

POWERGRID Comments on proposed 1st amendment to CERC (Regulation of Power Supply),2010

Sl.	Clause as per existing regulation	Changes proposed in draft Amendment	POWERGRID Comments
1.	<p>CHAPTER-I GENERAL</p> <p>2. Definitions (c) "Beneficiary" means the person who has been allocated electricity or is being supplied electricity generated from a generating station through long term access or medium-term open access or who is a user of the transmission system of a transmission licensee, as the case may be;</p>	<p>2. Definitions (c) "Beneficiary" means the person who has been allocated electricity <i>from a Central generating station</i> or is being supplied electricity generated from a <i>an inter-State</i> generating station through long term access or medium-term open access or who is a user of the <i>inter-State</i> transmission system of a transmission licensee, as the case may be;</p>	<p>Independent Power Producers (IPPs) also supply electricity through long term access or medium-term open access. However, the same is not covered under proposed amendment to definition of "Beneficiary". Hence, it is proposed to include reference of IPPs in the definition as below;</p> <p>(c) "Beneficiary" means the person who has been allocated electricity <i>from a Central generating station</i> or is being supplied electricity generated from a<i>an inter-State</i> generating station or Independent Power Producers through long term access or medium-term open access or who is a user of the <i>inter-State</i> transmission system of a transmission licensee, as the case may be;</p>
2.	<p>New Clause</p>	<p>New sub-clause (e-i) introduced after sub-clause (e) of Clause (1) of Regulation 2 of the Principal Regulations</p> <p><i>(e-i) "Due date" for payment of outstanding dues shall be:</i></p> <p><i>i) as specified in Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 as amended from time to time, in respect of inter-State transmission system; or</i></p> <p><i>ii) 45th day from date of presentation of bills in respect of generating companies covered under the Central Electricity Regulatory Commission (Terms and</i></p>	<p>Minor correction is proposed for better clarity. The word "inter-State transmission system" may be replaced by "inter-State transmission system licensee" in clause (e-i) i)</p> <p><i>(e-i) "Due date" for payment of outstanding dues shall be:</i></p> <p><i>i) as specified in Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 as amended from time to time, in respect of inter-State transmission system <u>licensee</u>; or</i></p> <p><i>ii) 45th day from date of presentation of bills in respect of generating companies covered under the Central Electricity Regulatory Commission (Terms and</i></p>

