

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram:
Shri P. K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I. S. Jha, Member**

No. L-1/253/2019/CERC

Date: 2nd January, 2020

In the matter of Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020

STATEMENT OF REASONS

1. Introduction

- 1.1.** In exercise of the powers conferred under section 178 of the Electricity Act, 2003 (Act) read with all other relevant provisions, the Commission notified the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2009 (hereinafter “Trading Licence Regulations, 2009”) which came into effect in February, 2009 and were subsequently amended through amendments dated 02.06.2009, 23.10.2009, 07.06.2010, 11.10.2012 and 03.09.2013.
- 1.2.** Additionally, the Commission also notified the Central Electricity Regulatory Commission (Fixation of Trading Margin) Regulations, 2010 (hereinafter “Trading Margin Regulations, 2010”) in January 2010 for fixation of trading margin for inter-State trading in electricity.
- 1.3.** During the past decade, many developments have taken place in the Indian power sector viz. new energy procurement and sale contracts, increased volumes at power exchanges, cross border trade of electricity etc. which has necessitated revisiting the trading licence and trading margin regulations.
- 1.4.** Therefore, the Commission published the Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters), 2019 (hereinafter referred to as “Draft Regulations”) vide public notice No. ECO – 14/06/2019- CERC dated 24th July, 2019 along with the Explanatory Memorandum seeking

comments / suggestions from the stakeholders. Thereafter, the Commission conducted a public hearing on the draft regulations on 14.10.2019. List of stakeholders who submitted written comments and made oral submissions / presentations during the public hearing is provided under Appendix-I and Appendix-II respectively. The detailed comments are available on www.cercind.gov.in.

1.5. The Trading Licence Regulations, 2020 have been finalized after detailed analysis and due consideration of the comments / suggestions provided by the stakeholders which has been detailed in the succeeding paragraphs.

1.6. The existing Trading Licence Regulations, 2009 and Trading Margin Regulations, 2010, as amended from time to time, shall stand repealed from the date of coming into force of Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters), 2020 (hereinafter referred to as “Trading Licence Regulations, 2020”).

2. Definitions and Interpretation (Regulation 2)

2.1. Definition of Back to Back contracts [Clause 2(1)(d)]

Commission’s Proposal

2.1.1. Definition of Back to Back Deals as proposed in clause 2(1)(d) of the Draft Regulations is provided below:

‘Back to Back deals’ shall have the same meaning as is assigned to it under Power Market Regulations, 2010, as amended from time to time.

Comments Received

2.1.2. Several stakeholders have suggested that the definition needs to be reviewed as the deals are never simultaneous or even successive and the payments from buyers in such deals are often delayed. The stakeholders have also mentioned that while the traders may provide Letter of Credit to the sellers, the buyer does not issue the same to the trader, thereby exposing the trader to credit / default risk even in back to back contracts.

Analysis and Decision

2.1.3. The Commission has considered the views of the stakeholders and has decided to revise the definition of Back to Back contracts as follows:

‘Back to Back contracts’ shall mean the contracts for inter-State transactions in electricity in which a Trading Licensee buys a specific quantity of power for a particular duration from one party and simultaneously sells it to another party on similar terms and conditions, and shall include the contracts, wherein the parties specifically agree that the contracts are back to back contracts.

2.2. Definition of Banking of electricity and Trading Licensee’s obligation with respect to Banking of electricity [Clause 2(1)(e) and Clause 9(24)]

Commission’s Proposal

2.2.1. Definition of Banking of electricity as specified in clause 2(1)(e) of the Draft Regulations is provided below:

‘Banking of electricity’ shall mean and include exchange of electricity for electricity between two grid connected entities directly on mutually agreed terms.

2.2.2. The Commission had proposed the following in the Draft Regulation 9(24) with respect to Banking of electricity:

“Trading Licensee shall not engage in Banking of electricity.”

Comments Received

2.2.3. Several stakeholders have provided their comments with regard to the definition of banking of electricity as well as obligation of the Trading Licensee with respect to banking of electricity. Most of the stakeholders emphasized and elaborated on the role of traders in banking transactions and accordingly, suggested allowance of such activity by Trading Licensees. Salient comments of such stakeholders are presented below:

2.2.3.1. Traders may be allowed to engage in power banking transactions on behalf of utilities, with imposition of certain band width of trading margin.

