

Central Electricity Regulatory Commission

New Delhi

Coram: **Shri A K Singhal, Member**
Shri A S Bakshi, Member
Shri M K Iyer, Member

No.-L-1/(3)/2009-CERC:

Dated: 28th March 2018

In the matter of

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, 2017

Statement of Reasons

1. The 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) Regulations, 2016 was issued vide notification dated 28.6.2016 along with detailed Explanatory Memorandum detailing the rationale for issuing the amendment.
2. Comments have been received from 49 stakeholders, organizations, and individuals, etc., which included State Power utilities, Central Electricity Authority (CEA), Central Transmission Utility (CTU), Power System Operation Corporation (POSOCO), DISCOMs, Open Access Associations and power producers associations, Solar Associations, SRPC, trading companies, Power Exchange, Inter-state transmission licensees, generating companies in central sector and private sector. Thereafter, the Commission conducted public hearing on 17.11.2016. Eight (08) organizations/ individuals including POSOCO, CTU, generating companies and trading companies made oral submissions or presentations during the public hearing. List of stakeholders who submitted written comments and who made oral submissions/power

point presentation during the public hearing is given at *Appendix-I & Appendix-II* respectively.

3. After due considerations of the comments/ suggestions/ objections received and detailed discussions with the statutory authorities like Central Electricity Authority and Central Transmission Utilities as well as POSOCO, the Commission has finalized and notified the 6th Amendment to the Connectivity Regulations.

4. Consideration of the views of the stakeholders and analysis and findings of the Commission on important issues:

The amendments proposed in the draft regulations, deliberation on the comments/ suggestions offered by the stakeholders, statutory bodies and individuals, etc., on the proposed amendments and the reasons for decisions of the Commission are given in the succeeding paragraphs. While an attempt has been made to consider all the comments/suggestions received, the names of all the stakeholders may not appear in the deliberations.

5. Sub-clause (l) of clause (1) of Regulation 2

5.1. Sub-clause (l) of clause (1) of Regulation 2 of the Principal Regulations was proposed to be substituted as under:

“(l) “long-term access” means the right to use the inter-State Transmission system for a period exceeding 7 years but not exceeding 25 years;”

5.2. The Commission had given following rationale while proposing amendment to sub-clause (l) of clause (1) of Regulation 2 of the Principal Regulations:

“Long term access is currently provided for a period of 12 years up to 25 years. It is proposed that minimum period of long term access be reduced from 12 years to a period of 7 years to align it with long term contracts as provided in "Guidelines for Determination of Tariff by Bidding Process for

Procurement of Power by Distribution Licensees dated 19th January, 2005 as amended from time to time" which provides as follows:

"Long-term procurement of electricity for a period of 7 years and above;"

5.3. Comments have been received from CEA, POSOCO, POWERGRID, Tata Power Trading Corporation Limited (TPTCL), KSEBL, MB Power, Malana Power company Limited (MPCL), AD Hydro Power Limited, J. Sagar Associate (JSA), GUVNL, Jindal Stainless (Hisar) Ltd., Vedanta Limited, Shri Ravinder and WBSEDCL.

5.3.1. Sh. Ravinder, TPTCL, WBSEDCL, MPCL, ADHPL and Vedanta have welcomed the amendment.

5.3.2. CEA, KSEBL, GUVNL, Jindal Stainless (Hisar) Ltd. and POWERGRID have submitted that generally principal amount of debt is paid back in at least 12 years. Therefore, LTA should be at least for 12 years or more.

5.3.3. TPTCL has requested to consider the tenure of Long term PPAs in case of Hydro Power Projects for a period up to 35 years as per the Tariff Policy notified on 28.1.2016.

5.3.4. POWERGRID, WBSEDCL and MPCL have suggested to revisit the provision related to relinquishment under Regulation 18 to align with the reduction in the LTA period as per the proposed amendment.

5.4. **Analysis and decision:**

5.4.1. We have considered the comments of stakeholders.

5.4.2. With regard to comments of CEA, KSEBL, GUVNL, Jindal Stainless (Hisar) Ltd. and Shri Ravinder that generally principal amount of debt is paid back in at least 12 years and therefore, minimum period of LTA should be at least for 12 years or more, it may be noted that recovery of transmission charges for ISTS assets after being put to use is governed by the CERC (Sharing of inter-State Transmission Charges and Losses)

Regulations, 2010 whereunder the transmission charges are paid by users as per the usage of ISTS. Since the period of Long Term PPA has been prescribed in the Tariff Policy for 7 years and above, the Commission has considered it prudent to align the minimum period of LTA with that of the minimum period of PPA.

5.4.3. TPTCL has suggested to prescribe the upper limit of LTA in the light of the , the upper limit of LTA has been removed. CTU may grant LTA for a period of 7 years or more as sought by Applicants and as per availability of ISTS.

5.4.4. The comments of POWERGRID, WBSEDCL and MPCL on Regulation 18 related to relinquishment charges to align with period of LTA have been noted and shall be considered when need arises.

5.4.5. Accordingly the definition of “long-term access” has been modified as under:

“(l) “long-term access” means the right to use the inter-State Transmission system for a period exceeding 7 years.”

6. Sub Clause (o) of clause (1) of Regulation 2

6.1. Sub Clause (o) of clause (1) of Regulation 2 of the Principal Regulations was proposed to be substituted as under:

“(o) Medium-Term Open Access means the right to use the inter-State Transmission system for a period equal to or exceeding 1 year but not exceeding 5 years;”

6.2. **Comments have been received from CEA, POWERGRID, TPCIL, IEX, Jindal Stainless (Hisar) Ltd., KSEBL, TPTCIL and Vedanta Limited:**

6.2.1. CEA and POWERGRID have submitted that the period of MTOA should be equal to or exceeding 3 months but not exceeding 1 year. CEA has commented that 5 years period for MTOA is a very large period and it is impractical to carry out simulation for such long period to say with certainty that MTOA would serve on the existing system.

- 6.2.2. POWERGRID has submitted that the proposed amendment will expand the time frame of MTOA and thus making MTOA similar to LTA. But the liability towards payment of relinquishment charges for MTOA is capped at a maximum of 30 days. Accordingly, the provisions for relinquishment charges in case of MTOA may be revisited.
- 6.2.3. MPCL, TPCIL and MB Power have submitted that the MTOA should be for a period equal to or exceeding 1 year but period equal to or not exceeding 7 years.
- 6.2.4. TPTCL has submitted that considering the fact that more DISCOMs are moving towards buying power on short term, the period of MTOA may be kept same as per the present regulations.
- 6.2.5. Jindal Stainless (Hisar) Ltd. has submitted that the proposed amendment does not have adequate merit as the problem being faced with the existing provision has not been brought out.
- 6.2.6. IEX has submitted that the MTOA application process should be structured and standardized on the same lines as STOA. MTOA should be operationalized from 1st April next year (i.e. applications made minimum five months prior to start of MTOA). No new MTOA applications should be entertained after closure of window, i.e. 31st October and thereafter capacity should be allocated under short-term.
- 6.2.7. KSEBL has requested that the minimum period of MTOA may be retained as 3 months or the maximum period of STOA may be made as 1 year by modifying the regulations on STOA.

- 6.2.8. Vedanta Ltd. has submitted that the MTOA period should be from 3 months to 5 years.
- 6.2.9. Shri Ravinder has supported the proposed amendment. He has also suggested the Commission to consider standard 1 year MTOA contract from January to December or April to March up to a total of 5 years to streamline power bidding in the market and optimize the utilization of transmission.
- 6.2.10. JSA has submitted that either the definitions of MTOA and LTA should be revised to not leave any gap or a provision ensuring continuity or extension may be provided for in the Regulations. JSA has also requested to consider conduct of the customer during the tenure of allotment and accordingly, preference in allotment of extension may be given to compliant customers over defaulters.

6.3. **Analysis and decision:**

- 6.3.1. We have considered the comments of stakeholders. Presently, medium-term open access has been defined as right to use ISTS for a period equal to or exceeding 3 months but not exceeding 3 years. The draft amendment was proposed to modify the period of MTOA equal to or exceeding 1 year but not exceeding 5 years to align it with medium term contracts as provided in Guidelines for Procurement of Electricity for Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis dated 10.2.2016.
- 6.3.2. Shri Ravinder has supported the proposed amendment. However, he has opined to consider standard 1 year MTOA contract from Jan-Dec or April-Mar up to a total of five years in order to streamline power bidding in the market and optimize the utilization of transmission system. Similar comment has also been given by IEX. In this regard it is clarified that the existing MTOA application process provides flexibility to customers as per their requirement and is working well and hence the suggestion of considering standard contract is not considered suitable as of now.

