

CENTRAL ELECTRICITY REGULATORY COMMISSION
NOTIFICATION (Draft)

No. _____

New Delhi, ___2010

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, namely:-

CHAPTER I
GENERAL

1. Short title and commencement

(1) These regulations shall be called the Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010.

(2) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions

(1) In these regulations, unless the context otherwise requires:

(a) "Act" means the Electricity Act, 2003 (36 of 2003), including amendments thereto;

(b) "Agreement" means the power purchase agreement between the Beneficiary and the Generating Company which owns the generating stations or the bulk power transmission agreement between the Beneficiary and the Transmission Licensee, as the case may be, or such other agreements by

whatever name called binding the Generating Company / Transmission Licensee and the Beneficiary;

(c) "Beneficiary" means the person who has been allocated electricity or being supplied electricity generated from a generating station through long-term access or medium – term open access or, as the case may be, user of the transmission system of a transmission licensee;

(d) "Commission" means the Central Electricity Regulatory Commission referred to in Section 76 of the Act;

(d) "Defaulting entity" means a beneficiary having outstanding dues of a generating company or a transmission licensee or not maintaining the required Letter of Credit as per Agreement;

(e) "Default Trigger Date" means the date from which the default in payment or default in maintaining Letter of Credit has been established.

Explanation I:- In case of non payment of dues, this date shall be the third working day after completion of the 60 days period from raising of the bill by the generating company or the transmission licensee as the case may be.

Explanation II:- In case of non maintenance of the required Letter of Credit, the Default Trigger Date shall be eighth day after expiry of the renewal/replenishment date as per the Agreement ;

(f) "Load Despatch Centre" means RLDC or SLDC, as the case may be.

(g) "Outstanding dues" means dues of the generating company or of the transmission licensee, which remains unpaid for a minimum period of 60 days from the date of service of the bill;

(h) "Regulating entity" means the generating company or the transmission licensee, as the case may be, within the jurisdiction of the Commission, which

notifies the RLDC or the SLDC, to regulate the power supply of the defaulting entity;

(i)“Regulated Entity” means the defaulting entity whose power supply is regulated in accordance with these Regulations;

(2) Save as aforesaid and unless repugnant to the context or if the subject matter otherwise requires, words and expressions used and not defined herein, but defined in the Act shall have the meanings assigned to them under the Act.

3. Scope:

These Regulations shall be applicable to the Generating Stations, Transmission Systems and their beneficiaries where in the Agreement, there is a specific provision for power supply regulation , in case of non-payment of outstanding dues or non-maintenance of Letter of Credit

CHAPTER II

PROCEDURE FOR REGULATION OF POWER SUPPLY

4. In case of Outstanding dues, or in case the required Letter of credit is not maintained as per the Agreement , the generating company or the transmission licensee , as the case may be, may serve a notice for regulation of power supply, to the Defaulting Entity, for reducing the drawl schedule of the Defaulting Entity. Such notice may be served on or after the default trigger date. The notice shall include the following details:

(a) The amount of outstanding dues against the defaulting entity or the duration of non-maintenance of Letter of Credit, as the case may be ;

b) Quantum and duration of reduction in drawl schedule of Defaulting Entity;

Provided that in case the Regulating Entity is a Generating company such notice shall also include the following details:

- (i) Source(s) of power from which reduction/diversion is to be made in case of regulation of power supply and quantum or reduction of schedule drawl / diversion of power from each of them ; and
- (ii) Whether reduction of drawl schedule of Defaulting Entity is likely to cause reduction in generation or the excess power available consequent to regulation is to be sold to any other entity or to be injected into the grid through the UI mechanism; and
- (iii) In case of diversion of power, the particulars of the person to whom power is to be diverted to and the price agreed to be charged from such person, if determined in advance.

Provided that in case of sale through Power Exchange the price may be intimated as and when such price is discovered.

5. A copy of the notice referred to Regulation 4 shall be forwarded by the regulating entity with a request to prepare implementation plan to the Regional Load Despatch Centre (RLDC) or State Load Despatch Centre (SLDCs) in which control area the Regulating Entity is situated. The copy of notice shall also be served to other concerned RLDCs, SLDCs , RPCs .

Provided further that the notice and request for preparing implementation of regulation of power supply shall be served on the Defaulting Entity, RLDC, SLDC, and RPC at least 3 days in advance of the proposed date of commencement of regulation of power supply.

