

IWPA/AP&TS/2018-19/CERC/001

Date: 05.05.2018

To,
The Secretary,
Central Electricity Regulatory Commission
3 rd & 4 th Floor, Chanderlok Building,
36, Janpath, New Delhi- 110001.

Sub: Draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018 issued vide letter No. L-1/44/2010-CERC Dated: 27th April, 2018.

Ref:

1. Draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018
2. Ministry of Power, Government of India letter no. 23/70/2017-R&R dated 5th April, 2018
3. Central Electricity Regulatory Commission notification dated 14.12.2017.
4. Ministry of Power, Government of India order no. 23/12/2016-R&R dated 14th June 2017
5. National Tariff Policy 2016 dated 28th January 2016.
6. Circular No.23/12/2016-R&R, Government of India, Ministry of Power dated 30th September 2016.

Dear Sir,

We, represent the Indian Wind Power Association (IWPA) Andhra Pradesh and Telangana State Council. IWPA is the largest association of wind power generators, representing interest of over 1569 stakeholders in the wind energy sector across India, with an aggregate installed capacity of 13,147.825 MW capacity of wind energy projects already executed in India by such stakeholders. IWPA is registered with the Registrar of Societies, Madras (now Chennai) under Tamil Nadu Societies Registration Act, 1975. IWPA has consistently worked towards removing barriers to wind power development and creating an enabling regulatory and policy environment for investments in the sector.

We have reviewed the Draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018 and wish to submit the following comments/suggestions:

1. We draw your kind attention to the National Tariff Policy 2016 issued on 28.01.2016 (for the sake of brevity herein after referred as “NTP”), wherein Clause 6.4 (6) which reads as under:

*“In order to further encourage renewable sources of energy, no inter-State transmission charges and losses may be levied **till such period as may be notified by the Central Government** on transmission of electricity generated from solar and wind sources of energy through the inter - state transmission system for sale .”*

It may be noted that as per the above cited provision of the NTP, the policy laid down by the Government of India was to extend the benefit of the waiver of inter-state transmission charges and losses to both solar and wind sources of energy using the interstate transmission network. Most importantly the NTP never envisaged that a distinction be made between solar and wind projects merely on the basis on which solar / wind projects have been set up i.e; either through feed in tariff under Section 62 of the Electricity Act, 2003 (for the sake of brevity herein after referred as the “Act”) or through competitive bidding conducted under Section 63 of the said Act. The time period for such waiver to renewable energy projects was to be notified by the Government of India.

2. It is important to mention that the NTP is issued by the Government of India in accordance with Section 3 of the Act and the same is framed by the Government of India in consultation with the State Governments and the Central Electricity Authority. Once the policy is laid down as per Section 3 of the Act the Regulatory Commissions are required to be guided by the general policy framed by the Government of India, which in this case is the NTP. In this connection, it is also pertinent to mention for the purposes of these submissions that, Section 79 (4) of the Act mandates this Hon’ble Commission amongst others to be guided by framework laid down in the NTP.
3. The intent captured in Clause 6.4 (6) of the NTP was duly reflected in the orders of the Ministry of Power, Government of India till September 2016 and relying on which this Hon’ble Commission was pleased to amend the principal regulations being the Central

Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (“**Principal Regulations**”) from time to time. The Ministry of Power, Government of India in its order dated 30.09.2016 introduced a new proviso to the Principal Regulations. The said proviso for the first time drew a distinction between the mode through which the solar/wind project were set up and chose to restrict the waiver of interstate transmission charges and losses only to projects which were awarded through the competitive bidding process and such power should be procured by the entities only for fulfilling their RPO obligations. This Hon’ble Commission on the basis of the order dated 30.09.2016 was pleased to issue the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2017. The present draft regulations Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018 is in continuation of the Fifth Amendment and extends the time period of the waiver. It would not be out of place to mention that the proposed draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018 in its present form is not only contrary to the NTP but also to the Act and will result in restricting the development of untapped potential sources of renewable energy development across the country. Therefore, we humbly submit that the ISTS charges and losses shall be made applicable to all solar and wind projects irrespective of mode of procurement of power from the same i.e; under Section 62 or through competitive bidding process under Section 63 of the Act.

