

**BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
3RD AND 4TH FLOOR, CHANDRALOK BUILDING,
36, JANPATH, NEW DELHI – 110 001**

IN THE MATTER OF:

**Comments/suggestions on Draft Central Electricity Regulatory
Commission (Procedure, Terms and Conditions for Grant of Trading
Licence and other related matters) Regulations, 2019.**

Submissions of Prayas (Energy Group), Pune

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The CERC vide public notices dated 24th July 2019 and 16th August 2019 invited comments and suggestions from all stakeholders on the draft “*Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2019*”. The present submission is in response to the notice. We request the Commission to accept this submission on record and consider some of the suggestions while finalising the regulations.

1 Approach and perspective

The CERC Regulations related to the “Procedure, Terms and Conditions for grant of trading licence and other related matters” and related to “Fixation of Trading Margin” were notified in 2009 and 2010 respectively and have been amended several times since then. Noting the major changes in the size and trends in the market over the past decade, the Commission has proposed to repeal and replace these regulations with the draft regulations referred to above.

The draft regulations have welcome provisions related to the compliance with license obligations especially related to payment security, capital adequacy, reporting of information and checking diversion of power without the sellers consent. These provisions will further aid the strengthening and deepening of competitive and efficient electricity markets in the country. However, the regulations should also consider and adapt to recent trends in the sector to ensure it is effectiveness in shaping robust market development. The most crucial of these changes include:

- The significant increase in open access and captive consumption, especially from on-site and off-site renewable energy based generators which is taking place with and without the services of trading licensees.

- The growth of transparent bilateral trades between electricity distribution companies (DISCOMs) and generators on the DEEP platform which is conducted based on the MoP's short-term bidding guidelines.
- With higher generation from renewable energy sources, changes in load curves and significant base-load surplus contracted by several DISCOMs, there will be a growing demand for procuring peak, off-peak, and seasonal contracts through short-term, medium-term, or long-term durations .

The draft regulations should also take into account these changes to ensure these licensees can function effectively in a changing environment with diverse risks and opportunities. Some of these, especially related to trading margins, instituting standards of performance and having disaggregated reporting formats are discussed in this submission.

2 Need for distinction between long-term and medium-term contracts

Short-term, medium term and long term contracts are defined in the context of the applicability of trading margin specified in Draft Regulation 7. Here, any contract with duration of less than a year is specified as short-term and any contract with duration of more than a year is specified as long-term. Thus, even though medium term contracts are referred to in the regulations, they are not defined specifically in the context of their durations as they are conflated with long term contracts.

Given the need for increased flexibility in the system, the role and relevance of medium term contracts is growing and therefore it is pertinent to define short-term, medium-term and long-term contracts in the context of their durations. This could also be in consonance with open access regulations. Defining the durations will reduce ambiguity and also enable better reporting providing the Commission an opportunity to track trends in medium-term contracts.

3 Removal of limit for trading margin for short-term trades

Trading margins for short-term as well as medium/long-term contracts should be based on the assessment of the risk borne by the licensees to facilitate the trades. Thus, the caps on the trading margin, to prevent windfall gains were based on the assessment of risks borne by traders. Thus, in case of short-term trades, it was linked to the price for sale of power and in case of medium/long-term trades, where the licensee was to ensure payment security, there was no cap on trading margin.

As summarised in Table 1, the draft regulations propose to link the short-term trading margins to the current discovered short-term prices. In case of long-term and medium-term trades, the proposal in the draft regulations is to limit the trading margin in case the licensee does not offer any payment security and to allow the trading licensee to charge any trading margin in case payment security is guaranteed.

Table 1: Specification of trading margin caps

Duration of Contract	Existing Regulations		Draft Regulations		Suggested Approach
	Sale Price	Trading Margin Cap	Type of trade	Trading Margin Cap	
Short term and PXs	> Rs.3/kWh	Rs.0.07/kWh	All trades	Rs. 0.07/kWh	No Trading Margin cap
	≤ Rs.3/kWh	Rs. 0.04			
Long-term and medium-term contracts	No Cap for all trades		Trades with no payment security	Rs. 0.01/kWh	Trading margin capped at Rs. 0.01/kWh with no payment security
			Trades with payment security	No cap	No Trading Margin cap in case payment security mechanism in place

A decade ago, caps on trading margins were necessary because the power exchanges were at a nascent stage and bilateral trades were not transparent. As there were limited avenues for short-term trades, high information asymmetry and significant power shortages, traders could charge margins which were disproportionately higher than what was due to them. However, with the proliferation of captive power plants, increase in open access, rise in bilateral contracts, increased transactions on platforms like DEEP and rapid growth in trades on the power exchange, buyers and sellers have multiple avenues and options to ensure trades. The market has reached a stage of development where there are enough competitive checks on the trading margins charged by licensees for short-term trades. Thus, it is suggested that similar to long-term and medium-term trades, short-term trading margins are not capped. This will encourage transparent trades and improved efficiency in the system. The margins charge by traders and the power exchanges charge can be tracked and analysed by the CERC for a period of one year and if necessary caps can be levied to check windfall gains for traders or price shocks for consumers.

