

Comments on Draft Regulations on Grant of Connectivity and General Network Access (GNA)

The Draft Regulations on Grant of Connectivity and General Network Access (GNA) are not forward looking, and in the present form, it is a deeply flawed and biased regulatory framework. The proposed regulatory framework is not ownership neutral and shows obvious bias towards PSUs. Further, the framework is deeply entrenched & aligned with the current market structure, and does not take into account the changing reality of gradual phasing out of Long Term Power off-take agreements. **Therefore, in the evolving landscape of Power sector, linking transmission access with long term PPAs is deeply flawed.**

With regard to the role of Distribution utilities, it is well recognised that they are the best judge of demand, and can plan for it with optimisation of Long Term/ Medium Term/ Short Term Power off-take arrangements, and Market purchases. Therefore, to make GNA a success, it has to be Demand-centric/ Distribution utilities centric, and the onus of demand projections and its consequences cannot be shifted to Generators.

The new transmission regulatory framework needs to factor in the increasing share of renewables, and the fact that the renewable installed capacity is concentrated in 6-8 states only. The transmission planning and regulation would need to be drafted keeping in view the emerging market structure. For the time being, it may be appropriate to make necessary modifications to address shortcomings in the existing regulations concerning relinquishment on the lines suggested by the Committee appointed by CERC.

Keeping in view the present state of severe stress in the Generation sector, it is necessary that the GAN regulations should facilitate to provide adequate flexibility to accommodate the needs of all stakeholders, so that the Indian Power Market remains active and healthy.

Section-I: General Comments

1. On the Concept

The Explanatory Memorandum (EM) has stated that present system for transmission planning would change from the existing approach of developing the network based on long term PPAs to a philosophy based on anticipated load demand and generation and flexibility to be provided in the power system to allow operation of the generating stations on economic principle of least cost of generation and supply. Unfortunately, in the Regulations and EM the various proposals only strengthen the old approach wherein applications are to be supported with long term PPAs/ PSAs. It is necessary to have a clear idea of the nature of electricity market design for the future that would cater to electricity demand increasingly from RE resources. Further, it should be clear as to whether the future electricity market would continue to remain inter-locked with current long term PPA models. In several countries, power market has moved away from the conventional market linked to long term PPAs.

In view of the fact that there is such a large possibility of Distributed Generation, based primarily on the Renewable Technologies, which is supported by the policies of the Government and the rapid technology evolution bring down cost of RE and power storage with increase efficiency, almost all the current consumers would turn prosumers (producer as well as consumer of power) of some size and

scale; the grid support would be needed just for the differential requirements (either way – injection or drawl) of the prosumers. In such a scenario, planning and investments are called for augmenting the sub-transmission systems at 33 kV, 66 kV and 132 kV levels rather than EHV Systems.

Thus, it is necessary that perspective planning must precede before creating a new set of regulations for inter-state access and connectivity.

Further, perusal of the draft regulations suggests that the Commission has attempted to insulate CTU and Transmission Licensees from the business risks, by ensuring that investments made by them are fully protected at the cost of other stakeholders, specifically the Generators. The regulations need to be even-handed, balancing the interest of all stakeholders equitably. Transmission planning needs to be done on the demand projections made by the Discoms, and the recovery of costs of transmission system should be from the Discoms. Generators should not be burdened with recovery of transmission costs for underutilised or unutilised transmission assets built to cater the Discom demand.

2. Market Structure and Role of Regulations

In the evolution of statute with the broad objective of reform in the Electricity sector, the EA 2003 made sweeping changes in the perspective of sectoring the Electricity Business and by de-licensing the Generation sector and Licensing the Transmission, Distribution and Trading functions. The structure of Electricity Market thus stands on these 4 pillars poised for a lasting and stable existence. The open access regime brought in by the subordinate law in the form of regulations as envisaged in the Act and the way so far implemented did not meet the objectives of the Act sufficiently. So far, the experience out of 2004 and 2009 regulations has been that the conceptual errors resulted in substantial increase in transmission tariffs on one side and on the other side affected the generators by exposing them to the unpredictability of demand and its locale and drawn in to a trap of seeking LTAs on target region basis with huge financial guarantees quite akin to blind bets in a casino. Unlike the freedom one has in making a considered choice in betting, here there was no such choice as it was forced and mandated by the Regulations. This resulted in a chaos of unprecedented nature where Transmission capacities were added without regard to certainty of their utilization only to be disbanded by way of relinquishment of LTA and consequential exposure to associated financial burden.

While all this was going on, the other 3 pillars were standing firm without being affected by these vagaries as if a possible collapse of the 4th pillar due to these inconsistent and directionless development does not affect them, which cannot be the case as the structure would eventually collapse on the failure of either of the 4 pillars now or later if left uncorrected and unsupported. The essence of structural stability lies in uniform distribution of weight/load (or risk) on all the pillars.

The reason for this failure of the regulatory processes on open access which prompted a sweeping reform once again in the proposed form of GNA, are evidently due to failure of the regulations in achieving a uniform risk distribution. While this being the case, the proposed new regulation seeks to load the Generators with further risk in a more inescapable framework of stronger shackles of financial commitments to promote network development while they would be exposed to all the risks of lack of demand in the desired direction and viable price. This is absurd and does not meet even basic tenets of justice and fairness. As if death by hanging is not enough, this seeks to simultaneously use the Electric Chair, Guillotine and Lethal dose and perhaps buried while still alive with last few breaths.

The regulation has to be wary and considerate of the basic legal doctrine that the one, who is in control of a situation and beneficiary of the outcome, shall bear the responsibility and thereby bear the associated risk. It is needless to say that the control on development of demand, locale, duration and

the competitiveness of the price rests now predominantly with the Distribution sector and to some extent the Trading sector who should responsibly promote development of the Transmission network as per their assessment and bear the risks of unpredictability and errors in forecasts.

It is pertinent to see the historical success of bearing the cost of transmission in the pre-reform era before the EA 2003. The interstate transmission development happened owing to assigned capacities of central sector generating stations (CGS) to various regional constituents. The onus of payment of revenue on the transmission assets remained with the State constituents who are beneficiaries of the interstate network and the share of CGS. The risk and burden of the transmission charges or the uncertainty of its utilization or the errors in demand forecast were never the onus of the CGSs. This continues in that way even now and is undoubtedly a successful model.

Even in the first generation of IPPs in the pre-reform era also this burden never slayed in the hands of the IPPs in public as well as private sector. In the Case-2 IPPs also this was the case. While the National policy targeted a non-discriminatory open access and a competitive market with the ultimate aim of benefiting the end user of electricity, the regulatory processes have ended up in a protective approach of keeping the segments of Transmission, Distribution and Trading risk free. Open access has come to being in way interpreted as a fundamental responsibility of the Generators and not of others. The purpose of giving the Generation an unlicensed status seems lost in the eye of the regulations. As such this is discriminatory in its most unfair means.

The optimal cost of Transmission charges is directly dependent on economic utilization of the network which in turn means that the development and investment on the network should be done to ensure it optimal utilization. This was never achieved under the current framework of open access regulation and understandably would not be achieved under the proposed amendment as it does not address and change the root cause of the problem.

3. Legality of Sweeping changes

The genesis of investment for development of such capital-intensive assets as Power Generation Plants would inevitably base on current statutes, their intent and policy. Sweeping changes in the statute and policy would severely affect the economic viability of the investments and eventually lead to total collapse of generation sector. One cannot ignore the fact that the bigger part investments in to these assets are funded through public money invested with a business purpose of profit. Unless such a consequent unviability due to sweeping change in statute or the subordinate law in the form of regulations is compensated, huge public money is put to irretrievable loss. There is no bigger example that the Gas Generation sector to substantiate this point.

Today several Power Projects initiated in the pre-2009 era Open access regulation with an understanding of the position of statute and policy at that time are in dire straits due to change in the regulations and the proposed change in the new GNA regulations would only worsen the situation. The nature of the draft GNA regulation in a nut shell is that the Generator shall bear the Transmission Charges whether he utilizes or not while it is not by choice but forcibly thrust under the provisions of statutory regulations. This is fundamentally against any legal prudence and natural justice, bonded labour in the least to compare with.

Consequences owing to such statutory changes since the initiation of the Projects shall be compensated in full else it would be illegal to force the Generators to seek GNA the way it is proposed to be applicable in retrospect and would be challenged against its validity in Constitutional Courts. In the least, the

applicability of the changed regulation has to be made prospectively and not retrospectively and provide a freedom of a considered choice of the entity seeking the Open access.

The foregoing leads to a need of a more rational approach now that the market has taken shape of a buyer's market, the bulk purchaser community which has the entire control and foreseeability of demand locale, direction and volume in their fold be solely made responsible for seeking Open access for every unit of energy that is transacted on the network and leave the generators to bother about their business of generating electricity and offer prices ex-bus.

This is more akin to the time-tested model of agrarian economy where traditionally the farm produce is picked up by the traders and bulk consumers/distributors leaving the farmer with the task of minding the production and make his margin (tax free) at farm level. Imagine burdening the farmer under an inescapable statutory framework with the responsibility of promoting investment and paying for a delivery infrastructure (without any means of ability to forecast whom he could sell) and deliver to the bulk consumer, the potential chaos and despair that it would lead to, doubtlessly farming community would eventually perish and the nation would go hungry very soon. All this while, the end consumer was always the entity who willingly pays for what everything costs and faces all the risk and burden of consequences of misplaced responsibilities.

