

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri A.H.Jung, Member**

In the matter of

Indian Electricity Grid Code (IEGC) – Amendment of

STATEMENT OF REASONS

SHRI ASHOK BASU, CHAIRPERSON & SHRI A.H. JUNG, MEMBER

BACKGROUND

Under directions of the Commission, Power Grid Corporation of India Ltd in its capacity as the Central Transmission Utility (CTU) had submitted a draft of the Indian Electricity Grid Code (IEGC) in April 1999. After detailed deliberations, the Commission had approved the IEGC which was published under authority of the CTU in January 2000 and came into effect from February 2000. The IEGC was subsequently revised with the approval of the Commission and the amendments became effective from 1.4.2002.

2. The Electricity Act, 2003, (the Act) came into force from 10.6.2003. One of the functions assigned to the Commission under sub-section (1) of Section 79 of the Act is to specify Grid Code having regard to Grid Standards. In June 2005, the Commission published a draft of the revised IEGC taking into account the provisions of the Act and the operational experience gained since February 2000, for public comments. The revised IEGC was notified on 17.3.2006 and became

effective from 1.4.2006. The provisions made in the revised IEGC were duly supported by the detailed statement of reasons dated 17.2.2006.

REGIONAL ENERGY ACCOUNTING (REA)

3. Prior to coming into force of the revised IEGC on 1.4.2006, the function of preparation of Regional Energy Accounts (REA) was being carried out by the Regional Electricity Boards (REBs). In addition, the function of preparation of weekly UI and VAR Accounting was also entrusted to REBs in accordance with clause 2.3.2 (4) of the IEGC.

4. In the draft of the revised IEGC published in June 2005, the function of preparation of REA, UI and VAR Accounting was proposed to be retained with REBs, or their successor entities under the Act, namely, the Regional Power Committees (RPCs) as per clause 2.3.3 thereof reproduced hereunder:

“2.3.3 – Regional Energy Accounts and weekly statements of UI charges and VAR charges shall continue to be prepared by the concerned REB/RPC Secretariat, for the present.”

5. The background note to the draft IEGC stated, inter alia, as under:

“6 As per Section 28(3) (c) of the Electricity Act, 2003, the Regional Load Despatch Centres (RLDC) shall “keep accounts of quantity of electricity transmitted through the regional grid”, where as preparation of Regional Energy Accounts has hitherto been a responsibility of the REB Secretariats. For the sake of continuity, preparation of final Regional Energy Accounts and weekly statement of UI charges and VAR charges has been retained in the scope of REB/RPC Secretariat.”

6. The Regional Power Committees (RPCs) for the five Regions in the country were established by the Central Government through Ministry of Power Resolution dated 25.5.2005, which also listed the functions to be discharged by RPCs. Under the Resolution, the function of preparation of REA was not assigned to RPCs. The Resolution dated 25.5.2005 was amended by the Central Government by Ministry of Power Resolution dated 29.11.2005. However, no change was made in the functions to be discharged by RPCs. In view of this, while notifying the revised IEGC, which has become effective from 1.4.2006, function of preparation of REA was assigned to the Regional Load Despatch Centres (RLDCs). The relevant extracts from Chapter 6 of the IEGC are set out below:

“6.4.15. The RLDC shall be responsible for computation of actual net MWh injection of each ISGS and actual net drawal of each beneficiary, 15 minute-wise, based on the above meter readings and for preparation of the Regional Energy Accounts. All computations carried out by RLDC shall be open to all constituents for checking/verifications for a period of 15 days. In case any mistake/omission is detected, the RLDC shall forthwith make a complete check and rectify the same.”

Annexure 1 “5. Regional Energy Accounts and the statement of UI charges shall be prepared by the RLDC on a weekly basis and these shall be issued to all constituents by Saturday for the seven day period ending

7. The reasons for the changes made in the revised IEGC notified on 17.3.2006 over the provisions made in the draft IEGC, as regards preparation of REA, have been explained in paras 15 to 19 of the Statement of Reasons dated 17.2.2006, extracted below.

“15. Para 2.3.2 defined the functions of the RPCs. Most of the stakeholders have suggested that the functions of RPCs should be in line with Ministry of Power resolution dated 25.5.2005. The suggestions have been accepted and suitable modifications have been made in the IEGC.

