



**एनएचपीसी लिमिटेड**  
(भारत सरकार का उद्यम)

**NHPC Limited**  
(A Government of India Enterprise)

संदर्भ सं./Ref. No. NH/Comml./Tariff/29/2020/1258

फोन/Phone : \_\_\_\_\_

दिनांक/Date : 14.08.2020

**Secretary**  
**Central Electricity Regulatory Commission,**  
**3<sup>rd</sup> & 4<sup>th</sup> Floor, Chanderlok Building,**  
**36 - Janpath, New Delhi- 110 001**  
**Phone: 011-23753915**

**Sub:- Comments on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020 - Reg.**

**Ref:- CERC Public notice No. L-1/42/2010 - CERC dated 16.07.2020**

Sir,

In reference to above public notice dated 16.07.2020, the comments / suggestions of NHPC on the draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020 are enclosed for further necessary action. The comments / suggestions have been uploaded through SAUDAMINI portal under 'e-Regulation'. The soft copy of the same has also been emailed to [secy@cercind.gov.in](mailto:secy@cercind.gov.in) & [shilpa@cercind.gov.in](mailto:shilpa@cercind.gov.in).

Thanking You,  
Encl: As above

Yours Sincerely,

**(M G Gokhale)**  
**General Manager (Comml.)**  
**Tele No.0129-2250040**

**Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020**

<b>Regulation No.</b>	<b>Existing provision</b>	<b>Proposed Amendment</b>	<b>Comments / Suggestions</b>
Regulation 14	<i>During regulation of power supply, through a hydro generating station, in order to avoid spillage of water, if a buyer cannot be found or is not found for the full quantum of power rendered surplus, the generating station can inject power under Unscheduled Interchange (UI) mechanism, if grid conditions allow, with the permission of the Regional Load Despatch Centre in which it is located, subject to the stipulations in the Central Electricity Regulatory Commission, (Unscheduled Interchange charges and related matters) Regulations, 2009, as amended from time to time. The loss of energy charge, in case of spillage of water, shall be made good from the revenue earned through sale of power and/or UI from injection of power rendered surplus due to regulation, on first charge, and the balance amount shall be adjusted in accordance with Regulation 13.</i>	<i>During regulation of power supply from a hydro generating station, the generating station may, in order to avoid spillage of water, sell the power rendered surplus, to any person in accordance with the provisions of Regulation 12 of these regulations. The loss of energy charge, in case of spillage of water, shall be made good from the revenue earned through sale of power rendered surplus due to regulation of power supply, on first charge, and the balance amount shall be adjusted in accordance with Regulation 13 of these regulations</i>	<p>In case of Regulation of power supply from a hydro generating station, revenue loss on account of spillage of water can occur under the following circumstances:</p> <ul style="list-style-type: none"> <li>a. If buyer is not found for sale of regulated power (either for partial / full quantum of power) in Day Ahead Market (hereinafter called DAM).</li> <li>b. Non clearance of regulated power in certain time blocks in case of sale of power through Power Exchanges owing to MCP less than quoted price.</li> <li>c. Tripping of units in real time / forced outages.</li> </ul> <p>In order to avoid spillage of water under conditions 'a' &amp; 'b' above and to have optimum utilization of water, permission may be granted to hydro generators to inject power under Deviation Settlement Mechanism (DSM) as per the existing provisions, if buyer is not available under case</p>

**Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020**

			<p>(a) &amp; (b) as above under DAM. Non finalization of buyer shall be known by 6 hrs earlier than 00:00 Hrs of date of scheduling on each day and therefore RLDC shall have sufficient time to give permission under DSM.</p> <p>Further, in case of sale of Regulated power through power exchanges, there could be an incidence of penal DSM Charges due to tripping / forced outage (condition 'c') as there is no provision for revision of schedule under collective transactions. In such cases, it may be permitted to adjust the DSM loss of generator in the regulated sale proceeds as part of incidental expenses before the same is passed on to the defaulting entity. This is also in line with the findings of the Hon'ble Commission at para-59(b) of order dated 02.09.2015 in petition no. 142/MP/2012.</p>
<p>Regulation 18</p>	<p><i>During regulation of power supply, through a hydro generating station, in order to avoid spillage of water, if a buyer cannot be found or is not</i></p>	<p><i>During regulation of power supply from a hydro generating station, the generating station may, in order to avoid spillage of water,</i></p>	<p>Comments / suggestions against Regulation 14 above are equally valid in this case also.</p>



**Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020**

	<p><i>found for the full quantum of power rendered surplus, the generating station can inject power under Unscheduled Interchange (UI) mechanism, if grid conditions allow, with the permission of the Regional Load Despatch Centre in which it is located, subject to the stipulations in the Central Electricity Regulatory Commission, (Unscheduled Interchange charges and related matters) Regulations, 2009, as amended from time to time. The loss of energy charge, in case of spillage of water, shall be made good from the revenue earned through sale of power and/or UI from injection of power rendered surplus due to regulation, on first charge, and the balance amount shall be adjusted in accordance with Regulation 16.</i></p>	<p><i>sell the power rendered surplus, to any person in accordance with the provisions of Regulation 12 of these regulations. The loss of energy charge, in case of spillage of water, shall be made good from the revenue earned through sale of power rendered surplus due to regulation of power supply, on first charge, and the balance amount shall be adjusted in accordance with Regulation 16 of these regulations</i></p>	
<b>Additional Comments / Suggestions</b>			
<p>Regulation 10</p>	<p><i>Where the Regulated Entity has defaulted in making payment to both Generating Company and Transmission Licensee, the regulation of power supply on the</i></p>	<p>NIL</p>	<p>The phrase ‘Regulation 17’ mentioned under Regulation 10 may be changed to ‘<b>Regulation 19</b>’ as the mechanism for adjustment of dues by Generating Company &amp;</p>

