



Association of Power Producers

Ref: APP/DG/2016-17/751

16th March, 2017

Mrs. Shubha Sarma,
Secretary,
Central Electricity Regulatory Commission,
Chanderlok Building, Janpath,
New Delhi- 110001

Sub: Draft CERC (Cross Border Trade of Electricity) Regulations, 2017

Dear Mrs Shubha Sarma,

We write in reference to the Draft CERC (Cross Border Trade of Electricity) Regulations, 2017 which has been uploaded on the CERC website for stakeholder comments. We appreciate the effort of the CERC in framing these detailed regulations which flesh out the provisions of the Guidelines on Cross Border Trade of Electricity as notified by MoP.

However, in its present form, the draft Regulations impose many restrictions on cross border electricity trade with our neighbouring countries. The need for securing additional approval from CTU in the form of 'Cross Border Transmission Access (CBTA)' and high bank guarantees can adversely affect the very intent of the Guidelines on Cross Border Trade, which is to promote regional trade of electricity.

It also appears that the Regulations have been framed in a restrictive and one sided manner without taking into account views from participants of neighbouring countries. We need to facilitate two way electricity trade with our neighbours to not only open up access to new avenues of power sourcing but also to help existing domestic generators find new off-takers in view of the current low PLFs and subdued demand within the country. This will help ease the tremendous financial stress being faced by many of the existing generators and may provide the impetus required to move towards a gradual revival of the ailing power sector.

Despite a successful example of Dhalkebar – Muzaffarpur line which is being made on PPP model, financed by the World Bank, Regulations states that transmission link can only be constructed by the CTU. The Regulations should allow for the construction of transmission link by any entity to facilitate speedy implementation of cross country electricity trade whenever required.

Therefore in our opinion, the draft Regulation may be thoroughly reviewed taking into consideration the growth prospects for cross border energy market, enabling environment for investors, opportunity for stressed assets in the country to export power and further cross border transmission infrastructure creation through Public Private Partnership. A vibrant cross border electricity trade environment would also improve the domestic off-take of coal, which is at present muted.



Our detailed comments on the draft Regulation are enclosed herewith for your consideration.

With regards,

Yours sincerely,
For Association of Power Producers

A handwritten signature in black ink, appearing to read 'Ashok Khurana', is written above a solid horizontal line.

(Ashok Khurana)
Director General

Encl: As above

APP's Comments and Suggestions on the Draft CERC (Cross Border Trade of Electricity) Regulations, 2017

S.No.	Clause No	Current Provision	Comments
1.	2 (1) (e) (ii)	<p>(ii) For the purpose of grant of long-term access, medium-term open access or short-term open access the following entities located in India or a neighboring country:</p> <p>A generating station including a captive generating plant, a consumer, an inter-State trading licensee , a distribution licensee.</p>	<p>In case of a neighboring countries government nominated agencies take care of cross border trade and the structure of such agencies may be different from structure of identified entities allowed to obtain open access. Hence, such agencies may also be included e.g. NEA in Nepal, BPDB in Bangladesh etc. which are procuring power from their countries side.</p> <p>Therefore, it is suggested that the definition may be modified as follows:</p> <p>(ii) For the purpose of grant of long-term access, medium-term open access or short-term open access the following entities located in India or a neighboring country:</p> <p>A generating station including a captive generating plant, a consumer , an inter-State trading licensee , a distribution licensee <u>or a Designated Agency of a neighboring country.</u></p>

