

28 November, 2019

To,
The Ld. Secretary,
Hon'ble Central Electricity Regulatory Commission,
3rd & 4th Floor, Chandralok Building,
36, Janpath, New Delhi -110001

Sub: Comments on the Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019 issued by the Hon'ble Central Electricity Regulatory Commission vide Public Notice being No. L-1/250/2019/CERC dated 31.10.2019

Ref:

- (1) Public Notice being No. L-1/250/2019/CERC dated 31.10.2019
- (2) Draft Notification being No. L-1/250/2019/CERC dated 31.10.2019 publishing Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019

Respected Sir,

- (1) This Hon'ble Central Electricity Regulatory Commission ("**Hon'ble CERC**") vide Public Notice dated 31.10.2019 invited comments/suggestions/objections from the stakeholders and interested persons on the Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019. ("**Draft Sharing Regulations, 2019**").
- (2) In terms of the said Public Notice, the present comments are being filed by the Gati Infrastructure Pvt. Ltd. ("**GIPL**") which is a generating company within the meaning of Section 2 (28) of the Electricity Act and has established Chuzachen HEP of 110 MW in Sikkim.



- (3) The GIPL has entered into a long term power sale arrangement with Haryana Power Purchase Centre vide initialled PPA dated 03.05.2018 (“HPPC”). It is pertinent to note that the Hon’ble Haryana Electricity Regulatory Commission (“Hon’ble HERC”) vide its order dated 13.11.2017 has also approved the source of procurement of power on basis of the petition filed by the HPPC. The PPA between generator & HPPC has also been initialled however, on account of procedural delays the final tariff determination and signing of the initiated PPA is pending. In the meanwhile the Long Term Access granted to GIPL has been operationalized however, the assignment of the same is pending.

Re: Amendment/Changes in the Draft Sharing Regulations, 2019 and insertion of the definition of the Power Purchase Agreement:

A. Amendment/Changes:

<u>Existing Draft Regulation</u>	<u>Changes sought in the Draft Regulation</u>
<p>CHAPTER 3 SPECIFIC CASES</p> <p>11. Transmission charges in specific cases</p> <p>(3) Where Generating Stations or sellers have been granted Long term Access or Medium Term Open Access and have entered into Power Purchase Agreement for supply of power under such Long Term Access or Medium Term Open Access, the transmission charges towards such Long Term Access or Medium Term Open Access for components identified under Regulations 5 to 8 of these regulations shall be determined at the drawl nodes and zone and billed to the buyer.</p>	<p>CHAPTER 3 SPECIFIC CASES</p> <p>11. Transmission charges in specific cases</p> <p>(3) Where Generating Stations or sellers have been granted Long term Access or Medium Term Open Access and have entered into Power Purchase Agreement including initialled Power Purchase Agreement or where the source of power procurement has been approved by the appropriate commission for supply of power under such Long Term Access or Medium Term Open Access, the transmission charges towards such Long Term Access or Medium Term Open Access for</p>

<p><i>Provided that sellers and buyers shall make necessary adjustment or settlement among themselves for transmission charges in terms of their respective Power Purchase Agreements.</i></p>	<p><i>components identified under Regulations 5 to 8 of these regulations shall be determined at the drawl nodes and zone and billed to the buyer.</i></p> <p><i>Provided that sellers and buyers shall make necessary adjustment or settlement among themselves for transmission charges in terms of their respective Power Purchase Agreements.</i></p>
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B. Insertion of definition of the Power Purchase Agreement:

(L) "Power Purchase Agreement" an agreement executed between generating company, and distribution license or power management company/committee or trading licensee in relation to purchase of power and the same shall also include initialled Power Purchase Agreement for the purpose of the present regulations.

Re: Reasons for Amendments/Changes in Draft Sharing Regulations, 2019 and Insertion of the definition of the Power Purchase Agreement:

(A) Unavoidable double levy of both Short Term Open Access and Long Term Open Access:

It is noteworthy that the PPA initialled between parties in relation to the power purchase arrangement under Section 62 of the Electricity Act, 2003 ("**Electricity Act**") does not undergoes any material changes at time of signing of the same apart from the fact of incorporation of the tariff determined by the relevant Regulatory commission in the said PPA. However, despite the said fact, the Power Grid Corporation of India Limited, charge for both Short Term Open Access ("**STOA**") as well as for Long Term Open Access ("**LTOA**") till the time the said initialled PPA is not signed amongst the parties.