16. Para 2.3.3 of the draft IEGC provided that Regional Energy Accounts (REA) and weekly statements of UI charges and VAR charges would continue to be prepared by the concerned REB/RPC Secretariat, for the present.

17. Many of the stakeholders opined that work of Regional Energy Accounting (REA) should remain with RPCs. CEA has stated that clause (c) of sub-section (3) of Section 28 of the Act cannot be construed so as to include preparation of Regional Energy Account (REA) by RLDC. The basic contention of CEA is that RLDCs should continue with collection of SEM data, its processing and compilation to arrive at active power, reactive power as per the Act. However, preparation of REA based on inputs to be made available by RLDCs and final checking should remain with RPCs as at present.

18. This issue has been examined in great detail. Sub-section (55) of Section 2 of the Act, envisages establishment of Regional Power Committees through the resolution of the Central Government. Ministry of Power vide its resolution dated 25.5.2005 has constituted RPCs, thereby replacing the Regional Electricity Boards. The Ministry's resolution does not assign the work of preparation of REA to the RPCs though it assigns some other functions to them. The Ministry has issued amendments to the original resolution dated 25.5.2005 through a further resolution dated 29.11.2005, which is also silent on the question preparation of REA by the RPCs.

19. Keeping in view of the fact that Ministry of Power has chosen not to allocate “REA work” to RPCs, the Commission has modified the relevant provision of the draft IEGC to align it with the Act, and accordingly, the responsibility of preparation of Regional Energy Accounts, hitherto with the REB Secretariats will stand transferred to the RLDCs with effect from 1.4.2006. Suitable modifications in the relevant paras have been carried out. Also, para 2.3.3 of the draft IEGC has been replaced with the following new provision:

“Decision of RPC arrived at by consensus regarding operation of the regional grid and scheduling and dispatch of electricity will be followed by RLDC subject to direction of Central Commission, if any.”

8. Ministry of Power vide its letter dated 12.4.2006 addressed to the Secretary of the Commission informed that the present arrangement of RLDCs being operated by the CTU was being reviewed by the Central Government and suggested that the Secretariats of RPCs be allowed to discharge the function of Regional Energy Accounting for the time being. Ministry of Power letter dated 12.4.2006 is extracted in extenso hereinbelow:

“ The Central Government has notified the constitution and functions of the Regional Power Committee (RPC) vide resolutions (one each for every region) dated 25.5.05. RPC was assigned the functions in these resolutions in accordance with the provisions of the Act.

2. The CERC has finalized the Indian Electricity Grid Code in which the functions of “operations of regional UI pool account and regional reactive energy account” has been entrusted to the Regional Load Despatch Centres (RLDCs).

3. Chairperson, CEA in his letter dated 20.1.06 (copy enclosed) has suggested that the function of Regional Energy Accounting be entrusted to the RPCs.

4. This matter has been considered in this Ministry. In view of the provisions of the Electricity Act 2003, Regional Energy Accounting does not come within the purview of the RPC.

In the past, Secretariats of erstwhile Regional Electricity Boards have been discharging the function of Regional Energy Accounting. In view of this past practice, it has been suggested that the function of the Regional Energy Accounting be entrusted to the Secretariats of the RPCs.

Further, in accordance with the National Electricity Policy, the Central Government is in the process of reviewing the present arrangement of the RLDCs being operated by the Central Transmission Utility.

5. In view of the above, the Secretariats of the RPCs (not the RPCs) may be allowed to discharge the function of Regional Energy Accounting for the time being. This regional accounting would be done by the Secretariats of the RPCs on the basis of data and analysis provided by the respective RLDC. This is a temporary arrangement and will be reviewed shortly by the Government.”

9. Representations were received from the Central Electricity Authority (CEA) and Northern Regional Power Committee (NRPC) for amending the relevant provisions of the revised IEGC to assign the responsibility of preparation of REA to RPC Secretariats on the line of the suggestion made by Ministry of Power. National Thermal Power Corporation Ltd. similarly represented that REA should be issued by the Secretariats of RPCs.

10. In the light of above, through the public notice dated 23.6.2006, the Commission elicited suggestions and comments of the stakeholders on the proposal made by Ministry of Power. In response to the public notice, the comments have been received from the persons listed at Annexure to this order.

