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The Secretary
Central Electricity Regulatory Commission
3rd & 4th Floor, Chanderlok Building,
36,Janpath,NewDelhi-110001

Sub: Suggestions/comments/objections on draft Central Electricity Regulatory Commission
(Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019.

Ref: Public notice of draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) Regulations, 2019.

Sir,

We refer to the Hon'ble Commission's above mentioned notice on draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019. Please find attached our preliminary comments on the draft Regulations as **Annexure-1**.

Thanking you,

Yours faithfully,
For BSES Yamuna Power Ltd.

for,
Janeel Singh
Gagan B Swain
Head-Regulatory

BYPL COMMENTS, SUGGESTIONS AND OBJECTIONS**In Re: Draft of CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2019****1. Principle Issues:**

- A) No Transmission charges in absence of PPA to avoid Undue Transmission charges on DICs for such Transmission corridors build for Generators/IPPS for evacuation of power without PPA or firm beneficiaries.**

In Past some High Capacity Transmission corridors were envisaged and were discussed in 28th Meeting of Standing committee on Transmission System Planning of Northern Region, 30th Meeting of Standing Committee on Power System Planning in WR & 14th Meeting of WRPC, But while planning these corridors there was no coordination with the Licensees or Discoms which is violation of provisions of Electricity Act 2003. As per Sec 38(2)(b)(iii) of EA 2003 CTU shall discharge all functions of planning and coordination relating to ISTS with Licensee. The Relevant extract of said provisions is reproduced below:

" (2) The functions of the Central Transmission Utility shall be -

(a) to undertake transmission of electricity through inter-State transmission system;

(b) to discharge all functions of planning and co-ordination relating to inter-State transmission system with -

(i) State Transmission Utilities;

(ii) Central Government;

(iii) State Governments;

(iv) generating companies;

(v) Regional Power Committees;

(vi) Authority;

(vii) licensees;

(viii) any other person notified by the Central Government in this behalf;

Further CTU has also to ensure development of an efficient, coordinated and economical system of inter-State transmission lines for smooth flow of electricity from generating

stations to the load centres but in case of said High capacity corridors system without identifying the Load Centres (Firm Beneficiaries) these corridors were developed. Which is also the violation of Section 38(2)(c) of Electricity Act 2003. The Relevant extract of said provisions is reproduced below:

(c) to ensure development of an efficient, coordinated and economical system of inter-State transmission lines for smooth flow of electricity from generating stations to the load centres;

Further while giving Regulatory Approval of said High Capacity Corridors in Petition no 233 of 2009, Hon'ble Commission also noted that project developers of IPPs has given consent to CTU to bear transmission charges till the time beneficiaries are firmed up. The relevant extract of order is reproduced below:

"It is evident from submission of the Petitioner that in certain cases, the project developers of IPPs have given consent to bear the transmission charges till the time beneficiaries are firmed up. It shall be the responsibility of the Central Transmission Utility to ensure completion of these projects at optimum cost using best contractual practices including International Competitive bidding."

But as per the present scenario on these 9 High capacity transmission corridors 34479 MW of LTA has been relinquished out of 48383 MW LTA granted. This relinquishment shall be a additional burden on beneficiaries who were never involved in the building of these high capacity corridors.

Therefore We Request Hon'ble Commission to introduce a Separate Component in Chapter 2 Clause 4 of Draft Regulations as :

a) "Evacuation System Component":

A specific Transmission network built specifically for evacuation of power from generators/LTA Applicants which does not have firm beneficiaries shall be covered under this component and such cost of transmission corridors shall be recovered from those

generators only for whom the corridor was build and all efforts should be made to recover such cost from Generators/LTA applicants.

b) Dedicated Transmission line or associated transmission line for build for IPP/ generator

As per EA'03 DIC's so that beneficiaries should be able to understand the legitimate amount of transmission charges to be paid by them.

Hence, the law itself contemplates that cost of dedicated transmission lines up to pooling station shall be borne only the generator/LTA applicants, even if it is constructed by CTU.

Hence, we request the Hon'ble commission even in case of relinquishment of LTA by generators, the cost of dedicated transmission line should only be recovered from that IPP/ generator only and not from the consumer.

B) N-1-1 Criteria Components should be socialize:

From the recent developments it has been observed that CTU has adopted the N-1-1 criteria for calculation of Stranded capacity on LTA relinquishment and for System planning.

It is submitted that those elements of power system which have been considered under N-1-1 are not meant for use by any specific beneficiary or Generators but for system stability so all these elements are a national assets and should be billed on Pan India basis. The Billing should be in the ratio of Monthly Billing of AC component and not on LTA+MTOA quantum.

Without prejudice to the above, the detailed clause-wise comments are as below:

2. Clause 5 of Chapter 2

Chapter 2 comprising of components and sharing of the national component and the regional components are bereft of any methodology and is not an indicator of a usage based levy. Neither is it an indicator of a levy on a national basis. In such circumstances,

the content of this Chapter would be amenable to judicial review as they appear to be arbitrary.