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S.No.	Clause No	Current Provision	Comments
2.	2 (1) (i)	<p>Definition:</p> <p>'Buying Entity' means the entity which has been granted cross border transmission access and is purchasing electricity through a transaction involving India and a neighboring country and scheduled in accordance with these regulations under short-term open access, medium-term open access or long-term access.</p>	<p>Please clarify whether Trading Licensees will be treated as Buying Entity or Selling Entity.</p> <p>In case a DISCOM purchases cross border power through a Trading Licensee, and it is the Trading Licensee which applies for open access for sale to an entity/ Utility in India, who shall be treated as Buying Entity and who shall be treated as Selling Entity.</p>
3.	2 (1) (s)	<p>Definition:</p> <p>'Cross Border Transmission Access' or 'CBTA' means the access available to an applicant of a neighboring country to get connected to and use the Indian Grid, and the access available to an applicant of India to get connected to and use the grid of any neighboring country for cross border trade of electricity under Long term access or medium term open access or short term open access, as the case may be</p>	<p>Connectivity and LTA/MTOA can be applied separately and by different entities as per Connectivity, LTA and MTOA Regulations of CERC. The purpose of Connectivity is to decide the point of interconnection and to ensure that the power station or transmission line or sub-station which is to be connected to the grid complies with the Technical Standards specified by the CEA. On the other hand, LTA/MTOA/STOA is with regard to capacity of the power system to transmit power from the point of injection to point of withdrawal.</p> <p>Therefore it is suggested that the definition may be revised as follows:</p> <p>“ 'Cross Border Transmission Access' or 'CBTA' means the access available to an applicant of a neighboring country to get connected to and use the Indian Grid, and the access</p>

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S.No.	Clause No	Current Provision	Comments
			available to an applicant of India to get connected to and use the grid of any neighboring country for cross border trade of electricity under Long term access or medium term open access or short term open access, as the case may be”
4.	2 (1) (s)	<p>Definition:</p> <p>‘Cross Border Transmission Access’ or ‘CBTA’ means the access available to an applicant of a neighboring country to get connected to and use the Indian Grid, and the access available to an applicant of India to get connected to and use the grid of any neighboring country for cross border trade of electricity under Long term access or medium term open access or short term open access, as the case may be</p>	<p>It may be clarified that whether the CBTAA is different from LTA & MTOA Agreements and is required to be signed for cross border trade even in case an Indian entity selling power to a neighboring country with Delivery/off-take point as “Pooling Station on the Indian side of international boundary”.</p> <p>In case of Nepal, the existing Dhalkebar- Muzaffarpur line is a joint venture (JV) of NEA, PGCIL, IL&FS & SJVNL on Indian side and NEA, IL&FS & PGCIL on Nepal side. It is a Public Private Partnership (PPP) cross border line wherein TSA is signed between NEA and each side’s transmission licensee and charges are being collected by the respective transmission licensee. Therefore, sanctioning of CBTA in such cases may not be governed under this provision. Separate provision may be made for such PPP Projects.</p> <p>The approval for CBTA may be jointly deliberated decided by the Regulatory Commission of both the Countries and adopted by the Designated Authority/Government of respective countries.</p>

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S.No.	Clause No	Current Provision	Comments
5.	2 (1) (v)	‘Cross Border Transmission Link’ means the transmission link from the generating station or the pooling station of a neighboring country to the interconnection point on the Indian Grid, as may be specified by the CTU based on the application for cross border transmission access.	<p>The existing definition does not provide for the case of an independent transmission system as allowed for under Regulation 9. Further, to bring the definition in line with Regulation 4 (3), the following changes are proposed:</p> <p>‘Cross Border Transmission Link’ means the transmission link from the generating station or the pooling station of a neighboring country to the interconnection point on the Indian Grid <u>and the transmission link from the generating station or the pooling station of India to the interconnection point on the neighbouring country’s Grid, as may be specified by the CTU of respective countries</u>, as may be specified by the CTU based on the application for cross border transmission access. <u>Further an independent transmission system contemplated under Regulation [9] shall be deemed to be a Cross Border Transmission Link for the limited purpose of Regulations [20(1), 27(3), 35(1) and 36(1)]’</u></p>
6.	2 (1) (ii)	<p>Definition:</p> <p>‘Interface Meters’ means interface meters as defined by the Central Electricity Authority under the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.</p>	<p>It is suggested that CEA regulations be suitably modified to incorporate provisions related to cross border participants</p>
7.	2 (1) (rr)	Definition:	As per GoI Guidelines for Procurement of Electricity for