4. We further submit that the recently issued scheme on Flexibility in Generation and Scheduling of Thermal Power Stations to reduce emissions, issued by the Ministry of Power, Government of India vide its letter no. 23/70/2017-R&R dated 05.04.2018 (for the sake of brevity herein after referred as the “**Scheme**”) allows generators having coal/lignite/gas based thermal generating stations with power purchase agreements with distribution companies (DISCOMS) shall be allowed to either generate or procure power from renewable energy sources for meeting their RPO obligations. The Scheme also provides that the power generated or procured by the thermal generators from the renewable energy sources, located anywhere in the country, shall be eligible for cross subsidies including waiver from ISTS transmission charges and losses notified from time to time by the Government of India. We draw your kind attention to few of the relevant provisions of the Scheme that provide as follows:

“D. Proposed Mechanism for allowing Flexibility in Generation

*(i) Any generating company having coal/lignite/gas based thermal generating stations, **may establish or procure renewable energy generating capacity anywhere in the country** either at existing stations or at new locations.*

*(ii) The generating companies would be allowed to **utilize such renewable capacities** for supplying power against existing commitments to supply the power **from thermal stations(s) anywhere in India.***

*(iv) RPO/RGO – **Power which is generated from such renewable energy shall be eligible for** any cross subsidies notified by the Government from time to time including **waiver from ISTS transmission charges and losses as per notification from the Government.** Such renewable energy procured by the beneficiaries shall qualify towards meeting their Renewable Purchase Obligations (RPO obligations). Further, such renewable power in capacity terms shall also qualify for Renewable Generation Obligations (RGO obligations) for the generators as envisaged in the Tariff Policy and as and when notified by Government of India.*

(vii) The proposed scheme shall be applicable only for the Thermal projects developed / being developed under Section 62 of the Electricity Act, i.e; “Regulated Tariff based Projects”.

The primary objective of the Scheme is to reduce financial burden on the DISCOMS, which have the dual responsibility of procuring RE power and also balance the variability in generations (as renewable sources are intermittent in nature) in order to maintain security and stability of the grid. A conjoint reading of the above stated provisions of the Scheme clearly shows that following: (a) the generating companies (thermal power companies) availing this Scheme are at liberty to either set up their own renewable projects or procure renewable energy, (b) such renewable energy projects can be located anywhere in the country, which therefore suggests that power transmission would be through interstate transmission system, (c) the power generated from renewable projects shall be eligible for waiver of ISTS charges and losses, and (d) changes if any required in the Regulation (in this case the Principal Regulations) in relation to achieving the objective of the Scheme were to be made by the appropriate commission i.e; this Hon'ble Commission. It is pertinent to note that the Scheme gives the generating companies the liberty to either set up their own

projects anywhere in the country or procure renewable energy from others. Therefore, if a generating company was to set up its own renewable energy project at any location in the country such renewable project would be outside the scope of Section 62 or Section 63 of the Act. The proposed draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018 in its present form only permits solar and wind projects awarded through competitive bidding process to avail ISTS transmission charges and losses. If the proposed amendment is allowed in its present form it would result in defeating the very purpose of the Scheme as the power procurement under this Scheme may either be through projects set up by the generating companies or through power purchase agreements executed under Section 62 of the Act and not under competitive bidding process. As the Scheme provides that necessary changes be made in the regulations we humbly request this Hon'ble Commission to take the objective of the Scheme into consideration while approving the draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018.

6. In view of the above highlighted facts and submissions, we humbly request you to amend the draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, Sixth Amendment, 2018 and extend the ISTS transmission charges and losses waiver to all renewable energy projects irrespective of their mode of establishment strictly in accordance with Clause 6.4 (6) of the NTP.

Should a public hearing be called in this regard, we would be happy to appear before this Hon'ble Commission and present the submissions made herein.

Thanking you.

Yours sincerely,

For Indian Wind Power Association



(K. Ravi Kumar Reddy)

President

Andhra Pradesh and Telangana State Council