Summary of Suggestions and Comments received

11. Except Assam State Electricity Board, Tripura State Electricity Corporation Limited and RLDCs, all other stakeholders have favoured transfer of work relating to preparation of REA to RPC Secretariats as suggested by Ministry of Power, on the ground that RPCs are neutral, independent and non-commercial entities whereas RLDCs are under the control of Power Grid Corporation of India Ltd, a commercial entity. Power Grid Corporation of India Ltd., which has been notified as the CTU has shareholding in PTC, a trading company. It has been contended by MPSEB, CEA, NRPC, BBMB, APTRANSCO, etc. that Clause (c) of sub-section (3) of Section 28 of the Act does not include preparation of REA

by RLDCs since the functions of RLDCs stipulated in Section 28 relate to real time grid operations whereas preparation of REA is an off-line function. According to them, sub-section (3) of Section 28 only implies that RLDCs should record energy flows only. Thus, the majority of the stakeholders are of the opinion that the work can be assigned to RPC Secretariats without contravening any of the provisions of the Act.

12. It has been pointed out that the Commission, while notifying the IEGC had assigned the function of preparation of REA to RLDCs for the reason that the Central Government had not decided to assign this task to RPCs under the Resolutions dated 25.5.2005 and 29.11.2005. It has been argued that in view of the letter of Ministry of Power dated 12.4.2006, the foundation for the Commission's decision is removed and, therefore, the task should be transferred back to RPC Secretariats, particularly when para 5.3.7 of the National Electricity Policy stipulates to ensure independent system operation.

13. While arguing for transfer of work of REA back to RPC Secretariats, the stakeholders have also pointed out that this will save the State beneficiaries from sharing additional expenditure chargeable by RLDCs for performance of the function of preparation of REA.

14. The stakeholders have also pointed out that there is an inconsistency between the provisions of the Central Electricity Regulatory Commissions (Terms and Conditions of Tariff) Regulations, 2004 and those of the IEGC. It is stated

that as per Regulations 29 and 43 of the tariff regulations, REA work has been assigned to REBs/RPCs while in the IEGC, the same is assigned to RLDCs. The stakeholders have emphasized a need for reconciliation and have accordingly urged that the work needs to be transferred back to RPC Secretariats for the sake of consistency and uniformity.

15. CEA in its response has referred to the remarks said to have been made by Secretary, Ministry of Power in a meeting held on 6.9.2005 that the present arrangement of ringfencing of RLDCs from the CTU was inadequate since RLDCs remained under the payroll of the CTU. It has been stated that under the present arrangement, acceptability of RLDCs' neutrality is at a low level. Therefore, CEA has argued in favour of transfer of work of REA to the RPC Secretariats.

16. ASEB has stated that with the transfer of REA work to RLDCs, there has been an overall improvement and efficiency in the preparation of REA. It has stated that the transfer of accounting activities to RLDCs has resulted in timely release of accounts and therefore, has opined that the present arrangement should continue unless some specific instances of negligence in preparation of data or error in computation come to notice.

17. RLDCs in their response have in unison argued that entrusting the responsibility of REA to RLDCs with effect from 1.4.2006 is in accordance with the provisions of the Act, in particular Clause (c) of sub-section (3) of Section 28

thereof which provides that RLDCs shall keep accounts of quantity of electricity transmitted through the Regional Grid. According to RLDCs, the mandate of law is that preparation and maintenance of all accounts of quantity of electricity transmitted through the regional grid is the responsibility of RLDC concerned. It has been further submitted by RLDCs that under clause (h) of sub-section (1) of Section 86 of the Act, notification of State Grid Code consistent with the IEGC notified by the Central Commission is the function of the State Electricity Regulatory Commissions. It has been stated that some of the State Electricity Regulatory Commissions have already specified the State Grid Codes in conformity with the provisions of the IEGC, and the accounting functions have been assigned to SLDCs. However, after the transfer of work from RLDCs to RPC Secretariats and amendment of the IEGC, there will be no corresponding entity in the State for performance of function of preparation of accounts and there will remain an inconsistency between the State Grid Codes and the IEGC. RLDCs have also referred to Section 4 (g) of Ministry of Power notification dated 2.3.2005 which lays down the functions of National Load Despatch Centre (NLDC), and stipulates that NLDC shall discharge the function of coordinating with RLDCs for energy accounting of inter-regional exchange of power. Reliance has also been placed on Ministry of Power Resolutions dated 25.5.2005 and 29.11.2005 under which the responsibility of REA has not been assigned to RPCs. By referring to certain earlier orders of the Commission, it has been pointed out that its intention was always to entrust the work of preparation of REA to RLDCs, and this function has been discharged by them to the satisfaction of the stakeholders.