2.2.3.2. One of the stakeholders has submitted that the Trading Licensee should be allowed to engage in banking of electricity and the trading margin should be decided mutually between parties.

- 2.2.3.3. It has been emphasised that looking at the present condition of the market and trading licensees, limiting further market share and business possibilities will be against the trader's interest and will be a massive step towards their downfall.
- 2.2.3.4. Utilities with their limited reach and access to the market information are unaware of certain peculiarities involved to carry out the various activities under banking transactions. Involvement of trader results in value addition to the transaction. Traders successfully helped to optimize the banking concept. As such, it may be left to the Distribution Utilities to evaluate and decide whether to enter into banking transaction 'directly' with other Discoms or through a Trading Licensee.
- 2.2.3.5. A trading licensee should continue to undertake banking of electricity which itself is in the larger interest of Discoms and its consumers. Banking has turned out to be beneficial and cost effective for Discoms. Major banking transactions are performed by traders matching two unknown entities, handling liquidity exposure for transmission charges, power market intelligence, analysis of power requirements of the Discoms, coordination with SLDC, etc. at miniscule margin.
- 2.2.3.6. This is completely erasing the contribution of traders in introducing and assisting the market to attain the current level of maturity using their wide knowledge of the demand and availability in the future market across India over the years. The banking product, introduced and developed by traders, has allowed demand availability matching without capital investment uncertainty and allowed a stable and certain power system development in a risk free environment. Therefore, it warrants immediate review and revocation.
- 2.2.3.7. The word 'directly' appears to have been erroneously inserted and seems to be distorting the definition of banking of electricity. It also leads to unnecessarily

limiting the role of a large number of licensed market players in trading of electricity as envisaged in the Act.

2.2.3.8. It has been suggested that the Commission should not scuttle revenue streams of electricity traders by disallowing banking of power. If the Commission feels that some electricity traders have misused the rules and regulations and have made unrealistic profits under banking contracts in the past, then the Commission should get forensic audit done of all the power banking trades concluded in last 3 (three) years.

2.2.3.9. In large perspective, drawing power from one entity for supplying to the other entity under banking arrangement is also a form of sale/purchase arrangement, as the power supplied by the first entity is protected with compensation clause which covers more than the cost of the energy supplied. If the second entity fails to return the power, trading licensee becomes liable to pay its cost in accordance with the compensation clause of the banking agreement.

2.2.3.10. Further, one of the stakeholders has proposed a revised definition of banking of electricity as follows:

“Banking of electricity’ shall mean and include exchange of electricity for electricity between two grid connected entities directly or indirectly on mutually agreed terms.”

In contrast, there were a few stakeholders which welcomed the Commission’s proposal in the Draft Regulations. Salient comments of such stakeholders are presented below:

2.2.3.11. IEX has welcomed the proposal of the Commission to prohibit traders from involving in banking transactions for the same reasons the Discoms should also be prohibited from undertaking banking transactions.

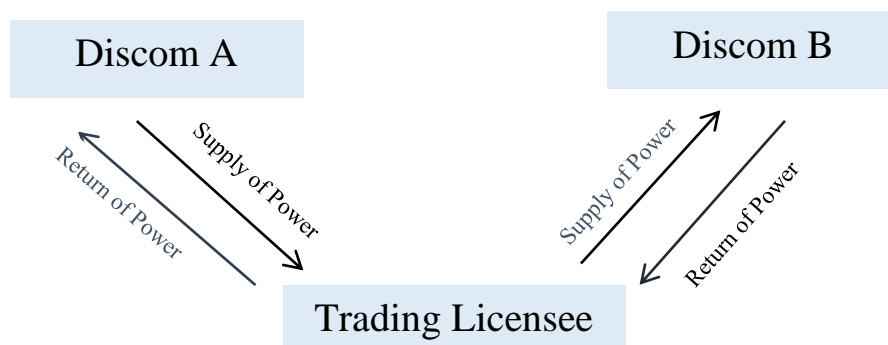
2.2.3.12. FICCI welcomed the proposal of the Hon’ble Commission to prohibit traders to involve in Banking transactions.

2.2.3.13. Tata Power Trading welcomed the proposal and proposed that banking arrangement may be governed by MoP Guidelines dated 30th March, 2016 through suitable amendments in future.