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		<p><i>Conditions of Tariff) Regulations, 2019, as amended from time to time; or</i></p> <p><i>iii) as per provisions of the respective Agreements for entities not covered under sub-clauses (i) and (ii) above."</i></p>	<p><i>Conditions of Tariff) Regulations, 2019, as amended from time to time; or</i></p> <p><i>iii) as per provisions of the respective Agreements for entities not covered under sub-clauses (i) and (ii) above."</i></p>
3.	<p>3. Scope and Applicability: These Regulations shall be applicable to the generating station and the transmission system where there is a specific provision in the Agreement between the Beneficiaries and Generating Company or the Transmission Licensee as the case may be, for regulation of power supply in case of non-payment of outstanding dues or non-maintenance of Letter of Credit or any other agreed Payment Security Mechanism.</p>	<p>3. Scope and Applicability: These Regulations shall be applicable to the generating station and the, transmission system and beneficiary, where there is a specific provision in the Agreement between the Beneficiaries generating company and beneficiary or the between transmission licensee and beneficiary, as the case may be, or in the relevant Regulations of the Commission, for regulation of power supply in case of non-payment of outstanding dues or non- maintenance of Letter of Credit or any other agreed Payment Security Mechanism.</p>	<p>Minor correction is proposed for better clarity. The word "transmission system" may be replaced by "inter-State transmission system"</p> <p>3. Scope and Applicability: These Regulations shall be applicable to the generating station and the, Inter-State transmission system and beneficiary, where there is a specific provision in the Agreement between the Beneficiaries generating company and beneficiary or the between transmission licensee and beneficiary, as the case may be, or in the relevant Regulations of the Commission, for regulation of power supply in case of non-payment of outstanding dues or non- maintenance of Letter of Credit or any other agreed Payment Security Mechanism."</p>
4.	<p>5. A copy of the notice under Regulation 4 shall be forwarded by the Regulating Entity to the Regional Load Despatch Centre or State Load Despatch Centre in whose control area (s) the Regulating Entity is situated with a request to prepare implementation plan. Copies of the notice shall also be served on other concerned Regional Load Despatch Centres, State Load Despatch Centres, Regional Power Committees.</p> <p><i>Provided that the notice and request for preparing implementation plan of regulation of power supply</i></p>	<p>5. A copy of the notice under Regulation 4 shall be forwarded by the Regulating Entity to the Regional Load Despatch Centre or State Load Despatch Centre in whose control area (s) the Regulating Entity is situated with a request to prepare implementation plan. Copies of the said notice and request shall also be served on other concerned Regional Load Despatch Centres, State Load Despatch Centres, Regional Power Committees - Provided that the notice and request for preparing implementation plan of regulation of power supply shall be served on the Defaulting Entity, concerned Regional</p>	<p>Indemnification as provided in the clause for RLDCs/SLDCs may also be extended to CTU as under this regulation, it is acting as Regulating entity to regulate the power of defaulting entity as per the responsibilities assigned to it under Sharing Regulations,2020. Therefore, the regulation 5 is proposed to be revised as following;</p> <p>5. A copy of the notice under Regulation 4 shall be forwarded by the Regulating Entity to the Regional</p>

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	<p>shall be served on the Defaulting Entity, concerned Regional Load Despatch Centre, State Load Despatch Centre, and Regional Power Committee and shall also be posted on the website of the Regulating Entity at least three (3) days in advance of the proposed date of commencement of regulation of power supply.</p> <p>Provided further that the Regulating Entity shall undertake to indemnify, defend and save concerned Regional Load Despatch Centre/State Load Despatch centre and hold them harmless from any and all damages, losses, claims and actions, demands, suits, recoveries, cost and expenses, court cost, attorney fees, and all other obligations by or to third parties arising out of or resulting from the regulation of power under these regulations.</p>	<p>Load Despatch Centre, State Load Despatch Centre, and Regional Power Committee and the Defaulting Entity. The said notice and request shall also be posted on the website of the Regulating Entity at least three (3) days in advance of the proposed date of commencement of regulation of power supply.</p> <p>Provided further that the Regulating Entity shall undertake to indemnify, defend and save concerned Regional Load Despatch Centre/State Load Despatch Centre and hold them harmless from any and all damages, losses, claims and actions, demands, suits, recoveries, cost and expenses, court costs, attorney fees, and all other obligations by or to third parties arising out of or resulting from the regulation of power under these regulations."</p>	<p>..... three (3) days in advance of the proposed date of commencement of regulation of power supply.</p> <p>Provided that the Regulating Entity shall undertake to indemnify, defend and save the Central Transmission Utility, the concerned Regional Load Despatch Centre/State Load Despatch Centre and hold them harmless from any and all damages, losses, claims and actions, demands, suits, recoveries, cost and expenses, court costs, attorney fees, and all other obligations by or to third parties arising out of or resulting from the regulation of power under these regulations</p>
5.	<p>CHAPTER-III REGULATION BY GENERATING COMPANY</p> <p>12.(1) The generating company shall be entitled to sell the power rendered surplus due to regulation of power supply, to any person, including any of the existing beneficiaries, during the regulation of power supply, subject to grid security, as ascertained by the concerned Regional Load Despatch Centre, or may reduce generation in case any of the above options is not possible. The Generating Company shall inform the Regional Load Despatch Centre or the State Load Despatch Centre, as the case may be, the Defaulting Entity and Member-Secretary, Regional Power Committee of the region, of the quantum, duration and rate of such sale.</p>	<p>CHAPTER-III REGULATION BY GENERATING COMPANY</p> <p>12.(1) The generating company shall be entitled to sell the power rendered surplus due to regulation of power supply, to any person, including any of the existing beneficiaries, during the regulation of power supply, subject to grid security, as ascertained by the concerned Regional Load Despatch Centre, or may reduce generation in case any of the above options is not possible. The Generating Company shall inform the Regional Load Despatch Centre or the State Load Despatch Centre, as the case may be, the Defaulting Regulated Entity and Member-Secretary, Regional Power Committee of the region, of the quantum, duration and rate of such sale.</p>	<p>No rationale has been provided as to why clause 12 (2) is proposed to be deleted. Further, open access in case of diversion of power as stated in clause 12. (1) has to be in accordance with Open access regulation. Further, power rendered surplus due to regulation of power supply has to be transacted under STOA, reference to Open Access Regulations, 2009 is required and retained.</p> <p>Therefore, in view of the above , the clause may be modified as below;</p> <p>12.(1) The generating company shall be entitled to sell the power rendered surplus due to regulation of power supply, Despatch Centre or the State Load Despatch Centre, as the case may be, the Defaulting</p>