3. **Clause 5(4) of Chapter 2:** Sharing of transmission charges by the beneficiaries in the ratio of their quantum of LTA plus MTOA is clearly unwarranted as the sharing of transmission charges should always be on usage basis.
4. Transmission charges of HVDC system is bifurcated in 3 parts
 - a) 100% cost of some identified lines are considered in National Components
 - b) Cost of Rest HVDC Lines is again bifurcated in
 - i) 30% in National Component
 - ii) 70% in Regional Component

Hon'ble Commission has not provided any justified reason for such bifurcation and transmission charges should be billed on Pan India basis in ratio of AC-UBC monthly billing.

5. **Clause 6(2) of chapter 2:** If any drawee DIC has a dedicated transmission line LTA/MTA and is paying separate transmission charges for the said dedicated transmission line, then there should be no liability for the said LTA/MTA quantum on the said drawee DIC.

For Example: In case of Delhi, there is dedicated transmission line from Dadri#2 Thermal Power station whose injection point is Dadri Station and Drawal point is STU system of Delhi Transco Limited at Harsh Vihar. Further as per CERC order dated 20.04.2015 in Petition no 377/TT/2014, Hon'ble Commission has also accepted that the line is Dedicated Line and is an integral part of Generating Station and tariff should be determined as part of generation tariff and also allowed NTPC to recover tariff of this transmission line as part of generation tariff of Dadri-II. Delhi Discoms (BRPL, BYPL and TPDDL) are paying the transmission charges for this transmission line separately.

As Delhi is not using CTU network for Quantum of power allocation from Dadri-2 plant to Delhi, this LTA quantum of Dadri-2 should be excluded from total LTA+MTOA quantum of

Delhi. Further all the transmission charges which are calculated on LTA+MTOA quantum should be calculated on this reduced LTA+MTOA quantum only.

6. Clause 7 of chapter 2:

- i. Mere location of transformer i.e. ICT or power transformer shall not be criteria for bearing cost of such ICT by state in which it is located
- ii. This methodology will also create hurdle in future transmission network development /planning as state in order to reduce to such burden will oppose new transmission network, which are being developed for the purpose of other than meeting demand of that particular state.
- iii. There are some ICT which are mainly installed for transfer of power from one state to other state or region. The burden of such ICT shall not be imposed on State in which it is located.
- iv. Hence CTU alone should not be permitted to identify ICT/ transformer being used to feeder demand of respective state. The list of ICT planned for drawal of power by State shall be decided by CTU only in consultation with STU, SLDC & concern state DISCOM. The CTU should demonstrate same through power flow study that said ICT is planned for drawal of state

7. Clause 8(5) of Chapter 2: it is submitted that apportionment should be on usage basis i.e. in the ratio of monthly billing rather than in the ratio of quantum of LTA+MTOA.

8. Clause 9(1) & (2)of Chapter 2:

The responsibility node wise actual generation and demand data shall be given to respective SLDC. Reasons are as under:

- i. As per electricity act section 32, SLDC is responsible for accounting of energy transmitted in intra state network.
- ii. SLDC responsible for preparation of State energy account as well as DSM.

- iii. Meter data of all T-D interface as well as G-T interface including RE is available with SLDC
- iv. As per definition of basic network, data of transmission system above 132 KV incl. HVDC and for generator data upto 110KV is only covered and the demand or generation at 33 KV/66KV or at Distribution voltage is not required for preparation of basic network. These substations i.e node whose data is to be submitted for preparation basic network are either own by STU or Transmission licensee and said data is made available by them to SLDC for SEA & DSM computation and not available with DISCOM On similar line.

9. Clause 9(3) of Chapter 2:

Instead of apportionment of cost of line on per circuit kilometer basis for each voltage level and conductor configuration, actual MTC shall be used because:

- i. This method socialized cost of transmission system created for one particular region.
- ii. Due to aging effect, the performance of line gets affected, particularly for lines whose useful life is either completed or near to exhausting its useful life.
- iii. The major part of cost of old transmission lines have been paid by Discom through earlier mechanism which existed prior to POC mechanism. Now recovering cost of such transmission element/system again at new cost i.e average cost, would be is double recovery of cost from Discom like BYPL
- iv. Hon'ble Commission fixes the ARR of each transmission system and same should be submitted by concerned Transmission licensee or CTU whose cost will be recovered through this mechanism.
- v. The implementing agency can make suitable changes in its software to feed the data of cost of each transmission line. In case, if separate cost of any line is not possible to determine, then cost in such case shall be derived from the method of approximation considering actual ARR of such system.

