

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Draft Central Electricity Regulatory Commission (Regulation of Power Supply)
(First Amendment) Regulations, 2020**

No. L-1/42/2010-CERC

Date: 16.07.2020

Explanatory Memorandum

Central Electricity Regulatory Commission vide notification No. L-1/42/2010-CERC dated 28.09.2010 had notified the Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010 (hereinafter referred to as the “2010 Power Supply Regulations”).

2. After notification of the 2010 Power Supply Regulations, there have been a few amendments/ repeal/ enactments of Regulations that have an impact on the 2010 Power Supply Regulations. Some such regulations are enactment of CERC (Terms and Conditions of Tariff) Regulations, 2019; repeal of CERC (Sharing of inter-State Transmission charges and losses) Regulations 2010; enactment of CERC (Sharing of inter-State Transmission charges and losses) Regulations, 2020; repeal of CERC (Unscheduled Interchange charges and related matters) Regulations, 2009; and enactment of CERC (Deviation Settlement Mechanism and related matters) Regulations, 2014. A need is, therefore, felt to align provision of the 2010 Power Supply Regulations with the above-mentioned amendments/ repeals/ enactments. The details of proposal to amend 2010 Power Supply Regulations are explained in following paragraphs.

3. The Commission notified the CERC (Terms and Conditions of Tariff) Regulations, 2009 on 19.01.2009 and CERC (Terms and Conditions of Tariff) Regulations, 2014 on 21.02.2014. Both these Regulations provided due date for payment as 60 (sixty) days from the date of presentation of bills. There are provisions of levy of late payment surcharge, by the generating company or the transmission licensee, in case the payment of any bill is delayed by a beneficiary or long term

customers, beyond 60 days from the date of presentation of bills. The Commission now has notified the CERC (Terms and Conditions of Tariff) Regulations, 2019 for control period 2019-2024, where the due date for payment of bills has been specified as 45 days from the date of presentation of bills beyond which late payment surcharge is applicable. The CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (hereinafter referred to as the “2020 Sharing Regulations”) also provide that late payment surcharge shall be applicable if bills remain unpaid beyond 45 days.

4. Existing provisions of Regulation 2(1)(e) and 2(1)(g) of the 2010 Power Supply Regulations provide as under:

2 (1) (e): “Default Trigger Date” means the date from which the default in payment or default in maintaining Letter of Credit or any other agreed Payment Security Mechanism has been established.

Explanation I:- In case of non-payment of dues, this date shall be the next working day after completion of the 60 days period from the date of service of the bill by the generating company or the transmission licensee as the case may be.

Explanation II:- In case of non-maintenance of the required Letter of Credit or any other agreed Payment Security Mechanism, the Default Trigger Date shall be third working day after the payment security mechanism, as per the Agreement, ceases to exist.;

2 (1) (g): "Outstanding dues" means the dues of a generating company or of a transmission licensee, which remains unpaid beyond a period of 60 days from the date of service of the bill on the beneficiaries.

5. Accordingly, in order to align the provisions regarding Default Trigger Date and Due Date with provisions of CERC (Terms and Conditions of Tariff) Regulations, 2019 and CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, following amendments are proposed in the 2010 Power Supply Regulations:

(a) The definition of “Default Trigger Date” and “Outstanding dues” has been amended and linked to “due date”.

(b) Definition of “Due date” has been inserted as new sub-clause (e-i) after sub-clause (e) of Clause (1) of Regulation 2 of the 2010 Power Supply Regulations.

6. Minor modifications have been proposed in definitions of “Beneficiary” and “Defaulting entity”. Definition of “User” has been deleted.
7. 2020 Sharing Regulations authorises the Central Transmission Utility (CTU) for billing, collection and disbursement of transmission charges on behalf of all transmission licensees and enables CTU to invoke regulation of power supply (Clause 7 of Regulation 19 and Regulation 21) on behalf of transmission licensees, as a consequence of non-payment of dues by a DIC and failure on the part of any DIC to maintain the Letter of Credit or such other instrument of payment security mechanism. These provisions of the 2020 Sharing Regulations provide that such regulation of power supply shall be done by CTU in accordance with the provisions of the 2010 Power Supply Regulations.
8. Accordingly, it is proposed to enable CTU to regulate power supply by inserting a new clause (1A) in the 2010 Power Supply Regulations as under:

“(1A) Reference to “transmission licensee” in these regulations shall include the Central Transmission Utility which has been authorized under the Central Electricity Regulatory Commission (Sharing of inter-State transmission charges and losses) Regulations 2020 for billing, collection and disbursement of transmission charges for inter-State transmission system.”
9. Transmission Service Agreement issued under CERC (Sharing of inter-State transmission charges and losses) Regulations, 2010 enabled CTU to undertake regulation of power supply under the 2010 Power Supply Regulations. However, Transmission Service Agreement is no more part of the 2020 Sharing Regulations. However, TSAs already signed continue to be applicable till expiry of the same in so far as they are not inconsistent with 2020 Sharing Regulations. Accordingly, amendment to Regulation 3 has been proposed to include the provision that regulation of power can be invoked if there is a provision in Agreement between generating company and beneficiary or the transmission licensee and beneficiary and also if there is a provision in the relevant Regulations of the Commission.
10. In view of above, the words “or applicable Regulations” is proposed to be added after word “Agreement” in Regulation 4 of the 2010 Power Supply Regulations.

11. Regulation 5 of the 2010 Power Supply Regulations has been proposed to be amended to bring more clarity in the process of serving notice and making request for preparation of implementation plan.
12. Amendment has been proposed in Regulation 6, to correctly reflect the status of the entity.
13. The word 'cancellation' is proposed to be substituted by the words "withdrawal or postponement" in Regulation 8 of the 2010 Power Supply Regulations to make it consistent with subsequent provisions of these Regulations.
14. Regulation 11(1), 14 and 18 of the 2010 Power Supply Regulations refer to CERC (Unscheduled Interchange charges and relevant matters) Regulations, 2009, which has been repealed and the Commission has notified CERC (Deviation Settlement Mechanism and related matters) Regulations, 2014 in its place. Accordingly reference to CERC (Unscheduled Interchange charges and relevant matters) Regulations, 2009 has been replaced with CERC (Deviation Settlement Mechanism and related matters) Regulations, 2014. Following Regulations have been proposed to be amended accordingly:
 - a. Clause (1) of Regulation 11;
 - b. Regulation 14; and
 - c. Regulation 18
15. Amendment has been proposed in Clause (1) of the Regulation 12 to correctly reflect the status of the entity and Clause (2) of Regulation 12 is proposed to be deleted.
