

## Sterlite Power Comments on CERC (Sharing of Transmission Charges and Losses) Regulations, 2019

No	Regulation No.	Clause	Comments
1.	3(3)	The transmission charges for transmission system after such transmission system has achieved COD with regular service, shall be shared by DICs in accordance with Regulations 5 to 8 of these regulations.	<ul style="list-style-type: none"> <li>The CERC Tariff Regulations 2014 had defined “Regular Service” as (53) “Regular Service” means putting into use a transmission system or element thereof after successful trial operation and a certificate to that effect has been issued by the concerned Regional Load Dispatch Centre;</li> <li>With the notification of CERC Tariff Regulations 2019, the 2014 Regulations are no longer in force. Further, Tariff Regulations 2019 have not provided or used the term “Regular Service”.</li> <li>The term “regular service” needs to be appropriately defined.</li> </ul>
2.	5(5) 6(2) 6(5) 8(6)	<p>5(5) Transmission charges for National Component in respect of injecting DICs with untied LTA capacity shall be shared by such injecting DICs in the ratio of their untied LTA capacity.</p> <p>6(3) Transmission charges covered under sub-clause (a) of clause (1) of this Regulation in respect of injecting DICs with untied LTA capacity, shall be shared by such injecting DICs in the ratio of their untied LTA capacity for the respective target region.</p> <p>6(5) Transmission charges covered under sub-clause (b) of clause (1) of this Regulation, in respect of injecting DICs with untied LTA capacity, shall be shared by such injecting DICs in the ratio of their untied LTA capacity for the respective target region.</p> <p>8(6) Transmission charges covered under AC-BC in respect of injecting DICs with untied LTA capacity shall be shared by such injecting DICs in the ratio of their untied LTA capacity.</p>	<ul style="list-style-type: none"> <li>As per the draft regulations the Transmission Charges for the NC, RC and AC-BC in respect of the untied LTA capacity are to be borne by such Injecting DICs viz are the generators.</li> <li>As per public information available, about 21228 MW (Coal – 18189 MW, Gas – 1634, Hydro – 1405 MW) of commissioned generation capacity is untied i.e. without PPA.</li> <li>If 100% LTA has been taken by these projects then, 21228 MW can be considered as the untied LTA component and the corresponding transmission charges are to be paid by these Injecting DICs.</li> <li>Given the situation of low demand for power with no state calling for power procurement tenders, the recovery of transmission charges from the injecting DICs is a huge risk and the principle of sharing transmission charges which state YTC are fully recovered will be broken.</li> <li>Sufficient payment security mechanism needs to be built to ensure that recovery of transmission charges from Injecting DICs are ensured.</li> </ul>
3.	13(2) (c) (iii) – Billing	Transmission Deviation Rate shall be calculated as follows:	<ul style="list-style-type: none"> <li>The treatment of TDR charges collected from DIC or generator is not explained.</li> </ul>

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		a. Transmission Deviation Rate for a State shall be charged at 1.20 X (transmission charges of the State for the Billing month)/ (quantum of Long Term Access plus Medium-Term Open Access of the State for the Billing Month	<ul style="list-style-type: none"> <li>• TDR is a penal rate, the recovery of TDR will result in excess recovery above YTC and it cannot be used to reimburse DICs or to reduce the transmission charges for the following month, since it would lose its penal nature and mean cross-subsidization amongst the DICs.</li> <li>• Since the YTC is to be recovered completely through NC, RC, TC, AC-UBC and AC-BC components, in the proportion of LTA/MTOA and untied LTA, there would be situations when the MTC/ YTC is not fully recovered, leading to a shortfall in the pool. In such scenarios, without extinguishing the liability on the defaulting DICs, the TDR charges should be added to the pool to ensure complete recovery of transmission charges.</li> <li>• Any excess TDR remaining in the pool should be routed to the PSDF fund, and once the outstanding liability on the defaulting DIC is paid, the proportionate TDR portion should flow to the PSDF fund.</li> </ul>
4.	13(4)	(4) Central Transmission Utility shall be responsible for raising the bilateral bills for transmission systems covered under Regulation 11 of these regulations.	<ul style="list-style-type: none"> <li>• Based on our understanding of the draft regulations, bilateral bills are bills raised under Regulation 11 (4), (7) (9) and (11), these will be raised by CTU as per Regulation 13(4). It is submitted that recovery of these bills too should be routed through CTU. In case the generator fails to pay the bilateral bills or becomes insolvent, what is the recourse available to the transmission licensee?</li> <li>• It is suggested that in such a scenario, since the project has been commissioned as per the TSA, the LTTCs should pay the transmission charges due.</li> <li>• This is in line with the Clause 6.2.2 of the TSA  <i>“6.2.2 Once any Element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have Availability equal to the Target Availability till the actual charging of the Element and to this extent, shall be eligible for payment of the Monthly Transmission Charges applicable for such Element.”</i> </li> </ul>

