

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Explanatory Memorandum for the “Draft Central Electricity Regulatory Commission (Terms and Conditions for Tariff) (Second Amendment) Regulations, 2017”

Explanatory Memorandum

In order to encourage private investment in transmission, the Commission decided to allow Transmission Majoration Factor (TMF) and introduced TMF by inserting Regulation 4.10A, by way of an amendment, dated 21.9.2001, to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001 (2001 Tariff Regulations). The provisions assured a TMF of 10% of the transmission charges to the transmission projects executed through IPTC/JV routes who has been granted transmission licence under Section 27C of the Indian Electricity Act, 1910, upto 31.3.2004. The said Regulation is extracted as under:-

“4.10A Transmission Majoration Factor

In respect of the transmission projects executed through IPTC/JV routes, 10% (Ten percent) markup (pre-tax) on transmission charges shall be allowed as Transmission Majoration Factor.

Provided that Transmission Majoration Factor shall be allowed on HVDC projects executed through IPTC/JV routes.

Provided further that the Transmission Majoration Factor shall be allowed during the entire life of the transmission project to the new investor entering the transmission sector through IPTC/JV routes and who has been granted a transmission license under Section 27C of the Indian Electricity Act, 1910, upto 31-3-2004.”

2. Powerlinks Transmission Limited (“Powerlinks”), a joint venture company of Tata Power Limited and PGCIL applied for transmission licence under Section 27C of the Indian Electricity Act, 1910, for execution of transmission system for evacuation of power from Tala HEP. Powerlinks was granted transmission licence on 13.11.2003 for a period of 25 years. This was the only company in JV route which applied for and was granted transmission licence during the 2001-04 tariff period. Though the transmission project was actually executed during 2004-09 period, it was granted TMF as it fulfilled the condition of Regulation 4.10A of 2001 Tariff Regulations. The Commission vide its orders dated 24.6.2004 and 28.4.2008 in

Petition Nos. 51/2004 and 147/2007 had clarified that the TMF would be available for the entire life of the project.

3. During the period 2004-09, a number of transmission licences were issued for execution of the transmission projects through JV routes. After the promulgation and implementation of the Electricity Act, 2003, transmission sector has been thrown open to private participation for which the Transmission Service Providers were selected through competitive bidding. The details of the transmission licences issued by this Commission prior to and after coming into effect of the Electricity Act, 2003 are as under:-

Tariff period	Total transmission licence issued	JV route	IPTC	Competitive bidding route	Dedicated transmission lines granted licence
2001-04	01	01	-	-	-
2004-09	06	03	03	-	-
2009-14	16	03	-	09	04
2014-19	24	-	-	24	-
Total	47	07	02	33	04

4. It is noticed that apart from Powerlinks, 41 projects have been implemented through either JV/IPTC route or competitive bidding and 4 transmission projects have been converted from dedicated transmission lines to ISTS in terms of Regulation 6(c) of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009, as these lines are used as main transmission lines and ISTS. The tariff of the projects which have been implemented through JV route or which have been converted from dedicated transmission lines to ISTS are determined on cost plus basis in accordance with the tariff regulations of the Commission notified from time to time. In case of projects implemented through IPTC or tariff based competitive bidding route under Section 63 of the Act, the tariff of these projects are as per the charges discovered through competitive bidding. All these 46 projects which are implemented either exclusively by private companies or with participation of private companies, are not getting any promotional incentive such as Transmission Majoration Factor. In Petition No 18/TT/2014 and 20/TT/2014 filed by Powerlinks, the respondents like BRPL and UPPCL raised objections against grant

of TMF over and above the transmission charges and continuation of Transmission Majoration Factor in case of Powerlinks.

5. Considering the emerging scenario in transmission sector and the consumer's interest, the Commission considered it necessary to re-examine the provisions pertaining to the Transmission Majoration Factor. The Commission in its order dated 6.5.2016 in Petition No. 18/TT/2014 directed the staff as under:-

“78. The petitioner has been availing promotional scheme of Transmission Majoration Factor (TMF) since COD, in accordance with Regulation 4.10A introduced vide Central Electricity Regulatory Commission (Terms & Conditions of Tariff) (First Amendment) Regulations, 2001, dated 21.9.2001 which were to remain in force for the entire life of the transmission project unless reviewed earlier or extended by the Commission. It is pertinent to mention that TMF was introduced to encourage private sector participation in transmission sector, however, subsequently a number of private players/JVs have entered into the area of transmission on or after 1st April 2004. The Commission is of the view that there is a need to review the impact of the promotional scheme of TMF and its continuation. Accordingly, Commission directs the staff to examine the issue and submit to the Commission.”

6. Accordingly, the staff of the Commission examined the matter on file and submitted a report to the Commission. Powerlinks which is the only company qualifying for TMF has recovered the following TMC since 2006-07 till 2013-14 as under:-

(₹ in lakh)

POWERLINK as a Whole									Total
Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	
Annual Transmission Charges	12268.83	25539.97	25345.46	26263.95	25589.07	24969.82	24311.77	23962.59	188251.46
10% Majoration Factor	1226.89	2554.00	2534.54	2626.39	2558.91	2496.98	2431.18	2396.26	18825.15
TOTAL	13495.72	28093.96	27880.01	28890.34	28147.98	27466.80	26742.95	26358.85	207076.61
									155800.06

7. The Commission after considering all relevant factors including the availability of tariff at competitive rates through competitive bidding process and the fact that Powerlinks has been sufficiently incentivised during the past 11 years through grant of TMF, has proposed to withdraw the benefits of TMF granted as per the 2001 Tariff Regulations with prospective effect. The Commission is of the view that this will

balance the interest of both the project developer availing TMF and that of the consumers. Accordingly, the Commission proposes to make the following provisions in the 2014 Tariff Regulations:-

"49A Transmission Majoration Factor

Transmission Majoration Factor allowed to transmission project executed through JV route in terms of Regulation 4.10A of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001 shall stand withdrawn with immediate effect."