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		'Medium-term Power Purchase Agreement' shall mean a Power Purchase Agreement for duration equal to or more than 1 year and less than 7 years.	<p>Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis dated 10.2.2016, the term of medium term procurement contracts is 5 years. Even the term of Medium Term Open Access has now been aligned to 5 years, hence this clause may be revised as such:</p> <p>'Medium-term Power Purchase Agreement' shall mean a Power Purchase Agreement for duration equal to or more than 1 year and less than <u>5 years</u>.</p>
8.	2 (1) (uu)	<p>Definition:</p> <p>'Participating Entity' means the entities approved by Designated Authority under Guidelines on Cross Border Trade of Electricity issued by Ministry of Power, Government of India</p>	<p>The existing definition does not provide for the case of an independent transmission system as allowed for under Regulation 9. Therefore the definition may be modified as follows:</p> <p>'Participating Entity' means a buying entity, a selling entity or, an Indian entity selling power to a neighbouring country through an independent transmission system not connected to the Indian Grid.</p>
9.	2 (1) (zz)	<p>Definition:</p> <p>'Scheduled Drawal' at any time or for time block(s) means schedule of despatch in MW or MWh ex-bus given by the concerned System Operator</p>	<p>The definition of Interconnection Point, as per Clause 2.2 (kk), states that scheduling, billing etc. shall take place at Interconnection Point. Further, currently, scheduling and settlement for Power Exchange transactions are being done at regional periphery.</p> <p>Therefore, It is suggested that definition may be revised as below:</p>

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S.No.	Clause No	Current Provision	Comments
			Scheduled Drawal' at any time or for time block(s) means schedule of despatch in MW or MWh ex-bus at interconnection point given by the concerned System Operator
10.	2 (1) (aaa)	Definition: 'Scheduled Generation' at any time or for time block(s) means schedule of generation in MW or MWh ex-bus given by the concerned system operator.	The definition of Interconnection Point, as per Clause 2.2 (kk), states that scheduling, billing etc. shall take place at Interconnection Point. Therefore, It is suggested that definition may be revised as below: 'Scheduled Generation' at any time or for time block(s) means schedule of generation in MW or MWh ex-bus at interconnection point given by the concerned System Operator
11.	3 (1)	These regulations shall be applicable to all the participating entities in India and its neighbouring countries which are engaged in cross border trade of electricity.	An Indian generating station supplying electricity exclusively to neighbouring countries through an independent transmission system will not require to apply for open access, connectivity to Indian grid etc. and hence should be excluded from the scope of these regulations. Therefore the clause may be modified as follows: These regulations shall be applicable to all the Participating Entities in India and its neighbouring countries which are

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S.No.	Clause No	Current Provision	Comments
			engaged in cross border trade of electricity. Provided that unless expressly stated otherwise, nothing contained in these regulations shall apply or deemed to apply to a Participating Entity incorporated or established in India and selling power exclusively to a neighboring country through an independent transmission system.
12.	3 (4)	Notwithstanding anything done or any action taken or purported to have been done or taken for cross border trade of electricity under the Agreements in force, prior to 5th December, 2016 (date of issue of Guidelines on Cross Border Trade of Electricity by Ministry of Power) shall be deemed to have been done or taken under the provisions of these regulations and the guidelines issued by Govt. of India till the expiry of such Agreements.	It is suggested that definition may be revised as below: Notwithstanding anything done or any action taken or purported to have been done or taken for cross border trade of electricity under the Agreements <u>including commercial agreements in force</u> , prior to 5th December, 2016 (date of issue of Guidelines on Cross Border Trade of Electricity by Ministry of Power) shall be deemed to have been done or taken under the provisions of these regulations and the guidelines issued by Govt. of India till the expiry of such Agreements.
13.	4 (1)	Cross border trade of electricity through Government to Government negotiations: Where import/ export of electricity is agreed between the Government of India and the Government of any neighbouring country involving the participating entities of the two countries, the tariff for such transactions shall be determined through Government to Government	Regulations have to be in line and consistent with the Electricity Act 2003. The Act does not provide for any tariff fixation through negotiation and lays down only two processes – tariff determination under Section 62 and adoption of tariff discovered through competitive bidding under Section 63. In order to avoid any discretionary selection of generators for negotiated tariff, the tariff for Government to Government transactions may also be determined through a clear cut and transparent process of