1  
2

Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020

	<i>Regulated Entity for these defaults shall be implemented concurrently. The adjustment towards the Outstanding Dues shall be in accordance with Regulation 17 of these regulations.</i>		Transmission licensee in case of concurrent Regulation is discussed under Regulation 19.
Regulation 19	<i>In case the Regulated Entity owes outstanding dues to a Generating Company and a Transmission Licensee simultaneously, the payments received from sale of power, after adjustment of energy charges and incidental expenses of the Generating Company shall be shared by the Generating Company and the Transmission Licensee in proportion to their outstanding dues, till the dues are neutralised and the balance amount, if any, shall be passed on to the Regulated Entity.</i>	NIL	This regulation provides mechanism for sharing of surplus amount after deduction of energy charges and incidental expenses from sale proceeds at Power Exchange or DSM between GENCOs & Transmission licensees in proportion to their outstanding dues in case of concurrent regulation. In this provision, the reference date for computation of outstanding dues is not mentioned, which needs to be incorporated and the date should be the last date of the month prior to the month in which Regulation of Power Supply has started. It is also submitted that the dues to be considered for calculation of sharing of payment received from sale of regulated power after adjustment of energy charges and incidental

12

**Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020**

			<p>expenses of the Generating company should be the sum of the principal amount &amp; surcharge on the last date of the month prior to the month in which Regulation of Power Supply has started. The above provisions may be incorporated in the Regulations to avoid any ambiguity on sharing of surplus amount (after deduction of energy charges and incidental expenses from sale proceeds) between GENCO &amp; Transmission licensee.</p>
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**Provision for denial of STOA to defaulting entities – To be incorporated**

Regulation 25A of Open Access Regulations provides as under:

*“When so directed by the Commission, the National Load Despatch Centre or the Regional Load Despatch Centre, as the case may be, shall not grant short-term open access for bilateral transaction (including transactions through Power Exchange) to the entities and associates of such entities, who consistently and willfully default in payment of Unscheduled Interchange (Deviation) charges, **transmission charges**, reactive energy charges, congestion charges, fee and charges for National Load Despatch Centre or Regional Load Despatch Centre including the charges for the Unified Load Despatch and Communication Scheme and Unscheduled Interchange (Deviation) charges to SLDC by an intra-State entity for a short term inter-State transaction.*

*Provided that where the default in payment of the charges as mentioned above exceeds 90 days from the due date of payment, **directions of the Commission shall not be required to be obtained** in such cases and the NLDC or concerned RLDC, as the*



## Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020

*case may be, shall deny short term open access to the defaulting entity if request in this regard is received from the affected entity.”*

Above regulatory provision clearly stipulates that in case of default in payment of transmission charges by the entities beyond 90 days, STOA shall not be granted by NLDC/RLDCs. Further, in case of Regulation of Power Supply by Transmission licensee, STOA to the regulated entity shall be denied from the date of commencement of Regulation of Power Supply as per the findings of the Hon’ble Commission at para-59 (c) of the order dated 02.09.2015 in petition no. 142/MP/2012 as quoted below:

*“During the period of regulation of power supply, for defaults in payment of transmission charges, STOA to the regulated entity shall be denied by NLDC/RLDCs under Regulation 25A of Open Access Regulations from the date of commencement of regulation of power supply....”*

It is ample clear from above that the interest of Transmission licensee is clearly protected by not allowing STOA to the defaulting entity during Regulation of Power Supply by Transmission licensees.

It is a common practice that defaulting entities having outstanding dues of generating companies purchase power by availing STOA during the period of ‘Regulation of Power Supply by GENCOs’, defeating the very purpose of Regulations. Even though there is provision available for denial of STOA during Regulation of Power Supply by Transmission licensees, **no such protection is available in case of GENCOs** having huge outstanding dues. It is submitted here that denial of STOA can actually make regulation of power supply effective as it would be a real deterrent for the defaulters. This has also been highlighted by MoP vide its order No. 23/22/2019-R&R dated 28.06.2019 which is reproduced below:

*“It shall also be ensured by the Load Despatch Centre that the regulated entity, during the period of regulation, has no access to procure power from the Power Exchanges and they shall not be granted Short Term Open Access (STOA)”.*

In view of above deliberations, it is requested to incorporate the provision related to denial of STOA to the defaulting entities during ‘Regulation of Power Supply by GENCOs’ in the Regulations for its effective implementation.

## Comments of NHPC on draft CERC (Regulation of Power Supply) (First Amendment) Regulations, 2020