6.3.3. We do not agree with CEA's comments that 5 years period for MTOA is a very long period and it is impractical to carry out simulation for such long period to say with certainty that MTOA would serve on the existing system. We observe that presently, CTU is granting LTA in few cases where no transmission system augmentation is envisaged for a period of 12 years and more. Granting of MTOA is for a lesser period of upto 5 years.

6.3.4. POWERGRID has suggested that with the proposed amendment, MTOA will be similar to LTA; however, the liability toward relinquishment charges for MTOA is capped at a maximum of 30 days and the same may be revisited. We have not proposed any amendment for relinquishment charge for MTOA. Hence any suggestion in this regard is outside the scope of present amendment.

6.3.5. Regarding the comments of Malana Power, Thermal Powertech and MB Power that MTOA should be for a period equal to or exceeding 1 year but period equal to or not exceeding 7 years and that of Vedanta that MTOA period should be from 3 months to 5 years, it has already been clarified in the Explanatory Memorandum that this amendment has been proposed to align period of MTOA with the period of medium term contracts as provided in Guidelines for Procurement of Electricity for Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis dated 10.2.2016. Further it was explained in the Explanatory Memorandum to draft Regulations that “keeping in view the contracts in current market scenario, the period of MTOA has been proposed as 5 years. However, in case of PPA signed for a period of 6 years, an Applicant may take Long term Access for 7 years or it may obtain MTOA for 5 years subject to the condition that no overriding priority shall be provided for renewal on expiry of term of MTOA . Accordingly the Clause is retained as proposed in the draft amendment with respect to maximum allowed period for MTOA as 5 years.

6.3.6. KSEBL and TPTCL have suggested that with the increase in minimum period for MTOA from 3 months to 1 year, utilities/traders will face problem in short term power transactions for a period up to 1 year as STOA has lowest priority in corridor allocation but highest priority in curtailment. Keeping in view comments of KSEBL and TPTCL, minimum period for which MTOA can be availed has been retained as 3 months.

6.3.7. With regard to suggestion of J Sagar Associates (JSA) comments, it is clarified that in case of PPA of 6 years, the applicant may opt for LTA of 7 years or may opt for MTOA of 5 years subject to no overriding preference for renewal on expiry of term of MTOA as provided the regulations. If it opts for MTOA for 5 years, it can apply for MTOA for the 6th year as per the timeline prescribed in the Regulations.

6.3.8. Accordingly the definition of “Medium-Term Open Access” has been modified as under:

“(o) Medium-Term Open Access means the right to use the inter-State Transmission system for a period equal to or exceeding 3 months but not exceeding 5 years;”

7. Clause (8) of Regulation 8

7.1. Clause (8) of Regulation 8 of the Principal Regulations was proposed to be substituted 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:

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 such that 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.

Provided that where the dedicated transmission lines have already been constructed/are under construction by CTU under coordinated transmission planning,

(a) the transmission charges for such dedicated transmission lines shall be payable by the concerned generating company to the transmission licensee (including deemed transmission licensee) from the date of COD of the dedicated line till operationalisation of LTA of the generating station of the generating company:

(b) 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.”

7.2. Comments have been received from CEA, POSOCO, POWERGRID, GUVNL, Hindustan Power, APP, MPCL, MB Power, NTPC, NHPC, SEL, Adani Power, DB Power, JITPL, Essar Power, Hero Future Energris, J Sagar Associate, Jindal Stainless (Hisar) Ltd., and Vedanta Ltd.

7.2.1. CEA has submitted that the dedicated transmission line is necessarily to be built, owned and operated by generating station and its cost is not to be included in the POC pool. Including such lines into POC pool would also be against Section 41 of the Act. Further, ensuring the proposed amendment would result in comparatively very heavy investment and/or stranded transmission assets.

7.2.2. POSOCO has welcomed the proposed amendment considering intent of the Act and Judgment of the APTEL and has submitted that the generators must be made to bear the transmission charges for the dedicated portion of the transmission line connecting the generating station to the pooling station, irrespective of whether the lines are constructed by themselves or by CTU/ISTS licensee.

7.2.3. POWERGRID has submitted that the length of the dedicated transmission line depends on a number of variables such as (i) location of generating station; (ii) location of pooling station; (iii) route length to be adopted by the implementing agency of dedicated line, etc. There may be cases, especially in Green Field Generation Plants, where in order to limit the length of the dedicated transmission line, CTU may need to plan a pooling station within a radius of 100 km from the proposed generating plant and additional transmission system for inter-connecting this pooling station with the existing ISTS grid. Therefore, length of dedicated line may be indicated as around 100km. There are many cases, where the generator has applied for connectivity with the grid, but has not applied for LTA. Further, the operationalisation of LTA may be contingent upon commissioning of a number of transmission lines and/or establishment of payment security mechanism, etc. Therefore, inclusion of dedicated line in PoC charges should not be linked with operationalisation of LTA. POWERGRID has further submitted that:

- (a) Considering the investment required for construction of transmission lines, existing BG of Rs. 5 lakh/MW is very less. Therefore, the quantum of BG ought to have been substantially higher.
- (b) Linking the recovery of transmission charges with the operationalization of LTA shall expose the transmission licensees to the risk of payment recovery as the generation project may be abandoned or delayed inordinately.
- (c) Transmission charges for dedicated transmission lines should be included in the PoC from COD of such dedicated transmission line. The construction BG of such defaulting generators should be encashed and returned back to pool to compensate for some of the transmission charges of the dedicated line.
- (d) A provision for raising separate bills upon the generator may be made so that the payments if any received from such defaulting generators can be returned back to the pool. Such generators should not be allowed to connect to the grid in future without clearing their pending dues.

- (e) Necessary provisions may be incorporated for obligating the generators granted connectivity for intimating the CTU about the delays/abandonment of generating units/stations/projects and cancellation of connectivity of defaulting generators.
- (f) A provision may be inserted wherein if the generator who has been granted connectivity shall be required to approach CTU for construction of bays at least two years before the scheduled date of connectivity. In case of default, the grant of connectivity shall be revoked without any liability and the bays earmarked for the given generator shall be allocated to other applicants.

7.2.4. GUVNL has welcomed the proposed amendment and submitted the transmission charges of dedicated line should be borne by the generator connected to the line for useful life of the project and the same should not be made part of PoC Pool even after operationalization of LTA.

7.2.5. NHPC has submitted that construction of dedicated transmission line should not be treated as a separate project to be executed by generating companies for the purpose of transmission charges and losses. It has sought clarification whether the generating company will be treated as deemed transmission licensee or separate license should be issued by the Commission in case of construction of dedicated lines by the generating companies and a separate petition may be required to file for tariff of dedicated transmission line.

7.2.6. NTPC has submitted that in case of CGS/CPSUs like NTPC, NHPC, etc., where the power is being allocated by Ministry of Power(GoI), creation of stranded asset due to abandonment by generating company has no relevance and no such situation has been encountered till date. Therefore, CGS/CPSUs where power is allocated by GoI may be exempted with regard to construction of the dedicated line by the generator. NTPC has further submitted that:

- (i) As regards the coordination with generator is concerned through JCC, IA and TSA as applicable would be required since financial risk involved due to delay of generation project is not completely mitigated with the enactment of proposed regulation for dedicated transmission line.
- (ii) The cases of abandonment by generators (other than CGS) can be dealt with by suitably enhancing the construction BG in such a manner to recover the transmission charge for the period for which LTA/PPA has been applied/signed. The encashment of BG should be linked with coordinated development of generation project and associated ATS.
- (iii) Consideration of power plant availability and metering of power at generating switchyard as schedule generation for station.
- (iv) In the event the dedicated transmission line is required to be LILLOed or the Asset loses its dedicated nature or becomes deemed ISTS, in such situation tariff of dedicated transmission line may be recovered through POC.
- (v) There is need for re-considering the maximum length of dedicated line up to 20km that may be built and owned by generating company.

