

# CENTRAL ELECTRICITY REGULATORY COMMISSION

Comments by Research Triangle Institute – India

## Draft (Power Market) Regulations, 2020

**Submitted To:**

**Secretary**

CERC

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The Central Electricity Regulatory Commission has taken a landmark step in deepening the power market by seeking to amend the Power Market Regulations through a process of participatory discussions, which aligns with international good practice standards for institutional development. The overall intent of the Commission to deepen and broaden the power market and to enhance efficiency is noteworthy and appreciable.

Our comments are arranged below, for those regulations, where a review or reconsideration would improve their efficacy and effectiveness, bring about transparency, higher levels of efficiency and lower costs for energy services.

### **1. Part 3 Regulation 5 (1) (b) Scheduling and delivery:**

*(i) The scheduling and delivery of transactions for Day Ahead Contracts and Real-time Contracts (including the timeline for gate closure, wherever applicable) shall be in coordination with the National Load Despatch Centre and in accordance with relevant provisions of the Open Access Regulations and the Grid Code.*

This regulation relates to issue of dispatch, which of course has to be done in co-ordination with the NLDC. However, given the market evolution and need to enhance efficiency and sustainability in the sector, it is relevant to consider broader issue of economic utilization of transmission assets and therefore Open Access Regulations, together with Power Market Regulations.

#### **Comments**

- a) The Commission may like to review and reconsider the existing Open Access regulations that prioritize Long-Term Contracts (LTC) and use first come first served basis for allocation of corridor. With growth in the volume of Power Exchange traded contracts, continuance of the existing preferential treatment for LTC will hamper the deepening of the exchange traded market, particularly on congested transmission routes. This will not be in the interest of promoting transparency in price discovery, which is the primary objective of these regulations, particularly in the context of surplus generating capacity at present and the need to lower the cost of power delivered to consumers.
- b) In December 2018, a Staff Paper on Market Based Economic Dispatch was prepared by the Commission Staff and discussed at various levels. It highlighted considerable savings that can be achieved by implementing the alternative model of centralized dispatch. The proposed Power Market Regulations do not take cognizance of the Staff Paper, thereby missing the opportunity for fundamental redesign of the market. The proposed central dispatch model will enhance liquidity, unleash competitive forces and achieve significant savings for distribution companies and customers. Given significant oversupply, it is an opportune time to introduce broader redesign of the market as proposed under the Staff Paper, updated to reflect recent developments.

## Managing the cost of Congestion

- c) In the event it is not possible to switch over to a congestion pricing model at this point, the Commission can incentivize the CTU and other transmission licensees to adopt technology and innovative options such as demand response, decentralized generation for removing the transmission bottlenecks that lead to congestion. In other jurisdictions, such as the UK, the transmission utility has often convinced users to opt for decentralized generation instead of increasing the load on congested networks. If the CTU is forced to bear a cost for congestion they themselves could engage energy services companies to reduce load through innovative methods. This would be step aligned with a broader approach to “market” based solutions to meet energy demand.

### **2. Part 4 Regulation 23. Power Exchange transaction fee**

*No Power Exchange shall charge transaction fee exceeding such fee as approved by the Commission:*

*Provided that the Power Exchanges which have been granted registration by the Commission prior to the date of notification of these regulations shall be required to obtain approval of the transaction fee to be charged by the Power Exchange within a period of three months of the date of notification of these regulations*

#### **Comments**

- a) The explanatory Memorandum mentions that this provision is being proposed in the interest of consumers. However, the need and rationale for departing from what has been thus far a progressive regulatory practice of allowing the transaction fee to be determined by competitive market forces, remains unclear.
- b) Experience of the past decade shows that the “forbearance principle” has worked well, even in the absence of intensive competition and there being just one dominant player. With the expected operationalization of a third exchange competitive forces can only increase.
- c) A limit on the transaction fee charged consequently appears to be a case of over regulation and can constrain product and service innovation, thereby diluting consumer interest, by protecting the incumbents who can afford to charge a low transaction fee, because they have already recovered their investment.
- d) Therefore, the rationale for regulating the fee, which was hitherto unregulated, under a market environment where the competition between exchanges is expected to increase, needs to be reviewed.
- e) The Commission is also requested to note that there is no apparent specific provision under the Electricity Act 2003 for regulation of transaction fee charged by power

exchanges. The attention of the Commission is drawn to Section 79 (1) (j) which does specifically empower the Commission to approve a “trading margin”. But even here it does so “only if it is considered necessary”, indicating that the thrust of the legislation is towards relying on competitive markets rather than regulation to determine the cost components of electricity trade. The Commission may kindly consider that introducing a new transaction fee in the absence of a specific mandate may result in legal challenge and uncertainty in regulation.