Although the credit for the transaction done under STOA route is being given to LTA customer in the subsequent month. However, such kind of artificial and fictional distinction created for levy of the charges causes' great prejudice to the financial health of the generators.

- (4) The aforesaid double levy of the STOA and LTOA puts unnecessarily financial burden on the generator for the event, i.e. Tariff Determination which essential does bear any material impact on the other commercial terms of the PPA and too without any deliberate fault or omission on part of the generator.
- (5) It is submitted that the generators are being unnecessarily being made to pay both for STOA and LTOA charges for supplying same electricity to the same beneficiary on account of present dichotomy which needs to be corrected.
- (6) The differences between said PPAs both are merely procedural, fictional and hypothetical rather than real and actual. It is submitted that the only formality of signing the initialled PPAs not being available cannot come in the way of the generators right under the Electricity Act, BPTA and LTAA.
- (7) It is also noteworthy that the electricity being taken by the Distribution Company or the power being supplied by the generator both are declared as long term power. The said power is never declared or scheduled as STOA or MTOA. In view of the same, artificial distinction amongst the PPAs which are just matter of procedural steps create necessary hardship and financial prejudice.
- (8) As stated above, the initialled PPA and the one that gets signed amongst the parties is not materially different in terms of the stipulations and conditions agreed amongst the parties. However, due to procedural steps, the signing of the PPA, gets usually delayed till the completion of the tariff determination process.



- (9) Further, Long Term Access gets operationalized but however, due to procedural issues, the same does not get assigned. The Distribution Companies also usually takes a view that PPA is not signed and only the same is initialled therefore, they delay issuance of the requisite NoCs.
- (10) It is submitted that due to procedural issues the signing of the initialled PPAs get delayed. The said situation leads to grave prejudice and double levy of charges.
- (11) In view of the same, it is humbly submitted that this Hon'ble Commission may kindly consider the changes suggested above and the definition of the PPA may be incorporated which may include initialled PPAs and order relating to approval of the source of the procurement of the Power. In event the aforesaid suggestion is rejected, it would put the generator under great hardship and financial burden which the generators are bearing with great difficulty and hardship.
- (12) In light of the above, the changes suggested may kindly be incorporated in final draft of the Sharing Regulations, 2019 in interest of equity and justice and also to avoid discrimination.
- (13) It is prayed to this Hon'ble Commission to kindly take note of above situations prevailing at the ground and considering the same, the scope of the PPA should be enlarged in the Draft Sharing Regulations to include initialled PPAs and the also the source approval of the power procurement of generators.

Re: **Reclassification of the Large Hydro as Renewable Energy Source**

- (14) It is pertinent to note that the Ministry of Power, Government of India vide its Office Memorandum dated 08.03.2019 has issued measures to promote Hydro Power Sector. One of the measures which has been



directed by the Government of India relates to reclassification of Large Hydro Projects (> 25 MW projects) as Renewable Energy Source. In view of the same, it is requested that the Large Hydro Projects > 25 MW may also be exempted in the manner wind and solar projects have exempted from the payment of transmission and losses and other charges.

The office memorandum dated 08.03.2019 is annexed hereto and marked as **Annexure-A**

Thank you,

For & behalf of **Gati Infrastructure Pvt. Ltd.**

for Rajesh Sharma


Rajesh Sharma

Head Contracts & Procurement

OFFICE MEMORANDUM

Subject: MEASURES TO PROMOTE HYDRO POWER SECTOR

In reference to communication received from Cabinet Secretariat vide D.O. No. 11/CM/2019(iii) dated 7.3.2019, the undersigned is directed to inform that the Government has approved the following measures to promote hydropower sector:-

2. Declaring LHPs (> 25 MW projects) as Renewable Energy source:

2.1 Large Hydropower Projects (LHPs, i.e. > 25 MW projects) are declared as Renewable Energy source. However, LHPs would not automatically be eligible for any differential treatment for statutory clearances such as Forest Clearance, environmental clearance, NBWL clearance, related Cumulative Impact Assessment & carrying Capacity study, etc., available to Small Hydropower Projects (SHPs), i.e., projects of capacity up to 25 MW. Ministry of Power shall continue to be the administrative Ministry for LHPs.