7.2.7. Hindustan Power has submitted that when cost of dedicated transmission line is to be borne by generator, it has to form part of project cost, which may not have been contractually agreed with buyers in existing contracts. Further, doing it for all future projects would be discriminatory as earlier projects have not borne the cost of the dedicated transmission line. Therefore, a provision may be included for alignment of contracts with amended regulations. The provision of CTU's responsibility for construction of transmission line may be retained with option being given to generator to construct the dedicated transmission line itself and commercial implications of either side may be suitably incorporated in the regulations. The charges for dedicated transmission line should not be levied on the generator when (i) LTA has not been operationalized even though dedicated transmission line has achieved CoD and (ii) the generator itself has constructed the transmission line.

- 7.2.8. Association of Power Producers (APP) has submitted that the maximum length of dedicated transmission line may be kept as 50 km from switchyard of the generating station till the nearest pooling substation. Further, 2nd proviso to Clause (8) of Regulation 8 of the Principal Regulations should also include dedicated lines which have already been approved & BPC appointed/ constructed /are under construction by party selected through competitive bidding under coordinated transmission planning. APP has suggested that the dedicated line being constructed by the CTU should be considered as a part of POC from the COD of the transmission line instead of the operationalization of LTA and in case infrastructure for evacuation from pooling station is not complete to the target region/beneficiary then, transmission charges for dedicated transmission line shall not be levied even if its construction is complete.
- 7.2.9. MPCL has submitted that the said proposal of the Commission is not in terms of the law. Therefore including the dedicated transmission line in POC Pool and payment of transmission charges as per Sharing Regulations will cause prejudice to other constituents.
- 7.2.10. SEL has submitted that the charges even for dedicated transmission line are payable only if there is a delay in COD of the generator against the scheduled COD date and not payable if COD of the generator is achieved by scheduled date and the common transmission network is not completed/power not getting scheduled even in STOA due to non-availability of margins within the existing system.
- 7.2.11. MB Power has submitted that the draft amendment should be 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, the concerned generating company shall not be made liable to pay any transmission charges for dedicated transmission line for such idle period.

7.2.12. Adani Power Limited has submitted that only those generators who fulfill criteria for "Dedicated Transmission Line" should be asked to construct such line, else it should be constructed as a licensed line through competitive bidding only.

7.2.13. DB Power has submitted that maximum length of dedicated transmission line should not exceed 50 km from switchyard of the generating station till the nearest pooling substation of transmission licensee.

7.2.14. JITPL has submitted that the dedicated transmission line being constructed by the CTU should be considered as a part of POC from the COD of the transmission line instead of the operationalization of LTA.

7.2.15. Essar Power has submitted that the maximum length of dedicated transmission line should be in the range of 30-50 km as any generating company lacks the expertise to construct a transmission line and the dedicated transmission line being constructed by the CTU should be considered as a part of POC from the COD of the transmission line instead of the operationalization of LTA.

7.2.16. JSA has submitted that as per the judgment of the APTEL in Appeal No. 145 of 2011, there should be a provision enabling a generating company to take the aid of the CTU in constructing the dedicated transmission line on a "deposit work" basis.

7.2.17. Hero Future Energies has submitted that wind and solar power plants selling power under competitive bidding process as provided in the National Tariff Policy and its amendment dated 30.9.2016 may be exempted from payment of transmission charges for dedicated transmission lines from the date of COD of the dedicated line till operationalisation of LTA of the generating station.

7.2.18. Jindal Stainless (Hisar) Ltd. has submitted that once the dedicated line is constructed by CTU under coordinated transmission planning, the individual generating company should not be asked to pay transmission charges and it should be a part of the POC pool as that of other lines. Only if the generating company requests for execution by CTU, then these charges may be levied on the generating company.

7.2.19. Vedanta Ltd. has submitted that large power plants are nodal points for the transmission system and therefore, transmission system should be planned and executed by PGCIL only.

7.3. **Analysis and decision:**

7.3.1. We have considered the comments of stakeholders. Vide the draft amendment, the Commission proposed that the applicant generating company shall develop, own and operate the dedicated line from generating station to the pooling station and CTU shall plan the sub-station in such manner that maximum length of dedicated line shall not exceed 100 km from switchyard of the generating station till the nearest pooling substation. It was also proposed that in case dedicated lines have already been constructed/under construction by CTU under coordinated transmission planning, the transmission charges for such dedicated line shall be payable by the concerned generating company to the transmission licensee (including deemed transmission licensee) from COD of the dedicated line till LTA of the concerned generating company is operationalized post which the transmission charges for such dedicated transmission line shall be included in the POC pool.

7.3.2. With regard to said amendment, comments have been received on four accounts viz. construction of dedicated transmission line by the concerned generating company, length of dedicated line, inclusion of transmission charges of dedicated transmission line PoC pool and metering of power when the concerned generating company develops the dedicated line. Comments on the aforesaid issues have been analyzed as under:

7.3.3. Analysis of comments on construction of dedicated transmission line by the concerned generating company:

(a) POSOCO and GUVNL have welcomed the proposed amendment.

(b) Adani Power has submitted that only those generators who fulfill criteria for "Dedicated Transmission Line" should be asked to construct such line. In this regard it is clarified that the lines emanating from Switchyard of a generating station till nearest pooling station shall be developed, owned and operated by generating company. The specification of such line shall be indicated by CTU while granting Connectivity or Long term Access or Medium Term open access.

(c) With regard to NHPC submission that whether the generating company will be treated as deemed transmission licensee or separate license will be issued by the Commission in case of construction of dedicated lines by the generating companies, it is clarified that under the Electricity Act 2003, transmission license is not required for construction of dedicated transmission line by a generating company.

(d) With regard to NTPC submission that CGS/CPSUs where power is allocated by GoI should be exempted from construction of dedicated line, it is clarified that no such exemption has been considered based on type of generating company.

(e) Hindustan Power has suggested that transmission line planning, financing, construction and operation are different activities and enforcing this for all future projects would be discriminatory as earlier projects have not borne the cost of transmission line. The rationale for bringing out the amendment was elaborated in the Explanatory Memorandum issued with draft amendment. Hence we do not agree with suggestions of Hindustan Power that the generators should not be asked to construct the dedicated transmission line only because in a few cases dedicated transmission lines were constructed by CTU as part of coordinated transmission planning. It is the duty of the generating company under the Act to build the dedicated transmission lines and enforcing the said provisions through the proposed amendment cannot be held to be discriminatory.

7.3.4. Analysis of comments on length of dedicated line:

POWERGRID has submitted that strict limit of 100 km should not be imposed. APP and NTPC have submitted that maximum length of dedicated line should not be more than 50 km. We are of the view that a generator can be reasonably expected to make the dedicated transmission line upto 100km and accordingly CTU should plan its sub-station. Accordingly, we have retained the length limit of 100 km as proposed in the draft regulations.

7.3.5. POWERGRID has raised the issue of abandonment of the project by the generator and consequent payment risk of the licensee. In this regard it is clarified that we have already made a provision for all future dedicated lines to be in the scope of generating company. Only the dedicated lines already constructed/or under construction are to be included in POC post operationalization of LTA of the generator. As regards the payment risk, POWERGRID is entitled to invoke the recourse available under the Regulations and as per law. The Commission is also of the view that execution of transmission lines should match with the execution of the generation projects of LTA Customers. This was emphasized in our Order in Petition No. 233/2009 and subsequent Orders of the Commission. We

are not inclined to consider the suggestion that a dedicated line be included in POC pool when generator has abandoned or is delayed.

7.3.6. CTU has suggested that the generator be mandated to approach CTU at least two years prior to scheduled date of Connectivity for construction of associated bays and in case of default, connectivity should be revoked. We have noted the suggestion. In fact, the Commission has published the draft CERC (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017 and shall consider the suggestion appropriately while finalizing the same.

7.3.7. Analysis of comments inclusion of transmission charges of dedicated transmission line construction/under construction by CTU in PoC pool:

(a) CEA, POSOCO and GUVNL have submitted that the generators must pay for the transmission charges for the dedicated portion of the transmission line irrespective of whether the lines are constructed by themselves or by CTU/ISTS licensee. We observe that once a generator has declared COD and is under LTA, the generator or its identified buyer shall be liable to pay transmission charges for the ISTS which is calculated on the basis of POC mechanism which is sensitive to distance, direction and usage. Once such usage is captured, the charges for the line shall be levied on the user of the line. Hence we are not inclined to consider suggestion of POSOCO for licensed lines as of now.