- f) In case the Commission still feels it necessary to fix a maximum transaction fee for electricity trading it may be done at a suitably high level exceeding which would be clearly exploitive and not assume that the existing transaction fee being charged by incumbents is the “normative” fee even for new incumbents.

### **3. Part 5 Regulation 38. Designation of Market Coupling Operator**

*Subject to provisions of these regulations, the Commission shall designate a Market Coupling Operator who shall be responsible for operation and management of Market Coupling.*

#### **Comments**

- a) The proposed coupling of exchanges is a step in the right direction, particularly in the context of likely expansion of cross border trading under the existing initiatives in South Asia (Nepal, Bhutan and Bangladesh), a proposed undersea link with Sri Lanka and the One Sun One World One Grid (OSOGOW) initiative to make India the power hub for trading in renewable energy. Given the significant potential of hydropower in Nepal, Bhutan and complementarities in natural gas and renewables with Bangladesh and Sri Lanka, coupling with these countries may yield far larger benefits.
- b) In 2019, CERC had issued Cross Border Trade of Electricity Regulation. These were issued in the context of facilitating bilateral or even trilateral trade within the region. These may be sufficient till matching power exchange markets are established in South Asia. But such markets are not yet on the ground.
- c) In the domestic market only one power exchange is dominant, with very small volume in the second exchange. Till a third exchange is operationalized and matures to reasonable volumes, it might be prudent to defer the establishment of a Market Coupling Operator purely on a cost benefit basis. The Commission may like to align the timing of such a move with maturity and the growth in volumes of the power trading market.

It is suggested that the Commission may conduct a cost-benefit analysis, phasing and options for the structure of the proposed market coupling entity.

**4. Part -6 regulation 41. OTC Platform shall operate after obtaining registration under these regulations.**

42. The objectives of the OTC Platform shall be:

(i) To provide an electronic platform with the information of potential buyers and sellers of electricity;

(ii) To maintain a repository of data related to buyers and sellers and provide such historical data to Market Participants;

(ii) To provide such services as advanced data analysis tools to Market Participants.

**Comments**

- a) The proposed OTC Platform is intended as an information service for smaller market participants. This is an important initiative to enlarge the scope of the power trade market beyond the big players who can directly register with the power exchanges.
- b) However, some issues emerge for review. The Commission may like to consider the consequences of disrupting the existing market (albeit possibly insufficient) for such services providing information on trade quantities, prices etc.
- c) Will the existing providers have to register with CERC? Would registration amount to seeking a license from CERC?
- d) Is it intended to license/register multiple OTC platforms or a single platform? Will the fee charged for the service be regulated?
- e) Will all market participants be obligated to provide information to the OTC Platform? If this is not a public sector entity, can the security and privacy of the proprietary information provided be assured? The Commission's attention is also invited to the approach in Regulation 21 (1) (c), whilst licensing facilitating members, who also have access to proprietary information, to ensure that they do not misuse such information for unauthorized commercial use. Similar security firewalls, oversight and eligibility constraints would be needed if the OTC Platform, is privately owned.
- f) Finally, it would be useful to flag the enabling section of the ER Act 2003 under which the Commission would frame the required regulations for the proposed OTC Platform, which would not be a trading platform, but merely an information service.
- g) In the light of the comments above, the Commission is requested to consider if this service can be provided by CERC itself, similar to the market reports, prepared by economics department. Direct ownership over the OTC Information Platform will have the advantage of providing it the credibility and assurance to comfort smaller players, who would be the newcomers in power trading.