Analysis and Decision

2.2.4. The Commission considered the views of all stakeholders. Taking cognizance of the extensive comments received with respect to banking of electricity, the Commission analysed the role played by traders in banking transactions. The Commission recognizes the importance of Trading Licensees in ensuring growth of banking of electricity in the market, which is in the larger interest of Discoms and the consumers. The cash-strapped Discoms have been increasingly engaging in banking of electricity to meet their power requirements. Discoms typically charge a premium for banked power by asking for higher quantum of energy in return. Further, Discoms also allow traders to participate in the banking contracts.

2.2.5. Assuming that there are two Discoms, namely Discom A and Discom B. Discom A in State X publishes a tender for inviting distribution companies (of a different State, say State Y) or traders to bank power (say 100 MUs) for a defined period and return the power with a certain premium (say 110 MUs) in another defined period. In case the contract is executed through a trader, the different legs of the banking transaction between (i) Discom A (in State X) and Trading Licensee and (ii) Discom B (State Y) and Trading Licensee are illustrated in the diagram below:



2.2.6. The entire chain of activity discussed above is recognized as a 'banking cycle' and in such a case, the Trading Licensee simultaneously enters into a contract for supply of

power and a contract for return of power, with each of the utilities participating in the banking arrangement, as applicable.

2.2.7. After due deliberation on the views of all stakeholders, the Commission acknowledges the role of traders and the risk assumed by them in banking transactions. Further, considering the transactions involved in the entire banking cycle, as discussed above, the Commission considers it appropriate to include banking transactions within the purview of trading activities undertaken by Trading Licensees. Hence, the definition of Banking of electricity has been revised as follows:

‘Banking of electricity’ shall mean and include transactions for inter-State exchange of electricity between two grid connected entities either directly or through a Trading Licensee.

Further, Clause (24) of Regulation 9 has also been revised as below in order to ensure that the trader completes the banking cycle for every contract:

“(24) Trading Licensee undertaking banking of electricity shall simultaneously enter into contract for supply of power and contract for return of power, with each of the utilities participating in the banking arrangement, as applicable.”

3. Qualifications for grant of license (Regulation 3)

3.1. Financial Qualifications-Capital Adequacy and Liquidity Requirements [Clause 3(3)(a) and Clause 3(3)(b)]

Commission’s Proposal

3.1.1. The following provisions pertaining to the capital adequacy requirements for the applicants seeking inter-State trading licence were proposed in the Draft Regulations 3(3)(a) and 3(3)(b):

“(a) Considering the volume of inter-State and intra-State trading proposed to be undertaken by the Applicant on the basis of the inter-State trading licence, the minimum Net Worth of the Applicant on the date of application, as per audited special balance sheet accompanying the application, shall not be less than the amounts specified hereunder:

<i>Sno.</i>	<i>Category of the trading licence</i>	<i>Minimum Net Worth (Rs. in crore)</i>	<i>Volume of electricity proposed to be traded in a financial Year</i>
1.	Category I	75.00	Above 5,000 MUs and upto 10,000 MUs
2.	Category II	35.00	Not more than 5,000 MUs
3.	Category III	20.00	Not more than 3,000 MUs
4.	Category IV	10.00	Not more than 1,500 MUs
5.	Category V	2.00	Not more than 500 MUs

Provided that for Category I Trading Licensee, an additional net worth of Rs. 20 Crores would be required for every 3000 MUs of electricity traded over and above 10,000 MUs during a Year:

Provided further that volume of electricity traded shall include inter-State, intra-State and Cross Border Trade in long term, medium term and short term transactions, including transactions undertaken through power exchanges.

(b) An Applicant shall be required to maintain the Net Worth as per clause (a) above and ensure a minimum Current Ratio of 1:1 and a minimum Liquidity Ratio of 1:1 at all times:

Provided that the Net Worth, Current Ratio and Liquidity Ratio specified in this regulation shall be computed on the basis of the audited special balance sheet prepared in accordance with the financial reporting framework prescribed under the Companies Act, 2013.”

Comments Received

3.1.2. Comments received from the stakeholders with respect to capital adequacy requirements and liquidity requirements are given below:

3.1.2.1. Some stakeholders have commented that the proposed additional Net Worth requirement for Category I trading licensee should be reviewed as it may lead to elimination of many active traders and could lead to market manipulation by certain bigger players.

3.1.2.2. A view has also been expressed that the net worth requirement should be as already followed in accordance with Trading Licence Regulations, 2009.

