

Torrent Power Limited-Comments on Draft First Amendment to CERC (Regulation of Power Supply) Regulation, 2010

The Hon'ble Commission has published the Draft First Amendment to CERC (Regulation of Power Supply) Regulation, 2010. The amendment is proposed to align the provisions of Power Supply Regulation with CERC (Terms and Conditions of Tariff) Regulations, 2019; CERC (Sharing of inter-State Transmission charges and losses) Regulations, 2020; and enactment of CERC (Deviation Settlement Mechanism and related matters) Regulations, 2014 in terms of provisions for payment/default, etc. We request the Hon'ble Commission to kindly consider following suggestions while finalizing the Amendment.

Sr. No.	Proposed First Amendment	Comments/Suggestions
1.	<p>Sub-clause (e) of Clause (1) of Regulation 2 of the Principal Regulations shall be substituted as under:</p> <p><i>“(e) “Default Trigger Date” for regulation of power supply, shall be:</i></p> <p><i>i) the next working day after the due date, in case of non-payment of outstanding dues; and</i></p> <p><i>ii) the third working day after the Letter of Credit or the agreed Payment Security Mechanism has expired, in case of non-maintenance of Letter of Credit or any other agreed Payment Security Mechanism.”</i></p>	<ul style="list-style-type: none"> • It may kindly be noted that the definition of working day varies from state to state, including from agreement to agreement. • In such a background, there are possibilities of dispute between generator/ transmission licensee and beneficiary regarding interpretation of working day. • Further, the Hon'ble Commission has already provided such clarity in Regulation 58 of the CERC (Terms and Conditions of Tariff) Regulations, 2019 as under: <i>“..succeeding working day (as per the official State Government’s calendar, where the Office of the Authorised Signatory or Representative of the Beneficiary, for the purpose of receipt or acknowledgement of Bill is situated)”</i> • Hence, we request the Hon'ble Commission to kindly provide clarity on working day.
2.	<p>(5) Sub-clause (g) of Clause (1) of Regulation 2 of the Principal Regulations shall be substituted as under:</p> <p><i>“(g) “Outstanding dues” means the dues of a generating company or of a transmission licensee, which remains unpaid beyond the due date.”</i></p>	<ul style="list-style-type: none"> • As per document of <u>consolidated</u> CERC (Regulation of Power Supply) Regulation, 2010, the definition of “Outstanding dues” is provided at Regulation 2(1)(h). However, in the draft Amendment, it is mentioned as Regulation 2(1)(g) . • Hence, we request the Hon'ble Commission to kindly carry out necessary typographical correction.

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3.	Additional Points	<ul style="list-style-type: none"> • The draft amendment to Electricity Act, 2003 has proposed changes in Section 28 and 32 related to payment security mechanism wherein RLDC/SLDC may regulate power supply under the said provision. Such a situation may also be covered appropriately; else it may lead to conflict between the Regulation and the Act. • Further, the existing Regulation needs to be amended to provide that if power is regulated by RLDC/SLDC then, generating company shall raise the bill for the tariff as per PPA i.e. for both the capacity charge and variable charge, less the amount realized by the generator considering the power exchange rate in the day ahead market net of the transmission charges for sale through power exchange. • It is also to be ensured that lack of providing payment security / payment leading to regulation of power supply should not be considered by the beneficiaries as Generator's default to trigger any contractual obligation. Accordingly, necessary provision may be added in the regulation to ensure discipline.