Therefore, it is very rational that the proposed new Regulation should limit the role and responsibility of the Generators to seek Connectivity for the quantum of their capacity and limited to their responsibility under Sec 10 of the EA 2003 and offer the produce ex-bus at a competitive price. All forms of seeking open access and responsibility to promote the augmentation of network to be able to buy from generation connected anywhere; to pay the revenue requirement of the transmission assets should be solely kept under the responsibility of the Bulk Consumers and Traders with suitable financial guarantees to augur the development of transmission assets. This is happening like this now also in the case of CGS and this should be non-discriminatorily extended to the entire sector. The proposed regulation shall in no way be taken up for implementation in its current form and earlier form either.

4. Sharing Regulations and recovery of charges

The draft regulations and the EM have not discussed about the changes necessary in the sharing regulations to implement GNA. Under the prevailing regulatory framework, three kinds of access are provided i.e. Long-Term Access (LTA) (>12 to 25 years), Medium Term Open Access (MTOA) (3 months – 3 years) and Short Term Open Access (STOA) (1 month). The charges are recovered under the POC regime based on capacity allocated (in Rs/MW/Month) from LTA and MTOA consumers and on usage basis (Paisa/unit) from STOA consumers.

Under the draft regulations, General Network Access (GNA) will replace LTA, MTOA and STOA. All generators connected to ISTS will have to obtain GNA for their installed capacity less the auxiliary consumption. Similarly, DISCOMs, consumers and generators embedded in intra-state transmission system intending to transact power through inter-state transmission system will also have to seek GNA either directly or through STU. Once GNA has been obtained, transactions can be carried out under long term or medium term or short-term contracts. The methodology of recovery of transmission charges from the GNA holders must be same either on capacity basis (Rs/ MW/Month) or on usage basis (Paisa/unit). The total recovery from GNA users should be equivalent to the ARR approved by CERC for the year. It is suggested that the CERC Sharing of Inter-State Transmission Charges and Losses Regulations, 2010 need to be simultaneously amended and published for stakeholder consultations.

Many consumers and generators, including captive generating plants embedded within intra-state transmission system transact power through inter-state transmission system in short term market not on continuous basis and pay transmission charges as and when they transact power. Such embedded consumers and generators will have to seek GNA and take liability of transmission charges for inter-state transmission system round the year. This may have impact on short term power trade.

Further, introduction of GNA will have no impact on the generating stations which have long term PPAs for the entire capacity as their existing LTA will be converted into GNA. The generating stations which are not fully tied in long term PPAs, will apply for GNA and granted GNA for the net capacity connected to the ISTS. Non-operation of a generating station having GNA will not absolve it from payment of transmission charges. Thus, the generating stations which do not have any long term/medium term PPAs and are selling only part of power in short term will have liability to pay transmission charges corresponding to the GNA even if entire capacity is not scheduled. Under the prevailing regulations, such generators bear transmission charges applicable to short term transaction on the scheduled capacity only. The liability of stranded power stations will increase as they will now have to pay transmission charges corresponding to the GNA granted.

It is suggested that the GNA regime should provide adequate flexibility to accommodate varied stakeholder needs and adapt to the evolving power market structure, which is expected to move away from long term power tie-ups to medium/ short term structure.

5. Cross border trade through trading licensees

As per the draft GNA regulations, Trading Licensee are not eligible entities to apply for GNA as only grid connected entities can apply GNA. Existing LTAs granted to trading licensees would be converted into GNA in favour of the concerned grid connected entities (generators). Trading licensees can however, carry out trading for the grid connected entities. There are trading licensees having long term PPA with hydro generators in neighbouring countries and trade that power in India under long term as well as short term contracts. Draft regulation of permitting only grid connected entity to seek GNA would have impact on trading licensees who are involved in trans-border trade as the generator is in foreign country where these regulations are not applicable. Provisions need to be introduced permitting trading licensees to seek connectivity and GNA at the interconnection point of Indian grid and facilitate cross-border trading.

6. Alignment of Open Access Regulations by CERC and SERCs

The extant regulations issued by CERC for Open Access in Inter-state transmission system and by various SERCs on Grant of Open Access to Intra-State Transmission and Distribution Systems need to be aligned to the proposed GNA regulations and philosophy. The draft GNA regulations introduce fundamental changes to the concept of access to transmission networks which need to be equally adopted by the states for effective implementation and minimum disruptions. Similarly, consequent changes to the DSM regulations and IEGC code need to be made.

7. Implementation of GNA Regulation

Draft Regulation has incorporated the demand projections by Discoms aggregated by the respective STU as key requirement for a realistic demand assessment. This would give the right input for Generators towards the timely development of projects and undertake initial action. Further as PPA is a precondition the role of Discoms are critical. In fact, the present ills of the existing IPPs and also of the CTU has been because of mismatch of load generation projections in the EPS. The draft GNA

Regulation has tried to address this and is a welcome step, but before the GNA is implemented initial realistic projections on the demand scenario be carried out by CEA/STU/Discoms.

It is suggested that many of the proposals of the draft GNA Regulation relating to "Relinquishment Charges", Renewable Energy etc. can be addressed by amending the existing CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-state Transmission and related matters) Regulations, 2009 and amendments thereof.

The GNA Regulation should be adopted only after the demand scenario is properly assessed and takes into account the emerging Power market structure – including share of renewables, reluctance of procurers to long-term offtake agreements, and introduction of inter-state/ intra-state generation balancing group.

Section-II: Specific Comments to Draft Regulations

Our comments specific to regulations are detailed below.

1. Regulation 2.1

Applicant for Connectivity and GNA

(c) "Applicant for Connectivity means:

- (i) A thermal generating station with installed capacity of 250 MW and above, including a captive generating plant of exportable capacity of 250 MW and above; or
- (ii) A hydro generating station or renewable energy generating station having installed capacity of 50 MW and above individually or with an aggregate installed capacity of 50 MW and above through a lead generator; or
- (iii) Any renewable energy generating station of 5 MW capacity and above but less than 50 MW capacity developed by a generating company in its existing generating station of the description referred to in sub-clauses (i), (ii) above and seeking connectivity to the inter-State transmission system through the electrical system of the existing generating station; or
- (iv) Any company authorised by the Central Government or the State Government as:
 - a. Solar Power Park Developer or
 - b. Wind Power Park Developer or
 - c. Wind-Solar Power Park Developer
- (v) Distribution Licensee who intends to avail supply for a minimum load of 250 MW from the inter-State transmission system
- (vi) Consumer who intends to avail supply for a minimum load of 250 MW from the inter-State transmission system

(d) Applicant for GNA means the following in respect grant of GNA:

- (i) Applicants covered under Regulation 2(1) (c); or
- (ii) State Transmission Utility on behalf of intra-state entities who intend to seek GNA through STU (distribution licensee, consumers, embedded generator etc.); or
- (iii) Consumer; or
- (iv) A generating station including a captive generating plant irrespective of installed capacity; or
- (v) Distribution licensee

Comments: The proposed Regulation 2.1(c)(i) permits only generators having installed capacity of more than 250 MW and above to have connectivity with grid owned/ controlled/ operated by CTU. As per Regulation 2.1(d)(i) applicants under Regulation 2.1(c)(i) would be the applicants for GNA as well. In other words, generators with less than 250 MW installed capacity cannot apply for connectivity as well as GNA. It is submitted that Section 38(2)(d)(i) of the Electricity Act 2003 (Act) provides that it shall be duty of the CTU to provide non-discriminatory open access to generators and licensees. Therefore, the capacity restriction proposed under these Regulations are not in line with the Act and need to be corrected.

Further, Section 9(2) of the Act provides that every person, who has constructed a captive generating plant and maintains and operates such a plant shall have right to open access for carrying electricity from its captive generating plant to destination of its use. According to these provisions of the Act, if a generator or CPP of less than 250 MW capacity requires to be connected with CTU system directly (to save state transmission and wheeling charges), he cannot be denied connectivity and open access.

Further, Regulation 2.1(c)(vi) permits a consumer having a load of more than 250 MW to get connected with the ISTS directly. EM also provides that the transmission line from consumer premises to CTU point shall be constructed by CTU and would become part of ISTS. In this regard it is submitted that Section 2(19) read with Rule 4 of Electricity Rules 2005 clearly establish that any line between a transmission node to the consumer premises is part of the distribution network of the Distribution Licensee and it cannot be a transmission system. Section 2(19) of the Act along with Rule 4 of Electricity Rules 2005 are reproduced below for ready reference.

"Section 2 (19) *"distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers;*

Electricity Rules 2005

Rule 4. Distribution System - *The distribution system of a distribution licensee in terms of sub-section (19) of Section 2 of the Act shall also include electric line, sub-station and electrical plant that are primarily maintained for the purpose of distributing electricity in the area of supply of such distribution licensee notwithstanding that such line, sub-station or electrical plant are high pressure cables or overhead lines or associated with such high pressure cables or overhead lines; or used incidentally for the purposes of transmitting electricity for others".*

The matter relating to status of a 132 kV line from OPTCL substation to consumer premises came before APTEL in Appel No. 30 of 2012. APTEL in its judgment has held as under:

"35 According to these provisions the Distribution network is a system of wires between delivery point on the transmission lines or generating station and point of connection to the consumer's installation. It also includes the electric line, sub-station and electric plant that are primarily maintained for the purpose of distributing electricity notwithstanding that such line... is high pressure cables or overhead lines. We have to examine as to whether an EHT line emanating from an EHT substation of the transmission licensee and connects a consumer's installation fits in to this definition of distribution network or not. Evidently, the last mile connection is a line is between delivery point on the transmission line and point of connection on the consumer's premises and is primarily used for distribution of electricity to such consumer. Therefore, it qualifies to be part of distribution network.

36 The learned Counsel for the Respondent no.10 contended that any EHT line connecting generating station and substation directly or through other sub-stations is a transmission line. Every EHT consumer would necessarily have a substation within its premises. Therefore, an EHT line from a substation owned by transmission licensee to consumer's substation would qualify to be a transmission line within the meaning of transmission line defined by Section 2(72) read with definition of sub-station defined in Section 2(69) of the Act. These subsections are quoted below:

(69) "sub-station" *means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings used for that purpose and the site thereof;*

(72) "transmission lines" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) ***transmitting electricity*** from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gears and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works.