Many agencies and entities, even without trading licences may engage in facilitating trades and several practices related to pricing of these non-regulated trades may result in sub-optimal outcomes. These practices will continue even with a cap on the trading margin. In the interest of market development and to ensure agile and appropriate regulatory response, the Commission should track and review these developments.

4 Standards of Performance

Draft Regulation 12 stipulates that the Commission is to devise Standards of Performance for the Licensees. This regulation is also part of the existing regulations but no standards have been prescribed by the Commission in the last decade. Under draft regulation 12, the Commission could prescribe

standards to ensure timely payment, ensuring trades translate to delivery of power and ensuring tracking and compliance with licensee obligations in a systematic manner.

It is suggested that the final regulations state that the Commission in consultation with the licensees will devise the Standards of Performance within 6 months of the notification of the regulations. The licensees should then submit periodic reports with respect to compliance with the standards of performance prescribed by the Commission.

5 Centralised public reporting

As per Draft Regulation 11, the licensees have to submit information on their trading activities on a monthly basis and as per Draft Regulation 13, prudential reporting also needs to take place within a month. Under the existing regulations, licensees have been reporting similar information on a periodic basis on their websites. However, there have been instances where the forms are incomplete and where submissions in case of some months are delayed. Further, it is difficult to analyse the information uploaded on the websites as it is submitted in different file formats ranging from scanned documents to spreadsheets.

The Commission has stipulated that the filing of information using the SAUDAMINI portal for e-filing. In addition the information, in downloadable spreadsheet formats can be uploaded by the Commission for each licensees by the 10th of every month on its website. Prudential reporting and changes in net worth can also be reported using the e-filing system and reported by the Commission. Delays in filing can also be tracked and reported on such a system. This will help stakeholders track trading activity, increase transparency in reporting and can also increase accountability of the licensees.

In this light, it is suggested that the final regulations specify that the Commission will enable an e-filing system for all statutory filings in compliance with the draft regulations. The information filed by the licensees can be accessed by all stakeholders in downloadable spreadsheet formats on the licensee websites and on the Commissions website.

6 Reporting formats prescribed by the Commission

The draft regulations also ask for extensive reporting by the licensees on a periodic basis with strict penalties and action prescribed for non-compliance. The reporting formats prescribed by the CERC is currently the only comprehensive, regularly updated source for understanding major trends in short-term and bilateral markets. CERC's market monitoring report which is based on the extensive periodic reporting by the licensees is still the only comprehensive report tracking of major trends in the short-term market for over a decade. In order for the Commission and for stakeholders in the power sector to track and understand crucial trends in short-term markets, the existing formats need to be changed to capture crucial information. Some of our comments and suggestions to improve these formats for better reporting of performance and compliance are given below:

6.1 Date for filing information

Form IV A, IV B, IV C, IV D, as prescribed in the draft regulations for reporting is stipulated to be filed by the 15th of the following month. The same time-frame should also be stipulated for the filing of Form IV E, IV F, IV G and IV H.

6.2 Clarification of types of trades being tracked

Form IV A, IV B, IV C and IV D track RTC, Peak and Off-Peak trades for inter-state and cross-border transactions. The Commission should clarify that the formats should be used for reporting of all trades by the licensees including trades conducted via the DEEP portal, if any and intra-state trades if any. These types of trades should be reported separately, to enable analysis.

6.3 Separate reporting of trades with renewable energy generators

As generation and consumption from renewable energy come with particular concessions and obligations, it is suggested that trades in Form IV A, IV B, IV C, IV D are also reported separately based on whether they are power is sold by a renewable energy generator or not. In this context, the formats specified in Form IV A, IV B, IV C, IV D can also include a column in the with details about the seller including predominant technology or fuel source of the generator from where the power is sourced for the period (solar, wind, hydro, coal, lignite, gas, nuclear, others).

6.4 Reporting of start and end-dates of contracts

While Form IV I prescribed in the draft regulations tracks details of OTC contracts, it is also crucial to map volume scheduled (reported in Form IV A, IV B, IV C, IV D) to the contracts. In this context, Form IV A, IV B, IV C, IV D should also include start and end dates of the contract along with the details of the period for power delivery.

6.5 Reporting of trading margin and type of contracts for long term trades

Given the stipulation for trading margin as proposed in the draft regulations, Form IV D should also report the trading margins charged by the licensees for these trades. In addition, long term trades can also be RTC, Peak and Off-Peak. Given the need for increased flexibility in the grid and growing need for peaking power and off-peak surplus, the trades for each of these types of contracts (RTC, Peak and other than RTC, Peak) should be reported on a monthly basis for contracts with durations longer than 1 year. In addition, the formats should separately report trades for medium-term contracts and long-term contracts based on the durations defined by the Commission for these contracts.

