

26 November 2016

The Secretary
Central Electricity Regulatory Commission
3rd and 4th Floor
Chanderlok Building
36, Janpath
NEW DELHI 110 001

Sub: **Comments on Draft Sharing (Fifth Amendment) and Draft
Connectivity (Sixth Amendment) Regulations.**

Dear Madam

Enclosed please find herewith the initial comments in respect of following regulations:-

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

May kindly consider the same while finalizing.

Thanking you

Yours faithfully
For **Malana Power Company Limited**



SUMIT GARG
Sr. General Manager (Commercial)

Encl: as above

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In respect of the draft regulations, our comments are as under:

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:

1. **Amendment to Regulation 2 of the Principal Regulations:** The Hon'ble Commission has proposed the long term Access (LTA) period exceeding seven years but not exceeding twenty five years and MTOA exceeding one year but not exceeding five years.

Comments

It could be a boon in rationalization of transmission charges, however, it is suggested that the medium term open access may please be considered upto seven years in order to eliminate the gap between LTA and MTOA.

The amendment in regulation has changed the LTA period to seven years. Upon perusal of the amended Regulation 2 and Regulation 18 of the Principal Regulation dealing with requirements of the relinquishments, it appears that there is a need to amend the minimum period of relinquishment in consonance with the amended LTA requirements.

2. **Amendment of Regulation 8 of the Principal Regulations** The Hon'ble Commission in Para 8 has proposed that after operationalisation of the LTA, the dedicated transmission line shall be included in the POC pool and payment of transmission charges for the said dedicated transmission line shall be governed as per the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2010 as amended from time to time.

Comments:

It is submitted that the said proposal of the Hon'ble Commission is not in terms of the law because according to Sec 2(16) a Dedicated Transmission Line means a any electric supply line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in Section 9 or generating station referred to in Section 10 to any transmission lines or sub-station or generating stations or the load center as the case may be. As such the dedicated transmission line is meant to connect to the load centers and Sharing of Transmission Charges and Losses applies at the Load center. Further it is also a question of law whether Commission has powers to arrive at the tariff for a dedicated assets under the provisions of Section 178 and Section 180 of the Electricity Act-2003. Therefore including the dedicated transmission line in POC Pool and payment of transmission charges as per sharing regulations will cause prejudice to other constituents.

Therefore this provision will be illegal and will prejudice beneficiaries.

B) Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2016

1. **Amendment in Regulation 7** The Hon'ble Commission has inserted sub-clause (y) of Clause (1) of Regulation 7 of Principal Regulation and has stated that:-

"No transmission charges and losses for the use of ISTS network shall be attributed to wind based generation for the projects awarded through competitive bidding and commissioned till 31.03.2019. This shall be applicable for a period of 25 years from the date of commissioning of such projects.

Provided that such waiver will be available only for the projects entering into Power Purchase Agreement (PPAs) for sale of electricity to the Distribution Companies for compliance of their renewable purchase obligation."

Comments

It is submitted that the existing rules also provide that the bulk consumer can discharge their renewable purchase obligations either by way of procuring renewable energy (wind/solar) or by procuring REC certificates.

Procurement of renewable energy towards the REC obligation is by way of Open Access. Waiver of transmission charges only in respect of distribution companies for purchase of wind power will be will be deterrent to the open access regulations in renewable energy and may not be cost effective measure for open access consumers. In addition to this various State Regulators e.g. Rajasthan have imposed heavy charges and other operative restrictions on consumers in case of procurement of power through open access.

In view of this, it is proposed that waiver of transmission charges should also be applicable to those consumers and wind farms who have entered into firm Power Purchase Agreements for a period of 25 years towards their renewable purchase obligations or consumption requirements according to sanctioned loads. This will make the cheaper power available to consumers and will also be helpful in increasing the share of wind generation.

2. **Amendment to Regulation 9 of the Principal Regulations** Hon'ble Commission has proposed the transmission charges for MTOA customers and STOA customers stating that:-

“(1) The transmission charges for MTOA customers who are not availing LTA to target region for the capacity under MTOA shall be charged 1.25 times of the LTA POC rates as notified by the Commission from time to time.

(2) The transmission charges for STOA customers who are not availing LTA to target region for the capacity under STOA shall be charged 1.35 times of the normal STOA POC rates as notified by the Commission from time to time.”

Comments

It is submitted that the choice of opting LTA, MTOA or STOA is available to beneficiaries under the law and respective regulations. Levy of higher transmission charges will not provide a level playing field to all the generators/customers and some of the generators (e.g. hydro generators with low plant load factors) are likely to run out of the competition just because they are not the LTA customers. This will also be deterrent to an effective power budgeting. In addition to this it will make power costlier in if a short term requirement is to be met urgently either through bilateral or IEX arrangement.

The said proposal will further prejudice the intra-state entities who are selling their power in the inter-state region after paying the high wheeling and transmission losses. Such proposal is not practical for the beneficiaries (generator/consumers) connected to the State System and non LTA beneficiary. It is also submitted that the spirit of shifting to LTA has already been taken care in 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.

It is a fact that presently MTOA and STOA customers are given open access only from the margins available in the system and no additional capacity is actually created for them. Therefore, charging higher amount of charges may be against the principal of natural justice.

It is also a recognized fact that in order to built large transmission capacity it is very important that the LTA customers should be large in numbers so as to fund the transmission assets. But the same cannot be done by imposing higher transmission charges on one category who are given only inherent margins and least priority. Thus, if MTOA and STOA customers have to bear higher charges, they deserve preferential treatment and not the leftover margins. Therefore, the concept of equal transmission charges for LTA, MTOA and STOA in prevailing regulations is logical where as proposed higher charges for MTOA and STOA are illogical.

In fact the non availability of LTA customers is also due to reduction in execution of generation capacities in recent time. In view of this we are of the opinion that improvement in Transmission Asset Base can also be achieved by promoting the execution of generating assets and imposing a condition on the beneficiary seeking connectivity in the ISTS that at least 50% of the total capacity or so should be on LTA basis.