

To,

15.11.2016

The Secretary,
Central Electricity Regulatory Commission
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi- 110001

Subject: Comments on draft Connectivity Amendment and Sharing Amendment

Dear Ma'am,

Please find attached the comments and suggestions on the draft of the following regulations published by the Central Electricity Regulatory Commission ("CERC") on October 28, 2016.

- (a) Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) (Sixth Amendment) Regulations, 2016 ("Connectivity Amendment"), and
- (b) Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2016 ("Sharing Amendment").

Thanking you

Yours sincerely,


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Partners



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NOTE

(This note sets out comments and suggestions with respect to the draft of the following regulations published by the Central Electricity Regulatory Commission (“CERC”) on October 28, 2016:

(a) Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) (Sixth Amendment) Regulations, 2016 (“Connectivity Amendment”), and

(b) Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2016 (“Sharing Amendment”).

Capitalised terms and phrases that are used but not defined herein shall have the same meaning ascribed thereto in the Connectivity Amendment and/or the Sharing Amendment, as the case may be.)

1. Connectivity Amendment

A. Gap between MTOA and LTOA

Proposed amendment:

Keeping in mind the market scenario wherein there has been growing recourse to short-term and medium-term open access, the definition of MTOA is proposed to be revised to “the right to use the inter-State Transmission System for a period equal to or exceeding 1 year but not exceeding 5 years.”¹

Further, with a view to align the definition of LTA with long term contracts as defined in “the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees”, it is proposed to revise the definition of LTA to “the right to use the inter-State Transmission System for a period exceeding 7 years but not exceeding 25 years.”²

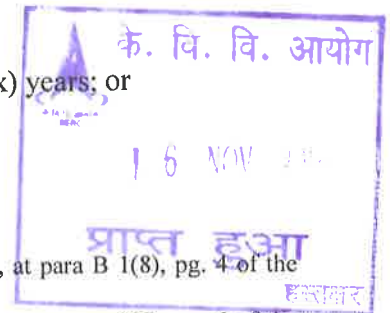
CERC has, in the Explanatory Memorandum to the draft Connectivity Amendment and draft Sharing Amendment (“Explanatory Memorandum”), stated that, in case a power purchase agreement for a period of 6 (six) years has been signed, an applicant may opt for either³:

- (a) LTA for 7 years which may be relinquished after 6 (six) years; or
- (b) MTOA for 5 (five) years which may be renewed.

¹ Amendment to Regulation 2(1)(o) of the Principal Regulations on Connectivity, at para B 1(8), pg. 4 of the Explanatory Memorandum.

² Amendment to Regulation 2(1)(l) of the Principal Regulations on Connectivity, at para B 2(5), pg. 6 of the Explanatory Memorandum.

³ At para B 2(4), pg. 6 of the Explanatory Memorandum.



JSA Comments:

It is observed that these definitions of MTOA and LTA result in there being a gap between the maximum period of MTOA and the minimum period for LTA. Further, in case of a PPA of 6 years, if an applicant opts for an LTA for 7 years as suggested above, the applicant shall have to incur relinquishment charges. In the alternative, if the applicant opts for an MTOA for 5 years, the applicant shall not be given any overriding priority for renewal.

In our considered view, the applicants are likely to face difficulties in the implementation of either of the above options. It is recommended that:-

- (a) either the definitions of MTOA and LTA be revised to not leave any vacuum qua duration , i.e. , let LTOA begin one (1) day beyond the term of MTOA.
- (b) provision ensuring continuity or extension of shall be provided for in the Regulations. The provision should also provide a procedure for treatment of the applications in view of conduct of the customer during the tenure of allotment. Preference in allotment of extension may be given to compliant customers over defaulters.

B. Constructing Dedicated Transmission Lines on Deposit-work Basis

Proposed amendment:

The Explanatory Memorandum provides that the construction schedule of a dedicated transmission line should be matched with that of the generating station, and that it is best matched when the dedicated transmission line to the nearest pooling station is executed by the generating company itself.

In view of this, Clause (8) of Regulation 8 is proposed to be amended as under:-

"(8) The dedicated transmission line from generating station of the generating company to the pooling station of the transmission licensee (including deemed transmission licensee) shall be developed, owned and operated by the applicant generating Company. The specifications for dedicated transmission lines may be indicated by CTU while granting Connectivity/ Long term Access/Medium term Open Access...." ⁴

Thus, it is proposed to entirely do away with the option of the Central Transmission Utility to construct dedicated transmission lines on the behalf on the generating company (which option is currently available in cases of thermal generating stations of 500 MW and above, and hydroelectric or renewable energy generating stations of 250 MW and above).

⁴ Amendment to Regulation 8(8) of the Principal Regulations on Connectivity, at para B 4(9), pg. 13 of the Explanatory Memorandum.

JSA Comments:

In keeping with the judgment of the Appellate Tribunal for Electricity in Appeal No.145 of 2011,⁵ there should be a provision enabling a ~~generating company to take the aid of the Central Transmission Utility~~ in constructing the dedicated transmission line on a “deposit work” basis.

Further, the Central Transmission Utility must be obligated pursuant to its functions under Section 38 to construct a dedicated transmission line in certain instances (currently in cases of thermal generating stations of 500 MW and above, and hydroelectric or renewable energy generating stations of 250 MW and above) to secure systematic grid development at the cost of the generating company based on benchmark norms in the event that the commissioning of the corresponding generation capacity is delayed or abandoned, respectively.