18. RLDCs have further stated that the energy scheduling, accounting and settlement system comprises of four major steps, namely; (a) Day ahead scheduling; (b) Collection of raw data from SEMs at various locations, data validation and processing; (c) Issuing monthly energy account, weekly reactive energy accounts and weekly UI accounts; and (d) Operation of UI Pool account and reactive pool account. Out of these four steps, three steps are exclusively carried out by RLDCs and therefore, the preparation of REA should also be their responsibility. RLDCs have outlined the following benefits of discharging function of preparation of REA by them, namely:

- (i) Single point responsibility in complete procedure of scheduling, metering, accounting and settlement,
- (ii) Minimization of time in issuance of accounts as well as in error rectification,
- (iii) Availability of entire data from one agency, which will facilitate auditing.
- (iv) Total transparency and efficiency, and
- (v) Uniformity in implementation across the country.

19. In sum, RLDCs have argued in favour of continuation of the arrangement in place since 1.4.2006.

FINDINGS

20. We have carefully considered the suggestions and comments received from the stakeholders. Before the revised IEGC came into effect on 1.4.2006, the function of preparation of REA was continuously performed by REBs for many

years. The arrangement continued for nearly three years even after enactment of the Act, which came into force on 10.6.2003. In place of REBs, the Central Government by Ministry of Power Resolution dated 25.5.2005 has constituted RPCs. Under the draft IEGC, the function was proposed to be assigned to RPCs. Secretariats of RPCs are manned by officers whose impartiality and neutrality has never been doubted or questioned, when REA function was performed by REB/RPC Secretariats till 31.3.2006. The stakeholders have overwhelmingly reposed faith in RPC Secretariats for discharge of REA function . There is thus a strong case for review of REA function. Assigning of the function to RPC Secretariats need to be viewed in the context of their being independent, neutral, without any stakes or commercial interest in the transactions involving preparation of REA. The overwhelming majority of the stakeholders have favoured discharge of the function by RPC Secretariats. Under these circumstances, we are convinced that discharge of the function by RPC Secretariats will be in the over all interest of the stakeholders. The performance of REA function by RPC Secretariats will not involve extra cost to the State Utilities, whereas the CTU has demanded extra charges for performance of this function by RLDCs. The Central Government has also advised assigning the function to RPC Secretariats at least for the time being. Even if the letter dated 12.4.2006 from Ministry of Power does not bind the Commission, the advice contained therein deserves due consideration when it has been supported by overwhelming majority of the stakeholders. At this stage, it is not necessary for us to express any opinion regarding interpretation of Clause (c) of sub-section (3)

of Section 28 of the Act placed by RLDCs for the reason that no infeasible right is created in favour of RLDCs. We further take note of the fact that it is not that the provisions in the revised IEGC were made at the instance of RLDCs. In fact, RLDCs had accepted the position obtaining prior to 1.4.2006 without any demur, and even in the face of Section 28 of the Act for about three years after the Act came into force. While submitting comments on the draft IEGC, none of the RLDCs suggested for entrustment of the task to them. The suggestions now submitted by RLDCs in response to the notice dated 23.6.2006 seems to be an act of after-thought. RLDCs, in their suggestions have conceded that issuing of REA is a function distinct from processing of data relating to energy flow. Therefore, for the time being we consider that it would be more appropriate that the task is assigned to RPC Secretariats. This will not only be in alignment with the tariff regulations, but also be cost effective for the State Utilities. We would like to make it clear that we have not expressed any opinion on the allegation of impartiality of RLDCs. We have proposed to assign the task of RPC Secretariats, on consideration of balance of advantage, taking into account the overall scenario.

