

Ref No: CC/RC/ 2nd amendment to Tariff Regulation, 2019

Date: 30/06/2020

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

Sub: Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2020.
- Submission of comments/suggestions thereof.

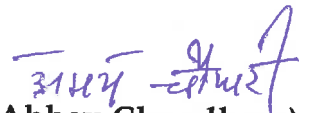
Sir,

This has reference to public notice ref: L-1 /236/2018/CERC dated 01st June 2020 vide which comments were sought on the subject draft amendment by 30/06/2020.

In this regard, please find enclosed comments/suggestions of POWERGRID on proposed 2nd amendment to Tariff Regulations, 2019.

Thanking you,

Yours faithfully,


(Abhay Choudhary)
ED (Commercial & Reg. Cell)

Encl:

POWERGRID's comment on subject amendment

Draft Comments on 2nd amendment of Tariff Regulations, 2019



Sl	Clause as per existing regulation	Changes proposed in draft Amendment	Comments
1.	(21) of Regulation 3: 'Existing Project' means a project which has been declared under commercial operation on a date prior to 1.4.2019;	"(21) of Regulation 3: 'Existing Project'" means <i>the generating station or unit thereof and the transmission system or element thereof</i> which has been declared under commercial operation on a date prior to 1.4.2019;"	No comments Revised clause brings clarity pertaining to each element of the Project.
2.	(5) of Regulation 4: 'Year' means a financial year from 1st April to 31st March in case of an existing project, and from date of commercial operation to 31st March in case of a new project;	"(5) of Regulation 4: 'Year' means a financial year beginning from 1st April and ending on 31st March: <i>Provided that the first year in case of a new project or integrated mine shall commence from the date of commercial operation and end on 31st March.</i>"	Proposed amendment provides that first year for new project shall commence from date of Commercial operation and end on 31 st March. Presently, project completes 1 st year on 31 st March of the year closing after one year of the commercial operation of the project. e.g. if project COD is 1 st June'2020 then project will complete 1 st year on 31 st March'2022 and not on March'2021. Provision does not bring clarity that first year of the new project will complete on 31 st March of the commissioning year or subsequent year. Accordingly for better clarity, clause may be modified as;

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			<p>“(5) ‘Year’ means a financial year beginning from 1st April and ending on 31st March:</p> <p><i>Provided that the first year in case of a New Project or integrated mine shall commence from the date of commercial operation and end on 31st March of the same year.”</i></p>
3	<p>6. Treatment of mismatch in date of commercial operation: (1) In case of mismatch of the date of commercial operation of the generating station and the transmission system, the liability for the transmission charges shall be determined as under:</p> <p>(a) Where the generating station has not achieved the commercial operation as on the date of commercial operation of the associated transmission system (which is not before the SCOD of the generating station) and the Commission has approved the date of commercial operation of such transmission system in terms of clause (2) of the Regulation 5 of these regulations, the generating company shall be liable to pay the transmission charges of the associated transmission system in accordance with</p>	<p>“6. Treatment of mismatch in date of commercial operation: In case of mismatch between the date of commercial operation of the generating station and the transmission system, and between the transmission systems of two transmission licensees, the liability for the transmission charges shall be determined in accordance with provisions of <i>Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 and as amended from time to time.</i>”</p> <p><i>Relevant provisions Sharing Regulations, 2020 for treatment of mismatch in the date of commercial operation are as follows;</i></p> <p><i>13(3) Where COD of a generating station or unit(s) thereof is delayed and the Associated Transmission System has achieved COD, which is not earlier than its SCOD, the generating station</i></p>	<p>Treatment of mismatch cases has been completely excluded from the purview of Tariff Regulations and shall now be treated as per provisions of the Sharing Regulations, 2020.</p> <p>1. However, the treatment of the penalty imposed in certain cases under these regulations for mismatch in the date of commercial operation of respective systems may be irrational. For example:</p> <ul style="list-style-type: none"> ▪ Tr. Licensee A may be implementing a 765kV D/C line (capital cost - Rs. 1000 Cr) whereas Transmission Licensee B/STU may be implementing the