6.6 Requirement of details on types of contracts in the summary format

Form IV E acts as a summary of the short-term and long-term trades by each licensee for a given month. The summary would be more useful if the aggregates for total transacted volume was provided for RTC, Peak and other than RTC, peak contracts for short-term, medium-term and long-term durations. The information can also be provided by state as long as is it specified whether the state referred to in the format is the state of the buyer or the seller.

We agree with the Commission's specification that the details of the buyer and the seller as well as the price is not crucial to be captured in this format. However the aggregates can be presented for each category for buyer and seller stipulated by the Commission, namely generator, captive power plant,

distribution licensee, Government, industrial open access consumer, commercial open access consumer and trader. Presenting the summary information in these formats would be useful for all stakeholders to understand key trends.

6.7 Reporting of power exchange transactions

The Commission has also prescribed specific formats to capture trades by Power Exchanges. In Form IV F it should be clarified that the name of the power exchange should be specified instead of the buyer or the seller only if the power exchange plays the role of a buyer or a seller rather than a trader. Else, this column will not yield any additional information as all trades reported would have been executed with the power exchange as the trading licensee. In the second table of Form IV F it is crucial to clarify who the client would be in the case of a double sided auction and whether the buyer and the seller would be paying trading margins. Such clarity in the formats would reduce ambiguity in case of all stakeholders tracking these trends.

6.8 Tracking delay in payments

Given the concerns raised by trading licensees, generators and stakeholders on increased risk due to payment delays especially by buyers, the Commission should introduce formats to track delay or deviation from the payment schedule agreed to by the parties involved in the trade. Such information would provide a good understanding of the financial position of trading licensees, the risk taken by them and the default or payment risk faced by generators. This information can be reported at aggregate level for each contract on a quarterly basis. This is especially relevant for long-term contracts and similar tracking is already being done by the Maharashtra ERC for payment delays for long-term contracted capacity by the DISCOMs in the state. The information can be captured in a format as suggested in Table 2.

Table 2: Suggested format to track delay in payments

Contract Date	Period of Contract		Pending Payment for Contract	Payment delay in days from payment schedules	Cumulative pending payment for contract
	Power Schedule Start Date	Power Schedule End Date			

6.9 Tracking key parameters in the annual returns

Form IV J tracks crucial parameters about trades on an annual basis. Tables 1, 2 and 4 capture the volume and value of all inter-state, intra-state and power exchange transactions along with the applicable trading margin revenues collected annually. In addition to this, Form IV J should also track:

- aggregate volumes and values for each of these types of transactions for RTC, Peak as well as other than RTC, Peak in each Table in the Form
- average annual delay in payments for the licensee and the total number of transactions that did not result in delivery.

6.10 Tracking overall performance of trading licensee

Form V provides a format for tracking the net worth, trades, performance with regard to license obligations. One of the important parameters being tracked are the observations by any agency on any violation of the licence conditions by the licensee. This has to be provided with details on the violation.

In addition to provide stakeholders and the Commission with more information on the performance of the licensee, the Commission should stipulate that the licensee must provide details of all pending litigations which the licensee is party to on an annual basis.

7 Market monitoring and Electricity Trade review panel

Given the growth of short-term and bilateral trades, the rapid changes in the market structure and nature of transactions driven by increase in captive and open access consumption as well as increase in renewable energy generation, it is crucial that the Commission is able to track crucial trends and provide appropriate regulatory response in a timely manner.

In this context, it is suggested that the Commission institute a Market Monitoring and Electricity Trade review panel. Such a panel can consist of representatives from both power exchanges, five of the largest trading licensees, representatives from two distribution companies, representatives of open access, captive and industrial consumers as well as two generating companies and a representative from the CTU. The representatives should be nominated by the Commission for a two year tenure. The Panel can be chaired by Chief (Economics Division) of CERC. This panel can:

- review key developments in the short-term and bilateral markets based on reports by the licensees,
- deliberate on requests for review of particular matters brought before the panel and make recommendations for the consideration of the CERC,
- commission studies on critical and crucial issues pertaining to electricity markets and ensure the studies along with the panel's recommendations on the findings are published on CERC website.

In order to review changes the in the market, the panel should meet at least once in six months and the minutes of the meeting along with key recommendations of the panel on any issue should be available on the Commission's website. Creating such a panel for review of key trends and enabling effective policy and regulatory action would go a long way in ensuring development of robust markets in India.

In summary, we support many of the changes proposed by the Commission in the draft regulations especially with respect to licensee obligations and performance accountability. The suggestions in this submission take into account the rapidly changing nature of the sector and it is urged that the Commission consider some of these suggestions to ensure efficient short-term and bilateral markets in India.

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