

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

File No. L-7/145(160)/2008-CERC

Date: 22.3.2011

**In the matter of:**

Central Electricity Regulatory Commission (fees and charges of Regional Load Despatch Centre and other related matters) (First Amendment) Regulations, 2011

**Statement of Objects and Reasons**

In accordance with the provisions of sub-section (3) of Section 178 of the Electricity Act, 2003 (hereinafter "the Act") and the Electricity (Procedure of previous publication) Rules, 2005, the draft of the first amendment to Central Electricity Regulatory Commission (fees and charges of Regional Load Despatch Centre and other related matters) Regulation, 2009 was posted on the website of the Central Commission on 14<sup>th</sup> December, 2010, for seeking comments/suggestions from stake holders.

2. In response to the draft amendment, comments from the following stakeholders have been received:

- (a) Mr. Abhishank
- (b) M.P. Power Trading Co. Ltd (MPPTCL)
- (c) NHPC LIMITED
- (d) NTPC LIMITED

3. The Commission after carefully considering the comments of the stake holders has finalized the first amendment to the RLDC fees regulations. The comments received on the proposed amendment and our decision thereon have been discussed in the succeeding paragraphs.

#### 4. **Amendment of Regulation 5:-**

4.1 It was proposed in the draft regulations that clauses (4), (5) and (6) of Regulation 5 of the principal regulations would be substituted as under:

*“(4) Where after the truing up, the tariff recovered exceeds the tariff approved by the Commission under these regulations, the Power System Operation Company shall refund to the users, the excess amount so recovered along with simple interest at the rates specified in the proviso to this regulation.*

*(5) Where after the truing up, the tariff recovered is less than the tariff approved by the Commission under these regulations, the Power System Operation Company shall recover from the users, the under-recovered amount along with simple interest at the rates specified in the proviso to this regulation.*

*(6) The amount under-recovered or over-recovered, along with simple interest at the rates specified in the proviso to this regulation, shall be recovered or refunded by the Power System Operation Company in six equal monthly Installments starting within three months from the date of the tariff order issued by the Commission after the truing up exercise:*

*Provided that the rate of interest, for clauses (4), (5) and (6) of this regulation, for calculation of simple interest shall be considered as under:-*

*(i) SBI short-term Prime Lending Rate as on 01.04.2009 for the year 2009-10.*

*(ii) SBI Base Rate as on 01.07.2010 plus 350 basis points for the year 2010-11.*

*(iii) Monthly average SBI Base Rate from 01.07.2010 to 31.3.2011 plus 350 basis points for the year 2011-12.*

*(iv) Monthly average SBI Base Rate during previous year plus 350 basis points for the year 2012-13 and 2013-14.*

*Provided further that in cases where tariff has already been determined on the date of issue of this notification, the above provisions shall be given effect to at the time of truing up.”*

4.2 Mr. Abhishank has submitted that when the base rate regime was introduced in July, 2010 SBI declared Base Rate of 7.50%. During the same time, SBI's Prime Lending Rate (PLR)/ State Bank Advance Rate (SBAR) was 11.75%. Thus, the difference between these two bench marks when measured concurrently was 425 basis points. As per current rates (Base Rate=7.6% and PLR/SBAR=12.5%), this difference is 490 basis points. He has suggested that to ensure parity between the calculation of interest before and after introduction of Base Rate, the margin over Base Rate may be suitably amended to accurately reflect the difference between the two benchmark rates adopted. Accordingly, he has suggested to replace the words “350

basis points” by “425 basis points” in clause (ii) of the first proviso as extracted in para 4.1 above.

- 4.3 The amendments have been proposed in line with the recent directives given by Reserve Bank of India, according to which the lending rates of the banks are required to be linked to the Base Rate instead of Prime Lending Rate of the respective bank, with effect from 1.7.2010.
- 4.4 We find that the suggestions of considering interest-rate at SBI base rate plus 425 basis point to be equated to SBI PLR of 11.75% as on 30.6.2010 and of 12.25% as on 1.4.2010 do not appear to be reasonable. It is observed that banks usually provide spread of around (-) 2-3%, depending upon the credit rating of the company. Further, same rates have been specified by the Commission in the ‘Tariff guidelines for Roof-top PV and other small solar power plants’ and the industry have found it acceptable despite more risk involved. One may argue that the bank exposure would-be much higher in case of thermal and hydro generating stations as compared to the rooftop solar PV or small solar plants. The banks usually restrict their expose to one particular project by going through a consortium of banks. Therefore, we are of the view that the interest rate to be considered for the purpose of RLDC charges shall be SBI base rate plus 350 basis point as proposed on the draft regulations.

## **5. Amendment of Regulations 15:**

- 5.1 The following new clause was proposed to be added at the end of Regulation 15 of principal regulations, namely,

*“(4) The actual expenditure towards Annual Maintenance Contract (AMC), after prudence check, shall be considered in arriving at the Operation and Maintenance Expenses during 2009-10 to 2013-14”*

- 5.2 M.P. Power Trading Co. Ltd (MPPTCL) in its comments has submitted that interest on working capital component is not included in the Load Despatch Centre (LDC) development fund and may remain unutilized by RLDCs/NLDC. It has been suggested that the annual maintenance cost for SCADA/EMS at

RLDC/NLDC can be met from IWC and there is no need to provide the above expenditure in the O&M expenses.