(b) POWERGRID has submitted that recovery of transmission charges of dedicated lines should not be linked with operationalization of LTA as operationalization of LTA is contingent upon commissioning of a number of transmission lines other than dedicated line, establishment of payment security mechanism, etc., Jindal Stainless (Hisar) Ltd, APP and other generators have submitted that dedicated line being constructed by the CTU should be considered as a part of POC from the COD of the transmission line instead of the operationalization of LTA. It is clarified that till the operationalization of LTA, a generator or

its identified buyer(s) are not liable to pay transmission charges on a long term basis. It is not prudent to include the charges for dedicated transmission line on other users of ISTS. Hence we retain the draft amendment that concerned generator shall be required to pay transmission charges for the dedicated line constructed /under construction by CTU under coordinated transmission planning till operationalization of LTA post which the dedicated line shall become part of PoC.

- (c) Hindustan Power and few other generators have submitted that in case dedicated line has been commissioned by CTU but LTA granted to them have not been operationalized because of delay in commissioning of associated transmission system by POWERGRID, levy of transmission charges of dedicated transmission line on generator is absolutely unwarranted as the dedicated line wouldn't serve any purpose during such idle period. In this regard it is clarified that dedicated lines have been constructed by CTU to provide Connectivity to the generating station and hence its commercial treatment is not linked with LTA. In case such lines have been built only as a part of LTA, and CTU doesnot operationalize the LTA (part or full as per the applicable Regulations), adequate recourse is available in the LTA Agreement which can be invoked to settle the dispute.
- (d) With regard to Hero Future Energies submission that wind and solar power plants may be exempted from payment of transmission charges for dedicated transmission lines from the date of COD of the dedicated line till operationalisation of LTA of the generating station, it is clarified no such exemption shall be given to any type of generators.

7.3.8. Analysis of comments on metering of power when the concerned generating company is required to be developed the dedicated line:

NTPC has suggested that metering of power should be at the bus bar of the generating station. We observe that issue is under consideration of Commission and provision in this regard have been proposed in draft CERC (Grant of Connectivity and General Network Access to the inter-

State transmission system and other related matters) Regulations, 2017 and shall be considered as per the comments of stakeholders.

- 7.3.9. Hindustan Power has suggested that a provision may be included for alignment of contracts with amended regulations. In this regard it is clarified that the parties should align their contracts as per mutual agreement and as per Regulations.
- 7.3.10. With regard to submission of APP that dedicated transmission lines already been approved and under implementation by party selected through competitive bidding under coordinated transmission planning, should also be included in 2nd proviso to clause (8) of the regulation 8 of the Principal Regulations, it is clarified that the said amended provision shall also be applicable to dedicated transmission lines already been approved and under implementation by party selected through competitive bidding under coordinated transmission planning.
- 7.3.11. JSA has suggested to include a provision to enable CTU to build the dedicated line on deposit work basis. In this regard it is clarified that a generator may get its line constructed with the agency it wishes to do as per law. No provision is required to be included in the regulations in this regard.
- 7.3.12. Vedanta Ltd. has submitted that large power plants are nodal points for the transmission system and therefore, transmission system should be planned and executed by PGCIL only. The suggestion in this regard shall be considered while finalizing draft CERC (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017.

7.3.13. Accordingly, Clause (8) of Regulation 8 of the Principal Regulations is substituted 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 or Long term Access or Medium term Open Access: 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 such that 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:

Provided that where the dedicated transmission lines have already been constructed/are under construction by CTU under coordinated transmission planning, the following shall apply:

(a) The transmission charges for such dedicated transmission lines shall be payable by the concerned generating company to the transmission licensee (including deemed transmission licensee) from the date of COD of the dedicated line till operationalisation of LTA of the generating station of the generating company:

(b) 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.”

8. Clause (2) of Regulation 9

8.1. Clause (2) of Regulation 9 of the Principal Regulations was proposed to be substituted as under:

In Clause (2) of Regulation 9 of the Principal Regulations, the words "or the transmission system under execution" shall be deleted.

8.2. Comments have been received from Hindustan Power, JITPL, APP, Adani Power, NVVN, Jindal Stainless (Hisar) Ltd. and MB Power, Vedanta Ltd.:

8.2.1. Hindustan Power has submitted that the reasons for unforeseen delays cited by CTU are rare and case specific, not general. There may be some provisions for handling specific cases. The removal of these words gives infinite time to CTU to complete scheme under execution. There is no harm in retaining the existing provision, which promotes open access.

- 8.2.2. JITPL and Vedanta Ltd. have submitted that if ‘transmission system under execution’ is deleted from the regulation, it would be impossible for a generator to even get a hope to get MTOA.
- 8.2.3. APP and Adani Power Limited have submitted that the concern of delay in execution of any specific transmission system may be addressed by incorporating provision that MTOA is subject to operationalization of specific transmission system and in case of delay, grant of MTOA shall also be postponed to that extent without any contingent liability on the part of any of the stakeholders.
- 8.2.4. NVVN has submitted that MTOA may be granted on the transmission capacity available, but for balance quantum, not granted, the MTOA application may be kept on hold by CTU for the period of MTOA applied and in case there is any increase in ATC during this MTOA period the same may be granted to the applicant as per the approved procedure.
- 8.2.5. Jindal Stainless (Hisar) Ltd. has submitted that the proposed amendment will result in restricted grant of MTOA and resultant redundancy or insufficient use of the transmission system.
- 8.2.6. MB Power has submitted that 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. Therefore, restricting grant of MTOA only on the existing margins will defeat the whole purpose of MTOA.

8.3. **Analysis and decision:**

- 8.3.1. We have analyzed the submissions of the stakeholders. The existing regulations provide for grant of MTOA if resultant power flow due to the said MTOA can be accommodated on the existing transmission system or the transmission system under execution. The draft amendment proposed to grant MTOA if resultant power flow due to the said MTOA can be accommodated only on the existing transmission system.
- 8.3.2. The stakeholders have opposed the said amendment citing difficulties that in case the existing provision of grant of MTOA on the transmission system under execution is deleted, it will become almost impossible for a generator to get MTOA. In this regard, it was provided in the Explanatory Memorandum that CTU has expressed difficulties in grant of MTOA on the

transmission system under execution on account of uncertainties in execution of transmission lines due to issues like RoW, delay in environmental clearances, etc., making it difficult to calculate margins while deciding ATC for grant of MTOA and in case of delay in execution of transmission system, there are delay in start of MTOA. We observe that CEA monitors the execution of transmission lines and transmission licensees submit periodic report of status of execution of their lines to CEA. In case a transmission line is expected to be completed within 6 months, we feel that there is reasonable certainty that it shall be completed. Hence such lines should be considered while granting MTOA.

- 8.3.3. Considering comments of generators as well as concerns of CTU, the existing Regulations have been modified to include lines "expected to be commissioned within next 6 calendar months as per the status reported to CEA". CTU should make realistic estimate of capacity under execution and monitor the same for timely completion.
- 8.3.4. The status of lines shall be considered as submitted to CEA by the licensee or in the event it is not submitted shall be as available with CEA. The period of next 6 months shall be considered as next 6 calendar months. For example, if CTU is processing MTOA applications received in month of September 2017 in month of October 2017, it shall consider lines expected to be commissioned from 1st November 2017 to 30th April 2018.
- 8.3.5. Accordingly, in Clause (2) of Regulation 9 of the Principal Regulations, the words "expected to be commissioned within next 6 calendar months as per the status reported to CEA" shall be added after words "or the transmission system under execution".

