Tata Power Trading Comments on Draft CERC (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2019

S. No.	Clause	Suggestion/Comments
1	2(1)(d) Back to Back deals – shall have the meaning as is assigned to it under Power Market Regulations, 2010, as amended from time to time	1. As per definition, Payment risk and Operation risk are in the account of trader. It is quite evident from trading business experience that these two risks impact heavily on trader. It is observed that due to delay/default in payment by DISCOMs/buyer, traders, if not covered by adequate trading margin, may become insolvent. 2. It is also important to mention that buyers (State DISCOMs) do not issue payment security in favour of Traders as per the terms of NIT, however Traders have to issue Payment security to sellers. On the other hand, Traders have been issuing Contract Performance Guarantee (CPG) in favour of Buyers while the same is not being issued by sellers. 3. Further, it may kindly be noted that even if the cost of trading with reference to back to back deals where the costs arising out of payment and operational risks are not considered. The trading margin based on the cost works out to approx. 2.4 paise per kWh for volume transacted in short term. 4. Thus, back to back category for purpose of capping trading margin is not required and the total short-term trading can be covered under the trading margin cap of 7 paise per kWh. This cap takes care of the interest of all stakeholders in Power Trading. 5. It is very difficult to monitor all the terms and conditions with respect to both sellers and buyers in qualifying the nature of contract as back to back. E.g. small change in billing cycle and payment due date even by one day.

2	2(1)(e) Banking of Electricity – shall mean and include exchange of electricity between two grid connected entities directly on mutually agreed terms	1. We agree with Hon'ble CERC that banking of electricity does not fall under the purview of trading as no re-sale is involved, therefore banking transaction should be directly between grid connected entities only. 2. At present, banking transactions have issues related to transparency and fairness like traders quoting negative trading margin and no standard tendering/bidding process being followed etc. It was proposed vide MoP Guidelines dated 30th March 2016 that banking arrangement may be governed by the said guidelines through suitable amendments in future.
3	3(3)(a) Financial Qualification – Capital Adequacy and Liquidity requirement	1. The proposed change to increase the networth in line with increase in volume traded above 10,000 MU for Cat-I would ensure managing the risk by Traders. 2. It is observed that under existing Regulations, for Cat-II, III & IV, net worth to trading volume ratio is 1:100. i.e. 1 Cr networth required for doing 100 MU annual trade. 3. Similarly, under proposed new Regulations, for Cat-II, III, IV, net worth to trading volume ratio is 1:150 (approx) i.e. 1 Cr net worth required for doing 150 MU annual trade. 4. Further new Cat-V is proposed. Under this category, trader would take relatively high exposure as 2 Cr. net worth covering 500 MU trade (2.5 times of existing Cat-IV) 5. Our submission is to ensure net worth to trading volume ratio constant i.e. 1:100 for all category of traders. Hence, for Cat-I

		proposed networth of Rs 75 crore may be increased to Rs 100 Crores.
4	7(a) Short term contracts (where period of the contract of the Trading Licensee with either or both the seller and the buyer is upto one year including transactions undertaken through power exchanges);	1. This is a major change from the existing Regulations. Currently short-term trade is defined as transaction where both buy & sell contracts are executed for up to one year. 2. As traders have long term/medium term PPAs with Generators for sale of power in short term, they have to perform their obligations as per terms and conditions of the said PPA. The terms and conditions of short-term power procurement as per MoP guidelines or OTC contracts are different from PPAs signed by Traders in long term/medium term. 3. In this regard, purchase of power by traders from generators under long term/medium contract, for sale thereof to DISCOM/buyers in short term should not be categorized as short term for capping the trading margin. The changed applicability of trading margin cap in short term would restrict the market development and introduction of new products by Traders. 4. Therefore, it is submitted that existing categorization of short-term trade for the purpose of applicability of trading margin cap may be retained i.e. as per Clause 3(d) of existing Fixation of Trading Margin Regulations, 2010. 5. We further submit that definition of short term buy – short term sale contracts may be amended as “Contract where the duration of power purchase agreement and power sale agreement is less than six months”. This is to ensure that traders may be able to hedge the price risk in a time span beyond six months.

	7(b) Long term contracts and medium term contracts (where period of the contract of the Trading Licensee with both the seller and the buyer is more than one year);	1. It is submitted that for the purpose of trading margin applicability, this clause 7(b) is not required. Detailed comments are given against clause 8.1 (d)
5	7(c) Back to Back deals;	1. It is submitted that back to back category for purpose of capping trading margin is not required and the total short-term trading can be covered under the trading margin cap of 7 paise per kWh. This cap takes care of the interest of all stakeholders in Power Trading 2. In practical situation there is no ideal back to back deals happening through traders. It is very difficult to monitor all the terms and conditions with respect to both sellers and buyers in qualifying the nature of contract as back to back. E.g. small change in billing cycle and payment due date even by one day. This will lead to difficulty in ensuring compliance. 3. For Example: Despite having provision in PPA (i) PSM not provided by buyer DISCOMs (ii) DISCOMs delaying the payment (iii) No Surcharge payment by DISCOM. 4. Further in short term procurement, traders have to bear the Tender fee, MSTC fee, cost of EMD, cost of Contract performance guarantees and these terms are not back to back with seller.
6	8(1)(c) For short term contracts and contracts through power exchanges, the Trading Licensee shall charge a minimum trading margin of zero (0.0) paise/kWh and a maximum trading margin of seven (7.0) paise/kWh: Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause 10 of regulation 9 is not provided by the Trading Licensee in favour of the seller,	1. It may be noted that initially trading margin has been fixed/capped considering the certain expenses, default risk, late payment risk, contract dishonor risk, other risk etc. 2. In addition, Traders have to make annual license fee, office maintenance cost etc. under fixed expenses and bank charges for EMD and CPG preparation, legal expenses etc under variable charges.

