

MB POWER (MADHYA PRADESH) LIMITED

Corporate Office: 239, Okhla Industrial Estate, Phase-III, New Delhi- 110020
Tel: +91 11 47624100 Fax: +91 11 47624229

15th November, 2016

To, Secretary

Central Electricity Regulatory Commission

3rd & 4th Floor, Chanderlok Building,

36, Janpath, New Delhi- 110001

Sub: Comments on Draft CERC (Grant of Connectivity, Long-Term Access and Medium-Term Open Access in inter-State Transmission and related matters) (Sixth Amendment) Regulations, 2015 and Draft CERC (Sharing of inter-State Transmission Charges & Losses) (Fifth Amendment) Regulations, 2016.

Dear Madam,

Please find enclosed (as Annexure-I and Annexure-II) our point-wise Comments in subject mentioned draft Regulations.

Further, to attend the public hearing on the subject matter on 17.11.2016, the following two personnel from our company are authorised to participate/represent our company:

- a) Mr. Abhishek Gupta - DGM (Business Development)
- b) Mr. Rahul Sharma – DGM (Business Development)

Thanking you,

Yours faithfully,


Rahul Sharma
DGM (Business Development)

Enclosures: a) Annexure-I Comments on Draft CERC (Grant of Connectivity, Long-Term Access and Medium-term Open Access in inter-State Transmission and related matters) (Sixth Amendment).
b) Annexure-II Draft CERC (Sharing of Inter-State Transmission Charges & Losses) (Fifth Amendment).

MB POWER (MADHYA PRADESH) LIMITED

Corporate Office: 239, Okhla Industrial Estate, Phase-III, New Delhi- 110020
Tel: +91 11 47624100 Fax: +91 11 47624229

Annexure-I

Comments on Draft Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) (Sixth Amendment)

➤ Amendment to Regulation 2 of Principal Regulations:

Our Comments: As per Sub-clause (l) of clause (1) of Regulation 2 of the Principal Regulations, Long-Term Access (LTA) means the right to use the inter-State Transmission system for a period exceeding 7 years but not exceeding 25 years and Sub-clause (o) of clause (1) of Regulation 2 of the Principal Regulations, Medium-Term Open Access (MTOA) means the right of use the inter-State Transmission system for a period equal to or exceeding 1 year but not exceeding 5 years.

In our view, to align the LTA and MTOA, the Medium-Term Open Access should be for a period equal to or exceeding 1 year but period equal to or not exceeding 7 years.

➤ Amendment to Regulation 8 of Principal Regulations

Our Comments: With respect to provisos (a) & (b) of the draft amendment above, it is to be noted that that such dedicated transmission line is constructed connecting the associated generation project till the pooling sub-station. As such, it forms only a leg of end to end transmission system for supply of power from the associated generation project to its beneficiary under PPA. Such supply of power is possible only if both of the following conditions are met:

- 1) This dedicated transmission line has achieved COD in compliance with the requirements stipulated under various regulatory and statutory provisions.
- 2) The entire LTA/ MTOA already granted to the associated generation project gets operationalized commensurate to COD of such dedicated transmission line.

It is to be appreciated that operationalization of the already granted LTA/ MTOA is made contingent by CTU upon commissioning of various other transmission line(s)/ system(s) on which the associated generation project has absolutely no control. Hence, in event of delay in operationalization of LTA / MTOA, such dedicated transmission line will not be serving its intended purpose till the time end to end transmission access (LTA/ MTOA) is made available to the associated transmission project for meeting its power supply obligations to its beneficiary under PPA and in such a case, this dedicated transmission line is only an “idle asset” for the concerned generating company.

MB POWER (MADHYA PRADESH) LIMITED

Corporate Office: 239, Okhla Industrial Estate, Phase-III, New Delhi- 110020
Tel: +91 11 47624100 Fax: +91 11 47624229

Under this backdrop, levy of transmission charges of such dedicated transmission lines on the concerned generating company for the period between COD of dedicated transmission line till operationalization of LTA/ MTOA by CTU is absolutely unwarranted as it would adversely impact the financial viability of the generation projects for absolutely no fault on their part.