21. Accordingly, the Regional Energy Accounts as well as UI and Reactive Energy Accounts shall be issued by Secretariats of RPCs till further order. While RLDCs shall continue to collect and compile the records of quantities of electricity over the inter-State transmission system, Secretariats of RPCs shall issue accounts for active, reactive and unscheduled energy. The revised procedure shall come in to force from 1.9.2006. The weekly UI accounts as well

as Reactive Energy Accounts shall be prepared by RPC Secretariats with effect from the week ending 3.9.2006. The weekly UI and VAR pool accounts shall be maintained and operated by RLDC on behalf of respective RPC Secretariat as was the practice prior to 1.4.2006.

22. We further direct that the RPC Secretariats shall promptly post the regional energy accounts on their respective website along with all relevant information. Member Secretary, RPC shall continue to do certification of availability, capacity index, PLF of the generating stations supplying power to more than one State and availability of inter-State transmission system based on inputs received from RLDCs.

23. In keeping with the above decisions, we direct that clause 6.4.15 and paras 5 and 6 of Annexure I of Chapter 6 of the IEGC notified on 17.3.2006 shall be substituted as under and a new para shall be added at Serial No. 12 of Annexure 1 of Chapter 6. This shall be applicable until review of the existing arrangement in terms of Ministry of Power letter dated 12.4.2006 is completed:

Clause 6.4.15 (Chapter 6)

The RLDC shall be responsible for computation of actual net MWh injection of each ISGS and actual net drawal of each beneficiary, 15 minute-wise, based on the above meter readings. The above data along with the processed data of meters shall be forwarded by the RLDC to the RPC secretariat on a weekly basis by each Thursday noon for the seven day period ending on the previous Sunday mid-night, to enable the latter to prepare and issue the Unscheduled Inter-change (UI) account. All computations carried out by RLDC shall be open to all constituents for checking/verifications for a period of 15 days. In case any mistake/omission is detected, the RLDC shall forthwith make a complete check and rectify the same.

Para 5 of Annex-I (Chapter-6)

Regional Energy Accounts on monthly basis and the statement of UI charges on weekly basis shall be prepared and issued by the RPC Secretariats for the purpose of billing and payment of various charges. Regional Energy Account for a month shall be issued in the following month. UI accounts shall be issued on a weekly basis based on the data provided by the RLDC as per provisions of section 6.4.15 and 6.5.18, and these shall be issued to all constituents by Tuesday, for seven day period ending on the penultimate Sunday mid-night. Payment of UI charges shall have a high priority and the concerned constituents shall pay the indicated amounts within 10 (ten) days of the statement issue into the regional UI pool account operated by the RLDC. The agencies who have to receive the money on account of UI charges would then be paid out from the regional UI pool account, within three (3) working days.

Para 6 of Annex-I (Chapter-6)

The RPC Secretariats shall also issue the weekly statement for VAR charges, to all constituents who have a net drawal/injection of reactive energy under low/high voltage conditions. These payments shall also have a high priority and the concerned constituents shall pay the indicated amounts into regional reactive pool account operated by the RLDC within 10 (ten) days of statement issue. The constituents who have to receive the money on account of VAR charges would then be paid out from the regional reactive pool account, within three (3) working days.

Para 12 of Annex-1 (Chapter 6)

All regional energy accounting calculations carried out by RPC Secretariats shall be open to all constituents for any checking/verification for a period of 15 days. In case any mistake is detected RPC Secretariats shall forthwith make a complete check and rectify the mistakes.

Sd/-
(A.H. JUNG)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRPERSON

SHRI BHANU BHUSHAN, MEMBER

24. This order is an outcome of the proceedings initiated by the Commission through the public notice dated 23.6.2006, prompted by letter dated 12.4.2006 from Ministry of Power, which in turn was motivated by letter dated 20.1.2006 from Chairman, CEA to Secretary, Ministry of Power wherein the former had

suggested that the function of Regional Energy Accounting (REA) “should continue with the RPC Secretariat.” The dates of these two communications are important and their significance will be adverted to later on in this order.

25. A majority of the stakeholders in their responses to the public notice have supported the proposal to transfer REA responsibility back to RPC Secretariats. The grounds for supporting the proposal are already listed above comprehensively. I will be dealing with these grounds point-by-point.

