



BSES Rajdhani Power Limited

BSES Bhawan, Nehru Place,
New Delhi - 110 019, India.
CIN : U40109DL2001PLC111527
GST : 07AAGCS3187H2Z3
Tel.: +91 11 3009 9999
Fax: +91 11 3999 7888
www.bsedelhi.com

Ref: RA/2019-20/01/A/456

Date: 04-Dec-19

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

Sub: Suggestions/comments/objections on Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019.

Ref.: Public notice of Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019.

Dear Sir,

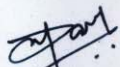
We refer the Hon'ble Commission's above-mentioned Notice on Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019. Please find attached our preliminary comments on the draft Regulations as **Annex-1**.

It is intimate you that we are finding it difficult to comprehend the object behind the draft Regulations and also the rationale behind such a change in the existing framework. As a practice, Hon'ble CERC has always supported its draft Regulations with an Explanatory Memorandum (EM) which shows & explain the rationale, need etc.

However, there is no such Explanatory Memorandum (EM) enclosed with the subject Regulations. We request to kindly issue the Explanatory Memorandum (EM) so that additional comments can be submitted to Hon'ble Commission.

Thanking You,

Yours faithfully
For BSES Rajdhani Power Limited


Ravi Shandiliya
Sr. Manager-Regulatory Affairs

Encl: As above

BRPL's - comments, suggestions and objections in Re: Draft of CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2019

1. DISCUSSION PAPER AND EXPLANATORY MEMORANDUM:

The present draft neither precedes with a discussion paper nor any explanatory memorandum. This is required especially when the present draft seeks to repeal the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010. The reasons and the rationale behind changing the entire scheme of the Regulatory framework for the levy of transmission charges is difficult to comprehend in the absence of either a discussion paper or an explanatory memorandum, which has always been the practice by the Hon'ble CERC before any draft regulations has been proposed. In view of the above, a discussion paper and/or explanatory memorandum be issued and till that time the date for submitting comments and suggestions may be extended.

Section 2(47) of the Electricity Act 2003 lays down the provision for use of Transmission lines by any licensee or consumer or generator. This is defined as "Open Access". The words "the use of Transmission lines" in Sec-2 (47) would militate against socializing the Transmission charges amongst those entities who are not engage in "the use of Transmission lines" the words "payment of the Transmission charges" in Sec-38 (2)(d) is necessarily on and upon "use of the transmission lines". Keeping in view these fundamental provisions of law the following comments provided:

2. Principle Issues:

- A) No Transmission charges in absence of PPA to avoid Undue Transmission charges on DICs for such Transmission corridors build for Generators/IPPS for evacuation of power without PPA or firm beneficiaries.**

In Past some High Capacity Transmission corridors were envisaged and were discussed in 28th Meeting of Standing committee on Transmission System Planning of Northern Region, 30th Meeting of Standing Committee on Power System Planning in WR & 14th Meeting of WRPC, But while planning these corridors there was no coordination with the Licensees or Discoms which is violation of provisions of Electricity Act 2003. As per Sec 38(2)(b)(iii) of EA 2003 CTU shall discharge all functions of planning and coordination relating to ISTS with Licensee. The Relevant extract of said provisions is reproduced below:

- " (2) The functions of the Central Transmission Utility shall be -*
- (a) to undertake transmission of electricity through inter-State transmission system;*
 - (b) to discharge all functions of planning and co-ordination relating to inter-State transmission system with -*
 - (i) State Transmission Utilities;*
 - (ii) Central Government;*
 - (iii) State Governments;*

- (iv) generating companies;*
- (v) Regional Power Committees;*
- (vi) Authority;*
- (vii) licensees;***
- (viii) any other person notified by the Central Government in this behalf;"*

Further CTU has also to ensure development of an efficient, coordinated and economical system of inter-State transmission lines for smooth flow of electricity from generating stations to the load centres but in case of said High capacity corridors system without identifying the Load Centres (Firm Beneficiaries) these corridors were developed. Which is also the violation of Section 38(2)(c) of Electricity Act 2003. The Relevant extract of said provisions is reproduced below:

(c) to ensure development of an efficient, coordinated and economical system of inter-State transmission lines for smooth flow of electricity from generating stations to the load centres;

Further while giving Regulatory Approval of said High Capacity Corridors in Petition no 233 of 2009, Hon'ble Central Commission has also noted that project developers of IPPs has given consent to CTU to bear transmission charges till the time beneficiaries are firm up. The relevant extract of order is reproduced below:

"It is evident from submission of the Petitioner that in certain cases, the project developers of IPPs have given consent to bear the transmission charges till the time beneficiaries are firm up. It shall be the responsibility of the Central Transmission Utility to ensure completion of these projects at optimum cost using best contractual practices including International Competitive bidding."

But as per the present scenario on these 9 High capacity transmission corridors 34479 MW of LTA has been relinquished out of 48383 MW LTA granted. This relinquishment shall be a additional burden on beneficiaries who were never involved in the building of these high capacity corridors.

Therefore we request Hon'ble Commission to introduce a Separate Component in Chapter 2 Clause 4 of Draft Regulations as

"Evacuation System Component":

A specific Transmission network built specifically for evacuation of power from generators/LTA Applicants which does not have firm beneficiaries shall be covered under this component and such cost of transmission corridors shall be recovered

from those generators only for whom the corridor was build and all efforts should be made to recover such cost from Generators/LTA applicants.

B) Dedicated Transmission line or associated transmission line build for IPP/ generator:

As per EA 2003, Sec-2(16) defined dedicated Transmission lines as any electrical supply line for point to point transmission for connecting lines or electrical plant of a CPP or IPP to any transmission lines or substations or load stations etc.

Hence, the law/statute itself contemplates that cost of dedicated transmission lines up to pooling station shall be borne only the generator/LTA applicants, even if it is constructed by CTU.

Hence, we request the Hon'ble Central Commission, even in case of relinquishment of LTA by generators, the cost of Dedicated Transmission line or associated transmission line should be recovered from respective IPP/ generator only and not from consumers.

C) N-1-1 Criteria Components should be socialize:

From the recent developments it has been observed that CTU has adopted the N-1-1 criteria for calculation of Stranded capacity on LTA relinquishment and for System planning.

It is submitted that those elements of power system which have been considered under N-1-1 are not meant for use by any specific beneficiary or Generators but for system stability so all these elements are a national assets and should be billed on Pan India basis. The Billing should be in the ratio of Monthly Billing of AC component and not on LTA+MTOA quantum.

Without prejudice to the above, the detailed clause-wise comments are as below:

3. Clause 5 of Chapter 2

Chapter 2 comprising of components and sharing of the national component and the regional components are bereft of any methodology and is not an indicator of a usage based levy. Neither is it an indicator of a levy on a national basis. In such circumstances, the content of this Chapter would be amenable to judicial review as they appear to be arbitrary.

4. Clause 5(4) of Chapter 2: Sharing of transmission charges by the beneficiaries in the ratio of their quantum of LTA plus MTOA is clearly unwarranted as the sharing of transmission charges should always be on usage basis.

5. Transmission charges of HVDC system is bifurcated in 3 parts

- a) 100% cost of some identified lines are considered in National Components
- b) Cost of Rest HVDC Lines is again bifurcated in
 - i) 30% in National Component
 - ii) 70% in Regional Component

Hon'ble Commission has not provided any justified reason for such bifurcation and transmission charges should be billed on Pan India basis in ratio of AC-UBC monthly billing.

6. Furthermore, insofar as Clause 6(2) of chapter 2 is concerned, if any drawee DIC has a dedicated transmission line LTA/MTA and is paying separate transmission charges for the said dedicated transmission line, then there should be no liability for the said LTA/MTA quantum on the said drawee DIC.

For Example: In case of Delhi, there is dedicated transmission line from Dadri#2 Thermal Power station whose injection point is Dadri Station and Drawal point is STU system of Delhi Transco Limited at Harsh Vihar. Further as per CERC order dated 20.04.2015 in Petition no 377/TT/2014, Hon'ble Commission has also accepted that the line is Dedicated Line and is an integral part of Generating Station and tariff should be determined as part of generation tariff and also allowed NTPC to recover tariff of this transmission line as part of generation tariff of Dadri-II. Delhi Discoms (BRPL, BYPL and TPDDL) are paying the transmission charges for this transmission line separately.