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5.	14 – Due Date	Due date in relation to any Bill shall mean the forty fifth (45th) day from the date on which such Bill is raised by the Central Transmission Utility	<ul style="list-style-type: none"> <li>• Billing, Collection and Disbursement Procedure under CERC (Sharing of ISTS Charges &amp; Losses) Regulations, 2010, Para 3.1.1, “Due date in relation to any Bill shall mean the thirtieth (30th) day from the date on which such Bill is raised and published on the website of CTU for payment by the DIC.”Further, as per the TSA, the due date is defined as 30<sup>th</sup> day after the date on which any Invoice is received.</li> <li>• Hence, to maintain consistency, we propose that the definition of the due date should be amended to 30<sup>th</sup> day from the date on which bill is raised.</li> <li>• Proposed <u>Amendment</u>: “Due date in relation to any bill shall mean <u>THIRTY (30<sup>th</sup>) day from the date on which such Bill is raised by the Central Transmission Utility</u>”</li> </ul>
6.	16(7) – Letter of Credit	<p>If a DIC fails to pay any bill or part thereof on or before the Due Date, the Central Transmission Utility may encash the Letter of Credit, and, for amount of the bill or part thereof that is overdue plus Late Payment Surcharge, if applicable, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:</p> <p>(a) a copy of the Bill, which has remained unpaid or partially paid by such DIC; and</p> <p>(b) a certificate from the Central Transmission Utility to the effect that the Bill at item (a) above, or specified part thereof, is in accordance with these Regulations and that it has remained unpaid or partially paid beyond the Due Date; and</p> <p>(c) Calculations of applicable Late Payment Surcharge, if any.</p> <p>Provided that the failure on the part of the Central Transmission Utility to present the documents for encashment of the Letter of Credit shall not attract any Late Payment Surcharge, for the duration of such</p>	<ul style="list-style-type: none"> <li>• The proposed regulation mentions that the CTU ‘<i>may encash Letter of Credit</i>’ if a DIC fails to pay any bill.</li> <li>• It is requested that the Hon’ble Commission must replace the word “may” with “<i>shall</i>” to ensure that the spirit of the regulation is maintained.</li> <li>• The regulation also states failure on part of CTU to present the documents for LC will not attract any Late Payment Surcharge.</li> <li>• It is to be noted by the Hon’ble Commission that the transmission licensee would suffer in case the documents for LC are delayed on account of CTU.</li> <li>• Hence, we request that the Transmission Licensee shall be eligible for the Late Payment Surcharge</li> </ul>

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		failure on part of the Central Transmission Utility, on the DIC.	
7.	17(1)(2)(3) – Collection	<p>(1) The Central Transmission Utility shall collect transmission charges on account of the First Bill and redistribute the transmission charges collected to inter-State Transmission Licensees in proportion to their Yearly Transmission Charges;</p> <p>(2) The Central Transmission Utility shall collect transmission charges on account of the Second Bill and transfer the same to respective inter-State Transmission Licensees;</p> <p>(3) The Central Transmission Utility shall collect transmission charges on account of the Third Bill raised in accordance with sub-clause (c) of clause (2) of Regulation 13 of these regulations and the transmission charges collected shall be reimbursed to the DICs, in the following month, in proportion to the First Bill of the respective month.</p>	<ul style="list-style-type: none"> <li>• Billing, Collection and Disbursement Procedure under CERC (Sharing of ISTS Charges &amp; Losses) Regulations, 2010, Para 4.4.1 “The disbursement of transmission charges to ISTS Licensees for each Bill shall be made within three (3) Working Days of receiving the payment from the DIC on a rolling basis. For the avoidance of any doubt, after the day of raising and uploading the Bill, any payment that is received from the DICs during a day shall be disbursed within three (3) Working Days from the date of such receipt to all the ISTS Licensees on a rolling basis.”</li> <li>• As there is no mention on the timelines for disbursement by the CTU, we request the Hon’ble Commission to include the same para as given in the BCD Procedure for Disbursement of transmission charges</li> </ul>
8.	17(5)	(5) If payment against any bill raised by Central Transmission Utility under this Regulation is outstanding, the Central Transmission Utility may undertake Regulation of Power Supply on behalf of inter-State Transmission Licensees under the provisions of the Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010 as amended from time to time and any subsequent enactment thereof.	<ul style="list-style-type: none"> <li>• It is submitted that number of days from due date be specified for CTU to invoke Regulation of Power Supply, as was provided for in the Model TSA approved by CERC.</li> <li>• The proposed modification is as follows: “If payment against any bill raised by Central Transmission Utility under this Regulation is outstanding <b><i>for 30 days after due date</i></b>, the Central Transmission Utility may undertake Regulation of Power Supply on behalf of inter-State Transmission Licensees under the provisions of the Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010 as amended from time to time and any subsequent enactment thereof..”</li> </ul>
9.	18 (1)(2)(3) – Event of Default	The occurrence and continuation of the following events shall constitute a DIC Event of Default:	<ul style="list-style-type: none"> <li>• As per the draft regulations, 45 days is the due date given to the DIC from the date CTU has raised the bill.</li> <li>• Failure to make payments against bills raised by CTU within <u>60 days</u> beyond Due Date is construed as an Event of Default.</li> </ul>