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S.No.	Clause No	Current Provision	Comments
		negotiations, which shall be adopted by the Appropriate Commission.	competitive bidding.
14.	4 (2) (a)	<p>Tariff for import of electricity by Indian entities (directly or through trading licensees) from the generating stations located outside India shall be determined under long term/ medium term/ short term agreement, through a process of competitive bidding, which shall be adopted by the Appropriate Commission under Section 63 of the Electricity Act, 2003.</p> <p>Provided that in case of hydro generation projects, the tariff shall be determined by the Central Commission as per the Tariff Regulations notified from time to time, if approached by the generator through the Government of the neighbouring country and agreed by the Indian entities, including Public Utilities/ DISCOM(s).</p>	<p>i. Hydro projects have been exempted from competitive bidding. Hence, tariff may be determined by CERC for hydro projects, in case of medium term sale of hydro power as well. Further, the hydro generator may also be permitted to approach CERC through Indian trading licensee, engaged by a Cross border generator as an intermediary.</p> <p>ii. Open Access consumers shall be allowed the flexibility to purchase power on mutually negotiated tariff from cross border projects, as is the case for buying power from Indian generators. This should also be applicable in case of Open Access consumers purchasing power from cross border projects through trading licensees.</p>
15.	4 (2) (a)	Tariff for import of electricity by Indian entities (directly or through trading licensees) from the generating stations located outside India shall be determined under long term/ medium term/ short term agreement, through a process of competitive bidding, which shall be adopted by the Appropriate Commission under Section 63 of the	<p>It is suggested that Competitive bidding documents shall be revised to incorporate clauses related to cross border trade. For example - Force Majeure, Change in law etc.</p> <p>It may also be clarified that cross border projects will be permitted to participate along with Indian generators in tenders called by DISCOMs.</p>

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S.No.	Clause No	Current Provision	Comments
		Electricity Act, 2003.	
16.	4 (2) (a)	Provided that in case of hydro generation projects, the tariff shall be determined by the Central Commission as per the Tariff Regulations notified from time to time, if approached by the generator through the Government of the neighbouring country and agreed by the Indian entities, including Public Utilities/ DISCOM(s).	It may be ensured that Tariff Regulations being referred to in this Clause 4(2) (a) and the Regulations for Cross Border Trade of Electricity, are issued simultaneously.
17.	5 (2)	All entities of the neighboring countries participating in the cross-border electricity trade with the entities in India shall abide by the Policies, Laws, Rules and Regulations prevailing in their respective countries which shall be clearly enumerated in the Agreements	Clarification sought - How would this enumeration be done? Will a reference to relevant regulations/acts suffice, as it may not be possible to enumerate the laws in detail in the Agreements.
18.	5 (2)	Provided that in case of any ambiguity or conflict between the laws, rules and regulations of the neighboring countries and that of India, the Indian laws, rules and regulations will take precedence for the purpose of cross border trade of electricity with India	It may not be possible that Indian laws take precedence in neighbouring countries. Therefore it is suggested that the clause may be modified as follows: "Provided that in case of any ambiguity or conflict between the laws, rules and regulations of the neighboring countries and that of India, the Indian laws, rules and regulations will take precedence, <u><i>within the territory of India</i></u> , for the purpose of cross border trade of electricity with India."

