

Engagement of Corporate Consultant
by CERC in the area of Regulatory Impact Assessment of
CERC Regulations
Terms of Reference (ToR)

1.0 Context/Background:

- 1.1 The Central Electricity Regulatory Commission was constituted under the erstwhile the Electricity Regulatory Commissions Act, 1998. The ERC Act, 1998 provided for Electricity Regulatory Commissions at the Center and in the States for rationalization of electricity tariff, transparent policies regarding subsidies etc. The ERC Act, 1998 was then replaced by the Electricity Act, 2003. The CERC created under the provisions of the ERC Act, 1998 was recognized as the Central Electricity Regulatory Commission under the Electricity Act, 2003.
- 1.2 The Electricity Act, 2003 has significantly enlarged the spectrum of responsibility of CERC. Under the ERC Act, 1998, only the tariff fixation powers were vested in CERC. The Electricity Act 2003 entrusted on the CERC several other responsibilities in addition to the tariff fixation powers, for instance, the powers to grant license for inter-State transmission, inter-State trading and consequently to amend, suspend and revoke the license, the powers to regulate the licensees by setting performance standards and ensuring their compliance, etc.
- 1.3 The Central Electricity Regulatory Commission (CERC) has emerged over the years as a catalyser of reforms in the power sector in India. The Electricity Act, 2003 reposed faith in the CERC by entrusting it with the enormous responsibility of promoting market development in the power sector. The Commission has been called upon to encourage competition, and induce efficiency improvement with the larger objective of ensuring the fruits of competition and efficiency for consumers.

1.4 The Commission proposes to undertake impact assessment of regulations framed by it. However, to start with, Regulatory Impact Assessment inter alia, of only CERC tariff regulations shall be carried out by the Consultant.

1.5 The Commission continues to regulate the tariff of generating and transmission companies under its jurisdiction, based on cost plus, but performance-linked tariff principles. After notifying tariff for three control periods the Commission proposes to commission to undertake Regulatory Impact Assessment inter alia, of tariff regulations issued for the three control periods.

2.0 Objective of the study

2.1 To develop RIA tool customized to carry out impact assessment of CERC regulations.

2.2 To undertake impact assessment of CERC regulations. At this stage, impact assessment of only tariff regulations shall be undertaken by the consultant.

3.0 Scope of the work assigned to the Consultant:

The scope of the consultancy assignment is as under:

3.1 To study the methodologies adopted for Regulatory Impact Assessment by other Indian regulators and energy regulators abroad (FERC, Ofgem etc).

3.2 To develop RIA tools for impact assessment of CERC regulations.

3.3 To undertake Regulatory Impact Assessment of the CERC tariff regulations under the following:

3.3.1 Study of Salient Features and Objectives

- To study and list down salient features and objectives of framing regulations and subsequent amendments in:-
 - CERC (Terms and Conditions of Tariff) Regulations, 2001
 - CERC (Terms and Conditions of Tariff) Regulations, 2004
 - Terms and Conditions of Tariff, Regulations for 2009-14
- Comparative analysis of 2009 regulations vis-a-vis previous regulations.

- To identify issues arising in the context of the regulations including based on judicial pronouncements.

3.3.2 Impact on Generating and Transmission company

- To undertake comparison of tariffs for generating companies and transmission companies during each control period. To compare fixed charges and energy charges separately and list the reasons for variation in tariff for each government company.
- To analyse financial statements of generating and transmission companies and reflect on their performance (e.g. effective ROE, ROCE etc.) in the light of changes in tariffs and tariff norms during each control period.
 - Reconciliation of accounting vis-à-vis regulatory returns.
 - For hydro power plants average gestation period vis-à-vis average CWIP.
 - Analysis of return on investment in hydro generation vis-s-vis thermal generation.
- Impact analysis of tariff norms, financial as well as technical, which resulted in benefits/loss to the generating or transmission company.
- Impact analysis of external factors like Government policies and taxes, duties, funding etc.