26. Ministry of Power letter dated 12.4.2006 addressed to the Secretary of the Commission clearly states that “in view of the provisions of the Electricity Act 2003, REA does not come within the purview of the RPC”. The only provision under the Act, which could have led the Ministry to such a conclusion, is clause (c) of sub-section (3) of Section 28 which assigns the function of keeping accounts of quantity of electricity transmitted through the Regional grid to RLDCs. It should be abundantly clear from the above that REA function proposed for being reassigned to RPC Secretariats is unambiguously an RLDC responsibility under the Act. There cannot be any dispute/doubt or two opinions on this. Assigning this function to RPC Secretariats as such would be a deviation from the Act.

27. Clause (c) of sub-section (3) of Section 28 of the Act and understanding of the Ministry thereof being so clear, the only rationale for the suggestion would have been for continuation of REA with RPC Secretariats and this

unambiguously flows from Chairman, CEA's letter dated 20.1.2006, a copy of which has been received enclosed with the Ministry's letter dated 12.4.2006. Chairman, CEA's letter predates the implementation of the revised IEGC on 1.4.2006. The suggestion made by Chairman, CEA and conveyed by the Ministry under its letter dated 12.4.2006 might have had some justification if the Ministry's letter had been issued prior to transfer of REA function to RLDCs, as it would then have continued the on-going arrangement. It might have made at least some sense when REA was still being carried out by RPC Secretariats, in the name or for the sake of continuity. As it happened, the Ministry's letter came out only after REA function had already been taken over fully by RLDCs, in line with the Act. It should be particularly noted that the Ministry's letter of 12.4.2006 suggests REA function by RPC Secretariats only "for the time being", and further states, "This is a temporary arrangement and will be reviewed shortly by the Government." It is apparent that the Ministry contemplates permanent assignment of REA responsibility to RLDCs only, and in my view, rightly so since such an arrangement will be in conformity with the Act. Since we have already moved to that status, it would not be logical to propose flip-flops. It would not be rational now to transfer REA function back to RPC Secretariats, even on a temporary basis, as it would necessarily involve further reversal to RLDCs when the Central Government finally decides regarding continuation of RLDCs with the Central Transmission Utility, or otherwise.

28. Most of the respondents have leaned on the Ministry's letter of 12.4.2006 while supporting the proposal to transfer REA function to RPC Secretariats. Their

argument seems to be based on a premise that the letter dated 12.4.2006 has the same force as Ministry of Power Resolutions dated 25.5.2005 and 29.11.2005. I am unable to accept the argument for the simple reason that the letter dated 12.4.2006 is not at par with the said Resolutions dated 25.5.2005 and 29.11.2005, which are statutory in nature. The respondents' support to the proposal therefore loses most of its steam, more so when the Ministry's advice is now outdated and is no longer valid.

29. Some respondents have opined that as per Section 28 of the Act, RLDCs are responsible only for carrying out real-time operation of the regional grid, and REA being an off-line function, should not be a responsibility of the RLDCs. These respondents have obviously failed to note that the phrase "real time operations" appears only in clause (e) of sub-section (3) of Section 28 of the Act, whereas REA is covered by clause (c) of the sub-section. The Act thus recognizes that REA is not a real time function, and still assigns it to the RLDCs. Regarding the view of some respondents that the provision under clause (c) of sub-section (3) of Section 28 of the Act covers only collection and passing on of meter readings, and not the REA, I can only say that such view has no logic or basis. Had this view been correct, there would have been no reason for Ministry of Power to state in its letter of 12.4.2006 that "in view of the provisions of the Electricity Act, 2003, REA does not come under the purview of the RPC".