37 Bare reading Section 2(72) would indicate that the definition of transmission line a residual definition. All high pressure cables and overhead lines which are not essential part of distribution system of a licensee are transmissions lines. Therefore, we have to examine as to whether a line in question is a part of distribution network or not. If it is not a part of distribution network, only then it could be transmission line. As we have observed in para 35 above that last mile connection is part of distribution network, therefore, it cannot be a transmission line.

38 Next requirement for a line to be a transmission line is that the line must be transmitting electricity. Can supply to consumer be treated as transmission of electricity? The answer is 'no'. Supply of electricity to a consumer is universal service obligation casted upon distribution licensee under section 43 of the Act and accordingly, supply to a consumer is distribution and cannot be termed as transmission of electricity.

39 Next requirement is that it must be connected with a generating station or a substation. According to the learned Counsel for the Respondent, every EHT consumer would necessarily have a substation. Substation has been defined in Section 2(69) as a station for transforming electricity for transmission or distribution thereof. Can an arrangement for stepping down electricity at consumer's installations be held as substation as defined in Section 2(69) of the Act? Does this arrangement meant for transmission or distribution of electricity? The answer would again be 'no'. No person can transmit or distribute electricity without a license under the Act. Therefore, the arrangement of stepping down electricity for consumer's own use cannot be held to be a substation as defined in the Act.

40 In the light of above discussion we are of the view that a line between transmission system and a consumer's premises is a part of distribution system."

The issue relating to construction of this last mile connection had also been dealt with by the APTEL as under:

39 Natural offshoot of above finding would be lead to the question as to whose responsibility would be to erect, operate and maintain such EHT lines. Section 42 of the Act mandates the distribution licensee to develop, operate and maintain distribution network. Thus it would be the duty of the distribution licensee to erect, operate and maintain the EHT lines as part of its distribution network. However, if the distribution licensee decides that it does not have expertise to carry out these jobs, it can entrust the same to the transmission licensee on mutually agreed terms duly approved by the Commission. We would like to mention that many generating companies have entrusted these assignments in relation to dedicated transmission lines to concerned STU. "

The above views of the APTEL has been upheld by the Hon'ble Supreme Court in Civil Appeal No. 5479 of 2013 in the matter of Sesa Sterlite vs OPTCL. In Sesa Sterlite matter the line in question was 220 kV line. It is therefore established that any line at any voltage level connecting the premises of consumer

with transmission system or generating unit is part of the distribution network of the concerned distribution licensee and only such distribution licensee has the right to construct such line and CTU would have no role to play and line cannot be a part of ISTS. Accordingly, sub-clause (iv) of Clause (c) of Regulation 2.1 need to be deleted.

2. Connectivity and GNA for Cross Border Transaction

Comments: The proposed draft regulations do not cover the prevailing cross border transactions which are currently operational in long term as well as short term. It is relevant to point out here that most of the cross-border transactions are being managed by Trading Licensees. Hence, suitable provisions need to be incorporated in the draft regulations, for Trading licensees having long term PPAs with Generators in the neighbouring countries, and selling power in India on long term as well as Short term basis. In such cases, provisions need to be introduced permitting trading licensees to seek connectivity and GNA at the interconnection point of Indian grid and facilitate cross-border trading.

Further, in case of import of power from run of the river Hydro power plant, if Trading licensee is required to seek GNA for installed capacity less Aux. power consumption, it is our humble submission that since generation from run of the river plant is dependent on season/ rainfall, payment of transmission charges in this case shall be based on monthly scheduled energy and not based on approved GNA quantum.

E.g. In case of Dagachhu Hydro Power plant which is a run of the river Hydro plant and selling power to TPTCL, for onwards sale to short term market in India. During winters, when generation is at minimum, payment towards transmission charges against full approved GNA quantum shall make the hydro power uncompetitive, when scheduled energy during winters is normally at around 20% PLF.

Further, Pump Storage System and Battery Storage Plants should be included under the definition of Applicant for Connectivity and GNA.

Also, the Regulation 2.1 (c)(iii) above shall be extended for renewable projects under construction and should be modified to the extent for removing the capacity cap of 50 MW for inclusion under GNA. Removal of such capacity cap of 50 MW on renewable projects will encourage developers to invest in the high capacity renewable projects and allowing them to connect under GNA will make the projects competitive for Interstate sale of power.

3. Regulations: 2.1. (d)(i) - Applicants covered under Regulation 2(1) (c)

Comments: Once connectivity has been granted by CTU, an applicant as per Regulations 2.1(c) shall apply for GNA. However, clarity is sought as whether the quantum to be applied for GNA shall be same as per the connectivity limits like 250 MW for Thermal, 50 MW for RE/Hydro, 250 MW for consumer etc. or any access quantum below the aforesaid limit can be considered for GNA application.

4. Regulations: 2.1. (d)(iii) Consumer

Comments: The term "Consumer" should be defined as - means any consumer eligible to avail open access as specified by the State Commission under sub-section (2) of section 42 of the Act.

5. Regulations: 2.1. (f)

“Central Repository” means a database maintained by Central Electricity Authority in case of conventional energy and by any other authority as notified by the Central Government in respect of renewable energy.

Comments: It is submitted that under section 73(i) of the EA, 2003, CEA has been assigned the function to collect and record data concerning generation, transmission, trading, distribution and utilization of electricity. The database in respect of renewable energy can also be maintained by CEA as it has been authorized under the Act to collect and record data in respect of any generation, which includes generation from renewable energy sources. Thus, CEA can be Central Repository for conventional as well as renewable generation and there is no requirement to notify a separate authority for renewable energy.

6. Regulation 2.1(o)

“Exportable Capacity” means the generation capacity available with a captive generating plant for sale after accounting for the consumption by its captive user.

Comments: The definition may be modified to define "exportable capacity" as the net generation capacity that is available for injection to the grid by the captive generating plant. The present definition assumes the captive user to be co-located as the generating plant and hence excludes the quantum consumed by its captive user, which may be located at anywhere within the country. Further, the present definition is not in line with Regulations 7.39 and 16.5. Alternatively, the term 'exportable' may be replaced with term 'saleable'.

7. Regulations 2.1 (q)

“General Network Access or GNA” means the non-discriminatory access to the ISTS granted by the CTU to an Applicant for an estimated maximum injection/ drawal for a specified period.

Comments: Connectivity Regulations 2009 defined Long-term access, medium term open access and short term open access. Draft GNA regulations have not defined the period of access and mentions “for a specified period” only. Duration of this specified period for various DICs has not been indicated. It is suggested that it could be for the life of the generation asset, perpetual for STUs and remaining term of license for Distribution Licensees as per the regulations.

8. Regulation 2.1 (s)

“General Network Access Customer or GNA Customer” means a person who has been granted GNA and shall also include the Long-Term Customers as defined in CERC (Grant of Connectivity, Long term Access, Medium term open access and other related matters) Regulations, 2009.

Comments: As understood, the concept of GNA is irrespective of duration of access and does not classify access users into LT/MT/ST users. With this understanding, there is no rationale for the definition to specifically mention long term customers as defined under CERC (Grant of Connectivity, Long term Access, Medium term open access and other related matters) Regulations, 2009 and saves LTA consumers/ contracts and not Medium-term customers which are also defined under 2009

regulations. It is suggested that existing MTOA and STOA granted to consumers should be saved till their natural term.

9. Regulation 2.1 (w)

"Lead Generator" means a generator who is authorized through a formal agreement by other generators located in a geographically contiguous area for seeking interconnection with the ISTS at a single connection point and undertakes all operational and commercial responsibilities in following the provisions of the Indian Electricity Grid Code and all other regulations of the Central Commission, such as grid security, scheduling and dispatch, collection and payment or adjustment of Transmission charges, deviation charges, congestion and other charges etc.

Comments: The concept of "Lead Generator" is w.r.t to Hydro or RE generators. Hence for clarity, the term hydro and RE generators may be introduced in line with Regulations 2.1(c) (ii) and modified as follows;

"Lead Generator" means a hydro generating station or a renewable energy generating station generator who is authorized through a formal agreement by other generators located in a geographically contiguous area for seeking interconnection with the ISTS at a single connection point and undertakes all operational and commercial responsibilities in following the provisions of the Indian Electricity Grid Code and all other regulations of the Central Commission, such as grid security, scheduling and dispatch, collection and payment or adjustment of Transmission charges, deviation charges, congestion and other charges etc."

10. Regulation 3.2

Persons who are already connected to the state grid may be allowed to seek Connectivity and GNA to ISTS subject to payment of transmission charges corresponding to additional Connectivity and GNA and applicable state charges.

Comments: The regulation may be reworded for better clarity as

"Persons who are already connected to the state grid may be allowed to seek Connectivity and GNA to ISTS subject to payment of transmission charges corresponding to additional connectivity and GNA to ISTS and applicable state charges.

11. Regulation 3.3

Generating stations who are already connected to the ISTS grid for part of their installed capacity shall seek Connectivity and GNA to ISTS for balance capacity.

Comments: A Generating Station may not tie up (or may not be able to tie up) its entire capacity under long term or medium term PPA and therefore, GNA shall not be enforced for such balance/ untied capacity. In such case GNA charges for full capacity will be a huge financial burden to the generator.

There would be certain balance capacity which is kept for market sale (merchant capacity) as required by Mega Power Policy of the Government. Such merchant capacities facilitated development of medium/ short term market in the country. Hence, it is utmost important to keep such generation margin available in the transmission system.

