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14 December 2017

The Secretary
Central Electricity Regulatory Commission
3rd & 4th Floor
Chanderlok Building
36, Janpath
New Delhi – 110001

Sir,

Draft Central Electricity Regulatory Commission (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017

With reference to Notification dated 14 November 2017 in the above captioned matter, comments of the Company is enclosed herewith, for kind consideration of the Hon'ble Commission.

Yours faithfully,

Executive Director
(Regulatory Affairs & Corporate Services)

Encl.

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Comments on Draft CERC (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017

1. It has been suggested that an open access consumer with connected load of 250 MW and above proposing to avail power through ISTS may be permitted to obtain connectivity, subject to the regulation of the concerned State Commission under Section 42(2) of the Electricity Act, 2003. CERC has referred to the judgment of APTEL in Appeal Nos. 139 of 2007 and 140 of 2007, Nalwa Steel and Power Ltd. v Chhattisgarh State Power Distribution Company Ltd & others, in which APTEL decided that a bulk consumer could also be a load centre. It is suggested that such open access consumer seeking direct connectivity to the ISTS should give an undertaking at the time of grant of connectivity that it will pay the applicable cross subsidy surcharge to the concerned distribution licensee. Appropriate clause may be provided in the draft Connection Agreement.

2. Battery Storage Plant has not been included under the definition of "Applicant" in regulation 2.1(c). It is suggested that battery storage plant of capacity 50 MWh and above may be permitted to apply for connectivity to ISTS.

3. Two stage connectivity has been proposed for RE generators. The Stage-II application for connectivity is to be accompanied with bank guarantee @ Rs. 5 lakhs per MW to cover the cost of bay extension at ISTS sub-station where the connectivity is granted. This will ensure that only serious players take the Stage-II Connectivity.

4. The prevailing regulations provide that CTU shall construct the transmission lines for evacuation of power from the bus bars of generating stations of specified capacity. It is proposed that the generators shall be responsible for construction of the dedicated transmission lines. This is in line with provision of Section 10 of the EA, 2003, wherein the generating company has been assigned the duty to establish, operate and maintain the dedicated transmission lines.

5. As per Regulation 7.25, on completion of the dedicated transmission line the generator(s) shall be required to hand over the dedicated transmission line to CTU for the purpose of operation and maintenance. CTU shall be entitled to normative operation and maintenance expenses as per CERC Tariff Regulations. The line shall be under the operational control of CTU for all the purposes. According to Section 10 of the EA, 2003, it is the duty of the

generating company to *inter alia* establish, operate and maintain the dedicated transmission lines. Thus, the proposed provision to hand over the dedicated transmission line to CTU for operation and maintenance is contrary to the provision of the Act.

6. It is proposed that STUs can seek GNA at each of its interconnection point with ISTS to facilitate transmission planning. STU is required to indicate quantum of GNA sought at each interconnection point of STU with ISTS for effective transmission planning. It has been proposed that STU shall provide GNA data for 5 years period starting 4 years hence the year when GNA application is made. Such data is to be provided on Annual rolling basis by concerned STU after taking into account the anticipated demand figures from each DISCOM in the State, other intra state entities and likely generation from the generating companies having generating stations in the State. It is required to be discussed as to how the STU will be able to indicate break up of GNA at each interconnection point. Thus, it is important to assess the GNA accurately. In a State having more than one DISCOM, there may be some DISCOMs who do not project their GNA accurately or do not furnish the same to the STU which may result in excess drawal of the State over the specified margin. The Regulation may provide that the STU may provide entity-wise

GNA, the summation of which will be the GNA for the State to help in identifying the entity which is drawing in excess of the eligible quantum as per its GNA for the purpose of bearing the excess transmission charges.

7. It is seen that the regulation gives option to the state entities (DISCOMs, consumers and imbedded generators) to seek GNA either directly or through the STU. STU is exempted from submission of Access Bank Guarantee. Thus, when a DISCOM applies for GNA through STU there is no Access Bank Guarantee but when it has to apply directly, it has to pay the Access BG. It is suggested that Access BG may be exempted for all DISCOMs who apply for GNA directly.

8. Drawal of start-up power has been permitted on payment of transmission charges (Regulation 7.32 to 7.35). Clarity is required as to how these transmission charges will be calculated especially when GNA has not been operationalized.

9. Under Regulation 10 (a) & (b), it has been proposed that in case of dedicated transmission line owned/constructed by the generator, the metering will be at the pooling sub-station of ISTS licensee and in case a generator is connected to more than one pooling sub-station, metering may be at the generating station. This will result in disparity between the power stations which are to be connected to one pooling sub-station and those which are connected to more than one pooling sub-station. It is suggested that metering may be done at the generating station only. It is felt that if due to commercial contract, the loss on the dedicated transmission line is to be borne by the generator, the estimated losses for such dedicated line may be computed and booked to the generator.

