Comments on draft CERC (Procedure, Terms and Conditions for grant of trading license, and other related matters) Regulations, 2019

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<tr><th>Sr. No.</th><th>Regulation No.</th><th>Clause/Provision as per Regulation</th><th>Objections/Comments by Licensee</th><th>Explanation/Rationale</th></tr>
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<td>1</td>
<td>Regulation3 (3)- Financial Qualification – Capital Adequacy and Liquidity Requirements</td>
<td>"(3) Financial Qualifications- Capital Adequacy and Liquidity Requirements
(a) Considering the volume of inter-State and intra-State trading proposed to be undertaken by the Applicant on the basis of the inter-State trading licence, the minimum Net Worth of the Applicant on the date of application, as per audited special balance sheet accompanying the application, shall not be less than the amounts specified hereunder:
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<tr><th>Sno.</th><th>Category of the trading licence</th><th>Minimum Net Worth (Rs. in crore)</th><th>Volume of electricity proposed to be traded in a financial Year</th></tr>
<tr><td>1.</td><td>Category I</td><td>75.00</td><td>Above 5,000 MUs and upto 10,000 MUs</td></tr>
<tr><td>2.</td><td>Category II</td><td>35.00</td><td>Not more than 5,000 MUs</td></tr>
<tr><td>3.</td><td>Category III</td><td>20.00</td><td>Not more than 3,000 MUs</td></tr>
<tr><td>4.</td><td>Category IV</td><td>10.00</td><td>Not more than 1,500 MUs</td></tr>
<tr><td>5.</td><td>Category V</td><td>2.00</td><td>Not more than 500 MUs</td></tr>
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Provided that for Category I Trading Licensee, an additional net worth of Rs. 20 Crores would be required for every 3000 MUs of electricity traded over and above 10,000 MUs during a Year</td>
<td>The proposed additional net worth requirement for a Category-I trader is suggested to be revoked as the same is contrary to increasing competition and opening market to more and more electricity traders.</td>
<td>a. The requirement of Net worth as a regulatory parameter needs to have an objective which is not to inhibit or reduce the trading business of already active participants including continuity of competitive market participation.

b. Networth for a trading licensee is on account of Financial Qualifications-Capital Adequacy and Liquidity Requirements as set out in the regulation. These requirements are against the likely risk mitigation. There are following risks involved in trading business as: late payment risk, default risk, contract dishonor risk, O&M expenses. It is submitted that mitigation of major risks such as late payment/default are not solely applicable to trader but are directly on ultimate beneficiary but the proposed draft considers the requirements unreasonably to be on traders as per explanatory note.

c. No trader can guarantee 100% payments, or can take upon itself the risk of servicing the cost of electricity, in the event the purchaser/ beneficiary of the power does not make timely payments and hence there is no relationship between net worth and ensuring timely payments in the event the consumer/Discoms do not pay.

d. Provision of Networth requirement should not be set to eliminate small as well as historically active licensees but to ensure increase in competition and opening of the market to more and more electricity traders. Such enhancement of net worth will lead to elimination of many active traders from the market leaving only large organizations base traders to handle the market.</td>
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2.	**Regulation 7 & 8- Applicability of Trading Margin**	Regulation 8:.......(c) For short term contracts and contracts through power exchanges, the Trading Licensee shall charge a minimum trading margin of zero (0.0) paise/kWh and a maximum trading margin of seven (7.0) paise/kWh: Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause 10 of regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge any trading margin exceeding one (1.0) paise/kWh. (d) For long term contracts and medium term contracts, the trading margin would be decided mutually between the Trading Licensee and the seller: Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of regulation 9 is not provided by the Trading Licensee in favour of seller, then the Trading Licensee shall not charge any trading margin exceeding one (1.0) paise/kWh. (e) In case of Back to Back deals, the Trading Licensee shall charge a minimum trading margin of zero (0.0) paise/kWh and a maximum trading margin of one (1.0) paise/kWh (f) For Cross Border Trade of Electricity, the trading margin would be decided mutually between the Trading Licensee and the seller."Provided that in contracts where escrow arrangement or	**a.** It is submitted that Hon'ble CERC to let market forces to determine trading margin to ensure healthier competition between traders. **b.** Trader is well aware of their costs associated with any trade before entering into any commercially viable transaction considering competition to other licensees for seeking business. **c.** Any provision vide an amendment regulation is required to ensure level playing field within the parties to any contract and payment security to be as per standard market practice already established in the bilateral market(s). Hence linking of transaction terms like payment security (viz. LC, Escrow mechanism) directly with trading margin applicability is not required.	**a.** Price of electricity is not relevant factor of trading margin as the sale tariff & purchase tariff is decided by respective entities considering their overall cost structure **b.** Historically (can be backed up by data of power market), due to stiff competition amongst the trading licensees, the trading margin charged by the trading licensees was always less than the ceiling margin allowed as per the CERC (Fixation of Trading Margin) Regulations, 2010. **c.** The optimal trading margin in recent past is derived on account of healthy competition within active trading licensees as stated above. Example for competition in tariff can be seen in recent migration of renewable energy sale from under Section 62 (generic tariff regime) to Section 63 (SECI bidding) of the Electricity Act. **d.** Traders play major role in development of open access to buyers and sellers which is fulfilling the mandate of Electricity Act 2003. **e.** A contract for power sale & purchase involves 2 or more parties and each party should meet the contractual conditions in order to avoid any future risks associated with the default of the party, timely payment, funding from banks, including the generator/ consumer/ ultimate beneficiary. The proposed regulations unilaterally associate the risk of defaults with duplication of payment security with Seller as well as buyer(s) which is purportedly harsh and completely unreasonable to be only on the trading licensee as this is shifting all the risk associated in a transaction on such licensee.

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3.	**Regulation 9 - Obligations of the Trading Licensee**	The Regulation 9(24) of the Draft Regulations is set out herein below:"...(24) Trading Licensee shall not engage in Banking of electricity...."	**a.** It is hereby stated that the proposed regulation 9 (24) to be removed and a licensed trader should continue to undertake banking of electricity which activity in itself is in the larger interests of discoms & its consumers	**a.** It is to be noted that Hon'ble CERC has already recognized banking transaction as they seek report of banking transactions undertaken by the Trader in Form-IV as per present Regulation. It is to be noted that some of the DISCOMs are unable to handle additional cash flows in resulting surplus of purchase & sale. Traders role is crucial in handling transmissions charges and timely co-ordination for booking of corridor to ensure firm power, curtailment events study, power market intelligence, analysis of power requirement of the DISCOMs, overall co-ordination & follow-up with SLDC, Commercial terms, etc. at miniscule margin. **b.** While understanding the above crucial role of traders in banking arrangements, for the discoms over the past several years, banking has turned out to be very beneficial and cost effective for the utilities/ distribution licensees, thereby allowing them to fulfil their obligations to supply, by making very effective use of seasonality as major attribute in various regions in India. **c.** Major banking transactions are executed by Traders by matching trades between two unknown entities depending upon prevailing demand/supply patterns between them. Also traders make upfront payment by taking liquidity exposure for transmission charges for major utilities while customizing the supply patterns and undertake to reduce contract dishonor exposure on behalf of banking parties as also advise on alternate arrangements to meet obligation to avoid default. **d.** It is submitted that for undertaking banking in electricity for the purpose of consumer interest as banking is essential to the universal supply obligation of a distribution licensee. This can also be done by leaving trading margin for such arrangements to the competitive market forces.

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