- 3.1.2.3. Further, two stakeholders have suggested that the ratio of Net Worth to proposed trading volume should be revised to Rs. 1 crore for every 100 MUs.
- 3.1.2.4. The Commission should consider removing categories of Trading Licensees. All trading companies should be kept on equal footing to compete in the market and payment of licence fee to be on the basis of volume traded.
- 3.1.2.5. Some stakeholders have stated that the Net Worth is linked to the profitability of any organisation and has nothing to do with Volumes and Turnover. If any organisation's turnover goes up and profitability goes down, then Net Worth will also decrease.
- 3.1.2.6. One of the stakeholder has suggested that the minimum Net Worth criteria should be increased for all the Categories of Trading Licensees to cover the financial exposure involved and further, the minimum Net Worth for Category I Trading Licensee should be increased to Rs. 250 Crores in order to cover the exposure for at least 15 days and proportionately the minimum net worth for other categories may also be increased.
- 3.1.2.7. The Commission should delegate the responsibility of monitoring under this regulation to NLDC/RLDC/SLDC in order to ensure transparency.

Analysis and Decision

- 3.1.3. The Commission carried out an assessment of risk based on average volume traded daily by trading licensees, possibility of default across different segments of trade and weighted average price in order to arrive at the net worth requirements commensurate to the risks assumed by the trading licensees.
- 3.1.4. As per Trading Licence Regulations, 2009, the net worth requirement for entry level category of traders was set at Rs. 1 Crore, which allowed them to trade up to 100 MUs. These entry level requirements appear to be restrictive for development of the market, and therefore, the Commission has decided to introduce a new category of trading licence at the entry level, allowing trading volumes of up to 500 MUs with a net worth of Rs. 2 Crores.

3.1.5. Additionally, in order to facilitate competition in the market and based on views of some stakeholders, the Commission has decided to revise the net worth requirements proposed in the draft regulations and allow trading licensees to transact higher volumes of electricity per Rs. crore of net worth.

3.1.6. Further, the Draft Regulation published by the Commission required the Category I Trading Licensees to infuse additional capital to comply with the net worth requirements as specified under Regulation 3(3)(a), if the volume exceeds 10,000 MUs. The stakeholders have highlighted that this would create an additional ever-increasing burden on the trading licensees. Hence, in order to enable the Trading Licensees to realistically meet the net worth requirement, the Commission has decided to revise the requirement to a minimum net worth of Rs. 75 Crores in case the annual volume of electricity proposed to be traded by Category I trading licensees exceeds 10,000 MUs.

3.1.7. Accordingly, the Commission has decided to modify the clause as under:

“(a) Considering the volume of inter-State and intra-State trading proposed to be undertaken by the Applicant on the basis of the inter-State trading licence, the minimum Net Worth of the Applicant on the date of application, as per audited special balance sheet accompanying the application, shall not be less than the amount specified hereunder:

Sno.	Category of the trading licence	Minimum Net Worth (Rs. in crore)	Volume of electricity proposed to be traded in a financial Year
1.	Category I	50.00	Above 7,000 MUs
2.	Category II	35.00	Not more than 7,000 MUs
3.	Category III	20.00	Not more than 4,000 MUs
4.	Category IV	10.00	Not more than 2,000 MUs
5.	Category V	2.00	Not more than 500 MUs

Provided that for Category I Trading Licensee, if the annual volume of electricity proposed to be traded exceeds 10,000 MUs, the Trading Licensee shall have a minimum net worth of Rs. 75 Crores:

Provided further that volume of electricity traded shall include inter-State and intra-State transactions under long term and short term contracts, including transactions undertaken through power exchanges, banking and Cross Border Trade.

(b) The Applicant shall have Net Worth as per clause (a) above and have a minimum Current Ratio of 1:1 and a minimum Liquidity Ratio of 1:1:

Provided that the Net Worth, Current Ratio and Liquidity Ratio specified in this regulation shall be computed on the basis of the audited special balance sheet prepared in accordance with the financial reporting framework prescribed under the Companies Act, 2013.”

