

MB POWER (MADHYA PRADESH) LIMITED

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MBPMPL/ANP-I/CERC/18-19/1197

31st December 2019

The Secretary,

Central Electricity Regulatory Commission (CERC)
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi-110001.

Sub: *Preliminary Comments/ Concerns of MB Power (Madhya Pradesh) Limited on the Draft CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019.*

Dear Sir,

- Hon'ble Central Electricity Regulatory Commission (CERC) has issued the Draft CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019 (hereinafter referred to as "*Draft Sharing Regulations 2019*") vide its notification dated 31.10.2019 inviting Public comments/ suggestions/ objections on the same. We understand that these Regulations shall supersede the earlier notified Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations 2010 hereinafter referred to as "*PoC Regulations*") and its subsequent amendments thereof.
- We, MB Power (Madhya Pradesh) Limited, are a Generator and a Designated ISTS Customer (DIC). We have a an operational 1200 MW (2X600 MW) coal based Thermal Power Project in district Anuppur of Madhya Pradesh from which we have been supplying power to multiple states like Uttar Pradesh, Madhya Pradesh, Haryana etc.
- We vide out letter dated 28.11.2019 [*copy enclosed as Annexure-1*] had requested this Hon'ble Commission to issue an Explanatory Memorandum to these Draft Sharing Regulations 2019 followed by conducting an interactive workshop with various Stakeholders, Generators, DICs etc. to facilitate a comprehensive understanding and other operational intricacies involved with the transmission charges billing mechanism proposed under these Draft Sharing Regulations 2019.
- This Hon'ble Commission has been gracious to issue an Explanatory Memorandum to these Draft Sharing Regulations 2019 on 03.12.2019. Although, this Explanatory Memorandum has tried to explain and exemplify the new proposed transmission charges billing mechanism, however, it does not cover some of the practical situations being faced by many Generators including us. As such, it becomes all the more

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important that an interactive workshop to this effect with various Stakeholders, Generators, DICs etc. is conducted as in absence of such a practical and explanatory interactive workshop, we are facing acute challenges in having a comprehensive understanding of these Draft Sharing Regulations 2019 and many of our concerns/ queries still remain unanswered.

- It may kindly be appreciated that these Draft Sharing Regulations 2019 mark a paradigm shift in the existing transmission charges billing mechanism and till the time these operational details, methodology and other related practical aspects are explained through an interactive workshop, it would be very difficult for various Stakeholders, Generators, DICs etc. like us to have a comprehensive understanding of the new transmission charges billing mechanism proposed under these Draft Sharing Regulations 2019, and tender their respective comments/ suggestions/ objections thereof before this Hon'ble Commission.
- Further, since these Draft Sharing Regulations 2019 will have far reaching repercussions on the entire value chain of the power sector, hence it becomes all the more important that the concerns/ suggestions/ queries of various Stakeholders, Generators, DICs etc. are taken cognizance of and addressed at this very stage only through an interactive workshop, which may otherwise lead to unnecessary litigations.
- As such, it is earnestly requested that this Hon'ble Commission may kindly conduct an interactive explanatory workshop with various Stakeholders, Generators, DICs etc. to impart a practical hands-on understanding and technical & operational know-how of the new transmission charges billing mechanism proposed under these Draft Sharing Regulations 2019, subsequent to which, a period of at least 2 weeks may be allowed for submission of the detailed comments/ suggestions/ objections by various Stakeholders, Generators, DICs etc.

Nonetheless, based on our limited understanding of the Draft Sharing Regulations 2019, we are hereby tendering our preliminary broad comments/ concerns as under and we shall submit our comprehensive comments/ suggestions/ objections once a detailed understanding of these Draft Sharing Regulations 2019 and the principles of sharing of transmission charges thereof is rendered to us through a much required interactive explanatory workshop:

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Broad Level Comments.

These Draft Sharing Regulations 2019 mark a paradigm shift in the existing principles of sharing of transmission charges and transmission charges billing mechanism (under the existing PoC Regulations) especially with respect to the in-vogue provisions of Off-setting of quantum (and Transmission Charges thereof) of un-tied Long Term Access (LTA) granted on Target Region basis (i.e. LTA without any firmed-up beneficiaries under PPA) against the power supplied under Medium Term Open Access (MTOA) and/or Short Term Open Access (STOA) (both Bilateral and Collective Transactions) (hereinafter referred to as "*Off-setting Mechanism*").