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S.No.	Clause No	Current Provision	Comments
19.	6 (2) (b)	Settlement Nodal Agency (SNA) shall be responsible for settling all charges pertaining to grid operations including operating charges, charges for deviation and other charges related to transactions with a particular neighboring country in the course of cross border trade of electricity. The SNA shall be a member of the deviation pool, reactive energy pool and other regulatory pools for payment and settlement of the corresponding charges in the pool accounts of the region having connectivity with any neighboring country. The neighboring country may also nominate/authorize an agency for such purpose. Ministry of Power, Government of India shall notify SNAs for each neighboring country.	It may please be clarified that whether the Nodal Agency as defined in the Guidelines and Settlement Nodal Agency defined in the Regulations are same for India?
20.	6 (2) (b)	Settlement Nodal Agency (SNA) "-----Ministry of Power, Government of India shall notify SNAs for each neighboring country"	As per Clause 1.4 of Guidelines on Cross Border Trade of Electricity issued by Ministry of Power and Clause 3(4) of the Draft Regulations, any action taken for cross border trade prior to 5th December, 2016 is deemed to be taken under the provisions of the Guidelines and Regulations. CERC vide its order dated 11th September 2014 had approved a mechanism for scheduling and energy accounting from Dagacchu Project. In accordance with the order Tata Power Trading Company Ltd (TPTCL) has been acting on behalf of DHPC to settle DSM charges, scheduling

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S.No.	Clause No	Current Provision	Comments
			<p>etc. The arrangement was subsequently reviewed by CERC and was found to be working smoothly, as per CERC order dated 16th February 2016.</p> <p>In view of the above, TPTCL may be permitted to continue acting as SNA for DHPC power.</p>
21.	7 (1) (d)	Export of electricity by the distribution licensees / Public Sector Undertakings (PSUs) in India, if surplus capacity is available and certified by the concerned distribution licensee or the PSU, as the case may be.	Export of electricity by the distribution licensees / Public Sector Undertakings (PSUs) / <u>CPSU's promoted Company</u> in India, if surplus capacity is available and certified by the concerned distribution licensee or the PSU or <u>CPSU's promoted Company</u> , as the case may be.
22.	7 (2)	Any other participating entity shall be eligible to participate in cross border trade of electricity after obtaining approval of the Designated Authority on case to case basis.	In case of sale through short term tenders/power exchange the process will become cumbersome if approval is required for each transaction. Therefore it is suggested that the approval may be granted for a longer period instead of approval on a case to case basis for each transaction.
23.	7 (4)	Any coal based thermal power projects in India other than those owned and operated by Public Sector Undertakings shall be eligible for export of electricity to any of the neighboring countries only if surplus capacity is certified by the Designated Authority.	<p>A certificate of surplus capacity should not be required in case of an Indian generating station supplying electricity exclusively to a neighboring country.</p> <p>Further, any power project in India with whom surplus capacity is available may also be allowed to export the power. Therefore the clause may be modified as follows:</p> <p>“Any power project in India other than those owned and</p>

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S.No.	Clause No	Current Provision	Comments
			operated by Public Sector Undertakings shall be eligible for export of electricity to any of the neighboring countries only if surplus capacity is certified by the Designated Authority. Provided that an Indian generating station established for supply of electricity exclusively to a neighbouring country shall not require such certificate of surplus capacity by the Designated Authority.
24.	8 (1)	A Participating entity as specified in Regulation 7(1), with approval of the Designated Authority, after complying with the relevant regulations of the Commission, shall be eligible for cross border trade of electricity through Indian Power Exchange(s) under the categories of Term Ahead Contracts, Intra Day Contracts and Contingency Contracts as defined in the CERC (Power Market) Regulations, 2010.	It may be clarified that cross border Participating entity shall be permitted to access Power Exchange through trading licensees too. Further, as per Clause 7.3 of Guidelines on Cross Border Trade as issued by MoP, cross border trade of electricity can be extended to other categories of contracts based on review by MoP in consultation with CERC. In this regard, we would request Hon'ble Commission to consider collective transaction under other categories of contract, because the proposed term ahead, intraday and contingency contracts have very low trading volume as compare to day ahead collective transactions.
25.	8 (3)	The quantum of electricity that can be traded under cross border trade of electricity in Indian Power Exchange(s) shall be as prescribed from time to time by the Designated Authority	More clarity is needed whether this ceiling on quantum of electricity permitted to be traded in Indian Power Exchange(s) will be on an overall basis or on generator/buyer basis. In case the ceiling is on an overall basis, it is suggested that in case the quantum of bids on any given day/time is higher