3.3.3 Impact on Buyer/Beneficiary

- To undertake impact analysis of tariff norms, financial as well as technical, for buyer/beneficiary.
- Impact analysis in terms of availability of power, price, quality etc.

3.3.4 Tariff norms vs Actual Economic/Financial Conditions and operation efficiency

- To review tariff norms, financial as well as technical, considering actual economic/fiscal parameters over the control period.
 - To compare changes in Annual Fixed Charges and efficiency improvements over the period with actual inflation.
- Analysis of CERC regulated tariff vis-a-vis tariff through competitive bidding process.
- To identify barriers in achieving operational efficiency and financial norms as per the tariff regulations.

3.3.5 Investment Promotion

- To undertake impact assessment of Tariff Regulations on Investment Promotion.

3.3.6 Impact on environment

- From the view point of energy efficiency and other parameters.

3.3.7 Cost of compliance/enforcement

- Analysis of cost of compliance for market players (generating/transmission companies, buyers etc.) and cost of enforcement for the Commission.

3.3.8 Way Forward

- To suggest changes in the regulations and propose a way forward to tariff regulations by framing an approach paper or a discussion paper for consultation with the stakeholders.

4.0 Deliverables and duration of the Assignment:

The assignment shall comprise of the following items of work to be completed as per the timeframe indicated:

- 4.1 The assignment/task shall be completed within a period of 3 months from the date of award of consultancy.
- 4.2 The Consultant will be required to:
 - 4.2.1 Submit fortnightly status report of progress of the assignment from the date of signing of agreement, to CERC;
 - 4.2.2 Submit Inception Report including study on RIA methodologies adopted by other regulators in India and abroad and draft RIA tool for CERC tariff regulations followed by presentation at the end of 1 month from the date of award of assignment;
 - 4.2.3 Interact with the CERC during the assignment and submit the Draft Report at the end of two months from the date of award of assignment with the compiled data;
 - 4.2.4 The consultant shall carry out a capacity building workshop for the staff of CERC on RIA tools.
 - 4.2.5 Submit final Report after incorporating the suggestions/modifications at the end of the three months from the date of award of assignment;

4.2.6 Adhere to any other instruction by Secretary, CERC within the scope of the assignment.

5.0 Qualification Criteria

5.1 The Consultant should have completed at least 5 assignments in the last 10 years in tariff filing or tariff determination of generation and transmission projects, two of which should be for inter-state generation or transmission projects in power sector. The consultant should have personnel with professional qualification and experience of undertaking impact assessment. The consultant should have in-depth knowledge of CERC tariff regulations. The Consultant should submit documentary evidence of having handled similar projects and tie-ups, if any.

6.0 Mode of payment

The consultant shall be paid as per the following model schedules:

S. No	Stage	Percent of agreed amount
1.	Advance of the total fee of the study at the time of signing agreement/acceptance of the offer, subject to production of Bank guarantee for equal amount to be valid till the amount is to be absorbed in the amount payable to the Consultant.	10%
2.	On submission of inception report;	20%
3.	On submission of the draft report	30%
4.	On submission of the final report	30%
5.	On successful completion and acceptance of the final report by the CERC*	10%

*Where necessary, the ToR may provide for withholding of the final installment till the satisfactory performance of the system delivered by the consultant is ensured.

7.0 Termination of contracts: The assignment may be terminated as per clause 7 of the Contract Agreement enclosed at ANNEXURE-III.

8.0 Application and Evaluation Criteria:

8.1 The format of application is at Annexure-I and Annexure-II.

8.2 The Consultant is required to submit four (4) copies of bids for Technical offer (each of which will be treated as original) and one copy of Financial offer, duly sealed in separate envelopes.