4. Applicability of Trading Margin (Regulation 7)

4.1. Definition of short term contracts and long term and medium term contracts [Clause 7(a) and Clause 7(b)]

Commission’s Proposal

4.2. Definition of short term and long term and medium term contracts as proposed in clauses 7(a) and 7(b) of the Draft Regulations is provided below:

***Clause 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).*

***Clause 7(b): ‘Long term 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).*

Comments Received

4.2.1. Several stakeholders have submitted comments / suggestions with respect to clause (a) and (b) of Regulation 7 as summarised below:

4.2.1.1. The change of the definition of short-term contracts and applicability of trading margin to transactions having any one leg on short term basis would discourage the trading licensees to take open positions in terms of duration of the contract. The trading licensees can bring innovation only through open position.

4.2.1.2. Earlier short term contracts referred to contracts wherein both legs of the transactions were less than one year. As per proposed regulations, any transactions even where even one of the contracts in buy or sell side is up to one year will be treated as short term. This will have an adverse and debilitating effect on market innovation. The proposed trading margin caps shall become applicable on such above transactions, which were long term or medium term as per the earlier regulations.

4.2.1.3. This provision may be applicable only in case of back-to-back transactions. However, in other cases, usually one side agreement for more than one year is considered as Long term/medium term contracts. The other side contract may be more than one in number, truncated in volume or in term as per the electricity market requirement. Since, it carries significant amount of risks which the Trading Licensee takes, suitable modification in the Draft Notification is requested, and the word 'both' should be replaced with the word 'either'.

4.2.1.4. Some Stakeholders have also suggested to add banking of electricity and trade of REC /E-Certs /HPO as additional product in types of contracts, where the trading margin shall be applicable.

Analysis and Decision

4.2.2. The Commission considered it appropriate to review the definition of short term and long term contracts. Accordingly, clauses (a) and (b) of Regulation 7 have been finalised as under:

***‘Clause 7(a): Transactions under short term contracts** (where period of the contract of the Trading Licensee with both the seller and the buyer, including transactions undertaken through power exchanges, is upto one year).*

***Clause 7(b): Transactions under long term contracts** (where period of the contract of the Trading Licensee with either the seller or the buyer or both is more than one year).*

5. Trading Margin (Regulation 8)

5.1. Trading Margin requirements [Clause 8(1)]

Commission's Proposal

5.1.1. The Commission had proposed the following with respect to trading margin in Draft

Regulation 8(1):

Clause 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, the Trading Licensee shall not charge any trading margin exceeding one (1.0) paise/kWh.

Clause 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:

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.

Clause 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

Clause 8(1)(f): For Cross Border Trade of Electricity, the trading margin would be decided mutually between the Trading Licensee and the seller.

Comments Received

5.1.2. Comments received from the stakeholders with respect to Regulation 8 are as follows:

5.1.2.1. Several stakeholders have suggested to remove the floor and cap on trading margin as the market has become competitive and trading margin derived from the market forces is much below the currently prescribed trading margin cap.

- 5.1.2.2. Some Stakeholders have also proposed not to impose any condition of payment security mechanism for charging trading margin and that trading margin of 1 paise/kWh in absence of payment security mechanism would be insufficient to cover the expenses of the traders.
- 5.1.2.3. The traders take risk on contracted quantum included but not limited to submission of payment security, open access charges, credit risk etc. If entire liability and risk is on contracted quantum, in that case, they should be allowed to charge trading margin upon the contracted quantum as well.
- 5.1.2.4. Some stakeholders have suggested to allow minimum trading margin of (4.00) Paisa/kWh and maximum ten (10.0) Paisa/kWh with escrow arrangement or irrevocable, unconditional and revolving letter of credit instead of minimum (0.0) paisa/kWh and maximum Seven (7.0) Paisa/kWh.
- 5.1.2.5. Minimum Trading margin should not be zero (0.0) Paisa/kWh in any case as every trading activity is having certain cost.

Analysis and Decision

- 5.1.3. The Commission analysed the stakeholder comments in detail. The Commission has also considered the various functions carried out by the traders in all types of trades including day ahead contracts, term ahead contracts and banking transactions. Further, the Commission also analysed the demand supply scenario in select States and understood the issues faced by these States at various levels of energy demand. In order to ensure 24x7 power for all, the States are increasingly relying on short term market or banking to cater to day peaks and seasonal peaks. With the successful completion of various electrification and economic growth initiatives carried out by the Government of India, it is expected that in the medium term, select States will witness further increase in energy demand with higher energy demand peaks. In such a scenario it is essential to ensure that interests of the distribution companies, consumers and sellers are protected.