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	<p>clause (5) of Regulation 14 of these regulations to the transmission licensee till the generating station or unit thereof achieves commercial operation:</p> <p>(b) Where the associated transmission system has not achieved the commercial operation as on the date of commercial operation of the concerned generating station or unit thereof (which is not before the SCOD of the transmission system), the transmission licensee shall make alternate arrangement for the evacuation from the generating station at its own cost, failing which, the transmission licensee shall be liable to pay the transmission charges to the generating company as determined by the Commission, in accordance with clause (5) of Regulation 14 of these regulations, till the transmission system achieves the commercial operation.</p> <p>(2) In case of mismatch of the date of commercial operation of the transmission system and the transmission system of other transmission licensee, the liability for the</p>	<p>shall pay Yearly Transmission Charges for the Associated Transmission System corresponding to Long Term Access granted for the generating station or unit(s) thereof, which have not achieved COD:</p> <p>Provided that Yearly Transmission Charges in respect of Associated Transmission System shall be included for determination of transmission charges of DICs in accordance with Regulations 5 to 8 of these regulations upon the generating station or unit(s) thereof achieving COD.</p> <p>.....</p> <p>13.(8) In case a generating station or unit(s) thereof has achieved COD and the Associated Transmission System is delayed, the concerned inter-State transmission licensee(s) shall make alternate arrangement at its own cost for despatch of power of the generating station or unit(s) thereof in consultation with the Central Transmission Utility:</p> <p>Provided that till such alternate arrangement is made, the inter-State transmission licensee(s) shall pay to the generating station, the Yearly Transmission Charge corresponding to the</p>	<p>associated bays (capital cost – Rs. 60 Cr)</p> <ul style="list-style-type: none"> ▪ In case of default by Transmission Licensee B/ STU, if it is made to pay tr. charges of line (approx. Rs. 180 Cr per annum) (3 times the capital cost of bays), it is irrational and is not as per the fair contract practices. <p>Accordingly, amount of penalty should be rational and equitable.</p> <p>2. Mismatch involving TBCB licensee:</p> <p>Payment of transmission charges in cases of mismatch by TSP selected through TBCB is not envisaged in the TSA/Guidelines/other bidding documents governing TBCB transmission licensees. TSA provides for predefined maximum liability of TSP limited to the amount of liquidated damages calculated in accordance with provisions of TSA and up to six (6) months of delay for the Element or</p>

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	<p>transmission charges shall be determined as under:</p> <p>(a) Where an interconnected transmission system of other transmission licensee has not achieved the commercial operation as on the date of commercial operation of the transmission system (which is not before the SCOD of the interconnected transmission system) and the Commission has approved the date of commercial operation of such transmission system in terms of clause (2) of Regulation 5 of these regulations, the other transmission licensee shall be liable to pay the transmission charges of the transmission system in accordance with clause (5) of Regulation 14 of these regulations to the transmission licensee till the interconnected transmission system achieves commercial operation:</p> <p>(b) Where the transmission system has not achieved the commercial operation as on the date of commercial operation of the interconnected transmission system of other transmission licensee (which is not before the SCOD of the transmission</p>	<p>quantum of Long Term Access for the period for which the transmission system has got delayed.</p> <p>.....</p> <p>13. (12) In case of a transmission system where COD has been approved in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or where deemed COD has been declared in terms of Transmission Service Agreement under Tariff based Competitive Bidding, the Yearly Transmission Charges for the transmission system shall be:</p> <p>(a) paid by the inter-State transmission licensee whose transmission system is delayed till its transmission system achieves COD, or</p> <p>(b) paid by the generating company whose generating station or unit(s) thereof is delayed, till the generating station or unit thereof, achieves COD, or</p> <p>(c) Shared in the manner as decided by the Commission on case to case basis, where more than one inter-State transmission licensee is involved or both transmission system and generating station are delayed.</p>	<p>the Project. Therefore, it is to be noted that</p> <ul style="list-style-type: none"> TSPs liabilities as provided is capped under the provisions of TSA, and in all cases including cases of mismatch may not legally and contractually exceed the pre-defined maximum LDs. If any additional liability is imposed as being done through regulation, it will lead to double penalty on TSP for same delay in achieving COD of Project viz. One towards LTTCs and second towards other licensees which will neither be equitable nor as per fair contract practices. <p>3. Mismatch involving STU/Intra state network:</p> <p>Provisions of the Sharing Regulation, 2020 covers cases covering mismatches only between</p>