8.3 Technical component will carry 70 % weightage and Financial component 30 % weightage.

8.4 The bids of the eligible bidders as per Clause 4 will be scrutinized by Consultancy Evaluation Committee (CEC) and shortlisted bidders will be called for interaction with the CEC and their technical performance shall be evaluated based on the following criteria:

Technical Parameters	Weights
The Consultants relevant experience for the assignment	30%
The quality of the methodology proposed	10%
The qualifications and experience of the key staff proposed	40%
Quality of presentation*	20%
Total	100%

* The bidding firms shall make a presentation before CERC on the proposed Approach and Methodology.

8.5 The minimum qualifying marks in the Technical Evaluation may be 70 % of the total score for technical component.

8.6 Only those bidders, who qualify technically as per Clause 8.5, would be considered for Financial Evaluation.

- 8.7 Weight for Financial parameters: Proposal with the lowest cost will be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.
- 8.8 The total score will be obtained by combining the Technical and Financial scores.
- 8.9 Only successful bidder would be communicated the award of consultancy assignment.
- 8.10 The consultant shall abide by the contract as per Annexure-III.

/ ANNEXURE - I /
DETAILED PROPOSAL FOR STUDY
(TECHNICAL)

Note: Four (4) copies of the proposal shall be submitted to Secretary, CERC.

I. GENERAL INFORMATION:

01. Title of the Proposed Assignment :
02. Name and address of the Organization/
Institution :
03. Name & Designation of the Key Person :
04. Contact address of the Key Person :
 - 4.1 Address :
 - 4.2 e-mail :
 - 4.2 Telephone :
 - 4.3 Fax :
 - 4.4 Mobile No. :
05. Net-worth/Turnover of the Organization/ :
Institution (To be supported by Annual
Statement of Accounts of Last Financial Year)

II. TECHNICAL SPECIFICATIONS:

06.
 - i. Department(s) of the organization/Institution(s) where the study will be carried out.
 - ii. Other department(s), if any, which will collaborate in this study
07. Brief review of the experience in the relevant field (National and International).

- 08. Detailed Approach & Methodology for undertaking the assignment.
- 09. Facilities available for the proposed work in the applicant’s organization/institution
- 10. Previous experience of the proposer in this or related field
- 11. Name and Designation of the Proposed Team (also indicate the man-hour committed for each member of the team)
- 12. Biographical sketch of the Study Team (for every team member)
 - (i) Name
 - (ii) Designation
 - (iii) Date of Birth
 - (iv) Education and Experience

(a) Academic Qualifications

Degree	University	Field(s)/Specialisation	Year

(b) Experience :

(1) Total Relevant Experience for the proposed assignment: Years

(2) Detailed Experience :

Institution	Topic of work done	Period

- (v) Field of major interest
- (vi) Additional information (if any)

- 13. Capacity to impart training/transfer of knowledge

/ ANNEXURE - II /

DETAILED PROPOSAL FOR ASSIGNMENT
(FINANCIAL)

I. GENERAL INFORMATION:

01. Title of the Proposed Assignment :
02. Name and address of the Organization/ Institution :
03. Name & Designation of the Key Person :
04. Contact address of the Key Person (e-mail/ fax/ telephone) :
05. Certificate of authorization in case of Institutes/other organizations (Format enclosed at **Appendix-'A'**).

II. Fee Proposed:

06. Amount of Fee proposed for:

Note: The fees should not include other financial liabilities of the Consultant.

Components	Basis	Amount (in Rs.)
(I) Consultant Charges -		

(II) Misc./Others (if any)		
(III) Tax		
Total		

(RUPEES _____)

Signature of the Principal Investigator/
Head of the Study Team

CERTIFICATE

The undersigned agree to abide by the conditions of the grants and certify that available facilities for proposed work shall be extended to the investigator/study team.

Signature of Executive Authority
Organisation

Signature of the Principal Investigator/of the
Head of the Study Team

Name and Designation
Date

Name and Designation
Date

Signature of Co-investigator
Name and Designation
Date

Official stamp of
Organization/Institution