5.3 We would like to clarify that the expenditure towards annual maintenance contracts for SCADA/EMS is a major component of the repair and maintenance expenses and it should be considered under this head only. The IWC is allowed to meet the interest expense related to the working capital required to carry on the day to day operation of RLDCs. The need for working capital is a well accepted principle in finance and the business entity always incurs expenditure for servicing loan taken for working capital. Therefore, we are of the view that the proposed amendment to Regulation 15(4) is in order and has been accordingly included in the notification.

## **6. Amendment of Regulations 16:**

6.1 Clause (2) of Regulation 16 of the principal regulations was proposed to be substituted as under, namely:

*“(2) The normalized human resource expenses, after prudence check, for the years 2004-05 to 2008-09, shall be escalated at the rate of 5.17% to arrive at the normalized human resource expenses at the 2008-09 price level respectively and then averaged to arrive at normalized average human resource expenses for the 2004-05 to 2008-09 at 2008-09 price level. The average normalized human resource expenses at 2008-09 price level shall be escalated at the rate of 5.72% to arrive at the human resource expenses for year 2009-10*

*Provided that human resource expenses for the year 2009-10 shall be further rationalized considering 50% increase in employee cost on account of pay revision of the employees of the Public Sector Undertakings to arrive at the permissible human resource expenses for the year 2009-10.*

*Provided further that cost of anticipated increase in the manpower of each year of the control period shall also be considered after prudence check.”*

6.2 MPPTCL has submitted that the Commission vide Notification dated 18<sup>th</sup> September, 2009 has considered 50% increase in employee cost, on account of pay revision of the employees of public sector undertakings to arrive at the permissible operation and maintenance expenses for the year 2009-10. However, the average hike as per 6<sup>th</sup> Pay Commission is around 35% only. Thus, the Commission has already allowed 15% extra hike with respect to average hike. The cost of additional manpower can, therefore, be met from

the extra hike of 15% and there is no rationale to include the additional manpower expenditure in the Human Resource Expenses.

- 6.3 In this regard, it is clarified that the 50% hike was to meant compensate for the wage revision of the existing employees. However, the proposed amendment is meant to take care of the increase in number of employees in Load Despatch Centres in view of increasing responsibilities of load despatch Centres to meet the challenges due to fast development in Indian Power system and increase in complexity of this huge system. In the recent past, NLDC and RLDC have been assigned new responsibilities like management of Power System Development Fund, Renewable Regulatory Funds, Implementing Agency for transmission charges and losses etc. as assigned by the Central Commission.

**7. Amendment in Regulation 17:**

- 7.1 SBI Base Rate has been explained in para 4.4 above. Accordingly, interest rate for calculating Interest on Working Capital has been aligned with the SBI rate and the clause (2) of Regulation 17 has been suitably amended.

**8. Amendment of Regulations 24 and Regulation 3 (25) :**

8.1 The following clause was proposed in the draft amendment regulation to be added at the end of Regulation 24 of the principal regulations, namely,

*“(6) Notwithstanding anything contained in these regulations, a generating station or each stage of the generating station where the scheduling, accounting and metering is done separately for each stage shall be considered as a user for the purpose of registration and registration fee shall be paid accordingly.”*

- 8.2 NHPC Ltd. has submitted that in view of the provision in the principal regulations and in the Act, the proposed amendment to regulation 24 is in contradiction to the definition of “users”.

- 8.3 NTPC LIMITED has pointed out that similar ambiguity could arise in Regulation 23 with reference to Market Operation Charges, where a different interpretation of the term ‘users’ could result in ambiguity in sharing the Market Operation charges. NTPC has suggested that the definition of ‘user’

may be modified to include a generating company with multiple generating stations (single stage/ multiple stage) as separate users.

- 8.4 As regards the submission of NHPC, it is clarified that the amendment was proposed in Regulation 24 to remove the ambiguity in registration of individual generating stations with the concerned RLDCs. While the responsibility for making the payment of fees and charges still rests with the generating companies, the registration charges will be calculated on the basis of generating stations or stages of generating stations since scheduling, metering and energy accounting is done separately by RLDCs for each generating station or each stage of the generating station.
- 8.5 We appreciate the views of NTPC that a similar interpretation of the term 'user' is required in case of Market Operation Charges as in the case of Registration Charges. We are of the view that a generating station or each stage of generating station, where its scheduling, metering and energy accounting is done separately, should be considered as a separate 'user' for the purpose of sharing of Market operation charges in accordance with Regulation 23 and for registration and payment of Registration fee in accordance with Regulation 24 of these Regulations, while retaining the liability with the generating company to pay such charges. Accordingly, instead of the proposed amendment in Regulation 24, a 'note' has been inserted under Clause (25) of Regulation 3 as under:

*"Note: A generating station or each stage of the generating station, where its scheduling, metering and energy accounting is done separately for each stage, shall be considered as a user for the purpose of sharing of Market Operation Charges in accordance with Regulation 23 and for registration and payment of Registration fees in accordance with Regulation 24 of these Regulations ;"*

## **9. Corrections in Appendices I, II and III:**

- 9.1 No comments/suggestions have been received with regard to corrections suggested in Appendices I, II and III and, accordingly, the proposed amendments in these appendices have been included in the final regulations.

10. The Central Electricity Regulatory Commission (fees and charges of Regional Load Despatch Centre and other related matters) (first amendment) Regulations, 2011 have been finalized after incorporating our decision in the preceding paragraphs. We direct the Secretary of the Commission to notify the same in the official gazette.

Sd/-  
**(M.Deena Dayalan)**  
Member

sd/-  
**(V.S.Verma)**  
Member

sd/-  
**(S. Jayaraman)**  
Member

sd/-  
**(Dr. Pramod Deo)**  
Chairperson