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	<p>system), the transmission licensee shall be liable to pay the transmission charges of such interconnected transmission system to the other transmission licensee or as may be determined by the Commission, in accordance with clause (5) of Regulation 14 of these regulations, till the transmission system achieves the commercial operation.</p>	<p><u>Note - this proviso shall be effective from the date of notification of these Regulations.</u></p>	<p>set of Generators and ISTS transmission licensee only. Sharing regulations provisions does not cover the incidents of mismatch involving downstream network of STUs/Intra State transmission licensee(s).</p> <p>However, in past there have been instances of mismatches of Transmission licensee with downstream network of STUs/Intra State transmission licensee(s).</p> <p>Considering the observations at para 1, 2 & 3, following suggestions for mismatch cases between two transmission licensees or between transmission licensee & STU network may be considered to address above issues;</p> <ul style="list-style-type: none"> ▪ DOCO of the completed Transmission system may be approved and tr. charges for the same may be included in PoC for recovery.

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			<ul style="list-style-type: none"> ▪ However, for preventing the defaulting agencies to delay their systems indefinitely and/or to encourage them to complete their system within time, some penalty may be imposed upon them. <p>The amount of penalty may be reasonable pre-estimated Liquidated damages as clearly specified in its TSA/ Regulations at the time of bidding/ investment approval or as decided by Hon'ble Commission on case to case basis for the period of mismatch. Penalty received from defaulting entity may be credited back to PoC pool.</p>
4.	22. Controllable and Uncontrollable factors: The following shall be considered as controllable and uncontrollable factors for deciding time over-run, cost escalation, IDC and IEDC of the project :	22. Controllable and Uncontrollable factors: The following shall be considered as controllable and uncontrollable factors for deciding time over-run, cost escalation, IDC and IEDC of the new project :	No comments. Amendment brings more clarity for the applicability of the provision.
5.	Regulation 59	Regulation 59	Amendment effectively addresses the issue of adjustment of LPS and settles the disputes.

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	<p>59. Late payment surcharge: In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long term customers as the case may be, beyond a period of 45 days from the date of presentation of bills, a late payment surcharge at the rate of 1.50% per month shall be levied by the generating company or the transmission licensee, as the case may be.</p>	<p>59. Late payment surcharge: In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long term customers as the case may be, beyond a period of 45 days from the date of presentation of bills, a late payment surcharge at the rate of 1.50% per month shall be levied by the generating company or the transmission licensee, as the case may be.</p> <p style="color: red;">“(2) The charges payable by a beneficiary or long term customer shall be first adjusted towards late payment surcharge on the outstanding charges and thereafter, towards monthly charges levied by the generating company or the transmission licensee, as the case may be, starting from the longest overdue bill.”</p>	<p>However, applicability of the clause to all the open access customers (LTA, MTOA and STOA) billed as per the exiting Sharing Regulations / new Sharing regulations (where the STOA billing is also covered under Bill3) and to avoid the billing disputes, it is requested to modify the provisions as follows:-</p> <p>59. Late payment surcharge:</p> <p>In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary, Long term customers or Medium term open access customer as the case may be,.....</p> <p>“(2) The charges <u>paid</u> by a beneficiary, Long term customers or Medium term open access customer shall be first adjusted towards late payment surcharge on the outstanding charges and thereafter, towards monthly charges levied by the generating company or the</p>

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			transmission licensee, as the case may be, starting from the longest overdue bill.”

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