9. Addition of new Clause after Regulation 15

- 9.1. Following Clause was proposed to be added after Regulation 15 of Principal Regulation:

“15B. Firming up of Drawl or Injection by LTA Customers:

The Long Term Access Customer who has been granted long term access to a target region shall, after entering into power purchase

agreement for supply of power to the same target region for a period of not less than one year, notify the Nodal Agency about the power purchase agreement along with copy of PPA for scheduling of power under LTA:

Provided that scheduling of power shall be contingent upon the availability of last mile transmission links in the target region:

Provided further that on receipt of the copy of the PPA, CTU shall advise concerned RLDC for scheduling of power at the earliest, but not later than a period of one month:

Provided also that if the capacity required for scheduling of power under LTA has already been allocated to any other person under MTOA and/or STOA, then MTOA and/or STOA shall be curtailed in accordance with priority for curtailment in accordance with Regulation 25 of these Regulations corresponding to the quantum and the period of the PPA:

Provided also that when capacity under existing MTOA are curtailed for considering scheduling of power under the PPA of the Long term Access Customer, such MTOA customer shall be permitted to relinquish its MTOA without any relinquishment charges.”

- 9.2. Comments have been received from POSOCO, POWERGRID, CEA, APP, TPCIL, Hindustan Power, SEL, KSEBL, Essar Power, NTPC, TPTCL, Jindal Stainless (Hisar) Ltd., WBSEDCL and Vedanta Ltd.:
- 9.2.1. POSOCO has submitted that the period of PPA should be at least for 7 years for scheduling under LTA other-wise contracts for shorter term would be submitted for scheduling under LTA. POSOCO has also suggested that LTA start time should be at least 3 months after date of submission of PPA, so that it does-not clash with STOA timelines. Implementation of proposed amendment may require suitable amendments in Open access in inter-state transmission Regulations, Procedure for making application for grant of LTA/MTOA and other related Regulations.
- 9.2.2. NTPC has submitted that the requirement of PPA duration for more than 1 year for LTA customer having LTA in target region should not be there.
- 9.2.3. POWERGRID has submitted that when the LTA customer whose LTA is yet to be started, firms up a PPA, then the customer chooses to avail

MTOA in the intervening period. Upon completion of transmission system, his LTA can be operationalised for which it is required to relinquish MTOA. Under such situation also, the relinquishment charges may not be levied.

- 9.2.4. CEA has submitted that the period of PPA should not be less than 5 years and the start date for scheduling should not be earlier than 5 months from submission of PPA and not later than 1 year from the last day of the month in which PPA was submitted. Further, scheduling of such power should be contingent upon the availability transmission capacity to serve the PPA.
- 9.2.5. Hindustan Power has submitted that since the last mile transmission links in the target region are generally within the domain of State Utilities, a provision may be included laying responsibility on both CTU and State Utilities to co-ordinate with each other for timely availability of both Central and State links. In case of failure to provide the requisite link, responsibility may be fixed and financial implication may be passed on to the responsible Central/State Utility.
- 9.2.6. APP has submitted that in such cases where the capacity required for scheduling of power under LTA has already been allocated to any other person under MTOA/STOA, then the original LTA consumer should not be liable to pay LTA charges for the same capacity already allocated under MTOA/STOA. LTA should commence only after the expiry of the existing MTOA/STOA contracts.
- 9.2.7. SEL has submitted that a proviso similar to fourth proviso under regulation 15B may be provided for STOA customers also.
- 9.2.8. ESSAR Power has submitted that the proposed amendment would create uncertainty in the existing MTOA/STOA contracts as it may be curtailed anytime leading to financial implications on the generator. The Commission is requested to direct the CTU to undertake Transmission planning for STOA/power exchange/MTOA.
- 9.2.9. Jindal Stainless (Hisar) Ltd. has submitted that it has to be kept in view that the MTOA is left in lurch because of the PPA not having been signed by the LTA customer in time.

- 9.2.10. KSEBL has submitted that the proposed amendment will create issues at the time of bid evaluation.
- 9.2.11. TPTCL has submitted that it is not clear whether proposed new regulation intends that LTA customer would not need to re-apply for MTOA or the intent here is to give LTA customer only a preference in MTOA allocation. Further, the new proposed regulation should also include the role of a trading licensee in case of LTA granted to a generator and Trader has a PPA/PSA with that generator and a buyer, for more than one year. In this regard, scheduling of power under LTA through Trader/Generator and offset facility for Injection and Withdrawal POC charges should be allowed.
- 9.2.12. TPCIL has welcomed the proposed amendment. Further, in case the LTA Customer having LTA to a target region and has not operationalized shall enter into MTOA for the same target region/beneficiary as LTA to serve the PPAs and in such case during the term of MTOA, if LTA has been operationalized, the MTOA will be permitted to relinquish without any relinquishment charges.
- 9.2.13. WBSEDCL has sought clarification in respect of reference of computation of "period of not less than one year" is required to be incorporated.

9.3. **Analysis and decision:**

- 9.3.1. We have analyzed the comments given by stakeholders.
- 9.3.2. Thermal Powertech is in agreement with the proposed amendment.
- 9.3.3. Some stakeholders have submitted that in case LTA of an LTA customer has not been operationalized for want of the commissioning of transmission system firms up a PPA and chooses to avail MTOA in the intervening period against the transmission capacity available under target LTA, the LTA customer is required to relinquish MTOA and pay relinquishment charges up on operationalization of LTA. Keeping in view suggestions of stakeholders, suitable amendment have been introduced in this regard.
- 9.3.4. Some stakeholders have submitted that sudden curtailment of MTOA on requirement of LTA customer would lead to uncertainty and adverse financial implications. In this regard it is clarified that planning of

transmission system is done based on the system requirements by LTA customers and MTOA/STOA is granted on the margins available in the system. Therefore, as and when an LTA customer signs PPA for a period of one year or more in the same target region, shall be given priority in scheduling as per the proposed amendment. Hence priority has to be provided to LTA Customers for whom the system was created. We had provided rationale for introducing this amendment vide the Explanatory Memorandum as follows:

“It may happen that transmission capacity created for a LTA customer to target region has been allocated under MTOA/ STOA as per prevailing Regulations. Since LTA customer is liable to pay transmission charges for the capacity created for him, it must be given priority to avail such capacity when he is able to firm up buyer through PPA. Accordingly it has been provided that existing MTOA /STOA availing such corridor which was created for LTA customer shall be curtailed to accommodate scheduling for such LTA customer. “

- 9.3.5. We do not agree with suggestion of CEA that scheduling priority should be given only if LTA customer enters into PPA for minimum 5 years. It is observed that Utilities are signing contracts for 1-3 years and LTA Customers who are liable to pay long term transmission charges are not getting any scheduling priority.
- 9.3.6. APP has stated that since there is significant time gap between signing of long term PPA and commencement of supply, LTA should commence after expiry of existing MTOA/ STOA contracts. In this regard it is clarified that curtailment of MTOA /STOA shall be carried out with due regard to schedule of commencement of PPA.
- 9.3.7. Tata Power Trading Company Ltd. (TPTCL) has sought clarification regarding start of scheduling for a long term customer who enters into medium term contract. It is clarified that the intent of the proposed regulation is to give priority in scheduling when an LTA customer having LTA in target region signs PPA for a period of 1 year or more in the same target region. Such Customer is not required to apply for separate MTOA. If the same LTA customer signs PPA for a period of 1 year or more in a

region other than the target region, the LTA customer shall have to apply for MTOA afresh as per the regulations.

- 9.3.8. TPTCL has also sought clarification regarding curtailment of MTOA for MTOA customers who are having only MTOA vs customers who have been granted LTA but whose LTA has not been operationalized and are availing MTOA. In this regard it is clarified that till LTA is operationalized, all MTOA customers are on equal footing and they shall be curtailed as per extant Regulations.
- 9.3.9. TPTCL has suggested that in case LTA is granted to generator and a trader enters into PPA/PSA with that generator and a buyer, scheduling should be allowed. We agree with TPTCL suggestion in this regard and scheduling as suggested in the proposed amendment shall be allowed in a case as suggested by TPTCL.
- 9.3.10. WBSEDCL has requested to clarify the reference of “not less than 1 year”. In this regard it is clarified that “period of one year” has been proposed so that frequent curtailment of MTOA / STOA does not happen in case an LTA customer enters into PPA for smaller time frame. In such case LTA customer has to apply separately for MTOA or STOA as the case may be.
- 9.3.11. Essar Power has submitted that the Commission should direct CTU to undertake transmission planning for MTOA/STOA/power market. In this regard it is clarified that philosophy of transmission planning is already under review by the Commission and the same shall be notified by the Commission in due time.
- 9.3.12. With regard to Hindustan Power submission to include a provision laying responsibilities on both CTU and STU for coordination, it is clarified that section 38 and 39 of the Act already provide for co-ordination between CTU and STU to discharge all functions of planning relating to inter and intra-State transmission system. Further requirement of coordination has been emphasized by the Commission in its Orders (Petition No. 11/SM/2014, Order dated 5.8.2015) and also in draft CERC(Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017.