Further, due to excess generation capacity in the market, paying abilities of DISCOM/ Consumer and issues related to fuel pricing under the PPA/ Plant awarded through competitive bidding guidelines; the DISCOM/ Consumers are reluctant to tie-up long term power supply and the short-term sale is highly uncertain (depending on many factors).

Also, the utilisation of existing capacity is ~60% for coal based generation and below 25% for gas based generation. In this view, 100% utilisation of GNA is not possible specifically for gas based power plants. The gas based power generation is highly stressed asset among other generation. There are certain plants connected to the grid (i.e. commissioned) but they are not in operation due to PPA/Fuel issue. Such plants cannot take further burden of the GNA charges without any revenue.

In addition to the above, if the generators are forced to take injection GNA for balance (untied capacity) then there is no guarantee that there will be 100% transmission availability on drawl side as this untied capacity is mainly utilised for short term market which is highly uncertain. In such case, the generator will be burdened with GNA charges without any surety on sale of such balance capacity.

Accordingly, it is very detrimental for any Generating entity to take GNA for un-tied capacity. The demand can be best projected by the user, i.e. the Discoms. Discoms, based on their projections, and prospective power procurement arrangements, should be asked to take GNA, and bring bids for the required capacity. Generators after having won the bid would immediately be asked to take GNA. Any other formulation would result in prospective relinquishments, and land up the sector in same predicament as currently.

12. Regulation 3.7

The existing Long-Term customers of ISTS shall be deemed to be GNA customers subject to fulfilment of conditions as per the Regulation 25 hereof.

Comments: Under this regulation, existing MTOAs, which as per the Connectivity Regulations 2009 defined as access for a period exceeding 3 months but not exceeding 3 years, deemed to be cancelled? It is suggested that MTOA existing as on date of notification be saved and allowed to complete their term or they too be considered as deemed to be GNA customers.

13. Regulation 5.2

The application shall be accompanied by a non-refundable application fee specified hereunder for the quantum applied, and shall be payable by Applicant along with the application for Connectivity and GNA: -

	Quantum of Power to be injected/ drawal from ISTS	Application fee (Rs. lakh)	
		Connectivity	GNA
1	Up to 100 MW	4	4
2	> 100 MW up to 500 MW	6	6
3	> 500 MW up to 100 MW	12	12
4	> 1000 MW	18	18

Comments: Application Fee proposed in draft regulations is twice the amount of existing fees, and increase is abnormal. Existing fee structure should be retained.

Further, the Regulation 2.1 (c) puts 250 MW as the minimum quantum for seeking connectivity. The slabs for application fees need to be corrected accordingly, unless the minimum quantum as per Regulation 2.1 (c) is altered as proposed above.

14. Regulation 6.2

If Connectivity or GNA application, is not processed by CTU as per the timeline given above, such application for Connectivity or GNA shall be processed free of cost and CTU shall return the application fee paid by the applicant.

Comments: There is no upper limit specified under Regulation 6.2 for processing the application after timelines specified in Regulation 6.1. It is essential that such upper limit is also fixed and CTU shall provide reason for delay in processing the application to the Applicant with a copy to the Commission every 3 months.

15. Regulation 7.2

An applicant shall apply for Connectivity to the nodal agency for a quantum equal to installed capacity of generating station less auxiliary power consumption in the specified format as approved by the Central Commission. A captive power plant shall apply for Connectivity for a quantum of maximum exportable capacity proposed to be connected to ISTS.

Comments: For generating stations whose tariff is determine under CERC regulations, the connectivity quantum should be revised automatically based on the auxiliary power norms specified in the regulations. How would the additional power injected in the scenario, wherein a generating station operated at better auxiliary power as compared to the norm? The definition of "Exportable capacity" for a captive power plant needs to be modified submitted earlier.

16. Regulation 7.4

In order to assess preparedness of applicant making application for the connectivity to the ISTS, an applicant (other than renewable generating station, Solar Power Park Developer, Wind Power Park Developer or Wind-Solar Power Park Developer) shall submit along with its application, documents in support of having initiated specific actions for project preparatory activities in respect of the following milestones as applicable:

- (a) Site identification and land acquisition: Details about the land required for the generation project along with extent to which the same have been acquired and taken possession of. The "requirement" of land would be considered as indicated in the proposal filed with the competent authority for seeking environmental clearance.
In case of land to be acquired under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act, 2013, copy of notification issued for such land under Section 11 of the said Act. In all other cases, the documentary evidence in the form of certificate by concerned and competent revenue / registration authority for the acquisition / ownership / vesting of the land.
- (b) Environmental clearance for the generating station: Status on submission of requisite proposal, for the environmental clearance, to the concerned administrative authority (first level submission), as applicable.

- (c) Forest Clearance (if applicable) for the land for the generating station: Status of proposal for the forest clearance to the concerned administrative authority (first level submission), as applicable.
- (d) Fuel Arrangements: Details on fuel arrangements for the quantity of fuel required to generate power from the power station for the total installed capacity intended for connectivity, as applicable.
- (e) Water linkage: Status of approval from the concerned state irrigation department or any other relevant authority for the quantity of water required for the power station, as applicable.

Comments: It is submitted that the requirement of fuel arrangement for grant of connectivity may be reconsidered in view of the provisions of the SHAKTI policy which stipulate that coal supplies for plants to be commissioned till 31.03.2022 be allowed at 75% of the ACQ against the FSA. Further, future coal linkages would be granted on auction basis and power plant may not be able to secure coal for full installed capacity. It would, therefore, be too onerous for a generator who cannot generate due to shortage of coal and is required to pay transmission charges as per its installed capacity. On the other hand, it would also not be proper to invest in system corresponding to its installed capacity and charge him for lesser quantity. To balance the interests of Generators as well as transmission licensee, generator to be allowed for connectivity as per his projections and would be allowed to transmit only the quantum he has sought connectivity. Excess quantity would be charged at penal rates.

17. Regulation 7.5

A Renewable Energy Generating Station or Solar Power Park Developer or Wind Power Park Developer or Wind-Solar Power Park Developer shall submit, along with its Stage-I Connectivity application:

- (a) A copy of Board Resolution, if Applicant is a company.
- (b) Project Report regarding intended type of project, implementation plan
- (c) Site identification wherever undertaken: Details about the land required for the project along with extent to which the same have been acquired and taken possession of or leased.
- (d) Environmental clearance: Status on submission of requisite proposal, for the environmental clearance, to the concerned administrative authority (first level submission), as applicable.
- (e) Forest Clearance for the land: Status of proposal for the forest clearance to the concerned administrative authority (first level submission), as applicable.
- (f) Authorisation issued by Central Government or State Government, as applicable

Comments: In reference to 7.5 (c) It is submitted that at the inception stage of a Wind Project, a rough estimate of location can only be given as specific locations can only be given after wind data is available.

18. Regulation 7.9

(d) An Applicant not covered under Regulation 7.9 (c) (merchant power plant) shall be eligible to apply for Stage-II Connectivity on achieving following milestones: (i) Financial closure of the project developer has been completed....

Comments: It is submitted that getting LTA is one of the pre-requisite for getting FC of any renewable project. So, making FC a pre-requisite for application of GNA is not feasible.

19. Regulation 7.13

After scrutiny, nodal agency shall intimate the deficiencies in the application, if any, to the applicant within one week of receipt of application. The applicant shall rectify the deficiency within one week thereafter, failing which the application shall be closed and 20% of the application fees shall be forfeited and balance shall be refunded. If the rectified application is received from the applicant after last day of the month in which application is made, application shall be deemed to have been made in subsequent month and processed accordingly.

Comments: The time provided for applicant to rectify the deficiency in the application is very short and provision of forfeiture of 20% fee appears very harsh. The rectification depends on the nature of deficiency and some time may require more than a week. Accordingly, at least one month time should be given for rectification of Application and thereafter if applicant does not come back, the application should be closed and the entire fee should be refunded. A small non-refundable fee could be proposed to cater to cost of administration and processing/ scrutiny of applications.

20. Regulation 7.14

Where after filing of an application or after grant of Connectivity, there has been any material change in the location of the applicant or change in the quantum of power to be interchanged with the inter-state transmission system, the applicant shall inform the same to the nodal agency. If the nodal agency after assessment comes to the conclusion that this change would require modification in planned ISTS, the nodal agency shall inform the Applicant within a period of one month to file a fresh application accompanied by Application fees and relevant documents. The fresh application shall be considered by the nodal agency in accordance with the Regulations and the earlier application shall be closed. If no modification in the planned ISTS is required, the nodal agency shall issue revised grant incorporating the change in Connectivity.

Comments: There should be some threshold limit for assessing the material change. As per proviso of Regulation 8 (1) of Erstwhile Regulation, the minimum change should be more than 100 MW and that for change in location in line with Regulation 8.2 and in case change in location does not warrant change in injection point. The same threshold limits may be maintained for Regulation 7.14 (pertaining to Grant of Connectivity) and Regulation 11.12 (pertaining to grant of GNA)

21. Regulation 7.24

More than one generator can use the dedicated transmission line connecting their generating station to pooling station of ISTS after formalising all aspects including sharing of the transmission charges and losses of the transmission line among the generators. The transmission charges shall be decided amongst themselves after taking into account the norms specified in the Tariff Regulations issued by Central Commission from time to time.

Comments: Section 2(16) of the Act defines dedicated line as point to point line from generating station to any transmission lines or sub-station or generating stations, or the load centre. Therefore, once a dedicated line from a generating station is LILO to another generating station for evacuation of its power, the line losses is of dedicated character and would become ISTS or InSTS. Difficulty Removal Order Number 5 dated 9th June 2005 provides that no transmission license would be required for a dedicated transmission line. However, when same line is used for two or more generators it becomes ISTS or InSTS as line of one generator would be transmitting power from other generating station and accordingly transmission license would be required for the same as per section 14 of the Act.