As Delhi is not using CTU network for Quantum of power allocation from Dadri-2 plant to Delhi, this LTA quantum of Dadri-2 should be excluded from total LTA+MTOA quantum of Delhi. Further all the transmission charges which are calculated on LTA+MTOA quantum should be calculated on this reduced LTA+MTOA quantum only.

7. Clause 7 of chapter 2, in the event there are transformers which can be used two states/DICs then what will be the billing method? Furthermore, which ICTs (owned by ISTS or owned by STU or by both) should be included in this component.
8. Clause 8(5) of Chapter 2, it is submitted that apportionment should be on usage basis i.e. in the ratio of monthly billing rather than in the ratio of quantum of LTA+MTOA.
9. Clause 10 of Chapter 2, it is not clear as to how the transmission losses for renewable energy shall be accounted for?
10. Clause 11(4) of Chapter 3, it is not clear whether in case of delay in commissioning of the renewable projects/generation projects, would such a generator be liable for payment of transmission charges. Ideally it should be borne by Generator.
11. Clause 13(2) (BILLING) of Chapter 4: CERC (Terms and Conditions of Tariff) Regulations, 2019, inter-alia, provides that the difference between the variation of tariff determination shall be recovered or refunded in six equal installments. The same methodology should also be followed in relation to the second bill raised to adjust variations on account of any revision in transmission charges as allowed by the CERC by way of under recovery or over recovery.
12. Clause 13(2)(VI) and (VII), of Chapter 4, These provisions indicate the involvement of multiple agencies. This may create confusion and litigation and disputes. Instead it is suggested that the NLDC should undertake all these functions for intimating transmission deviation etc.
13. Clause 13(4) of Chapter 4, The word "bilateral bills" had not been defined in the draft Regulations.

- 14.** Clause 16(2): It is submitted that the commercial terms such letters of credit is typically a negotiated inter partes term and condition. It is, therefore, not necessary for binding the parties to commercial terms by way of Regulations. Without prejudice to the foregoing, letter of credit for an amount of 2.10 (two point one times), the average amount of first bill for a year, is not only excessive and usurious but also a complete departure from the normal practice of 1.05 times the average amount. It is to be noted that there are various distribution companies beneficiaries which are not entirely government owned or controlled and have a major cash crunch because of absence of cost reflective tariff determination by the State Electricity Regulatory Commission. In such cases question of tripartite agreement for securitization on account of arrears against transmission charges with the Govt. of India, does not arise. Hence, there is a complete discrimination of providing letter of credit of 1.05 times to those distribution companies where there is such an tripartite agreement and 2.10 times for those distribution companies where there is no such tripartite agreement, is violative of Article 14 of the Constitution and thus ultra vires. Further this discrimination is not only to Private Discoms but also to the esteemed consumers to whom they are serving because it will increase consumer's tariff.
- 15.** In Clause 16(7) a proviso may kindly be added that the existing agreements or arrangements or PPAs shall continue to hold good and accordingly all terms and conditions of payment security mechanism as had been agreed to by the parties, inter se, in the said agreement or otherwise would be saved and not disturbed.
- 16.** Clause 20: It is submitted that information, software and procedures should also be shared with the beneficiaries (DIC).
- 17.** Clause 21(6): Additional transmission charge at the rate of 1 percent of the transmission charges to be levied in the event Dic does not provide required data, is ultra vires the statute, i.e. the Electricity Act, 2003 as firstly, (i) this additional levy is purely a penalty, Secondly (ii) such a penalty is not authorized under the 2003 Act, thirdly (iii) such a levy is arbitrary and unlawful and ultra vires the Constitution. And last but not the least, additional transmission charge at 1 percent cannot be retained by the Central Transmission Utility. Such a retention would be ex-facie ultra vires the Electricity Act and the Constitution of India.