9.3.13.

9.3.14. POSOCO has suggested that LTA start time should be atleast 3 months after submission of PPA. We donot agree with suggestion of POSOCO, since an LTA customer should get the scheduling wat the earliest possible time since it is bearing the long term transmission charges.

9.3.15. POSOCO has also raised an issue that the proposed amendment will require tagging of certain MTOA/ STOA with that of LTA which may create different priority among the same category. In this regard, it is clarified that POSOCO shall curtail the existing MTOA /STOA as per the applicable Regulations. In case POSOCO faces difficulty in operationalizing the amendment, it may approach Commission through suitable application.

9.3.16. KSEB has stated that under the proposed amendment short term procurement of power (1 year contract) under which tariff is quoted as single part at delivery point (including energy charge, capacity charge, trading margin, POC charges) shall be scheduled under LTA which may lead to issues in evaluation of bids and selection of bidders. In this regard it is clarified that a facilitative provision has been introduced to give priority to an LTA customer who is paying long term transmission charges. In case stakeholders encounter any difficulty, they may move suitable application suggesting changes/ additions in the provisions.

9.3.17. Accordingly, following Clause shall be added after Regulation 15 of Principal Regulation:

“15B. Firming up of Drawl or Injection by LTA Customers:

(1) The Long Term Access Customer who has been granted long term access to a target region shall, after entering into power purchase agreement for supply of power to the same target region for a period of not less than one year, notify the Nodal Agency about the power purchase agreement along with copy of PPA for scheduling of power under LTA:

Provided that scheduling of power shall be contingent upon the availability of last mile transmission links in the target region:

Provided further that on receipt of the copy of the PPA, CTU shall advise concerned RLDC for scheduling of power at the earliest, but not later than a period of one month:

Provided also that if the capacity required for scheduling of power under LTA has already been allocated to any other person under MTOA or STOA, then MTOA or STOA shall be curtailed in accordance with Regulation 25 of these Regulations corresponding to the quantum and the period of the PPA:

Provided also that where capacities under existing MTOA are curtailed for considering scheduling of power under the PPA of the Long term Access Customer, such MTOA customer shall be permitted to relinquish its MTOA without any relinquishment charges.

(2) An LTA Customer who is availing MTOA on account of nonoperationalization of LTA granted to it, shall not be required to pay relinquishment charges towards relinquishment of MTOA if the LTA is operationalized during the subsistence of MTOA.”

10. Addition of new clause after Regulation 16A

10.1. Following new regulation was proposed to be added below Regulation 16A:

“16B. Underutilisation of Long term Access and Medium term Open Access:

In case it is observed by RLDCs that the LTA / MTOA customer request for scheduling is consistently (for more than 5 days) lower than the capacity granted by the Nodal Agency (i.e.; CTU), RLDC may issue a notice to such LTA/MTOA customer asking the reasons for such under-utilization. The LTA/MTOA customer shall furnish the reasons for such under-utilization and will provide such details like the reduced requirement, likely period, etc. by the following day. The un-utilized transfer capability will then be released for scheduling of Medium term and Short-term open access transaction depending upon the period of such underutilization with a condition that such

transaction shall be curtailed in the event original LTA/MTOA customer seeks to utilize its capacity.”

10.2. The Commission had given following rationale while proposing said amendment:

“In a few cases reported to Commission it has been observed that there are cases where LTA has been operationalized but it is not utilized for scheduling by a generator may be because it is delayed or is under forced shutdown for a long period. In few of such cases the transmission capacity becoming available should be utilized for scheduling by other entities. We have perused para 17 (a) of detailed procedure to CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 which provides as follows:

a. Underutilization of transmission capacity: In case it is observed by RLDCs that the MTOA customer request for scheduling is consistently (for more than 5 days) lower than the capacity granted by the Nodal Agency (i.e.; CTU), RLDC may issue a notice to such MTOA customer asking the reasons for such under-utilization. The MTOA customer shall furnish the reasons for such under-utilization and will provide such details like the reduced requirement, likely period, etc. by the following day. The un-utilized transfer capability will then be released for scheduling of Short-term open access transaction.

The above provision provides for utilisation of capacity which is kept underutilised by MTOA customer. There is no such specific provision in the Regulations / detailed procedure in case of non utilisation of capacity by LTA customer. Accordingly a provision is proposed in the draft amendment to utilise such capacity. In cases where a generator is not able to schedule its power under LTA, the generator shall inform RLDC / CTU about the tentative period till which time it shall not be able to schedule its power. CTU/ RLDC may release this capacity under MTOA / STOA as the case may be depending on the period for which such capacity has become available. If such capacity is released under MTOA, generator

will not be liable towards LTA charges for such reallocated capacity under MTOA.”

- 10.3. Comments have been received from CEA, POSOCO, POWERGRID, SRPC, KSEBL, APP, NTPC, SEL, Jindal Stainless (Hisar) Ltd., MB Power, TPTCL, Hero Future Energies and J Sagar Associates (JSA):
- 10.3.1. CEA has submitted that onus to inform the RLDC about consistently scheduling lower than the granted capacity should be on the LTA/MTOA/DIC. Further, in case the generator has agreed to schedule for lesser quantum from a future date and the transmission capacity has been released for scheduling another MTOA/STOA or another LTA customer, the original customer should not be allowed to schedule before expiry of the agreed future date and the original customer may not be asked to pay transmission charges for this period and for the capacity which has been allotted to another customer(s).
- 10.3.2. POSOCO has welcomed the proposed amendment. However, the provision of curtailment, in case the original LTA/MTOA customer seeks to utilize its capacity, may be reviewed.
- 10.3.3. SRPC has submitted that LTA/MTOA customers should inform about sustained scheduling lower than capacity granted by the Nodal Agency of more than 2 days (even less than 2 days may also be informed). In case it is observed by RLDCs that the LTA/MTOA customer’s request for scheduling is consistently (for more than 2 days) lower than the capacity granted by the Nodal Agency, RLDC would issue a notice to such LTA/MTOA customer asking the reasons for such under-utilization.
- 10.3.4. POWERGRID has submitted that this is a welcome step for efficient utilization of the transmission capacity. However, it does not cover the projects whose LTA have been operationalised, however, power is not being scheduled as the generation project/dedicated transmission line is delayed. In the explanatory memorandum it has been mentioned that *"If such capacity is released under MTOA, generator will not be liable towards LTA charges for such reallocated capacity under MTOA."* However, no such stipulation or provision has been proposed in this regard in the regulations.

- 10.3.5. NTPC has submitted that the basis for deciding under-utilization by LTA customers and restoration of LTA on recall needs to be defined explicitly to avoid subjectivity and varied interpretation by RLDCs and others.
- 10.3.6. KSEBL has submitted that if a provision is there in the regulation whereby every generator/ DIC shall inform any change in the schedule of their sell/buy quantum through LTA /MTOA for a period exceeding 24hrs, optimum utilization of transmission assets can be done and the prime objective of open access can be achieved.
- 10.3.7. Jindal Stainless (Hisar) Ltd. has submitted that the proposed regulation is a welcome step but the reason given by the LTA/MTOA should be given due weightage as there could be reasons beyond one's reasonable control.
- 10.3.8. MB Power has submitted that in order 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.
- 10.3.9. TPTCL has submitted that the capacity should be reallocated to original customer only after the completion of required period given for scheduling power under MTOA/STOA.
- 10.3.10. APP and SEL have submitted that the Explanatory Memorandum provides for "If such capacity is released under MTOA, generator will not be liable towards LTA charges for such reallocated capacity under MTOA." However, the above is not reflected in the proposed amendments. APP has suggested that MTOA/STOA transaction should not be curtailed if the original LTA/MTOA customer seeks to utilize its capacity before the period specified by the original customer for reduced requirement
- 10.3.11. Hero Future Energies has submitted that an exception may be take in case of wind and solar power plants as wind and solar power plants have very low capacity utilisation factors and intrinsic pattern of intermittent power generation which would not fully utilise LTOA/MTOA.
- 10.3.12. JSA has submitted that an option should be given 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. The unutilized capacity should be released to the MTOA/ STOA customers only if the

likely period for underutilisation is in excess of a defined period of time. Prescribe a course of action in the event the customer does not furnish reasons within the stipulated timeframe or at all.