30. The discussion thus far is confined to the legal aspects only. However, for completing the discussion on the subject, I would now touch upon the other issues raised by many of the stakeholders. An oft-repeated argument is that since RLDC's staff is on pay rolls of the CTU or Power Grid, which is a commercial entity, the neutrality of RLDCs is suspect. RLDCs have been identified under the Act as the "apex body" for ensuring integrated operation of the power system in the concerned region, and have been authorized to give directions and exercise supervision and control over all entities connected with the operation of the power system. In case the above allegations have any substance, it would be a serious matter and against the letter and spirit of the Act. There is no valid basis for suspecting the neutrality of RLDCs. RLDCs are being operated by the CTU/Power Grid for a long time now. No instance of RLDC's partisan attitude on account of being operated by the CTU or Power Grid, has been noticed. The apprehension expressed is based on surmises and conjectures. Further, REA function is not the only issue. Therefore, I cannot entertain any suggestion in which RLDC's neutrality and impartiality is suspected. In case there are any specific instances of partisan or irresponsible behaviour by any RLDC, it should be brought to the Commission's notice under Section 29(5) of the Act for appropriate decision.

31. Regarding reference to National Electricity Policy, it is stated in clause 5.3.7 of the Policy issued on 12.2.2005 that "The arrangement of CTU operating the RLDCs would be reviewed by the Central Government based on experience of working with the existing arrangement. A view on this aspect would be taken

by the Central Government by December 2005.” While this question still remains to be finally settled, there is no hint anywhere that assignment of energy accounting function to RLDCs is conditional.

32. A discrepancy has been pointed out between CERC (Terms & conditions of Tariff) Regulations 2004 and the IEGC, in respect of REA responsibility, and it is stated by some respondents that “As there is an inconsistency on this issue in the two documents of CERC, logically the provision of the tariff notification, which governs billing by ISGS and payment by the beneficiaries, should prevail over IEGC.” While it is true that there is presently an inconsistency between the two documents of the Commission, it should be noted that it has arisen only from 1.4.2006 when the revised IEGC has come into effect. The inconsistency can be reconciled by suitable amendment of the tariff regulations so that they too are aligned with the Act. Both documents have to be in line with the Act. A temporary inconsistency cannot be put forth as a reason for amending the provisions of the IEGC. There is an oft repeated saying that two wrongs cannot make one right.

33. There is also a very important aspect of single-point responsibility in energy accounting, from installation of proper energy meters and regular collection of meter readings, through centralized computations and issuance of energy accounts, up to operation of the UI and VAR pool accounts. This has already been achieved at the inter-State level from 1.4.2006. There is no reason to look back. RLDCs are the logical agency for carrying out this function.

34. Before parting, I consider it appropriate to deal with some specific suggestions and comments received from the Member-Secretary, NRPC under his letter dated 6.7.2006. It is noted that though submitted on the letter-head of NRPC, the suggestions and comments are those of NRPC Secretariat only.

35. In the above referred letter, it has been stated that “CERC though in favour of assigning the off-line function of REA to RPC Secretariats – could not do so due to non-allocation of REA work by MoP to RPCs.” The respondent should have refrained from such out-of-context and unsubstantiated statement. The Commission as a creature of the Act cannot overlook its mandate. A temporary deviation from the provisions of the Act could be allowed only “for the sake of continuity” of the previously existing arrangement. However, that stage is already over as I have held above.

36. A meeting between the Ministry and CEA has been referred to (without mentioning its date and enclosing its minutes), wherein it is purported to have been clarified by the Ministry that “all off-line functions of grid operation including REA remained with the RPC secretariats”. The Ministry’s letter of 12.4.2006 is averred to be the outcome of that meeting. This letter has been relied upon for advising “CERC may issue necessary instructions to RLDCs to transfer the entire work of REA including operation of Pool Accounts to RPC secretariats”. The letter dated 12.4.2006 from the Ministry to the Secretary of the Commission has been considered by me in the earlier part of my order and I have recorded my views thereon. There is no need for me to reiterate the same.

37. Member-Secretary, NRPC has stated that Secretary (Power) observed at a meeting on 6.9.2005 that “the present arrangement of ring fencing the functions of RLDCs from PowerGrid is inadequate, and that this was also evident from the comments received from all central Generators and State Utilities, where they had requested for the function of REAs to continue with RPC Secretariat due to its neutrality. It was further observed that as long as officers and staff of RLDCs remained under the pay roll of PowerGrid, the acceptability of RLDCs neutrality would be at a lower level since PowerGrid, which operates RLDCs as CTU, is itself a commercial entity.” However, from the minutes of the meeting held on 6.9.2005, I find that only the following has been attributed to Secretary (Power)

“ Secretary (Power) said that the Ministry would take a holistic view on this issue after considering the discussions and taking into account the provisions of the law”.