The draft amendment needs to suitably address this concern. Hence it is proposed that the draft amendment is modified to acknowledge such cases where both associated generation project and the dedicated transmission line have achieved COD but there is delay in operationalization of already granted LTA/MTOA by CTU, as a result of which, despite having a firm PPA, the concerned generating company is not able to meet its power supply obligations to its beneficiary under PPA for absolutely no fault on their part. Therefore, in such cases, the concerned generating company shall not be made liable to pay any transmission charges for dedicated transmission line so such idle period, and the same needs to be included in the POC pool from the date of COD of associated generation project.

➤ Amendment to Regulation 9 of the Principal Regulations

Our Comments: MTOA is increasingly being availed by the generators as an interim recourse to honour power supply obligation under PPA, till the time LTA is made available by CTU. In such a backdrop, restricting grant of MTOA only on the existing margins and not on the upcoming transmission capacity will defeat the whole purpose of MTOA. This restriction of grant of MTOA only on existing margins is disjointed and inconsistent with the other proposed amendments related to:

- a) increasing the maximum tenure of MTOA from 3 Yrs to 5 Yrs and
- b) increasing the maximum permissible time period for making MTOA application prior to actual usage from 1 Yr to 2 Yrs.

Further, restricting MTOA only existing margins would lead to unwarranted complications in inter-se priority amongst the applicants for grant of MTOA. This may be explained from the following example:

Suppose Applicant "A" makes MTOA application in Jan 2017 for MTOA of 100 MW for UP from Sep' 2017 onwards. However in Jan' 2017, there is no spare capacity in the system for grant of this MTOA from Sep' 2017 onwards and as such MTOA application of the Applicant "A" gets closed. Subsequently, a transmission asset gets commissioned in March 2017 resulting in spare capacity of say 200 MW for grant of MTOA for UP after which another Applicant "B" makes MTOA application in Mar' 2017 for the same quantum i.e.100 MW for UP from Sep' 2017. Now due to availability of transmission margin, Applicant B manages to secure MTOA for UP.

MB POWER (MADHYA PRADESH) LIMITED

Corporate Office: 239, Okhla Industrial Estate, Phase-III, New Delhi- 110020
Tel: +91 11 47624100 Fax: +91 11 47624229

This would lead to an ironical situation that despite Applicant “A” applying for MTOA much earlier than Applicant “B” for the same State (UP) and for the same quantum (100 MW), MTOA application of applicant “A” gets closed and Applicant “B” manages to secure MTOA.

Further this proposed amendment would render the surplus capacity of the transmission system under execution to either remain either unutilized or be utilized under STOA only.

As such, the proposed restriction on grant of MTOA only to the existing capacities and not from the upcoming transmission system, would only add to further complications and unwarranted litigations. Hence, we strongly suggest that MTOA should continue to get granted on both existing transmission system and transmission system under execution.

➤ **Insertion of new Regulation 16B in the Principal Regulations with respect to under-utilization of Open Access.**

Our Comments: Currently LTA capacity granted under “Target Region” is released under MTOA, till the time the LTA applicant firms up the beneficiary under PPA. This is done to achieve optimal utilization of the available transmission capacities. However, increasingly there have been cases where the LTA has been granted on “firm beneficiary” basis, but due to delay in commissioning of the associated generation project, or some other reasons, this LTA capacity gets locked and does not get released under MTOA and only caters to STOA requirements.

CTU has raised this matter under Petition 84/MP/2016, in response to which CERC in its recent order dated 28.10.2016 in this matter has directed its staff to initiate the process to amend the Connectivity Regulations to address this generic situation.