- 5.1.4. Hence, the Commission considers it necessary that:

- 5.1.4.1. There should be a cap and a floor on the trading margin for short term contracts and banking contracts.
- 5.1.4.2. Where banking of electricity is facilitated by the trading licensee, a maximum of seven (7.0) paise/kWh cumulative trading margin shall be charged by the trader.
- 5.1.4.3. Traders should provide an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller.
- 5.1.4.4. In the event that escrow arrangement or irrevocable, unconditional and revolving letter of credit is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge any trading margin exceeding two (2.0) paise/kWh. The Commission considers that the trading margin cap of 2 paise/kWh would be sufficient to cover the costs associated with Operation and Maintenance expenses as well as providing adequate return on net worth.
- 5.1.5. In accordance with the above, various clauses of Regulation 8(1) have been finalised as under:

Clause 8(1)(c): *For transactions under short term contracts and contracts through power exchanges upto one year, the Trading Licensee shall charge a trading margin of not less than zero (0.0) paise/kWh and not exceeding 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, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.

Clause 8(1)(d): *For transactions under long term contracts, the trading margin shall be decided mutually between the Trading Licensee and the seller:*

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, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.

Clause 8(1)(e): For banking of electricity, the Trading Licensee shall charge a cumulative trading margin of not less than zero (0.0) paise/kWh and not exceeding seven (7.0) paise/kWh.

Clause 8(1)(f): For transactions under Back to Back 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, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.

Clause 8(1)(g): For Cross Border Trade of electricity, the trading margin shall be decided mutually between the Trading Licensee and the seller.

6. Obligations of the Trading Licensee (Regulation 9)

6.1. Obligation with respect to capital adequacy and liquidity requirements [Clause 9(2)]

Commission's Proposal

6.1.1. Obligation of the Trading Licensee with respect to capital adequacy and liquidity requirement as proposed under Regulation 9(2) of the Draft Regulations is provided below:

"The Trading Licensee shall maintain the Net Worth, Current Ratio and Liquidity Ratio in accordance with Regulation 3 of these regulations at all times."

Comments Received

6.1.2. One of the stakeholders has expressed concerns with regard to maintaining Current Ratio and Liquidity ratio of 1:1 at all times and has proposed additional net worth to the extent of 100% of the amount stipulated for the respective category of the Trading Licensee.

Analysis and Decision

6.1.3. In light of the comments received, the Commission has decided to revise the aforementioned clause as below:

“(2) The Trading Licensee shall maintain the Net Worth in accordance with Regulation 3 of these regulations at all times and shall maintain Current Ratio of 1:1 and Liquidity Ratio of 1:1 at the end of every financial year:

Provided that if the current ratio or the liquidity ratio at the end of the financial year is less than 1:1, then the Trading Licensee shall be required to maintain additional Net Worth of 100% of the Net Worth stipulated for the respective category of trading licence.”

6.2. Payment Security Mechanism [Clause 9(10)]

Commission’s Proposal

6.2.1. Payment security mechanism as obligation of the Trading Licensee proposed under Regulation 9(10) of the Draft Regulations is provided below:

“The Trading Licensee shall make payment of dues upon the agreed due date to the seller for purchase of the agreed quantum of electricity through an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of seller. Such escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of seller shall be equivalent to:

- a) two point one (2.1) times the average monthly bill amount (estimated average of monthly billing amounts for three months or actual monthly billing amount for preceding three months as the case may be) with a validity of one year for long term contracts;*
- b) one point zero five (1.05) times of contract value for short term contracts.”*

Comments Received

6.2.2. Several stakeholders have made submissions regarding the payment security mechanism which have been summarised as below:

6.2.2.1. Some Stakeholders have requested to reduce the amount of payment security mechanism to 1.05 times as it adequately covers the risk assumed by the licensees.

- 6.2.2.2. Opening of LC by the trading licensee in favour of the generator should not be made mandatory if LC has not been issued by the Utility. Such clauses wherein LC is mandatorily to be given to the Seller means that the trader is not acting as a trader but as a financier.
- 6.2.2.3. Few stakeholders have suggested to allow payment security mechanism to be mutually decided between the seller and the trader in short term contracts, as it is a part of the contracts executed between the parties.
- 6.2.2.4. Some of the trading licensees are of the view that condition of maintaining escrow arrangement or opening of LC is unjustifiable and will put additional burden on the trading licensees.
- 6.2.2.5. A few stakeholders have suggested alternatives to the payment security mechanism such as billing period may be allowed to be reduced, tripartite contract with PSM provided from the buyer directly to the seller with the trader as an intermediary, revolving advance payment etc.

