

EXPLANATORY MEMORANDUM TO THE CENTRAL ELECTRICITY REGULATORY COMMISSION (FEES AND CHARGES OF REGIONAL LOAD DESPATCH CENTRE AND OTHER RELATED MATTERS)(FIRST AMENDMENT) REGULATIONS, 2010

Amendment to Regulation 5:

1. As per the recent directives given by Reserve Bank of India, the lending rates of the banks are now required to be linked to the Base Rate instead of Prime Lending Rate of the respective banks, with effect from 1.7.2010. In view of this it has become necessary to amend the provisions of clauses (4), (5) & (6) of the Regulation 5 of the Central Electricity Regulatory Commission (Fees and Charges Of Regional Load Despatch Centre and other related matters), Regulations, 2009 (herein "RLDC regulations")

Amendment to Regulation 15:

2. Regulation 15 of RLDC regulations provides that O&M expenses for the period 2009-14 shall be derived on the basis of actual R&M during 2004-05 to 2008-09 based on audited balance sheet after normalization as per methodology given in the regulation. It is noticed that if this methodology is applied then the O&M expenses in case of some of the RLDCs would be very less as compared to the expenses actually incurred/estimated to be incurred. This is due to the fact that in case of some RLDCs, the AMCs for SCADA/EMS which constitute major portion of O&M have been executed in 2008-09 or 2009-10. In other years of the tariff period, the expenses are minuscule (few lakhs) in comparison to AMC cost (few hundred lakhs) and after averaging, the normalized expenditure would be much less. Keeping in view the difficulties being faced by some of the RLDCs, it is proposed in the draft regulation that the actual cost of

AMCs incurred during the respective years should be considered to arrive at the allowable R&M expenditure. Accordingly, clause (4) has been added at the end of Regulation 15 in the draft amendment regulations.

Amendment to Regulation 16:

3. Regulation 16 deals with the procedure for working out the O&M expenses for the period 2009-14 after taking into account the Human Resource Expenses of NLDCs and RLDCs and the increase in employees cost on account of pay revision of employees of Public Sector Undertakings. However, there is no provision for additional manpower which are required by the NLDC and RLDCs on year to year to efficiently discharge the functions and responsibilities entrusted to them.

4. Subsequent to the creation of Power System Operation Company, the manpower meant for RLDCs and NLDC have been segregated from Powergrid. As per the recommendations of the Girish Pradhan Committee Report, on an average 60 to 70 skilled executives might be required in a typical LDC. Moreover, a plethora of new responsibilities such as administration of Power System Development Fund, implementing agency for point of connection (POC) tariff implementation, Central Agency for Renewable Energy Certificate (REC) transactions etc. have been assigned to NLDC and RLDCs in the recent past which require commensurate manpower to discharge these functions.

5. In order to cater to the manpower requirements of NLDC and RLDCs, it is proposed to amend the RLDC regulations to take care of the case of anticipated increase in manpower of RLDCs and NLDC during each year of the control period. Moreover, in proviso to clause (3) of Regulation 16, it has been mentioned that human resources expenses for the year 2009-10 shall be further rationalized considering 50% increase in employee cost to arrive at permissible “operation and maintenance expenditure” whereas it should have been “permissible human resource expenses”. It has been proposed in the draft amendment regulation to substitute the proviso to clause (2) of Regulation 16 as under:

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

Amendment to Regulation 24:

7. Regulation 3(25) RLDC regulations defines the term ‘user’ to mean “the generating companies, distribution licensees, buyers, sellers and inter-State transmission licensees, as the case may be, who use the inter-State transmission network or the associated facilities and services of National Load Despatch Centre and Regional Load Despatch Centres;” Regulation 24(1) of RLDC regulations provides that “all users whose scheduling, metering and energy accounting is to be coordinated by Regional Load Despatch Centre shall register themselves with the Regional Load Despatch Centre concerned by filing application in the format prescribed as Appendix-IV to these regulations.”

8. The provisions of Regulation 24 of RLDC regulations is being interpreted differently by different persons with regard to the payment of registration fee for registration by generating companies. Some of the generating companies interpret that since ‘user’ in Regulation 3(25) refers to generating company, the registration under Regulation 24(1) should be with reference to the generating company irrespective of the number of generating stations own by it and payment of registration fee should be made accordingly. Some other generating companies and the system operators are of the view that since metering and scheduling are done station-wise, the generating companies should register each of their generating stations separately.

9. Section 28(4) of the Electricity Act, 2003 provides that the Regional Load Despatch Centre may levy and collect such fees and charges from the generating companies or licensees engaged in inter-State transmission of electricity as may be specified by the Central Commission. As per the said sub-section, the concerned RLDC is required to collect the fees and charges from the generating companies in respect of its generating stations. Accordingly, the term ‘user’ has been defined in the RLDC regulations to mean generating company. However, this does not preclude the RLDCs to levy the charges with reference to the generating station. Keeping these provisions in view, it was provided in Regulation 24(1) of RLDC regulations that users shall register themselves with the concerned RLDCs as per Appendix-IV. It is pertinent to mention that the application in Appendix IV requires the generating company to give the user details in respect of the generating stations. It therefore follows that the intention of the RLDC regulations is that the generating company should register each of its generating

stations with the concerned RLDC and pay the registration fee accordingly. Moreover, the scheduling, metering and energy accounting will be undertaken by the concerned RLDC in respect of each generating stations or each stage of the generating station separately and the quantum of job is proportional to the number of generating stations under a generating company. Since fee is charged as a quid pro quo to the services rendered, it is rational that each generating station or each stage of the generating station where metering, scheduling and energy accounting is done separately, is registered with the concerned RLDC under Regulation 24(1) of the RLDC regulations. However, in order to reduce the scope for ambiguity, it is proposed to insert the following clause at the end of Regulation 24 of RLDC regulations:

“(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.”

Miscellaneous

10. In the last line footnote of the Form 4B of Appendix 1, it has been mentioned that a detailed note should be submitted to bring out whether the cost and time over run was “beyond the control of the generating company”. Since the RLDC regulations pertain to the NLDC and RLDCs functioning under the Power System Operation Company, the words “beyond the control of the generating company” has been proposed to be replaced with the words “beyond the control of the Power System Operation Company”.

11. In the Appendix II, the phrase “To be published in pursuance of Clause (7) of Regulation 7” is mentioned instead of clause (7) of Regulation 4 which is the relevant Regulation. Accordingly, it is proposed that the words “To be published in pursuance of

Clause (7) of Regulation 7" shall be replaced by the words "To be published in pursuance of Clause (7) of Regulation 4".

12. In Appendix III, against Sr. No. A (a) (i), (ii), (iv) and (v), incorrect depreciation rates were shown inadvertently which have been rectified.