Accordingly, we also endorse the CTU viewpoint that to ensure optimal utilization of the existing transmission capacities, such LTA which has been granted on “firm beneficiary” basis, but is not getting operationalized/ remains under-utilized should be released for first for MTOA before catering to STOA requirements. Accordingly suitable amendments in Regulations to this effect may also be considered by CERC while issuing final amendments.

➤ **Proposed amendments with respect to part operationalization of MTOA and conversion of MTOA into LTA**

1) **Part-Operationalization of LTA and MTOA:** In absence of clear regulations on the matter of part operationalization of LTA and MTOA, CTU and the generators are facing increased challenges. As a result, despite having transmission capacities available, CTU is not able to part operationalize already granted LTA and MTOA and such issues are either dealt on case to case basis (Petition 92/MP/2014 & 84/MP/2016) or such capacity gets released under STOA. Hence, we propose that CERC may allow part-operationalization of LTA and MTOA

MB POWER (MADHYA PRADESH) LIMITED

Corporate Office: 239, Okhla Industrial Estate, Phase-III, New Delhi- 110020
Tel: +91 11 47624100 Fax: +91 11 47624229

and accordingly, while issuing the final amendments, this generic issue which has long been outstanding, gets suitably addressed.

- 2) **No Relinquishment charges on “conversion” of MTOA to LTA:** Post signing a PPA, generally a period of 1-2 Yrs is available with a generator for commencement of power supply. However grant and operationalization of LTA generally takes 3-4 Yrs post LTA application. Hence as an interim recourse, the generator has no option, but to rely on MTOA, for meeting his power supply obligation under PPA till the time LTA is made available to him. However, during the tenure of MTOA, as and when the LTA for the same beneficiary under the same PPA gets operationalized, the generator is required to relinquish the MTOA and pay hefty relinquishment charges thereof for absolutely no fault on his part.

CTU, in the Petition 84/MP/2016 has raised an issue regarding the liability of the LTA customer to pay the relinquishment charges in case it is required to surrender its MTOA on operationalization of LTA.

It is to be appreciated that this is a mere conversion of MTOA to LTA and in no way does it amount to any relinquishment of Open Access by a generator. In such cases, securing MTOA as an interim arrangement, is a mere forced decision taken by the generators for meeting their power supply obligations under PPA till the time LTA is made available to them. As such, any relinquishment charges on conversion of MTOA to LTA are absolutely unwarranted. Accordingly, for the cases where the MTOA is merely getting converted to LTA i.e. all other aspects of power transfer namely, injection entity, drawl entity, PPA etc. remain the same, no relinquishment charges be imposed and the existing regulations may be amended to suitably address this issue.

MB POWER (MADHYA PRADESH) LIMITED

Corporate Office: 239, Okhla Industrial Estate, Phase-III, New Delhi- 110020
Tel: +91 11 47624100 Fax: +91 11 47624229

Annexure-II

Comments on Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges & Losses), Regulations, (Fifth Amendment)

Amendment to Regulation 7 of Principal Regulations

Additionally, Reliability Support Charge shall also be payable by a DIC for the quantum of Connectivity granted by CTU from the date of physical Connection to ISTS including the case where DIC is not availing any LTA / MTOA provided that the total quantum for the purpose of Reliability Charge shall not exceed the quantum of Connectivity granted to a DIC.

Our Comments: It is a well settled principle that any amendments in the regulations should not affect the decisions taken prior to promulgation of such amendments. As such, imposition of such additional Reliability Support Charge on the entire Connectivity quantum is strictly to be done on prospective basis and NOT on retrospective basis, i.e. such additional charges should be levied only on the Projects seeking/ granted connectivity after issuance of these amendments and NOT on the Projects which have already been granted Connectivity.

It is to be appreciated that prevailing regulations do not entail any financial implications on the quantum of connectivity secured. As such, Projects having already secured connectivity, did not factor any financial implications while taking decisions on the quantum of connectivity to be applied for in the past. Hence any fresh financial impositions on such Projects would severely impair their overall financial viability.