10.4. Analysis and decision:

10.4.1. We have examined the submissions of the stakeholders.

10.4.2. POWERGRID, POSOCO, SRPC and Jindal Stainless (Hisar) Ltd. have welcomed the proposed insertion of new clause as the same would encourage efficient utilization of transmission capacity.

10.4.3. NTPC has suggested that basis for deciding under-utilization by LTA customers (average/peak SG) and restoration of LTA on recall of the released capacity, needs to be defined explicitly to avoid subjectivity and varied interpretation by others. Considering NTPC's and KSEB's comment on modalities of proposed amendment, we direct NLDC to submit a detailed procedure in this regard in consultation with RPCs and RLDCs within 3 months of issue of this Order. The said draft mechanism shall be put on website of NLDC for comments/ suggestions of stakeholders and NLDC shall submit the Procedure after considering comments/suggestions of stakeholders.

10.4.4. With regard to the submission by CEA and J Sagar Associate (JAS) that LTA/MTOA/DICs should be given option to inform RLDC and not subsequent to notice from RLDC, it is clarified that open access customers/DICs may notify the concerned RLDC in case they want to schedule lower than the capacity granted by Nodal Agency.

10.4.5. We agree with suggestion of CEA and other stakeholders that once the LTA customer agrees to schedule from a future date and/or for lesser quantum, and the transmission capacity has been released for scheduling another MTOA/STOA or another LTA customer, the original customer should not be allowed to schedule before expiry of the agreed future date. An LTA Customer should provide its likely period of underutilization prudently.

10.4.6. Some stakeholders have submitted that the Explanatory Memorandum provides for "If such capacity is released under MTOA, generator will not

be liable towards LTA charges for such reallocated capacity under MTOA." However, the above is not reflected in the proposed amendments. In this regard it is clarified that the same has been suitably included in the final regulations.

10.4.7. We do not agree with the submission of POWERGRID and MB Power that the said insertion of regulation 16B does not cover the generation project whose LTA has been operationalized but power is not being scheduled due to delay in generation project/dedicated line. The proposed Regulation clearly states that where Long term Customers underutilize their allotted capacity the extant regulation will be applicable. In case a generation project has been delayed or its dedicated line has been delayed but its LTA has been operationalized RLDC shall monitor such cases of underutilization for reallocation under MTOA/STOA as per the amended Regulations.

10.4.8. Hero Future Energies has submitted that an exception may be take in case of wind and solar power plants as wind and solar power plants have very low capacity utilisation factors and intrinsic pattern of intermittent power generation which would not fully utilize LTOA/MTOA. In this regard we have already directed a separate procedure to be submitted by NLDC. The methodology with respect to solar and wind plants shall be included therein.

10.5. Accordingly, following new regulation shall be added below Regulation 16A:

“16B. Underutilisation of Long term Access and Medium term Open Access:

In case it is observed by RLDCs that the LTA or MTOA customer request for scheduling is consistently (for more than 5 days) lower than the capacity granted by the Nodal Agency (i.e.; CTU), RLDC may issue a notice to such LTA or MTOA customer asking the reasons for such under-utilization. The LTA or MTOA customer shall furnish the reasons for such under-utilization and will provide such details like the reduced requirement, likely period, etc. by the following day. The un-utilized transfer capability will then be released for scheduling of Medium term and Short-term open access transaction depending

upon the period of such underutilization with a condition that such transaction shall be curtailed in the event original LTA or MTOA customer seeks to utilize its capacity.

Provided that where the capacity tied up under LTA is released under MTOA, the concerned generator shall not be liable to pay the LTA charges for such reallocated capacity.”

11. Clause (2) of Regulation 19

11.1. Clause (2) of Regulation 19 of the Principal Regulations was proposed to be substituted as under:

"(2) The start date of the medium-term open access shall not be earlier than 5 months and not later than 2 years from the last day of the month in which application has been made."

11.2. **Comments have been received from CEA, TPTCIL, Jindal Stainless (Hisar) Ltd., WBSEDCL and Vedanta Ltd.**

11.2.1. CEA has submitted that the start date of the medium-term open access should not be earlier than 5 months and not later than 8 months from the last day of the month in which application has been made.

11.2.2. TPTCL has submitted that as per the Standard Bidding Document issued by GoI on 20th August, 2015 a supplier has to take MTOA within 90 days of signing of PPA. In view of above, start of MTOA should not be earlier than 90 days from the last day of the month in which application has been made. Further, the maximum time available before start of MTOA should remain same as per the existing provision of the Regulation.

11.2.3. Jindal Stainless (Hisar) Ltd has submitted that the proposed amendment may lead to non-serious applications for periods as long as two years. Even with the existing arrangement there were not many hurdles or problems.

11.2.4. Vedanta Ltd. has submitted that the time frame for commencement of MTOA should be reduced from 5 months to 3 months.

11.2.5. WBSEDCL has submitted not to amend the existing provision.

11.3. Analysis and decision:

- 11.3.1. We have examined the comments given by stakeholders. The present regulations provide that the start date of MTOA shall not be earlier than 5 months and not later than 1 year from the last day of the month in which application has been made. However, the proposed amendment was to increase the maximum time available before start of MTOA to 2 years.
- 11.3.2. WBSEDCL and Jindal Stainless (Hisra) Ltd. have submitted that the existing regulation should not be amended.
- 11.3.3. TPTCL and Vedanta have suggested to reduce the timeline of start date to 3 months from 5 months and CEA has suggested to reduce maximum time period from suggested 2 years to 8 . In this regard it is clarified that the time period of date of start has been relaxed to 2 years to provide flexibility to entities seeking MTOA. Further the suggestions to reduce the time to 3 months are not accepted so that STOA which has already been awarded is not curtailed to grant MTOA. Further since MTOA application is required to be accompanied by PPA / other sale purchase agreement as per the Regulations, we do not envisage non-serious applications as apprehended by Jindal Stainless Steel.
- 11.4. Accordingly, Clause (2) of Regulation 19 of the Principal Regulations shall be substituted as under:
- "(2) The start date of the medium-term open access shall not be earlier than 5 months and not later than 2 years from the last day of the month in which application has been made."

12. Addition of two new regulations

- 12.1. Following two new regulations were proposed to be inserted in the Principal Regulations as given below:

33A. Power to Relax:

The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an affected person to remove the hardship arising out of the operation of Regulation, applicable to a class of persons.

33B. Power to Remove Difficulty:

If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by order, make such provision not inconsistent with the provisions of the Act or provisions of other regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations.”

12.2. The Commission had following rationale while proposing the above amendments:

12.2.1. There is no Regulation of Power to Relax and Power to Remove Difficulties in Principal regulations. As a result of this, it is not possible to meet the contingencies arising in the course of operationalisation of Connectivity Regulations.

12.3. Comments have been received form POWEGRID and Jindal Stainless (Hisra) Ltd.:

12.3.1. POWEGRID has submitted that provision for relaxation in any of the provisions of these regulations on its own motion by the Commission or on an application made before it by an interested person may also be inserted in proposed regulation 33B.

12.3.2. Jindal Stainless (Hisra) Ltd. has submitted that the proposed insertion of new Regulations is in order as it will help in resolving problems connected with the implementation of the Regulations.

12.4. Analysis and decision:

12.4.1. We have examined the comments of the stakeholders. There is no Regulation regarding Power to Relax and Power to Remove Difficulties in Principal regulations to meet the contingencies arising in the course of operationalisation of Connectivity Regulations.

12.4.2. POWERGRID and Jindal Stainless (Hisra) Ltd. have welcomed the proposed insertion of new Regulations.

12.4.3. POWERGRID has submitted that ‘on its own motion or on an application made before it by the nodal agency’ may also be added in the proposed regulation 33B as per proposed regulation 33A. We agree with proposal of POWERGRID and the same shall be incorporated in the final regulation.