10. **Clause 9(8) of Chapter 2:** The implementing agency shall aggregate transmission charges at drawl nodes and determine the allocation of charges to various states. We request that the calculation of state wise transmission charges per MW and overall monthly transmission charges to be paid by state, should be illustrated through a suitable example by the implementing agency for proper understanding of DIC's so that beneficiaries should be able to understand the legitimate amount of transmission charges to be paid by them.
11. **Clause 10 of Chapter 2:**
- i. There is no clarity how Drawal loss of DIC will be computed from actual all India weekly average transmission loss i.e whether it will be same for all DIC or not.
 - ii. The regional loss in some region is less & varies from season to season. The reason being more generation as compared to the demand of that particular region. Further under-loaded transmission contributes less technical loss. Hence socializing the benefit of less regional loss to states with high regional loss is not appropriate. By virtue of more transmission network in a region, the transmission loss is reduced but transmission charges have been increased and with new concept of regional component in PoC charge sharing methodology, such burden may increase. Hence it is proposed that instead of deriving drawal loss from all India average weekly loss, same to be computed on weekly regional loss.
 - iii. The Hon'ble Commission has published Draft Central Electricity Regulatory Commission (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017 on 14th November 2017. In the said regulation, it has been proposed that instead of LTA/MTOA or STOA, the all user of ISTS will be required to take GNA and transmission charges will be based on GNA. It is requested to finalize said draft GNA Regulations, wherein it must be made mandatory for every user of ISTS (using ISTS system either through long term access or short term OA) to take GNA as per its requirement.

12. **Clause 11(4) of Chapter 3:** it is not clear whether in case of delay in commissioning of the renewable projects/generation projects, would such a generator be liable for payment of transmission charges. Ideally it should be borne by Generator.

13. **Clause 11(5) of Chapter 3:** The amount of transmission charges shall be same (and not 10%) irrespective of whether it is given on existing margin or not. This is because, the transmission charges of ISTS network which is under-utilized due to wrong planning is borne mainly by DISCOM (as PoC mechanism is designed to fully recover the transmission charges of line & not taking into account whether any ISTS system is under utilised due to wrong planning or oversight/forecast).
Hence if any margin available in ISTS system on which any LTA has been approved and if said generating station fails to achieve COD , then such generator shall also liable to pay full transmission charges as computed for untied LTA.

14. **Clause 11(8) of Chapter 3:** Even after operationalisation of the LTA, the yearly transmission charges of such dedicated Transmission line from generating station of the generating company to the pooling station of the transmission licensee shall be borne by the concerned generator only & shall not be included in POC pool. This is because, it is responsibility of generator to construct dedicated line as per clause 8 of regulation 8 of CERC connectivity regulation.

15. **Clause 13(2) (BILLING) of Chapter 4:** CERC (Terms and Conditions of Tariff) Regulations, 2019, inter-alia, provides that the difference between the variation of tariff determination shall be recovered or refunded in six equal installments. The same methodology should also be followed in relation to the second bill raised to adjust variations on account of any revision in transmission charges as allowed by the CERC by way of under recovery or over recovery.

16. **Clause 13(2)(VI) and (VII), of Chapter 4,** These provisions indicate the involvement of multiple agencies. This may create confusion and litigation and disputes. Instead it is suggested that the NLDC should undertake all these functions for intimating transmission deviation etc.
17. **Clause 13(4) of Chapter 4,** The word “bilateral bills” had not been defined in the draft Regulations.
18. **Clause 16(2):** It is submitted that the commercial terms such letters of credit is typically a negotiated inter partes term and condition. It is, therefore, not necessary for binding the parties to commercial terms by way of Regulations. Without prejudice to the foregoing, letter of credit for an amount of 2.10 (two point one times), the average amount of first bill for a year, is not only excessive and usurious but also a complete departure from the normal practice of 1.05 times the average amount. It is to be noted that there are various distribution companies beneficiaries which are not entirely government owned or controlled and have a major cash crunch because of absence of cost reflective tariff determination by the State Electricity Regulatory Commission. In such cases question of tripartite agreement for securitization on account of arrears against transmission charges with the Govt. of India, does not arise. Hence, there is a complete discrimination of providing letter of credit of 1.05 times to those distribution companies where there is such an tripartite agreement and 2.10 times for those distribution companies where there is no such tripartite agreement, is violative of Article 14 of the Constitution and thus ultra vires. Further this discrimination is not only to Private Discoms but also to the esteemed consumers to whom they are serving because it will increase consumer’s tariff.
19. In Clause 16(7) a proviso may kindly be added that the existing agreements or arrangements or PPAs shall continue to hold good and accordingly all terms and conditions of payment security mechanism as had been agreed to by the parties, inter se, in the said agreement or otherwise would be saved and not disturbed.

20. **Clause 20:** It is submitted that information, software and procedures should also be shared with the beneficiaries (DIC).

21. **Clause 21(6):** Additional transmission charge at the rate of 1 percent of the transmission charges to be levied in the event Dic does not provide required data, is ultra vires the statute, i.e. the Electricity Act, 2003 as firstly, (i) this additional levy is purely a penalty, Secondly (ii) such a penalty is not authorized under the 2003 Act, thirdly (iii) such a levy is arbitrary and unlawful and ultra vires the Constitution. And last but not the least, additional transmission charge at 1 percent cannot be retained by the Central Transmission Utility. Such a retention would be ex-facie ultra vires the Electricity Act and the Constitution of India.