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	<p>.....</p> <p>(2) Open access in case of diversion of power shall be regulated in accordance with the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2009, and Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-Term Open Access to the inter-State Transmission and related matters) Regulations, 2009, as amended from time to time.</p>	<p>.....</p> <p>(2) Open access in case of diversion of power shall be regulated in accordance with the Central Electricity Regulatory Commission (Open Access in Inter State Transmission) Regulations, 2009, and Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Open Access to the inter State Transmission and related matters) Regulations, 2009, as amended from time to time.</p>	<p><i>Regulated</i> Entity and Member-Secretary, Regional Power Committee of the region, of the quantum, duration and rate of such sale.</p> <p>.....</p> <p>(2) Open access in case of diversion of power shall be regulated in accordance with the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2009. and Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Open Access to the inter State Transmission and related matters) Regulations, 2009, as amended from time to time.</p>
6.	<p style="text-align: center;">CHAPTER-IV</p> <p style="text-align: center;">REGULATION BY TRANSMISSION LICENSEE</p> <p>15. On the request of a Transmission Licensee for Regulating the power supply, the Regional Load Despatch Centre may, under intimation to the concerned generating company, curtail the medium-term open access or long-term access of the allocated power or power supply contracted by the Defaulting Entity, on account of regulation according to the notice served under Regulation 4 of these regulations, preferably from the cheapest generating station in that corridor. The Regulating Transmission Licensee may decide the quantum and duration of denial of open access/access in consultation with any of the concerned generating companies who have a contract to sell power to the Regulated Entity and the concerned Regional Load Despatch Centre. The Transmission Licensee can</p>	<p>NO change proposed</p>	<p>Hon'ble Commission in its order dated 02.09.2015 in petition no 142/MP/2012 regarding removal of difficulty to effect regulation of power supply in terms of the CERC (Regulation of Power Supply) Regulations, 2010 at para 59 has given following directions;</p> <p><u>Quote:</u></p> <p>59. Summary of order:</p> <p>(a) The word 'consultation' occurring in Regulation 15 of the RPS Regulations shall not be interpreted as "consent" or "concurrence" and it will be sufficient if the generating company is informed three days in advance about the transmission licensee's plan to regulate the power supply to the defaulting entity, along with tentative quantum of power sought to be regulated, source and duration of regulation of power supply after</p>