The very basis of this existing Off-setting Mechanism is to ensure recovery of the transmission charges corresponding to the actual transmission system usage irrespective of the mode of power transmission (i.e. LTA/ MTOA/ STOA). As such, this existing Off-setting Mechanism is not only an immensely responsive mechanism to address the fundamental issue of levy of transmission charges corresponding un-tied LTA but also is a widely accepted a balancing act between actual usage of the transmission system by a Generator and the recovery of transmission charges thereof irrespective of mode of power transmission i.e. LTA/ MTOA/ STOA.

However, we understand that by way of Draft Sharing Regulations 2019, the existing Off-setting Mechanism is being rendered obsolete. Furthermore, these Draft Sharing Regulations 2019 propose that no transmission charges shall be levied for ISTS in respect of STOA transactions. We further understand that monthly transmission charges under these Draft Sharing Regulations 2019 shall be based on the actual injection by a Generator during the peak block of that month (*defined as the block in a month in which sum of net ISTS drawals by all States is maximum during that month*). These transmission charges shall then be apportioned between the Generator and its power Buyer(s) in-terms of:

- a) The untied capacity (i.e. the capacity for which the LTA is available with the Generator but no PPA is available) and
- b) The Capacity under long/medium term PPAs.

We further understand that no separate transmission charges on account of STOA transactions (both Collective and Bilateral) shall be levied as long as injection (MW) by a Generator during the defined peak block of the month is less than the sum of LTA capacity (tied + untied) and MTOA capacity. Nonetheless, any injection by the Generator beyond such sum of LTA capacity (tied + untied) and MTOA capacity shall attract transmission deviation charges.

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However it is not clear how the above mechanism proposed under the Draft Sharing Regulations 2019 would address the following concerns/ challenges:

- 1) Currently, there are a large number of IPPs in the country who have a substantial untied LTA capacity. However, due to the existing Off-setting Mechanism under the prevailing PoC Regulations, such IPPs are not subjected to any additional monthly transmission charges for such un-tied LTA capacity as long as sum of quantum of monthly power transacted through MTOA and/or STOA exceeds or equals such untied LTA capacity. However, as per the Draft Sharing Regulations 2019, the Generator shall be liable for payment of transmission charges of such untied LTA capacity even if this Generator sells such untied LTA capacity under MTOA and/or STOA transactions (both Bilateral and Collective), however, no STOA charges shall be payable by the Buyer. It may be appreciated that there are certain Short-Term and Medium-Term PPAs where the obligation of securing such Open Access and payment of transmission charges thereof vests with the Buyer. In such a scenario, despite the Generator selling the un-tied LTA capacity under Medium-Term and/or Short-Term transactions, he will still be saddled with obligation of payment of transmission charges of such un-tied LTA capacity and the benefit of the same would accrue to Buyer, who is otherwise obliged to pay for these transmission charges under such Short-Term and/or Medium-Term PPAs.

As such, this skewed approach of denying the prevailing Off-setting Mechanism benefits to the Generator envisaged under Draft Sharing Regulations 2019 and saddling him with the transmission charges of the un-tied LTA capacity, would leave no incentive/ reason for the Generator to continue with the un-tied LTA capacity and he would be left with no other option but to "Relinquish" such un-tied LTA capacity. It may kindly be appreciated that the issue of LTA Relinquishment has already drawn a lot of noise in the sector and had led to a spate of pending appeals before the Hon'ble APTEL against this Hon'ble Commission's Order dated 08.03.2019 in Petition 92/MP/2015 (LTA Relinquishment Matter). It may further be appreciated that the Generators are still having a substantial un-tied LTA capacity which has not been relinquished so far, due to the in-vogue Off-setting Mechanism, and if this Off-setting Mechanism is rendered obsolete by way of the Draft Sharing Regulations 2019, it would invariably result in relinquishment of a massive un-tied LTA capacity, thereby leading to an outbreak of avoidable litigations.

- 2) The transmission charges sharing mechanism of AC System Component envisaged in the Draft Sharing Regulations 2019 is contingent upon the injection by a Generator during the peak block (*defined as the block in a month in which sum of net ISTS drawals by all States is maximum during that month*). However, it is not clear how this

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transmission charges sharing mechanism would be implemented if the injection by a Generator during the peak block is nil or if there is a substantial variation in the actual injection pattern of the Generator over a month vis-à-vis the injection by this Generator during the peak block. The injection pattern of any Generator is dynamic in nature on account of various uncontrollable factors (like scheduling by Buyer, grid conditions, load pattern and seasonal variations etc.) and as such injection during a particular block (i.e. the defined peak block) can in no way be a true determinant of transmission charges sharing mechanism envisaged in the Draft Sharing Regulations 2019.