It has been noted by in the explanatory memorandum that there are various reasons for delay in commissioning or abandonment of a generating station as well as for dedicated transmission system including land acquisition/ROW problem, delays in obtaining various clearances, fuel linkages etc.⁶

While the objective of the amendment is to match dedicated transmission line with the generating station, it may be noted that, the issues highlighted above may delay the construction of the dedicated transmission line thereby leading to delaying the commissioning of the generator.

C. Planning of Dedicated Transmission Line

Proposed amendment:

CERC has, in the Explanatory Memorandum, stated that, with respect to the dedicated transmission lines required to be planned by the Central Transmission Utility, there should be a limit on the maximum length of the dedicated transmission line, viz., 100 Km from the nearest pooling substation of the transmission licensee till the switchyard of the generating station.⁷

JSA Comments:

Keeping this objective in mind, it is suggested that the proposed first proviso to Clause (8) of Regulation 8 be revised as follows:

“Provided that in case of a thermal generating station of 500 MW and above and a hydro generating station or a generating station using renewable sources of energy of capacity of 250 MW and above, CTU shall plan the system, subject

⁵ *The Chairman, Tamil Nadu Electricity Board and Ors. vs. Ind Barath Thermal Power Ltd.*, Appeal No.145 of 2011, Judgment dated: May 23, 2012.

⁶ At para B 4(4), pg. 10 of the Explanatory Memorandum.

⁷ 1st Proviso to Regulation 8(8) Principal Regulations on Connectivity, at para B 4(9), pg. 13 of the Explanatory Memorandum.

to the condition such that the maximum length of dedicated transmission line shall not exceed 100 km from switchyard of the generating station till the nearest pooling substation of transmission licensee.”

D. Underutilisation of the Transmission System

Proposed amendment:

In order to ensure optimum utilisation of the transmission system, the Connectivity Amendment seeks to introduce provisions regarding underutilisation of LTA and MTOA, viz.:

- (a) In case of such underutilization, the MTOA/ LTA customers will be required to furnish reasons for the same and then the said capacity shall be released to the other customers.
- (b) This release of capacity for MTOA/ STOA transactions will be done only after the LTA/MTOA customer is given a reasonable opportunity to explain the reason for the underutilisation as well as explain the likely period of underutilisation.

JSA Comments:

In this regard, it may be considered to:

- (a) Give an option to the generator to issue a notice to the RLDC detailing anticipated underutilisation, without having to await a notice from the RLDC in this regard.
- (b) Release the capacity to the MTOA/ STOA customers only if the likely period for underutilisation is in excess of a defined period of time. The said period may be stipulated in the provision.
- (c) Prescribe a course of action in the event the customer does not furnish reasons within the stipulated timeframe or at all.

Additional Comments:

E. Interim LILO Arrangements

In Petition no. 30/MP/2014 (pending adjudication by CERC) filed by the National Load Despatch Centre, concerns regarding grant of connectivity leading to insecure operation of the grid have been raised. The proposed amendments address some of the concerns raised in the said Petition. In this regard, however, it is notable that:

- (a) It was contended in this petition that in a number of cases, interim connectivity has been granted to the entities pending commissioning of the ultimate transmission scheme.

- (b) Such temporary connectivity and in some cases the final connectivity, has been granted through Loop-In-Loop-Out (LILO) of the main arterial line of the existing network, leading to high loading and insecure operation of the grid.⁸

The issue raised with regards to grant of connectivity through an interim loop-in and loop-out arrangement for an indefinite period in the absence of a dedicated transmission line, has not been addressed in the Connectivity Amendment.

F. Renewal of LTA

Regulation 17 of the Principal Regulations on Connectivity provides for a provision for renewal of the LTA. As per the said provision, on the expiry of the period of LTA, the LTA shall stand extended on a written request provided by the long-term customer in this regard to the CTU at least six months prior to the date of expiry. It may be clarified that the said provision also applies to the duration of LTA as proposed in the current amendment.

2. Sharing Amendment

Rates of MTOA and STOA

Proposed amendment:

The Sharing Amendment seeks to increase charges for MTOA and STOA transactions.⁹ CERC has, in the Explanatory Memorandum, stated that the reason for this increase is that (a) there has been a trend towards short term transactions for sale of power, (b) as a result, it is likely that generators may not apply for LTA and to evacuate power under STOA/MTOA, leading to lack of LTAs, thereby inefficient transmission planning (since capacity augmentation is only undertaken in case of LTA).

JSA Comments:

The allotment priority of LTA customers is higher than that of MTOA and STOA customers – grant of MTOA/ STOA is based on utilisation of unused transmission capacity. The proposal to increase the prices of MTOA and STOA transactions may therefore be reconsidered, given that the new time frames proposed for LTA and MTOA, are likely to act as necessary safeguard against the inefficiency in transmission planning resulting from above-mentioned trend towards STOA/ MTOA over LTA.

⁸ Record of Proceedings dated 13.05.2014 in Petition no. 30/MP/2014.

⁹ Amendment to Regulation 9(1) of the Principal Regulations on Sharing, at para C 2(7), pg. 22 of the Explanatory Memorandum.