12.5. Accordingly, following two new regulations shall be inserted in the Principal Regulations as given below:

“33A. Power to Relax:

The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an affected person to remove the hardship arising out of the operation of Regulation, applicable to a class of persons.

33B. Power to Remove Difficulty:

If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, on its own motion or on an application made before it by the nodal agency, by order, make such provision not inconsistent with the provisions of the Act or provisions of other regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations.”

13. Additional Comments:

- 13.1. POSOCO has submitted that the definition of 'Applicant' as provided in these Regulations may be reframed in order to facilitate CPPs in case the captive generation is not available and to meet its own captive load, CPP may require to procure power from the grid.
- 13.2. POWERGRID has submitted that Connectivity permitted for Bulk Consumer requires to be looked into as the transmission line identified for connectivity of Bulk Consumer to the Grid though is not covered under the definition of 'dedicated lines' in the Electricity Act, 2003. Therefore, it is necessary that for the purposes of application for connectivity, the term "Bulk consumer" should not include distribution licensees. POWERGRID has also submitted that
- (a) Provisions for cancellation of LTA by CTU may be built in along with provisions for levy of cancellation charges.
 - (b) Definition of 'stranded capacity' should be replaced with definition of 'relinquishment charges'
 - (c) New application for LTA/MTOA may not be permitted by an applicant defaulting in payment of relinquishment charges- to be provided in the detailed procedure
 - (d) Provisions with respect to allocation/reallocation of power by MoP as stipulated in the CERC Order dated 16.2.2015 in Petition No. 92/MP/2014 Provisions with respect to the requirement of fresh application in case of change in region stipulated in the CERC Order dated 16.2.2015 in Petition No. 92/MP/2014.
 - (e) Provision to grant connectivity to STU network in case wherever it is relatively more techno-economical, specifically for renewable generation in consultation with the concerned STU.
- 13.3. **SRPC:** The detailed procedure of CTU and RLDC (STOA) may require amendment keeping in view the amendments.
- (a) Regulations 30 & 8(1) could be changed to align with DSM & IEGC Regulations.

- (b) Regulation 31:-Transmission Losses: The DICs shall bear apportioned losses in the transmission system as per Sharing regulations/ Procedure made under sharing Regulations to align with Sharing Regulations.
- 13.4. SEL has submitted that regulation should provide for automatic return of the Construction BG 6 months after the actual commissioning of the generating station. Further, in view of reduction in minimum period for LTA, regulation 18 may also be revisited.
- 13.5. Hero Future Energies has submitted that those wind and solar power projects which have executed firm PPAs under competitive bidding process should be provided preference in grant of connectivity and LTA over those applicants who are yet to execute firm PPA.
- 13.6. IPPAI has submitted that the concept of GNA is presently under consideration but the time has come that it progresses from a conceptual stage to a reality. This is expected to resolve past problems w.r.t. to transmission planning process and would go a long way in resolving the issue of transmission congestion in the grid.
- 13.7. MB Power and Hindustan Power have submitted that specific regulation allowing part operationalization of LTA/MTOA may be included. Further, no relinquishment charges should be levied for conversion of STOA/MTOA to MTOA/LTA.
- 13.8. ADHPL has submitted that the provision related to relinquishment of access rights should be amended in the line with the new definition of LTA.
- 13.9. D.B. Power has submitted that a clause may be inserted to grant of LTA granted to target region against pending LTA applications in case long-term customer does not open payment security mechanism and/or does not pay transmission charges. Regulation should also provide for a new clause for non-utilization of LTA and MTOA where in case the payment security mechanism is not established (or) transmission charges not being paid against the LTA/MTOA as per the regulations, the LTA/MTOA shall be capacity allocated to pending LTA/MTOA/STOA applicants. Further, grant of part-LTA is also not allowed as per existing regulations, when MTOA is relinquished by generator for moving over to LTA, there should be no relinquishment charges.

- 13.10. J Sagar Associate (JSA) has submitted that the issue with regards to grant of connectivity through an interim LILo arrangement for an indefinite period in the absence of a dedicated transmission line, has not been addressed. Renewal of LTA as per the Regulation 17 of the Principal Regulations should also be applicable to the duration of LTA as proposed in the current amendment.
- 13.11. GUVNL has submitted that the Commission may take a considered view on Connectivity / LTA as a combined product to safeguard the interest of end consumers from undue burden of transmission charges.

Analysis and decision:

- 13.12. We have examined the additional comments given by POSOCO, POWERGRID, SEL, SRPC, GUVNL, JSA, DB Power, AD Hydro, MB Power, IPPAI and Hero Future Energies.
- 13.13. The above suggestions of stakeholders are outside the scope of the draft regulations and hence cannot be considered without making a draft regulation for the same and inviting comments thereon.

Sd/-
(Dr M K Iyer)
Member

Sd/-
(A S Bakshi)
Member

Sd/-
(A K Singhal)
Member

**Written Comments/Suggestions 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) Regulations, 2017**

| I S. NO. | II COMPANY/STAKEHOLDER/INDIVIDUAL |
|-------------|----------------------------------------------------------|
| 1. | ACME Cleantech Solutions Private Limited (ACME) |
| 2. | AD Hydro Power Limited (ADHPL) |
| 3. | Adani Green Energy Limited |
| 4. | Adani Power Limited |
| 5. | Association of Power Producers (APP) |
| 6. | Bonafide Himachalies Hydro Power Developers Association |
| 7. | BSES Rajdhani Power Limited (BRPL) |
| 8. | D B Power Limited |
| 9. | Directorate of Energy, Himachal Pradesh |
| 10. | DVC |
| 11. | Essar Power |
| 12. | Gujarat Urja Vikas Nigam Limited (GUVNL) |
| 13. | Hare Krishna Metallic Pvt. Ltd. |
| 14. | Hero Future Energies Pvt. Ltd. |
| 15. | Hindustan EPC-CO Private Limited |
| 16. | IEX |
| 17. | Independent Power Producers Association of India (IPPAI) |
| 18. | Indian Wind Energy Association (INWEA) |
| 19. | Indian Wind Power Association (IWPA) |
| 20. | J. Sagar Associate (JSA) |
| 21. | Jindal India Thermal Power Limited (JITPL) |
| 22. | Jindal Stainless (Hisar) Ltd. |
| 23. | Kerala State Electricity Board Ltd. (KSEBL) |
| 24. | M B Power (Madhya Pradesh) Ltd. |
| 25. | Madhya Pradesh Power Management Company Limited (MPPMCL) |
| 26. | Malana Power Company Limited (MPCL) |
| 27. | Mandi Gobindgarh Induction Furnace Association |
| 28. | National Solar Energy Federation of India (NSEFI) |
| 29. | NHPC Limited (NHPC) |
| 30. | NTPC Ltd. (NTPC) |
| 31. | NTPC Vidyut Vapar Nigam Ltd. (NVVN) |
| 32. | ONGC Tripura Power Company Limited (OTPC) |
| 33. | Open Access Users Association (OAUA) |
| 34. | PHD Chamber of commerce and industries (PHD) |
| 35. | POSOCO |
| 36. | POWERGRID |

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| 37. | RSWM Limited |
| 38. | Shree Cement Ltd. |
| 39. | Shri Ravinder |
| 40. | Shri V S Ailawadi |
| 41. | Shri Vineet Sarawagi |
| 42. | Simhapuri Energy Limited (SEL) |
| 43. | Southern Regional Power Committee (SRPC) |
| 44. | Tata Power Trading Company Limited (TPTCL) |
| 45. | Tata Power-DDL (TPDDL) |
| 46. | The Rajasthan Solar Association (RSA) |
| 47. | Thermal Powertech Corporation India Ltd. (TPCIL) |
| 48. | Vedanta Limited |
| 49. | West Bengal State Electricity Distribution Company Limited (WBSEDCL) |

**Comments/suggestions on
Draft Amendment to 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 during
Public Hearing on 17.11.2016**

| III S. NO. | IV COMPANY/STAKEHOLDER/INDIVIDUAL |
|-----------------------|------------------------------------------|
| 1. | Adani Green Energy Limited |
| 2. | IEX |
| 3. | Jindal Stainless Steel Ltd. |
| 4. | NTPC |
| 5. | NVVN |
| 6. | POSOCO |
| 7. | POWERGRID |
| 8. | TPTCL |