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			than this prescribed ceiling, the power may be distributed on a pro-rata basis.
26.	9 (4)	Generating Stations located in India and supplying electricity exclusively to neighboring countries may be allowed to build independent transmission systems for connecting to the neighboring country's transmission systems keeping the technical and strategic considerations in view and with the approval of the Government of India at the cost inbuilt in the agreement signed between Indian entity and the entity of the neighboring country. Such approval will be under applicable section(s) of the Electricity Act, 2003, subject to complying with the technical and safety standards notified under various section of the Electricity Act, 2003.	<p>This clause may be modified as follows:</p> <p>Generating Stations located in India and supplying electricity exclusively to neighboring countries may be allowed to build independent transmission systems for connecting to the neighboring country's transmission systems keeping the technical and strategic considerations in view and with the approval of the Government of India at the cost inbuilt in the agreement signed between Indian entity and the entity of the neighboring country. Such approval will be under applicable section(s) of the Electricity Act, 2003, subject to complying with the technical and safety standards notified under various section of the Electricity Act, 2003. Other than the aforesaid approvals for building the independent transmission system, an Indian generating station may freely export electricity to a neighbouring country through such independent transmission system notwithstanding anything to the contrary contained in these regulations.</p>
27.	10 (1)	Any entity eligible to participate in cross border trade of electricity shall be required to seek connectivity and/or long term access or medium term open access or short term open access, as the case may be.	It is suggested that cross border entities already availing of open access may not need to apply again for open access till the time current open access has been granted.

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28.	10 (2)	Applications for grant of connectivity and/or long-term access or medium-term open access shall be made to CTU as per CERC (Grant of Connectivity, Long Term & Medium Term Access) Regulations, 2009 as amended from time to time.	Indian generating stations supplying electricity exclusively to neighbouring countries through an independent transmission system should not be required to apply for connectivity.
29.	13 (2)	The Generator or a bulk consumer already connected to inter-state transmission network of India or transmission network of the neighbouring country or for which Connectivity is already granted or planned, shall not be allowed to apply for additional connectivity for the same capacity. However, in case of expansion of capacity of generator or load of the bulk consumer, it shall be required to make application for Connectivity as per the provisions of the Regulations	<p>Most of the cross border generators are connected to their country's network and the country's network is in turn connected to Indian grid. Such generators should not be required to apply for Connectivity.</p> <p>It may be expressly clarified whether connectivity by a generator of neighboring country will be required only if it is directly connected to the Point of Interconnection in Indian territory.</p>
30.	13 (4)	The grant of connectivity shall be considered as provisional till the cross border long term access application for a minimum of 50% of Installed capacity (minus auxiliary consumption) is filed by the Applicant. Under no circumstances, applicant shall be allowed physical connection with the grid before filing the application for cross border long term access and furnishing Access Bank Guarantee thereof.	<p>This is contrary to the prevailing regulations for Connectivity, LTA and MTOA of CERC, the Guidelines and the draft regulations which allow for application only for MTOA and Cross Border trade in medium and short term also.</p> <p>Further, many cross border projects are being constructed for exporting only surplus power to India. In such cases, the surplus itself may be less than 50% of installed capacity.</p>