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	<p><i>propose the quantum and duration of regulation of power supply based on an estimated price, indications of which can be taken from the Power Exchange Uniform Market Clearing Price and the prevailing price of electricity sold through traders directly.</i></p>		<p><i>considering technical minimum requirement of the thermal units.</i></p> <p>.....</p> <p><i>(c) During the period of regulation of power supply, for defaults in payment of transmission charges, STOA to the regulated entity shall be denied by NLDC/RLDCs under Regulation 25A of Open Access Regulations from the date of commencement of regulation of power supply. When Regulation 25A is invoked independent of regulation of power supply, default trigger date for invoking Regulation 25A of Open Access Regulations shall be 90 days from the due date of payment of various charges covered under the respective Regulations. NLDC/RLDCs shall deny short term open access to the defaulting entity on occurrence of the default trigger dates as mentioned above without having to approach the Commission on the basis of the request of concerned RLDC or Central Transmission Utility, as the case may be.</i></p> <p><u>Unquote:</u></p> <p>Vide the above Order, Commission clarified on the process of Consultation and also gave directions with regard to curtailment of STOA during the period of Regulation.</p> <p>Further, the Commission also directed that When Regulation 25 A is invoked independent of regulation of power supply, the default trigger date shall be 90 days from the due date of payment of various charges covered under the respective</p>

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			<p>regulations. As per the new Sharing Regulations, 2020 and Tariff Regulations,2019, the due date has been indicated as 45 days from the presentation of bills. Accordingly, the STOA curtailment can be undertaken only after 135 days from presentation of bills i.e Equivalent to more than 4 months of billing due, by which the Transmission Licensee revenues are put to risk. Further, as per the Sharing Regulations,2020, the billing for the generators is limited only to the untied LTA and the generator can transact under STOA which will be offset against its untied LTA. In case of default in payment by such generator, no regulation of power supply can be undertaken as there is no scheduling of generation under the LTA and the only remedy available with Transmission Licensee/CTU is to curtail its short term power. Hence, it is proposed that in case the STOA curtailment is invoked independent of regulation of power supply, the default trigger date shall be 45 days from the presentation of bills.</p> <p>Further a proviso as para 2 to regulation 15 is proposed to be added to cover cases where generating companies are defaulting entities.</p> <p>In view of the above CERC Order and further explanation, it is proposed to modify regulation 15 as below;</p> <p><i>15. On the request of a Transmission Licensee for Regulating the power supply, the Regional Load</i></p>

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			<p><i>Despatch Centre may, under intimation to the concerned generating company, curtail the medium-term open access or long-term access of the allocated power or power supply contracted by the Defaulting Entity, on account of regulation according to the notice served under Regulation 4 of these regulations, preferably from the cheapest generating station in that corridor. The Regulating Transmission Licensee may decide the quantum and duration of denial of open access/ access, <u>after considering technical minimum requirement of the thermal units</u>, in consultation with any of <u>with an information to</u> the concerned generating companies who have a contract to sell power to the Regulated Entity and the concerned Regional Load Despatch Centre <u>in the notice itself</u>. The Transmission Licensee/CTU can propose the quantum and duration of regulation of power supply based on an estimated price, indications of which can be taken from the Power Exchange Uniform Market Clearing Price and the prevailing price of electricity sold through traders directly.</i></p> <p><u><i>Further, if Generating company is the defaulting entity, then its open access shall be curtailed on the request of Central Transmission Utility or transmission licensee.</i></u></p> <p><u><i>15.A During the period of regulation of power supply, for defaults in payment of transmission charges, STOA to the regulated entity shall be denied by NLDC/RLDCs under Regulation 25A of Open Access Regulations from the date of commencement of regulation of power supply.</i></u></p>

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			<p><u><i>When Regulation 25A of Open Access Regulations is invoked independent of regulation of power supply, default trigger date for invoking Regulation 25A of Open Access Regulations shall be from the due date of payment of various charges covered under the respective Regulations. NLDC/RLDCs shall deny short term open access to the defaulting entity on occurrence of the default trigger dates as mentioned above without having to approach the Commission on the basis of the request of concerned RLDC or Central Transmission Utility or Transmission licensee, as the case may be.</i></u></p>