10. GNA application has to be accompanied by Access Bank Guarantee of Rs 20 lacs/MW for the quantum of GNA sought (regulation 11.7). This is to cover the risk of investment made by CTU in development of the transmission system for evacuation of power from the generating station. The amount of the bank guarantee may be debated but the basis on which such guarantee has been proposed is sound. In fact, CTU wanted a higher Access Bank Guarantee to cover the entire cost of the transmission system required for evacuation of power from the

generating station. In case CTU seeks higher charges, it is to be argued that in the proposed regulation, the responsibility of construction of the dedicated line is on the generator as against the prevailing regulations where the evacuation from the bus bars of a power project of specified capacity is the responsibility of CTU. Thus, the generating station is required to make investment on the dedicated transmission line. Therefore, it will not be desirable to burden the generator any further. Under regulation 11.8, the generator is also required to furnish a copy of PPA or Power Sale Agreement along with the application of GNA. It is suggested that furnishing of PPA/PSA should not be mandatory as the PPA/PSA may not have been signed at the stage of filing of application for GNA. The provision may be modified that PPA/PSA, if available, may be submitted along with the application.

11. Under regulation 17.1, GNA itself does not entitle any generator to interchange any power to the grid till it signs a PPA or PSA and informs the same to CTU (for long and medium term), SLDC (for short term) or sells power through Power Exchange. Information regarding PPA shall be considered by CTU not later than a week and confirm the schedule priority (regulation 17.3). Similar provision should be for consideration of short term agreements by RLDC not later than 3 days of the date of intimation.

12. As per regulation 19.3, Access Bank Guarantee for GNA shall be subsisting for 5 years from the date of operationalization of GNA, after which 1/5th of the amount shall be returned back to the applicant till the 4th year. 1/5th amount is proposed to be kept as a security till the 12th year towards the relinquishment charges. It is suggested that once the generator has been commissioned and GNA is operationalized, the bank guarantee may be returned as there is no question of relinquishment of GNA, except in case where an IPP is converted into a CGP with co-located captive load. As the generator will not be able to schedule any power and remain connected to the grid if it relinquishes the GNA, there seems to be no need to retain Access Bank Guarantee after commissioning of the generator.

13. Regulation 22.3 provides that the inability of GNA applicant to guarantee or supply electricity shall not absolve it from liability to pay transmission charges. More clarity is required as to how the transmission charges will be computed for a generator who is not able to generate power due to high cost of generation or non-availability of

fuel. A large capacity of thermal power projects is stranded due to non-availability of PPAs and coal linkage. If the transmission charges are levied on the installed capacity, it would create a distress for the stranded power project which is already suffering due to capital investment made. It will also be unreasonable to levy transmission charges on the quantum of GNA of such stranded generator.

14. Under regulation 23.1, in case of termination of PPA, sale to another purchaser is possible. It is felt that termination of PPA by the generator after complying with the terms of the PPA should be adequate for diversion of power to another purchaser and the RLDC should not insist for an order from the concerned regulatory Commission. If the purchaser is aggrieved by the termination of PPA, then it should challenge the termination before the Appropriate Commission and obtain. Unless the stay is granted, the RLDC should accept the termination, provided the conditions laid down in the PPA for termination have been fulfilled. Appropriate provision in the regulations in this regard will help in averting the harassment caused to the generators due to non- payment/inordinate delay in payment of dues of the generators and not providing the payment security as per the PPA.

15. Regulation 27.3 provides for payment of transmission charges from the date of operationalization of GNA in case of delay in commissioning of generating station/dedicated transmission line. It needs to be clarified that if extension of scheduled date of GNA is allowed, the transmission charges will not be levied for period extended by the Commission.

16. Under regulation 34, it has been proposed to reserve 5% of corridor for Power Exchange and the balance after fulfilling the demand of Power Exchange will be utilized for release for contingency market. This proposal may be supported as it will help the distribution licensee/open access consumers to procure power in day ahead market/intra-day market to meet their shortfall in short term and in contingency.

17. Regulation 35.2 permits DISCOM to sell its contracted power from an Inter-State Generating Station at the injection point of that ISGS. Under the prevailing regulation the commercial transaction takes place for supply of power from the ISGS to the DISCOM and thereafter another transaction takes place between the DISCOM and the Purchaser of

power. This results in double charging of transmission charges/losses, once on supply from the ISGS to DISCOM and then from DISCOM to the Purchaser of power. Sale from the ISGS to the Purchaser of power will avert the double charge. Transmission charges/losses for supply of from ISGS to the purchaser of power will only be levied. Clarity is required as to how this benefit will be passed on to the concerned DISCOM in sharing of the transmission charges.

18. The tenure of grant of GNA has not been indicated. In case of retirement of a unit on completion of its commercial life, there should not be any relinquishment charges.

19. Under the prevailing regulations for sharing of transmission charges, there are different methodologies and charges for long/medium term transactions and short term transactions. After enactment of GNA regulations the methodology for sharing of transmission charges will undergo a change. It is suggested that the proposed modifications in the Sharing Regulations may also be indicated by CERC to understand clearly the impact of proposed GNA Regulations on the sharing of transmission charges and offer our comments on the same.

20. In our humble opinion, Distribution Licensee may be allowed to apply for connectivity for a minimum load of 100 MW since it is bound by universal supply obligation, and regulatory provisions must enable procurement of cheaper power by the distribution licensee to fulfill its statutory obligations. The definitions of the same in the Draft Regulations may be finalized accordingly.

21. Hon'ble Commission may kindly clarify the definition of consumer. Only such consumers, eligible for open access needs to be considered under these draft regulations.