects and any curtailment shall take this in to consideration.</p> <p>Further, in case multiple generators of a neighbouring country are exporting power in to India, then in case power is to be curtailed, Power System Operator of that particular country should decide which generator to back down and to what extent.</p>	
26.	<p>Clause 33(2): No part of the cross border interconnection shall be deliberately isolated from the rest of the system, except</p>		<p>We would like to submit that the schedules in above scenario should get revised to zero immediately</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
	<ul style="list-style-type: none"> ✓ Under an emergency, and conditions in which such isolation would prevent a total grid collapse and/or would enable early restoration of electricity supply ✓ For safety of human life ✓ When serious damage to a costly equipment is imminent and such isolation would prevent it. ✓ When such isolation is specifically instructed after mutual agreement of the System Operators of the two Countries through specific messages exchanged to this effect 		
27.	<p>Clause 38(1)(a)(b) :</p> <p>(a) Withdrawal PoC losses as applicable shall be applied at the interface.</p> <p>(b) Injection PoC losses of respective injection grid shall be applied at the interface</p>		<p>For clarity, it is suggested that the above clauses should be reframed as follows</p> <p>(a) For export of Power to neighboring country, withdrawal PoC losses as applicable shall be applied at the interface.</p> <p>(b) For import of Power from neighboring country, Injection</p>



S.No.	Clause No and Existing Provision	Queries/ Clarification Required	Rationale for clarification/ amendment
			PoC losses of respective injection grid shall be applied at the interface.