

# CENTRAL ELECTRICITY REGULATORY COMMISSION



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## Explanatory Memorandum to Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2011

9<sup>th</sup> June, 2011

## EXPLANATORY MEMORANDUM

Central Electricity Regulatory Commission (CERC) was created with the enactment of Electricity Regulatory Commission Act, 1998 (ERC Act). The objective of the Act was to distance the Government from tariff regulation and to rationalize the electricity tariff. The Electricity Act, 2003 (2003 Act) subsumed all earlier Acts such as Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commission Act, 1998. CERC was deemed to be Central Commission for the purpose of 2003 Act. While the ERC Act, 1998 vested only tariff fixation function with CERC, the 2003 Act entrusted several other responsibilities in addition to tariff fixation. The spectrum of functions and responsibilities entrusted to CERC include the following:

- (a) to regulate the tariff of generating companies owned or controlled by the Central Government;
- (b) to regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;
- (c) to regulate the inter-State transmission of electricity ;
- (d) to determine tariff for inter-State transmission of electricity;
- (e) to issue licenses to persons to function as transmission licensee and electricity trader with respect to their inter-State operations;
- (f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;
- (g) to levy fees for the purposes of this Act;
- (h) to specify Grid Code having regard to Grid Standards;
- (i) to specify and enforce the standards with respect to quality, continuity and reliability of service by licensees;
- (j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;

(k) to discharge such other functions as may be assigned under this Act.

2. Apart from the above, the Commission has been entrusted with the responsibilities to regulate open access in inter-State transmission of electricity, to promote development of market in electricity and competition in the electricity sector, and to ensure safety and security of the national grid. CERC in discharge of its functions has specified various regulations in areas of tariff fixation, inter-State transmission, licensing, trading and market development and renewable energy and in exercise of the powers vested under Section 178 of the 2003 Act. CERC has displayed thought leadership in areas like renewable energy trading, new transmission pricing, long term and medium term open access regulations. CERC has been constantly pursuing to bring grid discipline through UI regulations, facilitating non discriminatory open access to all stakeholders to enhance competition and create market structures and maintain market oversight for orderly market functioning. These initiatives are expected to benefit all stakeholders in the power sector.

3. The responsibilities and activities of CERC have grown manifold over the years. These activities can be performed effectively, only with good quality intellectual capital and investment in technology and infrastructure. CERC has invested significantly to augment its human resource and in capacity building of existing resources. CERC has been utilizing the services of experts when in-house resources are not available. On the technology front, CERC is in the process of implementation of regulatory information management system for streamlining its work process and upgrading its IT hardware. All these measures aim at enabling CERC to discharge its functions and responsibilities in a transparent and effective manner and to bring about efficiency and competition in the electricity sector to serve the interests of stakeholders and the consumers.

4. To undertake these activities, CERC utilizes the CERC fund created under Sec 99 of EA 2003. The fund consists of *inter alia* all fees received by CERC under the Act. Under Sec 79 (g) of the 2003 Act, CERC is empowered to levy fees for the purpose of this Act. Keeping in view the resources required to discharge its functions and responsibilities in an effective and transparent manner, CERC intends to augment its resources by revising the existing fee

structure for various services provided to the stakeholders. This will ensure financial and functional independence of CERC. Accordingly, the various fees provided under the CERC (Payment of Fees) Regulations, 2008 are proposed to be revised as per the draft regulations.

### **Introduction of Short Term Interstate Transaction ( STIT ) Fee**

5. CERC under Section 66 of 2003 Act is assigned the function of development of power markets (including trading) and shall be guided by the National Electricity Policy in this matter. CERC has been playing an active role in development of market by creation of market intermediaries (issuing trading license to electricity traders) and market infrastructure (creation of power exchanges, independent system operator etc). It has created a conducive environment for trading in short term markets by notifying various market related regulations for instance trading margin regulations, trading licensee regulations, power market regulations, short term open access regulations. These regulatory mechanisms help to create market credibility and bring certainty to market participants.

6. CERC also maintains market oversight and surveillance monitored through its Market Monitoring Cell. Electricity traders and Power Exchanges report all their transactions to CERC on a weekly and monthly basis respectively. The Market Monitoring Cell publishes monthly analysis reports for information dissemination. In case of shortage of supply of electricity leading to abnormal price rise, CERC intervenes in the market to determine prices in terms of the power conferred upon it under proviso to Sec 62 (1) (a) of the 2003 Act.

7. Under Sec 63 of the Electricity Act 2003, CERC publishes various escalation and payments indices which are used in power procurement through competitive bidding process under guidelines issued by Central Government. This is a critical requirement for creation of long term markets.

8. Under Sec 60 of the 2003 Act, CERC considers cases of market domination and abuse of market power by the generating companies or licensees coming within the jurisdiction of the Commission. CERC has also been active in dealing with cases relating to denial of

open access and directions by State Governments under Section 11 and 108 which restricts free flow of electricity from one State to another.

9. The transaction turnover in the short term power market has been growing at a CAGR of 30% over the last 3 years and is expected to increase with the capacity addition by Independent Power Producers and Merchant Power Producers entailing consumers to avail open access frequently. As markets develop and become more complex, the price, volume and risk involved in the market and the conduct of market participants will both need regular monitoring. CERC is in the process of facilitating the introduction of different contracts in the market, and the introduction of other markets like ancillary market and capacity markets etc.

10. CERC intends to levy a nominal fee on all short term inter-State transactions undertaken on Power Exchange, or through trading licensee including deemed trading licensees so that CERC is able to put in place a robust market monitoring mechanism and to further increase its market related activities. This fee is to be paid by actual market participants and not the intermediaries. This fee will be over and above the trading margin in case of electricity traders and member service charge in case of Power Exchange. This fee (STIT) will be an *ad valorem* fee charged on the billed amount mentioned in the invoice and will need to be indicated as a separate head in the invoice.

11. It is relevant to mention that Securities and Exchange Board of India (SEBI), the financial regulator charges a similar transaction turnover charge called SEBI Turnover charge on all spot and derivative transactions undertaken on stock exchanges.

12. The revised fees proposed to be specified through the draft regulations will help CERC to accomplish its vision of providing quality power on a reliable and sustainable basis to consumers, promoting competition, efficiency and economy in power markets, and effective regulation in the electricity sector.

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