3. Hydro Purchase Obligation (HPO) as a separate entity within Non – solar Renewable Purchase Obligation (RPO):

3.1 Hydropower Purchase Obligation (HPO) is notified as a separate entity within Non - Solar Renewable Purchase Obligation (RPO). The HPO shall cover all LHPs commissioned after issue of this Office Memorandum as well as the untied capacity (i.e. without PPA) of the commissioned projects. This HPO will be within the existing Non-Solar RPO after increasing the percentage assigned for it so that existing Non-Solar RPO for other renewable sources remains unaffected by the introduction of HPO. The trajectory of annual HPO targets will be notified by Ministry of Power based on the projected capacity addition plans in hydropower sector. Necessary amendments will be introduced in the Tariff Policy and Tariff Regulations to operationalize HPO.

4. Tariff rationalisation measures for bringing down hydropower tariff:

4.1 Tariff rationalisation measures including providing flexibility to the developers to determine tariff by back loading of tariff after increasing project life to 40 years, increasing debt repayment period to 18 years and introducing escalating tariff of 2%.

4.2 The levelized tariff over the useful life of the project may be calculated on the basis of the norms specified in the CERC regulations and thereafter, the determination of year wise tariff, for a long term PPA for procurement of Hydro Power for a period of not less than specified years (depending upon the repayment plan for the debt raised by the generator such that major part of the loan is repaid during the tenure of such PPA), may be left to the Developer and DISCOMs as per their feasibility and depending upon the terms of repayment of loan negotiated with the lenders subject to-

- (a) submission of such complete calculations with assumptions to be provided by the generator of hydro power at the time of filing of the application; and
- (b) upfront approval by the appropriate Regulatory Commission.

5. **Budgetary Support for Flood Moderation/ Storage Hydro Electric Projects (HEPs):**

5.1 In-principle approval is accorded for providing budgetary support through the budgetary grant of Ministry of Power for Flood Moderation component for Storage HEPs to be set up in future. The value of flood moderation component will be worked by technical agencies, viz., CWC, etc. in accordance with the guidelines. The amount required for flood moderation/ storage costs shall be released, through MoP budgetary provisions after appraisal of each project, on a case to case basis, by Public Investment Board (PIB)/ Cabinet Committee on Economic Affairs (CCEA) as per due process.

6. **Budgetary Support to Cost of Enabling Infrastructure, i.e., roads/ bridges:**

6.1 In-principle approval is accorded for providing budgetary support through the budgetary grant of Ministry of Power for funding enabling infrastructure for hydropower projects i.e. roads / bridges. This support shall be applicable for projects starting construction after notification of this Office Memorandum. This budgetary support would be provided after appraisal/ approval of each project by PIB/ CCEA as per the extant rules/ due process. The limit of this grant for such roads and bridges would be as follows:

- a) Rs. 1.5 crore per MW for projects upto 200 MW,
- b) Rs. 1.0 crore per MW for projects above 200 MW.

7. This issues with the approval of the Competent Authority.

S. Benjamin
(S Benjamin)

Under Secretary to the Govt of India
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1. The Chairman, All State Electricity Boards / State Power Utilities
2. The Chairman, Central Electricity Authority, New Delhi.
3. The Principal Secretary / Commissioner (Power), All State Government and U.T.s
4. The CMDs of all PSUs under the administrative control of Ministry of Power
5. Chairperson, CERC
6. Chairpersons of all SERCs

Copy to:

1. Secretary, Department of Economic Affairs, Ministry of Finance
2. Secretary, Department of Expenditure Ministry of Finance
3. Secretary, Department of Financial Services, Ministry of Finance
4. Secretary, Department of Revenue, Ministry of Finance
5. Secretary, MNRE
6. Secretary, MoEF
7. Secretary, DoNER
8. CEO, NITI Aayog
9. Secretary, MoWR
10. Chairperson, CWC

Copy also for kind information to:

1. Director, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi w.r.t D.O. No. 11/CM/2019(iii) dated 07.03.2019
2. Director, PMO, South Block, New Delhi.
3. All Joint Secretaries/ FA /EA of the Ministry of Power, Shram Shakti Bhawan, New Delhi.
4. All Director, Ministry of Power, Shram Shakti Bhawan, New Delhi.
5. Director (Tech.) NIC cell, MoP with the request to upload on the website of Ministry.

Copy to:

1. Chief Engineer (R&R) Ministry of Power, Shram Shakti Bhawan, New Delhi- with a request to issue appropriate directions to CERC/SERCs per Section 107 of the Electricity Act-2003 to incorporate above tariff rationalization measure as mentioned at Para 3.1, 4, 4.1 & 4.2 above in the Tariff Regulations and also for appropriate changes for other Paras above.
2. Chairperson, CEA- with a request to take necessary action to implement the above decisions.