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		<p>(a) A DIC fails to comply with the prevailing regulations including the provisions of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time including any subsequent re-enactment thereof or is in material breach of these Regulations and such material breach is not rectified by the said DIC within 60 (sixty) days of receipt of notice in this regard from the concerned inter-State Transmission Licensee or the Central Transmission Utility; or</p> <p>(b) DIC fails to make payments against bills raised by the Central Transmission Utility under these Regulations within 60 days beyond Due Date.</p> <p>(2) Upon the occurrence and continuance of a DIC Event of Default, the Central Transmission Utility may serve notice on the concerned DIC, specifying the circumstances giving rise to such Notice.</p> <p>(3) Following the issue of such notice by the DIC, the concerned DIC shall take steps to remedy the default within 60 (sixty) days of issue of such notice.</p> <p>(4) After the expiry of 60 (sixty) days from the date of issue of notice, unless the circumstances giving rise to such notice as mentioned in clause (1) of this regulation shall have ceased to exist or have been remedied, the concerned DIC shall cease to be a DIC under these Regulations and the Central Transmission Utility shall issue a Termination Notice of 30 (thirty) days to this effect with a copy to the Commission and the Implementing Agency. Provided that in case of termination as DIC of an entity on account of DIC's event of default, the Long-Term Access or Medium-Term Open Access or both of such entity shall be cancelled. Such</p>	<ul style="list-style-type: none"> <li>• In such case, the CTU shall serve notice on the concerned DIC, and the concerned DIC shall take steps to remedy the default within 60 days of issue of such notice.</li> <li>• After the expiry of <u>60 days</u> from the date of issue of notice, the concerned DIC shall cease to be a DIC under these Regulations and CTU shall issue a Termination Notice of <u>30 days</u> to this effect with a copy to the Commission.</li> <li>• This indicates that the total time available for a DIC to remedy the default is 150 days (60+60+30) from the due date of the bill and 195 days (45+60+60+30) days from the date of issuance of the bill.</li> <li>• It is submitted that 195 days for remedying the default is unreasonably long. The cash flows would be impacted leading to increase in working capital requirement for the transmission licensee, which would manifest in increase in the tariffs.</li> <li>• Following revised timelines are proposed for consideration. <ul style="list-style-type: none"> <li>○ a due date of 30 days from the date of issuance of bill</li> <li>○ failure to make payments against bills raised by the CTU under these Regulations within 15 days beyond Due Date is construed as an Event of Default.</li> <li>○ Upon the occurrence and continuance of a DIC Event of Default, the CTU may serve notice on the concerned DIC, specifying the circumstances giving rise to such Notice.</li> <li>○ DIC to take steps to remedy the default within 15 days from issue of such notice.</li> <li>○ After the expiry of 15 days from the date of issue of notice, termination as DIC of an entity on account of DIC's event of default, the Long-Term Access or Medium-Term Open Access or both of such entity shall be cancelled.</li> </ul> </li> </ul> <p>The revised timeline available to a DIC is 90 days (30+15+15+30) from date of billing.</p>

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		cancellation shall be treated as relinquishment of Long-Term Access or Medium-Term Open Access in terms of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 and the said entity shall pay the relinquishment charges accordingly.	
10.	23 – Savings and Repeal	<p>(1) Save as otherwise provided in these regulations, Central Electricity Regulatory Commission (Sharing of inter-state transmission charges and losses) Regulations, 2010, as amended from time to time, is hereby repealed.</p> <p>(2) Notwithstanding such repeal anything done, or any action taken or purported to have been done or taken under the repealed regulations shall be deemed to have been done or taken under these regulations.</p>	<ul style="list-style-type: none"> <li>• The status of TSA, RSA and BCD Procedure in light of these regulations may please be clarified in the regulations itself.</li> <li>• Further, the order dated 29.04.2011 approving the TSA, RSA and BCD procedure, connected the SBD TSA and the Model TSA. Whereby it was clearly states in the Recital D of the Model TSA that <i>D. The development of an ISTS Scheme including any scheme which is under construction would continue to be governed in accordance with the Indemnification Agreement or Bulk Power Transmission Agreement or Transmission Service Agreement or any such agreement, as entered into between the concerned ISTS Licensee and the concerned DIC (s)( erstwhile beneficiary) to the extent relevant to the development, construction and commissioning of the elements referred therein till such time the said element is for commercial operation and actually brought into the operations, post which the terms and conditions of this TSA would come into force;</i></li> <li>• Similarly, it needs to be clarified in these Regulations that the commercial operations shall be as per these Regulations.</li> </ul>