It should also be considered that the generator who had constructed DTL would include its cost in the tariff while bidding for its power in competitive bidding. The bid is for 25 years and later if the line is also used by another generator on payment of transmission charges to 1st generator, how this will be adjusted in the tariff? This will give rise to avoidable litigation.

In case a dedicated line is used by another generator, to save RoW, then it would become ISTS or InSTS and transmission charges to be determined by appropriate commission as per Regulations and it cannot be left to parties to decide themselves, as proposed in the draft regulations.

22. Regulation 7.26.

An "Applicant for Connectivity" may be connected to both inter-State transmission system and intra-State transmission system. In such cases, "Applicant for Connectivity" shall apply for Connectivity for demarcated quantum to CTU and STU such that total Connectivity quantum equals installed capacity less auxiliary consumption. However commercial liability of generator including CGP towards ISTS shall be corresponding to the quantum proposed to be evacuated through CTU network. Applicant shall clearly indicate the quantum of Connectivity with inter and intra state transmission system in its application to CTU. CTU shall take confirmation from concerned STU regarding application for connectivity made for connectivity to intra-state transmission system before grant of Connectivity to ISTS. If such confirmation is sought by CTU, STU shall confirm the same within a period of 15 days.

Comments: When a generator is connected both to STU and CTU then he is required to give quantum of GNA for power likely to be evacuated through CTU system and pay charges as per GNA. However, it would be appreciated that in a meshed network power flows as per Kirchhoff's law and there could be instances when, due to changed system conditions, power flow towards CTU network would be more than approved GNA although his total injection into STU and CTU networks remains equal to or less than sum of CTU GNA and STU LTA. Such condition is beyond control of the generator and he should not be penalised for the same by charging 25% higher for excess quantum. This needs to be clarified in the Regulations.

23. Regulation 8.2

CTU shall plan the system such that maximum length of dedicated transmission line shall not exceed 100 km from switchyard of the generating station or pooling station of the solar power park or wind power park till the nearest pooling substation of transmission licensee for "Applicant for Connectivity" in accordance with Regulation 2(1)(c).

Comments: Planning including Transmission Planning is function of CEA as per Section 3(4) of the Act. All proposals for transmission lines and substations by CTU are placed before Regional Standing Committee on Transmission under Chairmanship of CEA and gets its approval. CTU can implement the proposal only after it is approved by Standing Committee. System proposed by CTU to bring dedicated line of one generator within 100 km may not be accepted by other beneficiaries of the Region as they have to bear the cost of the additional system. It may not be appropriate to specify any restriction in length of dedicated transmission line rather leave it to the discretion of Standing Committee to take optimal and appropriate decision on case to case basis.

24. Regulation 8.4

Where the dedicated transmission lines have already been constructed or are under construction by ISTS Licensee (including deemed licensees) under coordinated transmission planning:

- (i) The transmission charges for such dedicated transmission lines shall be payable by the concerned generating company to the transmission licensee from the date of COD of the dedicated line till operationalisation of GNA of the generating station in terms of Regulation 22 of these Regulations;
- (ii) After operationalization of GNA, such dedicated transmission line shall be included in the POC pool and payment of transmission charges for the said dedicated transmission line shall be governed as per the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2010 as amended from time to time.

Comments: It is submitted that operationalization of GNA is beyond the control of the generator. If the intention is to put the burden on the generator for use of dedicated line for testing and commissioning and start up power then the loading of transmission charges on the generator may be restricted to the period till the COD of the first generating unit.

25. Regulation 10

Point of Commercial Metering

Metering shall be done at the interface point of connection of the generator with transmission system of licensee as specified in the CEA Metering Regulations subject to following:

(a) In case dedicated transmission Lines are owned/ constructed by a generator, such metering point shall be at the pooling sub-station of ISTS licensee.

(b) In case generator is connected to more than one pooling station, metering shall be at the bus bar of the generating station.

Comments: Under Regulation 10 (a) & (b), it has been proposed that in case of dedicated transmission line owned/ constructed by the generator, the metering will be at the pooling sub-station of ISTS licensee and in case a generator is connected to more than one pooling sub-station, metering may be at the generating station. This will result in disparity between the power stations which are to be connected to one pooling sub-station and those which are connected to more than one pooling sub-station. It is suggested that metering may be done at the generating station only as per CEA's Metering Regulations. It is felt that if due to commercial contract, the loss on the dedicated transmission line is to be borne by the generator, the estimated losses for such dedicated line may be computed and booked to the generator. Also, as stipulated in the draft, if the Dedicated Transmission Line is also to be operated by CTU, then there is no rationale to shift metering location to pooling station.

Further, it is also submitted that Regulations 10 and 13 may be merged since both deals with the issue of metering.

26. Regulations 11. Application for General Network Access

Comments: In the proposed regulations, it is mentioned that the applicant seeking GNA to Inter-State Transmission system shall file application within two and half years from the date of intimation of grant of connectivity. Also processing time of GNA application is brought out in the draft. However, period (No. of years) of seeking GNA by the applicant is not clear in the draft.

The applicant shall prefer to seek GNA as per its requirement i.e. applicant would generally seek GNA for 25 years in case of new thermal projects while in case of Hydro and others it could be different. In case of consumer/State entity, no. of years required for seeking GNA may vary depending on requirement of the consumers.

Further, existing generation stations/IPPs those who have LTAs and those who do not have LTAs, in all such cases, the requirement of period for GNA shall be different for different cases. Like, generating station/ IPPs nearing to their retirement may like to have GNA for only few years while others may prefer to seek GNA for balance period of life of their plants. Further, considering unforeseen issues, the provision regarding extending the time limit after mutual discussion between the CTU and developer may be introduced in the final regulations.

27. Regulations 11.4:

In case of allocation of power by Ministry of Power, Govt. of India in respect of generating stations owned or controlled by Central Government, the concerned generating company may make application to CTU for GNA on behalf of the allocatees on the basis of their written authority for making the application. After grant of GNA, it shall be the responsibility of the concerned generating company to facilitate signing of GNA Agreement by the allocatees with CTU within the stipulated period as prescribed in these Regulations.

Comments: In the proposed regulations, it is mentioned that in case of generating stations owned or controlled by Central Government, the concerned generating company may make application to CTU for GNA on behalf of the allocatees on the basis of their written authority for making the applications. Clarity is sought in the matter that:

- a) There are cases wherein reduction in allocation also takes place in one region and increase in allocation takes place in other region? How the reduction/increase in Injection and Drawl GNA will be treated?
- b) How the unallocated capacity of CGS will treated?
- c) What is the GNA priority in case of allocation/ reallocation of power by MoP?

28. Regulations 11.7

The GNA Application shall be accompanied by Access Bank Guarantee of Rs. 20,00,000/- (Rupees Twenty Lakh only) per MW for the quantum of GNA sought. The Access Bank Guarantee shall be in favour of "Central Transmission Utility", as per FORMAT-GNA-4.

Comments: With reference to existing Connectivity Regulation 2009 as per which the provision for such Bank Guarantee is in range of Rs 5 Lakhs/ MW, the proposal of Access Bank Guarantee of Rs 20 Lakhs/MW as per this Draft Regulations is exorbitantly high for a generator.

Further, as already brought out above the purpose of BG is to safe guard the investment likely to be made by the CTU in providing additional network for long term contracts (more than 7 years). It cannot be made applicable to applications for medium term contracts (1 year to 5 year) and short term contracts where CTU would not add any transmission element and GNA would be provided on the margins available in the system. CERC need to clarify this in the Regulations itself.

29. Regulation 11.8

Documents to be submitted along with the application shall include

- (a) Scanned copy of Notarized affidavit as per FORMAT-A for each application;
- (b) Proof of payment of Application fee through NEFT/RTGS by giving UTR No. of the Bank remitting the fees.
- (c) Scanned copy of Access Bank Guarantee of Rs. 20,00,000/- (Rupees Twenty lakh only) per MW as applicable. Physical copy should be submitted separately within 2 working days of submission of online application.
- (d) PPA or Sale-Purchase Agreement of power as applicable. Letter of Intent (LOI) shall not be accepted as a PPA or Sale-Purchase Agreement.
- (e) Copy of the allocation letter issued by Ministry of Power, Govt. of India, wherever applicable.
- (f) Authorization by the allocatees in favour of the Central Generating Company to make GNA application, wherever applicable.

Comments: It is suggested that furnishing of PPA/PSA should not be mandatory as the PPA/PSA may not have been signed at the stage of filing of application for GNA. The provision may be modified that PPA/PSA, if available, may be submitted along with the application. It is submitted that most of the bilateral and short-term transactions are undertaken based on LoI, LoIs should be accepted for grant of GNA.

Further, as per Regulation 17.1, "*Grant of GNA shall, by itself, not entitle any generating station to interchange any power with the grid till it either signs a PPA or sale purchase agreement (SPA) and inform the same to CTU and concerned RLDCs or sells power through exchange*", which implies that the GNA has been granted without submission of PPA/PSA as required under regulation 11.8. Hence, Regulations 11.8 and 17.1 are not in sync. Regulation 17.1 is more rational and should be retained and requirement of submission of PPA along with application to be deleted.

30. Regulations 11.10

Any deficiency in the application shall be communicated within a week of receipt of application. The applicant shall be required to rectify the deficiency within one (01) week thereafter failing which the application shall be closed and application fee shall be forfeited and the Access Bank Guarantee, if any, shall be returned within 15 days of closure of the application. If the rectified application is received after last day of the month, the application shall be deemed to have been in made in subsequent month.

Comments: The timelines for correcting the deficiency in the application for GNA shall be extended at least to one month.