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S.No.	Clause No	Current Provision	Comments
			Therefore, it is suggested that the condition related to tying up 50% of power on long term basis may be considered to be relaxed
31.	17 (1)	<p>Access Bank Guarantee</p> <p>The CBTA applicant applying for long term access shall be required to furnish to the CTU, an Access Bank Guarantee, along with application, for an amount of INR 1 Crore/ per Mega Watt corresponding to the quantum of long-term CBTA sought</p>	Such high bank guarantees will result in increase of project cost and in turn will lead to higher cost power. It is suggested that the amount may be aligned to CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations and therefore reduced to Rs 5 Lakh/MW.
32.	17 (4)	In case, any of the developers fails to construct the generating station /dedicated transmission system by the timelines agreed in the CBTAA, CTU shall have the right to encash the Access Bank Guarantee in accordance with Regulation 29 of these regulations.	<p>In other provisions it has been specified that applicant has the liability to pay the transmission charges in case he fails to start the power supply by the timelines. In case applicant is paying the transmission charges, his bank guarantee need not be encashed.</p> <p>Further, the construction in project may be delayed for reasons which are beyond the control of the generator. Further, this would mean that even for small delay of 1 month the whole guarantee of Rs 1Cr/MW is forfeited.</p> <p>Therefore it is suggested that in case of delay in construction of generating station, the penalty may be limited to transmission charges payable for the period of delay, provided the power evacuation system has been</p>

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			completed and also that adequate notice of a possible delay in completion of generating project was not made available to the agency executing the power evacuation system.
33.	17 (5)	If CBTA Customer makes an exit from Cross Border Transmission Access under these Regulations, or relinquishes Cross Border Transmission Access at any stage after the augmentation of the transmission system has been awarded, the Access Bank Guarantee shall be encashed.	It is suggested that the bank guarantee may not be encashed in case relinquishment is due to any Force Majeure event affecting the generator/buyer
34.	19 (2) (b)	In case PPA is signed for a duration of less than 1 year – Applicant shall have to seek STOA separately and energy shall be scheduled under short term open access as specified in CERC (Open Access in inter-State Transmission) Regulations 2008.	Since applicant is already paying the LTOA or MTOA charges for the same line, he should not be double charged and hence should be entitled for an offset from the charges paid for Long Term Access.
35.	27 (1)	The selling entity/ buying entity shall inform their requisitions to the Settlement Nodal Agency in accordance with the procedure specified as per Part - 6 on Scheduling and Despatch Code of Grid Code.	By including SNA in case of scheduling an additional layer will be created as eventually SNA will also coordinate with the NLDC. This will lead to unnecessary delays in the process. Hence it is proposed that scheduling part may be directly handled by the NLDC and SNA may look after settlement part only.

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36.	27 (2)	Settlement Nodal Agency shall co-ordinate with System Operators of respective countries for scheduling of cross border transactions and revisions during the day of operation	It is suggested that any scheduling/ revisions of cross border transaction shall be coordinated directly between the System operators of India and relevant neighboring country as scheduling/revisions may be required to be done on real time basis.
37.	27 (5)	In case of multiple generators located in a neighboring country selling power to India through common interconnection point, the schedule at interconnection point shall be arithmetic sum of generation schedules. The actual generation attributable to each generator shall be informed by System Operator of the neighboring country.	In case of multiple generators located in a neighboring country selling power to India through common interconnection point, the schedule at interconnection point shall be arithmetic sum of generation schedules. The actual generation attributable to each generator shall be informed by System Operator of the neighboring country.
38.	30 (2)	Subject to provisions of the Grid Code and any other regulation specified by the Commission, the short-term access shall be curtailed first followed by the medium-term open access, which shall be followed by the long-term open access and amongst the accesses of a particular category, curtailment shall be carried out on pro rata basis	It may be clarified that run of river hydro projects are treated as must run projects and any curtailment shall take this in to consideration. Further, in case multiple generators of a neighbouring country are exporting power in to India, then in case power is to be curtailed, Power System Operator of that particular country should decide which generator to back down and to what extent.
39.	37 (4)	A suitable payment security mechanism for charges to be collected by Settlement Nodal Agency shall be put in place by the settlement	The following change is suggested in this clause to bring it in line with the existing practice of Payment Security Mechanism obtained by CTU:

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S.No.	Clause No	Current Provision	Comments
		nodal agency.	<p>“A Payment Security Mechanism in the form of Letter of Credit equivalent to 2.1. times the monthly billing for charges to be collected by Settlement Nodal Agency shall be put in place by the settlement nodal agency”</p>
40.	38 (1) (a) (b)	<p>(a) Withdrawal PoC losses as applicable shall be applied at the interface.</p> <p>(b) Injection PoC losses of respective injection grid shall be applied at the interface</p>	<p>For clarity, it is suggested that the above clauses should be reframed as follows</p> <p>(a) For export of Power to neighboring country, withdrawal PoC losses as applicable shall be applied at the interface.</p> <p>(b) For import of Power from neighboring country, Injection PoC losses of respective injection grid shall be applied at the interface.</p>
41.	39 (3)	Any selling entity/buying entity in India proposing to sell or buy electricity from or to the neighbouring country shall make payments to the Settlement Nodal Agency in fees & charges of System Operation in India.	<p>Electricity from Indian generating stations supplying exclusively to neighbouring countries through an independent transmission system would not be scheduled by NLDC etc. and hence should not be liable to pay charges. Therefore the clause may be modified as follows:</p> <p>“Any selling entity/buying entity in India proposing to sell or buy electricity from or to the neighbouring country shall make payments to the Settlement Nodal Agency in fees & charges of System Operation in India. Provided that such charges shall not apply to any sale of electricity from India to a neighbouring country through an exclusive</p>

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			and dedicated transmission system connected to the grid of that neighbouring country.”
42.	40 (2)	<p>Cross Border Transmission Access Customer shall establish payment security towards transmission charges at least ninety (90) days prior to the intimated date of commencement of Cross Border Transmission Access which inter-alia shall include the following for availing Long term access and medium term open access:</p> <p>(a) An irrevocable, unconditional and revolving Letter of Credit in favor of the CTU through a bank as specified in Regulation 44 equivalent to two point five (2.5) times the average Bill amount towards transmission charge for 3 months of the Application Period with a validity of 1 year;</p> <p>(b) A irrevocable, unconditional and revolving Letter of Credit in favor of the SNA of India through bank as specified in Regulation 44 equivalent to two point five (2.5) times the average Bill amount towards grid related charge for 3 months with a validity of 1 year as informed by SNA of India.</p>	<p>The following change is suggested in this clause to bring it in line with the existing practice of Payment Security Mechanism obtained by CTU:</p> <p>Cross Border Transmission Access Customer shall establish payment security towards transmission charges at least ninety (90) days prior to the intimated date of commencement of Cross Border Transmission Access which inter-alia shall include the following for availing Long term access and medium term open access:</p> <p>An irrevocable, unconditional and revolving Letter of Credit in favor of the CTU through a bank as specified in Regulation 44 equivalent to two point one (2.1) times the average monthly Bill amount towards transmission charge for 3 months of the Application Period with a validity of 1 year;</p> <p>A irrevocable, unconditional and revolving Letter of Credit in favor of the SNA of India through bank as specified in Regulation 44 equivalent to two point one (2.1) times the average monthly Bill amount towards grid related charge for 3 months with a validity of 1 year as informed by SNA of India.</p>

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S.No.	Clause No	Current Provision	Comments
43.	42	<p>Force Majeure and Change in Law:</p> <p>All concerned entities shall make appropriate provision in the Long Term Cross Border Access Agreement and the Power Purchase Agreements for settlement of operational and commercial disputes arising out of the force majeure events and Change in Law.</p>	<p>The provision should be included in all the agreements, may it be long-term, medium-term or short-term access.</p> <p>The phrase regarding “events affecting the Procurer and Seller or its Contractors” must be added for bringing in clarity.</p> <p>Therefore, the clause may be modified as follows:</p> <p>“All concerned entities shall make appropriate provision in the Long Term Cross Border <u>Transmission</u> Access Agreement and the Power Purchase Agreements for settlement of operational and commercial disputes arising out of the Force Majeure events and Change in Law <u>events affecting the Procurer and Seller or its Contractors.</u>”</p>