38. I also note (from copies of communications enclosed by the respondent) that CEA had asked the Ministry on 7.10.2005 to revise the above minutes, but the Ministry’s only response was that “views expressed by CEA..... have been taken on record”. I, therefore, must ignore all that Member-Secretary, NRPC has attributed to Secretary (Power). It is also to be noted that the Ministry’s Resolution dated 29.11.2005 (obviously an outcome of the meeting on 6.9.2005) is silent on the issue of REA, may be because the Ministry had appropriately taken into account the relevant provisions of the law.

39. It is alleged that “RLDCs being under the control of PowerGrid (CTU) – which being a shareholder of M/s PTC India Ltd (an electricity trading company)

is involved in the business of trading – do not meet the condition laid down under section 27 (2) of Electricity Act 2003.” This aspect impacts on the total role of RLDCs specified in sections 28 and 29 of the Act (and not just on their energy accounting responsibility), as also the role of Powergrid as the CTU. The remedy may lie in Power Grid disposing off its equity in PTC, and this matter may be looked into by Government of India for such action as may be appropriate, particularly for compliance with first proviso of sub-section (1) of Section 38 of the Act.

40. Referring to the discussion between Secretary (Power) and Chairperson, CEA on 6.9.2005 regarding RLDCs being operated by an Independent System Operator (ISO), the respondent has unilaterally concluded that “for the time being until RLDCs are operated by an ISO, the function of REA including operation of Pool Accounts be retained with RPC secretariats as has been directed by the Central Government.” I have to point out that the advice on the subject from the Central Government is contained in the letter dated 12.4.2006, which I have already examined. In my view, the advice should not be acted upon at this stage since it would amount to putting the clock back.

41. It is stated by Member-Secretary, NRPC that “all Central Sector Generators as well as all beneficiaries of Northern Region have unanimously resolved at various fora of NRPC that REA including operation of UI and Reactive Pool Accounts should also be included as one of the functions of the

RPC secretariat". I cannot accept such arguments. Decisions in an RPC fora cannot supersede provisions of an Act passed by the Parliament.

42. In view of the foregoing, I see no valid reason for making any change in the IEGC in respect of REA responsibility. The IEGC is already aligned with the Act, and should remain so.

Sd/-

**(BHANU BHUSHAN)
MEMBER**

Direction

44. We direct that in accordance with the majority opinion, the IEGC be amended to be effective from 1.9.2006. As decided by the majority, REA shall be prepared and issued by the Regional Power Committee Secretariats with effect from 1.9.2006. The weekly UI and VAR accounts shall be prepared and issued by RPC Secretariats from the week ending 3.9.2006, but the corresponding regional pool accounts shall be maintained and operated by RLDCs on behalf of respective RPCs, as was the practice prior to 1.4.2006, till completion of the process of review by the Central Government of the present arrangement of operation of Regional Load Despatch Centres by the Central Transmission Utility.

Sd/-
**(A.H. JUNG)
MEMBER**

Sd/-
**(BHANU BHUSHAN)
MEMBER**

Sd/-
**(ASHOK BASU)
CHAIRPERSON**

New Delhi dated the 22nd August 2006

List of persons submitting suggestions and comments on the Public Notice dated 23rd June 2006

1. Gujarat Urja Vikas Nigan Ltd.
2. Govt. of Goa
3. Dadar & Nagar Haveli
4. MP Trading Co. Ltd.
5. Meghalaya SEB
6. AP TRANSCO
7. NEEPCO
8. NRPC
9. WRPC
10. SRPC
11. HVPNL
12. ASEB
13. RPPC
14. PSEB
15. KK Das
16. Maharashtra SEDCL
17. SRLDC
18. HPSEB
19. NERLDC
20. BBMB
21. NPCIL
22. ERPC
23. BSEB
24. TNEB
25. NLC
26. UPCL
27. CEA

28. KPCL
29. NRLDC
30. NHPC
31. Power & Electricity Deptt., Mizoram
32. WRLDC
33. KSEB
34. ERLDC
35. DVC
36. MPSEB
37. KPTCL
38. Tripura
39. NERPC
40. WBSEB
41. THDC
42. CSEB