31. Regulations 11.11

CTU shall not hold any GNA application in abeyance and process the applications within the timeline prescribed in these Regulations. If any GNA applicant requests CTU in writing for deferment of

consideration of its applications or does not participate in the GNA meetings despite being invited by CTU, the application shall not be further processed. CTU shall in such cases close the applications and return the Access Bank Guarantee

Comments: The above clause may be modified to the extent of allowing deferment of application at the request of Generator by Nodal Agency after prudence check.

32. Regulation 11.17

A generating company after firming up the beneficiaries through signing of long or medium or short term Power Purchase Agreement(s) or Sale Purchase Agreement(s) shall be required to notify the same to the nodal agency along with the copy of the PPA.

Comments: The Long term and medium-term contracts are finalized through PPAs, however in case of short term contracts the obligations between parties is usually established through LOIs and exchange of emails/letters. Under short term contract, power may be scheduled for as short a period as 15 minutes through Contingency Applications under STOA. In such cases signing of PPAs are not practical. Moreover, as per scheduling process under STOA, the parties endorse and give concurrences on Format-II of Open Access Application. This fulfils the objective of establishing the contractual relation between transacting parties.

Further, number of transactions under Short term are very high as compared to number of transactions under Long term and medium-term and these short-term contracts become irrelevant to Nodal agency once the period of supply is over. Keeping the record all such short-term contracts would be taxing on the resources of Nodal agency. Hence, it is submitted that the provision of notifying short-term contracts/PPAs to Nodal agency be removed from Draft regulations and accordingly, the Regulation 23.1 be so modified. However, if the draft regulation is to be retained, the draft regulations should allow notification of Short term contract by way of submission of PPA and also LOI, Letters, email copies or any other communication which establish contractual relation between parties.

33. Regulations 12.3

If an intra-State entity is applying for GNA, concurrence of the STU shall be obtained in advance and submitted along with the application to the nodal agency. The concurrence of the STU shall be as per the FORMAT-GNA-3.

Comments: Regulation 12.3 is a repetition of Regulation 11.6. Requirement of regulations 12.3 or 11.6 may be revisited.

34. Regulation 12.6

In case STU has not communicated concurrence or "no objection", as the case may be, within the specified period of thirty (30) working days, from the date of receipt of the application, concurrence or "no objection" as the case may be, shall be deemed to have been granted.

Comments: The term "no objection" has not been defined or used in any regulation. The usage may be revisited.

35. Regulation 12.7 (a)

The Access Bank Guarantee may be encashed by the nodal agency

- a. If the application is withdrawn by the applicant after 9 months of grant of GNA by the Nodal Agency.
- b. If the applicant fails to submit the extension letter of the earlier furnished BG at least 30 days prior to its expiry.

Comments: As per Regulation 21, the applicant shall sign the GNA agreement with CTU within 30 days of grant of GNA failing which, the GNA granted shall be cancelled and 1/10th of ABG shall be forfeited and balance ABG refunded. In view of Reg 21, Regulations 12.7(a) would not operate. Further, it may please be clarified what does "earlier furnished BG" is being referred to? Does this refer to the BG submitted with LTA application submitted under 2009 regulations? Also, there some advance notice shall be served by the Nodal Agency before encashing BG.

36. Regulations 16.1

The new generation project intending to avail the transmission services from ISTS shall apply for GNA five (5) years prior to the expected date of commissioning of first unit of generation project. Renewable energy generators including Solar Power Park Developer, Wind Power Park Developer, Wind-Solar Power Park Developer shall apply for GNA two (2) years prior to the expected date of commissioning of their generation project considering their low gestation period. The Applicant shall provide updated status of progress of generating station or park developer through Central Repository to CTU to facilitate the transmission planners to evolve optimal transmission plans.

Comments: Application before 5 years is very long period. Even bidding projects require 4 years to commission. Therefore, system has to be ready before such period. Therefore, we propose 3 years instead of 5 years.

For, Renewable projects, it is not possible to meet two years criteria under present scenario where Stage-II connectivity is granted after bid and timelines are restricted to less than two years (15-18 months). Project development starts only after bidder/ developer wins the bid under competitive guidelines and has to be completed within 15-18 months. Therefore, GNA has to be granted within 15 months of Application. Also, in this case the deemed connectivity should be given to bid winners as soon as they submit their application for GNA

37. Regulations 17.1

Grant of GNA shall, by itself, not entitle any generating station to interchange any power with the grid till it either signs a PPA or sale purchase agreement (SPA) and inform the same to CTU and concerned RLDCs or sells power through exchange. An online portal for obtaining the information regarding PPA by a Generator or distribution licensee or trading licensee or consumer or any other entity shall be developed by CTU.

Comments: As per prevailing regulations, transmission planning is based on the requirement of long term Access customers having firm beneficiaries. The short-term electricity market has a contribution of around 10% in total electricity transaction and all the avenues of the market i.e. Short term Bilateral

and Short-Term Power Exchanges have been treated at par to enable the development of a competitive market.

In the draft regulations, it is proposed that after the grant of GNA, sale of power on day collective is permitted when Generators do not have any PPAs. In this regard, it is submitted that sale of power must also be permitted through Short term bilateral i.e. to Open Access consumers and DISCOMs. In OTC market, executing PPA or Sale Purchase Agreement is not a precondition for scheduling power on day ahead bilateral basis or as per Intra and Inter-State Open Access Regulations, for bilateral transactions. Hence, provision of having a PPA/SPA must be relaxed in case of short term contracts as presently many transactions particularly to Open Access consumers are being governed based on "Letter of Acceptance" or Acceptance through Email as the same are also considered as a contract for sale and purchase of power.

It is bought to kind attention of Hon'ble Commission that bilateral contract in short term market have been instrumental in shaping the power market and meeting the demand of Open Access consumers who prefer a fixed contracted rate without any price fluctuations which are prevalent on Exchanges. Even States DISCOMs having finalized contracted with Traders through Reverse Auction on DEEP portal are dependent on day ahead bilateral scheduling in case power flow is to be started in few days after issuing the LOI/signing of PPA.

In view of above it is submitted that the draft provision must also include the sale of power on Bilateral i.e. to Open Access consumers and DISCOMs. Further, as requested earlier, both short term PPAs and LOIs must be allowed while scheduling power in short term bilateral, after grant of GNA. Further, for collective transection/ short term contracts, there may not be any formal document.

38. Regulation 17.3

The information regarding PPA shall be considered by CTU not later than a week and confirm the scheduling priority for the Generator or distribution licensee or bulk consumer.

Comments: It is submitted that if the suggestion of 'removal of the provision of notifying the short-term contract/PPA to nodal agency (i.e. RLDC) ' under the Regulation 11.17 is accepted and consequent amendments made to Regulation 23.1, then the Regulation 17.3 may be kept as it is.

However, if the suggestion is not agreed to then, it is requested that Regulation 17.3 be amended as *"The information regarding Long term and medium term PPA shall be considered by CTU not later than a week and confirm the scheduling priority for the Generator or distribution licensee or bulk consumer"* and a separate Regulations be introduced to provide for taking up of short term PPA/ LOI/ contract/ letters/ emails and any other communication by concerned RLDCs. This separate regulation is required for Short term contracts since the existing time lines of scheduling process under STOA are not in sync with the proposed one week's time in Regulation 17.3. The applications under STOA especially Contingency and Day ahead are decided and applied with in very small-time window as compared to one week proposed in Regulation 17.3.

Regulation 23.1 may be amended as: *"Where the entire or part of the Power Purchase Agreement (PPA) of the GNA customer is terminated in accordance with the provisions of their Agreement or through determination by a court or Tribunal or Appropriate Commission of competent jurisdiction or in the event of mutual termination, it shall be incumbent on the GNA customer to give intimation about such termination of PPA/LOI/letter/contract/emails etc. to CTU and respective RLDC immediately and*

not later than one week from the date of such termination. CTU and RLDCs shall utilize the corridor for scheduling of power for other customers depending on period and quantum."

39. Regulations 17.4

CTU shall give priority to long term PPAs over medium term PPAs and to medium term over short term PPA and among PPAs of same category under pro-rata basis. A Generator /DISCOM/bulk consumer may also transact power through power exchange which shall be scheduled as per available corridor. The information for Long Term and Medium Term PPA shall be registered with CTU and for short term PPA registration shall be done with respective RLDC.

Comments: CTU has to give priority to long term PPAs over medium term and medium over short term PPA (regulation 17.4). With the operationalization of GNA, SLDC may be able to schedule power under long, medium or short term, as the case may be. (Regulation 18.1). However, in case of transmission congestion, curtailment has to be done on the basis of tenure of PPA, viz., long term, medium term and short term. However, the transmission charges for all transactions is same. This may have adverse impact on the short-term market. It is suggested that curtailment required during the scheduling process one day in advance or may be done as per the choice of the GNA holder. Curtailment, if required in real time operation may be carried out by RLDC on pro-rata basis on all transactions affecting transmission constraint. Since all GNA holders are on the same platform, there cannot be any discrimination unlike LTA, MTOA and STOA holders. Under GNA regime, all have contributed equally for the development of transmission system, bearing charges equally; hence all have to be given same treatment.

40. Regulations 19.1

GNA Applicants other than STUs shall be required to submit Access Bank Guarantee of Rs. 20 lakh/MW. Access Bank Guarantee for Solar or Wind park developers or Renewable generators shall be Rs. 10 lakh/MW. The Access bank guarantee shall be in favour of the nodal agency, as per the FORMAT-GNA-4.

Comments: It is submitted that the Access Bank Guarantee proposed by the Hon'ble Commission is very high and shall create additional financial burden on the power project developers. If finalized as such the cost of BG for a 500 MW conventional project shall stand at Rs.100 Cr and Rs.50 Cr for RE/SPPD/WPPD. It is duly submitted that the BG blocks the fund which also create unnecessary burden and hence the BG amount should be affordable and in our view, it should be kept same at Rs.5 Lakh/MW for both conventional and non-conventional projects.