Analysis and Decision

6.2.3. The Commission is of the view that traders are expected to play an important role of risk mitigation in the Indian power market. However, several contracts have been brought to the notice of the Commission where traders have not discharged their duties with respect to provision of adequate payment security mechanism. There are instances of contract dishonour, where buyer Discoms have reneged on their contractual obligations and Power Sale Agreements (PSAs) have not been operationalized by trading licensees, leaving sellers in a quandary. The traders have not stepped into the shoes of the seller and have not off-taken power from such sellers who were constrained to sell on the spot market at a loss. In select instances, the default risk and late payment risk have also not been subsumed by the traders. The payment is made by trader to seller only upon receipt of funds from the buyer Discoms. Further, there have also been contracts in day ahead market where traders have defaulted on the payments to be made to sellers.

6.2.4. Hence the Commission is of the view that the traders should provide an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller.

6.2.5. For long term contracts, the Commission has decided to reduce the amount of payment security mechanism to 1.1 times the average monthly bill amount from proposed 2.1 times the average monthly bill amount

6.2.6. Accordingly, Regulation 9(10) stands finalised as under:

“(10) The Trading Licensee shall make payment of dues by the agreed due date to the seller for purchase of the agreed quantum of electricity through an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller. Such escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of the seller shall be equivalent to:

- a) one point one (1.1) times the average monthly bill amount (estimated average of monthly billing amounts for three months or actual monthly billing amount for preceding three months as the case may be) with a validity of one year for long term contracts;*
- b) one point zero five (1.05) times of contract value for short term contracts.”*

**Sd/-
(I.S. Jha)
Member**

**Sd/-
(Dr. M.K. Iyer)
Member**

**Sd/-
(P.K.Pujari)
Chairperson**

Appendix - I

Stakeholders who submitted the comments

1. Adani Enterprises Limited
2. Association of Power Producers
3. Arunachal Pradesh Power Corporation Limited (APPCL)
4. ASSOCHAM
5. Boston Consulting Group
6. Bihar State Power Holding Company Limited (BSPHCL)
7. BSES Yamuna Private Limited (BYPL)
8. Damodar Valley Corporation (DVC)
9. EMA Solutions Private Limited
10. Federation of Indian Chambers of Commerce and Industry (FICCI)
11. GMR Energy Trading Limited
12. GRIDCO
13. Indian Energy Regulatory Services (IERS)
14. Indian Energy Exchange
15. Instinct Infra and Power Limited
16. Knowledge Infrastructure System Private Limited
17. Kreate Energy
18. Manikaran Power Limited
19. Meghalaya Power Distribution Corporation Limited (MEPDCL)
20. Maharashtra State Electricity Distribution Corporation Limited (MSEDCL)
21. Manipur State Power Distribution Corporation Limited (MSPDCL)
22. NHPC Limited
23. NTPC Limited
24. NVVN Limited
25. PRAYAS
26. Punjab State Power Corporation Limited
27. PTC India
28. RPG Power Trading Company Limited
29. Shree Cement Limited
30. Solar Energy Corporation of India
31. Shell Energy India Private Limited

32. Statkraft Markets Private Limited
33. Tata Power Delhi Distribution Limited (TPDDL)
34. Tata Power Trading Corporation Limited (TPTCL)
35. Uttarakhand Power Corporation Limited (UKPCL)
36. Uttar Pradesh Power Corporation Limited (UPPCL)
37. West Bengal State Electricity Distribution Corporation Limited (WBSEDCL)

Appendix - II

Stakeholders who made oral submissions/ power point presentations

1. Arunachal Pradesh Power Corporation Private Ltd
2. Boston Consulting Group
3. CUTS Institute for Regulation and Computation (CIRC)
4. KEIPL, New Delhi
5. Kreate Energy
6. Manikaran Power Limited
7. NTPC Ltd.
8. PTC India Ltd.
9. Solar Energy Corporation of India
10. Shell Energy India Private Limited
11. Statkraft Markets Pvt. Ltd.
12. Tata Power Trading