6. Upon receipt of the notice referred to in Regulation 4 and within 3 days thereafter, the SLDC / RLDC, in whose control area the Defaulting Entity is situated, shall make a plan in writing for implementing the regulation of power supply and shall inform the Regulating Entity, Regulated Entity, SLDCs, RPCs, other RLDCs of the said Plan .

Provided that if in the opinion of the RLDC or SLDC, as the case may be, the proposal for regulation of power supply made by the Regulating Entity cannot be carried out under the prevailing system conditions then it shall inform the Regulating Entity of its decision in writing and the basis for such decision within 3 days of receipt of the notice referred to in Regulation 4.

7. The plan for implementation shall be prepared by RLDC or SLDC, as the case may be, such that the amount of the reduction in drawl schedule shall be progressively increased in quantum as per notice given by the Regulating Entity.

Provided that for each case of additional regulation of power supply, a three (3) days advance notice in writing referred to in Regulation 4 shall be given of the actual implementation.

8. The regulation of power supply for the Regulating Entity shall be implemented from the fourth day of the notice as per plan prepared by the RLDC/ SLDC unless Regulating Entity requests cancellation of the regulation of power supply.

9. In case the Regulating Entity decides to withdraw or postpone the regulation of power supply, it shall communicate its decision in writing to the RLDC/SLDC and the Defaulting Entity, along with reasons thereof.

Provided that the communication for withdrawal /postponement of the regulation of power supply shall be given at least two days prior to the day of with drawl or postponement of such regulation.

10. Regulation in Power Supply by the transmission licensee shall be preferably from Central Generating Stations supplying power to the Regulated Entity at the lowest cost.

11. In case Regulated Entity defaulted in making payment to both generating company and Transmission Licensee, then the regulation of power supply on the Regulated Entity for these defaults shall be implemented concurrently. The adjustment towards the Outstanding Dues shall be in accordance with Regulation 18 of these regulations.

12. (1) During the period of regulation of power supply, the Regulated Entity shall restrict its drawal to the revised schedule given by the Load Despatch Centre and the deviations, if any, from the drawal schedule shall be subjected

to unscheduled inter-change charges in accordance with the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 as in force from time to time.

(2) The RLDC/SLDC, during the period of regulation of power supply shall inform all concerned of the reduced security level of the regional grid and may issue such instructions to the constituents in the region and any other person in the interest of security, as it deems necessary and may, for reasons to be recorded in writing, temporarily suspend implementation of the plan of regulation of power supply, if in its opinion, grid security is in imminent danger.

(3) The concerned Regional Load Despatch Centre shall keep Member-Secretary, Regional Power Committee informed of the implementation of the regulation of power supply.

CHAPTER III REGULATION BY GENERATING COMPANY

13.(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 RLDC, or may reduce generation in case any of the above options is not possible. The Generating Company shall inform the RLDC or the SLDC, as the case may be, and Member-Secretary, Regional Power Committee, of the quantum, duration and rate of such sale.

Provided that, and unless the Agreement otherwise provides, the liability to pay the capacity charges of the generating station in respect of which the schedule has been restricted, shall be of the Regulated Entity.

(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) Regulations, 2009 as amended from time to time.

14. The amount received from sale of surplus power received by generating company due to regulation of power supply, shall be adjusted against the outstanding dues of the regulated entity after deduction of energy charges, trading margin and other incidental expenses borne by the generating company, if any and the remaining amount shall be passed on the Regulated Entity.

CHAPTER IV REGULATION BY TRANSMISSION LICENSEE

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, restrict the drawl schedule of the allocated power of the Defaulting Entity, preferably from the cheapest generating station. 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. The revenue received on account of sale of this power shall be passed on to transmission utility as first charge to the extent of outstanding dues and remaining revenue shall be passed on to the Regulated Entity after deduction of energy charges of the generating company and trading margin and other incidental expenses borne by the generating company, if any and these energy charges shall be paid to the Generator.

16. In case of such reduction of drawl schedule, the liability of payment of capacity charges for its original share in the generating station shall remain with the Regulated Entity, unless otherwise provided for in the Agreement.

17. In case of outstanding dues for both the generating company and the transmission licensee, the payments received from sale of power shall be shared by the generating company and the transmission licensee in proportion to their outstanding dues.

CHAPTER V
MISCELLANEOUS

18. If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

19. Notwithstanding the provisions made under these regulations the generating company or transmission licensee may take action as per agreed terms and conditions between the beneficiary and the generating company or transmission licensee.