41. Regulation 19.3

The Access Bank Guarantee shall be kept subsisting for 5 years from the date of operationalisation of GNA. After operationalisation of GNA, Access BG equivalent to 1/5th of amount shall be returned back to the Applicant till 4th year. The amount equivalent to 1/5th of Access BG shall be kept subsisting till the end of 12th year as security towards relinquishment charges. The Applicant shall submit revised Access BG accordingly.

Comments: It is suggested that once the generator has been commissioned and GNA operationalized, the access bank guarantee may be returned as there is no question of relinquishment of GNA, except in case where an IPP is converted into a CGP with co-located captive load. As the generator will not be

able to schedule any power and remain connected to the grid if it relinquishes the GNA, there seems to be no need to retain Access Bank Guarantee after commissioning of the generator.

42. Regulation 22.1

GNA shall be operationalized from the date provided in GNA Agreement. In cases where operationalisation of GNA is contingent upon commissioning of several transmission lines or systems and only some of the transmission lines or elements have been declared to be under commercial operation, GNA to the extent which can be operationalised without affecting the security and reliability of the grid shall be operationalised by CTU and the GNA customer shall pay transmission charges for the quantum of GNA operationalised.

Comments: It is suggested that the part operationalised GNA should consider the technical minimum limits of the generating station. In case of delay in corresponding transmission network affecting operationalization in part or full, the Generator should be compensation for the loss of generation. In this regard, CI 5.5 of "Guidelines for Tariff Based Competitive Bidding Process for procurement of power from grid connected Solar PV Power Projects" dated 03.08.2017 may also be referred which provides for compensation to the Renewable generator related to offtake constrains.

43. Regulation 22.2

CTU shall match COD of transmission system matching with date of start of GNA. Transmission system shall be entitled to tariff only after corresponding GNA is operationalized.

Comments: This is against MOP notification incentivizing payment of transmission charges for early commissioning.

44. Regulation 22.3

The inability of a GNA Applicant to generate or supply electricity shall not absolve it from liability to pay transmission charges.

Comments: A large capacity of thermal power projects is stranded due to non-availability of PPAs and coal linkage. If the transmission charges are levied on the installed capacity, it would create a distress for the stranded power project which is already suffering due to capital investment made. It will also be unreasonable to levy transmission charges on the quantum of GNA of such stranded generator. Further, it is also submitted that this clause shall be modified to the extent that GNA applicant should not be penalised for reasons beyond its control and in such situations, CERC shall be empowered to decide the applicability of charges on any GNA entity subject to adjudication in the specific matter.

45. Regulation 22.5

The effective date of GNA shall be the date indicated in the letter of grant of GNA or GNA Agreement or from the availability of the transmission system for operationalization of GNA, whichever is later and the liability of payment of transmission charges shall begin from this date.

Comments: In view of Hydro plants (Run of the river, Pumped Storage and Reservoir based) and other infirm generation, it is suggested that payment towards transmission charges may follow the

principle similar to two-part tariff in generation. It is hereby proposed that an applicant may be levied transmission charges (as per sharing regulations) as follows

- a) Capacity charges – This component of transmission charges should be as per capacity approved for applicants for which GNA is approved by CTU.
- b) Energy Charges – This component of transmission charges should be as per energy scheduled, on a monthly basis. Energy Scheduled as per final implemented schedule may vary from month and month and from one technology to other one, according to PLF/CUF of the plant/station.
- c) It is further proposed that POC charges as per sharing regulations should be split between Capacity and Energy charges in the ratio of 25:75.

It is submitted that the above approach may be looked upon and extended to all grid connected generators, if it leads to equitable recovery of transmission charges from the users.

Alternatively, transmission charge recovery could be differentiated on the basis of must-run status of the power plants. Must-run stations like run-of-river plants, pump storage, peaking plants etc. may be charged on usage basis and other plants basically base-load plants be charged on capacity basis.

Further from equitable considerations following proviso may be added:

"Provided the compensation to be paid by Transmission Licensee to the Generator under Regulation 27.7 and 27.8 shall commence from the date indicated under letter of grant of GNA irrespective of date of operationalization. "

46. Regulation 22.6

In case a transmission system or a generator is delayed beyond the scheduled date of GNA due to reasons beyond the control of the transmission licensee or a generator as per provisions in the GNA Agreement, the date of operationalisation of GNA may be correspondingly extended with the approval of Central Commission.

Comments: Conditions beyond the reasonable control of the generator/ transmission licensee for which extension is permissible need to be specified. It is felt that besides force majeure and change in law, delay in grant of statutory clearance and delay in land acquisition for reasons beyond the control of the generator/transmission licensee may be considered for grant of extension.

47. Regulation 23.1 and 23.2

Where the entire or part of the Power Purchase Agreement (PPA) of the GNA customer is terminated in accordance with the provisions of their Agreement or through determination by a court or Tribunal or Appropriate Commission of competent jurisdiction or in the event of mutual termination, it shall be incumbent on the GNA customer to give intimation about such termination of PPA to CTU and respective RLDC immediately and not later than one week from the date of such termination. CTU and RLDCs shall utilise the corridor for scheduling of power for other customers depending on period and quantum.

On termination of the PPA the GNA customer shall be liable to pay the transmission charges as per applicable Regulations.

Comments: It is felt that termination of PPA by the generator after complying with the terms of the PPA should be adequate for diversion of power to another purchaser and the RLDC should not insist

for an order from the concerned regulatory Commission. If the purchaser is aggrieved by the termination of PPA, then it should challenge the termination before the Appropriate Commission and obtain. Unless the stay is granted, the RLDC should accept the termination, provided the conditions laid down in the PPA for termination have been fulfilled. Appropriate provision in the regulations in this regard will help in averting the harassment caused to the generators due to non- payment/ inordinate delay in payment of dues of the generators and not providing the payment security as per the PPA.

Since termination of PPA does not lead to relinquishment/ cancellation of GNA granted to the Generator, the existing GNA holder should not be denied access and restricted to sell and schedule the freed-up power capacity under short-term bilateral or exchange transactions. Ideally the GNA should not be used for scheduling any other power of other consumers, but in case the corridor is used for scheduling of power for other customers depending on period and quantum, the transmission charges for such period and quantum of GNA should not be recovered from the incumbent GNA holder (i.e. the Generator). In addition, if the corridor can be made available for scheduling of transactions for other GNA Applicants then the transmission charges of original GNA applicants may be reduced to such extent.

48. Regulation 24.1

In case GNA Customer intends to exit from GNA it shall be disconnected from the grid from the intended date of exit and the GNA Customer shall be liable to pay relinquishment charges as follows:

- a. In case GNA Customer exits after the grant of GNA but before operationalization of GNA: Complete Access Bank Guarantee (ABG) encashed + 1 year tx charges toward exit charges
- b. In case GNA Customer exits prior to completion of 5 years after GNA is operationalized: remaining / available ABG encashed + 1 year tx charges toward exit charges
- c. In case a GNA Customer exits after 5 years after GNA is operationalized: 1 year tx charges toward exit charges

Comments: It is suggested that by giving one-year notice for relinquishment the exit charges equivalent to 1-year transmission charges should not be levied. In case of retirement of a unit/ station on completion of its commercial life, relinquishment charges should not be charges.

Further, the regulations have not provided for reduction of GNA except in case of deration or conversion of IPP to CPP with co-located captive load. A provision needs to be included providing for reduction on GNA by an entity. Total amount of recovery due to exit to be adjusted in the ATC of CTU transparently and passed on the other beneficiaries.

Also, it is submitted that the provision to disconnect from the grid be removed in case GNA customer intends to exit GNA. As Connectivity and GNA are two separate products, due to the exit from GNA generator need not be disconnected from the grid. If the generating station is commissioned then disconnection would lead to denial of revival opportunity to such asset. Further, the exit of GNA may be for partial capacity. It may happen that the issue of disconnection may lead to GNA customers do not apply for Exit. Such capacity may remain unutilized or may not be used by other GNA applicants. I Instead, such entity shall be made obligated to pay Reliability support charges for allowing the entity to remain connected to the grid.

Further, we would like to submit that if the GNA customer wants to exit GNA due to delay in availability / cancellation of transmission system identified for such GNA. In such case, there should not be any disconnection and relinquishment charges applicable

49. Regulation 25.1

For generating stations with full capacity tied up including CGS, their GNA for Installed Capacity minus auxiliary power consumption shall be deemed to have been granted. Corresponding LTA quantum for beneficiaries shall also be deemed to have been granted as GNA. A list of such GNAs of generators and beneficiaries shall be published by CTU within one (01) months of notification of these regulations.

Comments: Many generating stations have their full capacity tied up under LT and MT contracts and have LTA and MTOA granted to them for these contracts. While the draft regulations provide for LTA to be automatically converted to GNA, what happens to the MTOA granted and currently under operation? It is suggested that the existing MTOA should be saved till the contract term and then be converted into GNA as applied for by the Generator.

50. Regulation 25.2

For generating stations where LTA (including target region) has been sought for part capacity and the same has already been operationalized or has not been operationalised, the generating station shall apply for GNA for additional quantum (balance quantum for which there is no LTA) within 3 months from the date of notification of these Regulations. CTU shall grant GNA to such generating stations from the date of availability of transmission system.

Comments: It is submitted that the existing generating station (specifically gas based) should not be forced to take GNA for balance / un-tied capacity. Please consider the following rationales for such submission.

There would be certain balance capacity which is kept for market sale (merchant capacity) as required by Mega Power Policy of the Government. Such merchant capacities facilitated a development of medium/short term market in the country. Hence, it is utmost important to keep such generation margin available in the system.