	the Trading Licensee shall not charge any trading margin exceeding one (1.0) paise/kWh.	3. Though the market has become quite competitive in respect of discovery of prices, charging trading margin and providing value added services, however despite all, the above expenses and risks have not changed over the years. In fact, payment default risk for trading business has significantly increased leading to depletion of trading margin. 4. In view of above, minimum trading margin of 2 paise is proposed for short term- buy and short-term sale transaction. 5. The fee charged by Power Exchanges on one transaction of buy & sell is 4 paise per kWh which essentially covers the expenses and cost of managing the trading business on Exchange platform and does not cover any financial risk. 6. The above analogy is for the purpose of understanding that zero trading margin in case of traders' fraternity are not possible for a regulated business to survive. Therefore, floor trading margin may be fixed at 2 paise per kWh. 7. The linking of trading margin with opening of LC/Escrow to sellers is not required. Without providing LC to sellers, transactional cost as explained above is 2 paise per kWh. As per CERC Annual report of FY 2017-18, weighted avg. trading margin charged by Traders is 3.2 paise per kWh when sell price is above Rs 3 per kWh and 2.5 paise per kWh when sale price is below Rs 3 per kWh. In case of Short term, PSM amount is equivalent to weekly bill and not equivalent to total contract value.
7	8(1) (d) For long term contracts and medium-term contracts, the trading margin would be decided mutually between the Trading Licensee and the seller:	1. We propose not to put any such condition of PSM/Escrow for charging trading margin for long term/medium term contract.

	Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of regulation 9 is not provided by the Trading Licensee in favour of seller, then the Trading Licensee shall not charge any trading margin exceeding one (1.0) paise/kWh.	2. Such conditions would increase the monitoring by CERC and ensuring compliance will be very difficult. 3. The provision of issuing PSM/Escrow to sellers is mentioned in MoP guidelines for long term/medium term procurement. Further, MoP has already issued circular on PSM/LC by buyers to sellers. 4. It is further suggested that since PSM/Escrow is part of PPA, failure of issuing PSM/Escrow should be dealt as per terms of the PPA only.
8	8(1) (e) In case of Back to Back deals, the Trading Licensee shall charge a minimum trading margin of zero (0.0) paise/kWh and a maximum trading margin of one (1.0) paise/kWh	1. It is submitted that back to back category for purpose of capping trading margin is not required and the total short-term trading can be covered under the trading margin cap of 7 paise per kWh. This cap takes care of the interest of all stakeholders in Power Trading 2. In practical situation there is no ideal back to back deals happening through traders. It is very difficult to monitor all the terms and conditions with respect to both sellers and buyers in qualifying the nature of contract as back to back. E.g. small change in billing cycle and payment due date even by one day. This will lead to difficulty in ensuring compliance. 3. It may kindly be noted that even if the cost of trading with reference to back to back deals where the costs arising out of payment and operational risks are not considered. The trading margin based on the cost works out to approx. 2.4 paise per kWh for volume transacted in short term 4. Further in short term procurement, traders have to bear the Tender fee, MSTC fee, cost of EMD, cost of Contract performance guarantees and these terms are not back to back with seller.
9	**17 Contravention by Trading Licensee**	**Compliance Monitoring**

		1. Recently, as per MoP order, all DISCOMS have to ensure issuing of payment security in favour of generating company as per terms of the PPA, failing which concern RLDCs would not schedule power to DISCOMs. 2. Similar to above provision, it is proposed that SLDCs/RLDCs should be able to block the web based Open Access portal used by Traders in case of Non-Compliance. 3. As per Regulations, traders are required to submit online Form IV and other Compliance information on SAUDAMINI e-portal every month before 15th. 4. It is suggested that SAUDAMINI e-portal should calculate the total trading volume and track the networth, in accordance with Category of traders in line with Regulations. 5. In case Form IV and compliance information are not submitted by 15th of the month, an auto trigger would be generated from SAUDAMINI portal and sent to all RLDCs/SLDCs along with to traders who did not fulfill the compliance requirement. 6. Similarly, SAUDAMINI e-portal should also generate auto trigger and send email to RLDCs/SLDCs by 15th in case trading volume limit and net worth criteria for traders do not match as per Category of traders mentioned in the Regulations. 7. Such Traders are required to take corrective action by submitting Form IV and other Compliance information in SAUDAMINI e portal and meeting the criterial of Trading volume limit and net

		worth criteria, within a week time i.e. by 22nd of the month. 8. SAUDAMINI e portal would send auto email to RLDCs/SLDCs immediately after the corrective action taken by Traders in the e portal. Traders would also receive acknowledgment from the portal that compliance is met. 9. During the time period of one week i.e. up to 22nd of the month, traders may be allowed to revise the schedule as well as file Open Access application. 10. RLDCs/SLDCs would confirm in e-portal whether they have received Auto email from SAUDAMINI regarding fulfillment of compliance by Traders. 11. In case, RLDCs/SLDCs do not receive email confirmation from SAUDAMINI as mentioned above i.e. traders fail to comply within stipulated time i.e. by 22nd of the month, in such a case, user login for Web based Open Access of trader shall be blocked by RLDCs/SLDCS. This would disable such traders to submit Open Access application as well as revising/surrendering the corridor. 12. Necessary provisions may be provided in the regulations to ensure the compliance.