- 3) It is unclear how the part capacity of a Generator for which LTA has been availed by its Buyer (State Discom) shall be treated with respect to computation and levy of transmission deviation charges i.e. whether this LTA capacity shall be treated as LTA capacity of Generator or aggregate LTA capacity of the State (i.e. the host state of Buyer DISCOM) for the purpose for computation and levy of transmission deviation charges.
- 4) The Draft Sharing Regulations 2019 provide that transmission charges for the quantum of power tied-up under PPAs shall be billed directly to the Buyer, even if the LTA and/or MTOA for such a capacity has been availed by the Generator. However, in most of the PPAs, it is the obligation of the Generator to avail such Open Access and pay the monthly transmission charges thereof and subsequently claim the same from the Buyer. Hence the above provision of Draft Sharing Regulations 2019 with respect to billing directly on the Buyer, would necessitate amending the existing PPAs. As such, clear and unambiguous directions may be issued by this Hon'ble Commission in these Draft Sharing Regulations 2019 only for amendment in the existing PPAs to this effect.
- 5) Currently, as per the prevailing Regulations, Node-wise/ State-wise monthly transmission rates and losses are duly approved and notified by this Hon'ble Commission on quarterly basis, wherein this Hon'ble Commission undertakes a comprehensive prudence check in consultation with various agencies and stakeholders before approving and publishing such rates and losses. As such, these rates and losses bear a testimony of this Hon'ble Commission, leaving hardly any scope of litigations with respect to monthly transmission charges invoices raised by PGCIL. However, we understand the transmission charges billing mechanism envisaged under the Draft Sharing Regulations 2019 would do-away with the existing practice of regulatory approval of the transmission rates and losses. In absence of such a regulatory prudence check and approval, there may be an exponential increase in the available litigations.

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As such, it is imperative that a periodic regulatory prudence check and approval mechanism should continue in all the times to come.

We are sure that this Hon'ble Commission would genuinely appreciate our above concerns and would favourably acknowledge that an interactive explanatory workshop with various Stakeholders, Generators, DICs etc. is imperative to address the practical concerns/ queries for smooth implementation of these Regulations. As such, this interactive explanatory workshop may be conducted at the earliest, subsequent to which, a period of at least 2 weeks may be allowed for submission of the detailed comments/ objections/ suggestions by various Stakeholders, Generators, DICs etc.

Thanking You

Yours Faithfully,



Abhishek Gupta
General Manager (Regulatory & Commercial)
MB Power (Madhya Pradesh) Limited

Enclosure: Annexure-1 - Our letter to this Hon'ble Commission dated 28.11.2019.

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28.11.2019

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

Subject: *Request for conducting an interactive Workshop to facilitate the operational mechanism proposed in the Draft CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019.*

- Ref:**
- Public Notice No. L-1/250/2019/CERC dated 31st October, 2019 of this Hon'ble Commission.*
 - Our earlier letter dated 26.11.2019 bearing Ref No. MBPMPL/ANP-I/CERC/19-20/801 submitted before this Hon'ble Commission.*

Dear Sir,

We write in continuation to our above referred letter dated 26.11.2019 wherein we had requested this Hon'ble Commission to extend the timelines for submission of comments/objections/suggestions on Draft CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019 by another 1 month i.e. up-to 01st January, 2020.

In this regard, we would further request for issuance of "Explanatory Memorandum" to these Draft Regulations as per the prevailing CERC practice, followed by conducting an interactive Workshop with various Stakeholders, Generators, DICs etc. to facilitate a comprehensive understanding and other operational intricacies of the proposed Transmission Charges billing mechanism under these Draft Regulations.

It may kindly be appreciated that these Draft Regulations outline a paradigm shift in the existing Transmission Charges Billing Mechanism and till the time such operational details are not practically explained through the suggested interactive Workshop, it would be very difficult for

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the various stakeholders, including us, to submit detailed comments/objections/suggestions thereof. Further, since these Draft Regulations will have far reaching repercussions on the entire value chain of the power sector, hence it becomes all the more important that the concerns of various stakeholders are taken cognizance of and addressed at this very stage through an interactive Workshop, which may otherwise lead to a flurry of avoidable litigations.

Accordingly, we would request you to kindly issue the Explanatory Memorandum to these Draft Regulations at the earliest followed by conducting an interactive Workshop thereof and thereafter a time period of at-least 2 weeks may be granted for submission of comments/objections/suggestions.

We sincerely hope that this Hon'ble Commission would acknowledge a genuine merit in our submissions and consider our request favourably and oblige us.

Thanking You,


28/11/2019
Yours Truly



For MB Power (Madhya Pradesh) Ltd.