Further, due to excess generation capacity in the market, paying abilities of DISCOM/ Consumer and issues related to fuel pricing under the PPA/ Plant awarded through competitive bidding guidelines, the DISCOM/ Consumers are reluctant to tie-up long term power supply and the short term sale is highly uncertain (depending on many factors). It may be noted that the utilisation of existing capacity is ~60% for coal based generation and below 25% for gas based generation. In this view, 100% utilisation of GNA is not possible specifically for gas based power plants. The gas based power generation is highly stressed asset among other generation. There are certain plants connected to the grid (i.e. commissioned) but they are not in operation due to PPA/Fuel issue. Such plants cannot take further burden on the GNA charges without any revenue.

In addition to the above, if the generators are forced to take injection GNA for balance (untied capacity) then there is no certainty that there will be 100% transmission availability on drawl side as this untied capacity is mainly utilised for short term market which is highly uncertain. In such case, the generator will be burdened with GNA charges without any surety on sale of such balance capacity.

Further, if a generator/ drawee entity is connected to both, inter-state as well as intra-state grid than, it may not be possible for them to ascertain quantum of intra-state sale/purchase of power as the short-term sale is highly uncertain (depending on many factors)

Considering the above, it is not possible to take GNA for un-tied capacity and it will further deteriorate finances of the sector due to payment of GNA charges for un-tied / balance capacity. Hence, the provision that stipulates obtaining GNA for balance capacity should be deleted.

51. Regulation 25.5

In case the existing LTA customer happens to be a trading licensee, the existing LTA shall be converted by CTU into GNA of the concerned generating company or the distribution licensee or intra-State entity, as the case may be.

Comments: Trading Licensee under the prevailing regulations is eligible to apply for Long Term Access (LTA) or Medium Term Open Access (MTOA). In the draft regulations, it has been proposed that only grid connected entities can apply for GNA and the trading licensees will not be entitled to obtain GNA. Trading Licensees can, however, buy and sell power on behalf of the grid connected entities. It has been proposed that the existing LTA with trading licensees will be deemed to be the GNA of the concerned grid connected entities. The above modification may result in difficulty in many cases where the Trading Licensee has long term/ Medium Term/ Short Term PPA with the generating companies/ DISCOMs and has obtained LTA/ MTOA/ STOA in terms of the PPA. It is suggested that in such cases the MTOA and STOA may be saved and considered valid for scheduling and granting new GNA.

52. Regulation 25.5

In case the existing LTA customer happens to be a trading licensee, the existing LTA shall be converted by CTU into GNA of the concerned generating company or the distribution licensee or intra-State entity, as the case may be.

Comments: Trading Licensee under current regulations is eligible to apply for LTA/ MTOA. Under Draft GNA regulations only grid connected entities can apply for GNA and existing LTA with trading licensees will be deemed to be the GNA of the concerned grid connected entities. The above modification may result in difficulty where the Trading Licensee has MT/ST PPA with the generating companies/DISCOMs and has MTOA/STOA under the PPA. It is suggested that in such cases the MTOA and STOA may be saved and considered valid for scheduling and granting new GNA.

In case of a trading licensee buying power from the neighbouring country through LTPPA and not having LTA and LTPSA, there is no clarity as to how GNA will be obtained. For e.g. in case of sale of power from Dagachhu HEP, there will be no entity which will be able to take Connectivity and GNA as the generating company is in Bhutan where these regulations are not applicable. It is suggested that in such cases, trading licensee may be permitted to obtain Connectivity and GNA.

53. Regulation 25.5

Renewable Energy Generating Station or Solar Power Park Developer who have been granted Connectivity to ISTS and have not been physically connected to ISTS as on date of notification of these Regulations shall be deemed to have been granted Stage-I Connectivity and they shall apply for Stage-II Connectivity Application as per these regulations.

Comments: The Winners of SECI Bid – I for ISTS projects and have got bay connectivity agreement in place for ISTS Connectivity before release of these draft regulations, should be exempted from timelines and payment of BG under these regulations.

54. Regulations 26 - Sharing of Transmission charges in transition phase

Comments: Currently, POC rates for LTA/MTOA transactions are different from STOA transaction, as per determination of POC rates on quarterly basis by Implementing Agency in accordance with third amendments to Sharing Regulations. For LTA/ MTOA transaction, there are no separate POC rates for injection and drawl points, e.g. Rajasthan as a state has a single POC rate for LTA/ MTOA while in STOA, Rajasthan state has different injection POC rate and different withdrawal POC rate.

In view of above, it is our humble submission that suitable changes are required in sharing regulations to address the issue mentioned above, before finalizing GNA regulations because in the proposed GNA regime, POC charges shall not be dependent upon LTA/MTOA and STOA as all transactions would be executed based on contracts and transmission charges liability should as per GNA granted to the applicants.

55. Regulation 27.3

In case any of the developer fails to construct the generating station/ dedicated transmission system by the scheduled date of GNA operationalisation, it shall be liable to pay transmission charges from the date of operationalization of GNA.

Comments: It needs to be clarified that if extension of scheduled date of GNA is allowed, the transmission charges will not be levied for period extended by the Commission. The draft regulation may please be modified as follows

"In case any of the developer fails to construct the generating station/ dedicated transmission system by the scheduled date of GNA operationalization or as extended by the Commission, it shall be liable to pay transmission charges from the date of operationalization of GNA.

56. Regulation 27.5

The transmission licensee should keep provision of foreclosure in the contract made by it with EPC contractor. In case the augmentation has been awarded but CTU assesses that it is not required fully or partly keeping in view progress of generating station, the CTU shall intimate the licensee to foreclose its EPC contract based on the status of transmission line. The CTU shall get the details of investment made in the transmission project and the liquidated damages payable for termination of the contract with the EPC contractor assessed and shall reimburse the same to licensee from relinquishment charges received by it.

Comments: It is suggested that the investments made by the transmission licensee should be fully compensated and not limited to the relinquishment charges received which may not be adequate to recover the investment made.

57. Regulation 27.8

In case the alternative arrangement as provided in the Regulation 27.7 cannot be provided, the transmission licensee shall pay proportionate transmission charges to the generator.

Comments: In the event the identified transmission system not provided or commissioned by the COD of the generator, the generator would be unable to commission/ synchronise the unit/station and hence

would continue to incur IDC and not be able to meet its commitments under the PPA/ PSA. It is suggested that the Generator should be compensated for increased IDC and any LD imposed by procurer for delayed CoD due to non-availability of transmission system.

Further, as per regulations 22.5, the effective date of GNA and liability to pay transmission charges shall be the date indicated in the letter of grant of GNA or GNA Agreement or from the availability of the transmission system whichever is later. Since the identified transmission system is not available, there is no liability on the generator to pay the transmission charges, so what charges would the transmission licensee pay to the generator?

58. Regulation 28.2

Notwithstanding any provision with regard to indemnification in any agreement between the parties, in case of non-availability of identified downstream/upstream system, the payment liability shall fall on entity due to which the element has not been put to regular use as certified by RLDC. CTU shall coordinate with STU to ensure that ordering for State lines are done such that it is commissioned matching with ISTS lines. The ISTS system shall be included under POC calculations only after it is put to regular use.

Comments: It is suggested that the ISTS element(s) commissioned should be added to the POC pool and any payment liability met by downstream/upstream entity shall be paid to the POC pool.

59. Regulations 34

Transmission Corridor Allocation for Power Markets: 5% of each corridor for which separate ATC is declared shall be reserved for day ahead collective transactions at the power exchanges. In case of non-utilization of the corridor by exchanges, National Load Despatch Centre (NLDC) shall release the capacity for contingency market. The percentage of reservation shall be reviewed after five years of operation.

Comments: Power exchanges have been kept out of the purview of these draft GNA regulations. If any quantum (as suggested 5%) is reserved in the corridor for Power exchange use, and if they utilise the corridor in any quantum, they should also be under the GNA regime, and should be asked to seek GNA.

60. Additional Comments

- STU has to provide GNA figure for the entire State, as explained in the Explanatory Memorandum, and additional transmission surcharge @ 25% of POC charges have to be paid for excess drawl/ injection over 120% of the approved GNA, it is important to assess the GNA accurately. In a State having more than one Discom, there may be some Discoms who do not project their GNA accurately or do not furnish the same to the STU which may result in excess drawl of the State over the specified margin. The Regulation may provide that the STU may provide entity-wise GNA, the summation of which will be the GNA for the State to help in identifying the entity which is drawing in excess of 120% of its GNA for the purpose of bearing the excess transmission charges.
 - As per the EM (para 2.25.4), the STUs are required to submit seasonal GNA every year. This aspect needs to be brought out in the GNA regulation explicitly. It is understood that Discoms would be levied transmission charges based on the seasonal GNA granted to them for the year.
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It is submitted that the provision of seasonal GNA may be extended to intermittent generators like hydro stations especially run of the river projects, which have varying generation dependent on water availability in the river during the year as also ancillary units etc. The liability of transmission charges on such generators would be limited to the seasonal GNA and relieve them from payment of full transmission charges during the lean generation season. It should be evaluated, if this concept of seasonal GNA could be extended to all GNA users, which provides adequate flexibility to all stakeholders. The concept of seasonal GNA which is understood be as GNA for a quarter (3 months) may be further shorten to a monthly GNA and correspondingly the POC charges which are determined on quarterly basis may be notified on monthly basis.

- Draft regulation 2.1 stipulates a min 250 MW connectivity requirement which is restrictive to open access consumers (willing to connect at ISTS and not STU) and CPP users embedded in InSTS (Intra-State). Such consumers would necessarily be required to go through the STU for accessing the ISTS. Under such situation, it needs to be assessed that how will the STU account for the variability of OA requirement of intra state entities who are intermittent users of OA (like embedded CPP, generators etc.) and transact power in short term market not on round the year basis e.g., a bagasse based generator or a consumer.