

CENTRAL ELECTRICITY REGULATORY COMMISSION

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Minutes of Meeting of the Commission held on 22nd February, 2022 to discuss various directions issued under Section 107 of the Electricity Act, 2003 by the Ministry of Power Government of India

1.0 The following were present:

1. Shri P. K. Pujari, Chairperson
2. Shri I. S. Jha, Member
3. Shri Arun Goyal, Member
4. Shri P. K. Singh, Member
5. Shri Sanoj Kumar Jha, Secretary
6. Dr. Sushanta K. Chatterjee, Chief (RA)
7. Shri V. Sreenivas, Jt. Chief (Legal)

In Chair

2.0 **Item No. 1: Mechanism for implementation of New Environmental Norms for Thermal Power Plants (TPP) supplying power to distribution licensees under concluded long term and medium term Power Purchase Agreement (PPA)**

2.1 Direction by the Ministry of Power, Government of India vide letter No. 23/22/2018-R&R dated 30.5.2018 under Section 107 of the Electricity Act, 2003.

2.2 **Status**

- The Commission has already accorded "in-principle approval" of ACE (additional capital expenditure) towards installation of ECS (emission control system) to meet the revised ECNs (emission control norms) notified by Ministry of Environment, Forest and Climate Change (MoEFCC) in case of the thermal generating stations whose tariff is determined under Section 62 of the Electricity Act, 2003 in accordance with Regulation 11 of the 2019 Tariff Regulations in Petition No. 501/MP/2019 and 10 others vide order dated 17.11.2021, Petition No. 183/MP/2020 and 5 others vide order dated 31.10.2021, Petition No. 467/MP/2019 and 5 others vide order dated 30.9.2021, Petition No. 597/MP/2020 vide order dated 28.9.2021, Petition No. 94/MP/2019 and 5 others vide order dated 20.9.2021, Petition No. 67/MP/2020 and Petition No. 515/MP/2020 vide order dated 30.7.2021 and Petition No. 335/MP/2020 and 8 others vide order dated 28.4.2021.
- The Commission has also accorded approval for provisional cost to install emission control systems in case of generating stations whose tariff is determined under Section 63 of the Electricity Act, 2003. The orders include order dated 23.4.2020 in Petition No. 446/MP/2019 (Sasan Power Ltd.); order dated 6.5.2020 in Petition No. 209/MP/2019 (Sembcorp Energy India Ltd.); order dated 18.5.2020 in Petition No. 210/MP/2019 (Sembcorp Energy India Ltd.); and order dated 22.6.2020 in Petition No. 168/MP/2019 (Coastal Gujarat Power Ltd.).
- In case of the TPPs whose tariff has been adopted under Section 63 of the Electricity Act, 2003, the Commission has also devised a compensation mechanism in order dated 13.8.2021 in Petition No. 6/SM/2021.

3.0 **Item No. 2: Allowing pass-through of any change in domestic duties, levies, cess and taxes imposed by Central Government, State Government / Union Territories or by any Governmental Instrumentality leading to corresponding changes in the cost, after the award of bids, under Change in Law unless otherwise provided in the PPA**

3.1 Direction by the Ministry of Power, Government of India vide letter No. 23/43/2018-R&R dated 27.8.2018 under Section 107 of the Electricity Act, 2003 (Act).

3.2 **Status**

- The proceedings before the Commission are judicial in nature as per Section 95 of the Act and the Commission has been vested with the powers of a civil court under Section 94 of the Act.
- The Commission has to give sufficient opportunity of hearing, with a proper notice, to all the necessary and concerned parties before any decision is taken in a matter. Accordingly, the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, has laid down a detailed procedure regarding service of notices, filing of reply and rejoinder, hearing of matters, power of the Commission to call for further information, evidence, etc.
- The Commission has been conducting its proceedings in terms of provisions of the Act and the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and in line with cardinal principles of natural justice and fairness laid down by the Hon'ble Supreme Court in its various judgements. Matters related to change in law as well as other matters are adjudicated in terms of the various provisions of the power purchase agreements, power sale agreements, transmission service agreements, bulk power purchase agreements etc.

4.0 **Item No. 3: Regulatory Approval of the Transmission System identified for 66.5 GW of Renewable Project**

4.1 Direction by the Ministry of Power, Government of India vide letter F.No.25-11/2/2019-PG dated 11.7.2019 under Section 107 of the Electricity Act, 2003.

4.2 **Status**

- The Commission granted regulatory approval for execution of the transmission system for Solar Energy Zones in Rajasthan vide order dated 9.8.2019 in Petition No. 23/MP/2019.
- The Commission granted regulatory approval for execution of the transmission system for Solar Energy Zones (SEZs) in Rajasthan under Phase-II vide order dated 12.5.2020 in Petition No. 269/MP/2019.
- The Commission granted regulatory approval for execution of the Transmission System for Evacuation of Power from potential Solar and Wind energy zones in Western Region-Phase I & II (REZ Phase I & II) and Transmission System for providing Immediate Connectivity to Dholera UMSP vide order dated 10.10.2019 in Petition No. 197/MP/2019.

- The Commission vide order dated 8.11.2021 in Petition No.616/MP/2020 has partially modified the regulatory approval granted vide order dated 10.10.2019 in Petition No.197/MP/2019 for REZs in Maharashtra and Gujarat.
- The Commission granted regulatory approval for execution of the Transmission System for 18.5 GW of Solar and Wind Energy Zones in Southern Region vide order dated 26.11.2021 in Petition No.200/MP/2019.

5.0 Item No. 4: Direction to the Central Electricity Regulatory Commission (CERC) under Section 107 of the Electricity Act, 2003 regarding mechanism for implementation of New Environmental Norms for Thermal Power Plants (TPP) supplying power to distribute licensees under concluded long-term and medium-term PPA (in continuation of directions issued vide letter dated 30.5.2018)

5.1 Direction by the Ministry of Power, Government of India, in continuation of its earlier direction under Section 107 of the Electricity Act, 2003 dated 30.5.2018 vide letter No.23122/2018-R&R, vide letter No.23/22/2018-R&R dated 7.12.2018.

5.2 Status

- The Commission in 2019 Tariff Regulations has specified regulatory framework for supplementary tariff incorporating in-principle approval, admissibility of additional capital expenditure and tariff structure (supplementary capacity charges and supplementary energy charges) in respect of Emission Control System in case of generating stations governed under Section 62 of the Electricity Act, 2003. Taking into consideration the recommendations of CEA vide letters dated 20.2.2019 and 25.6.2019 related to operational norms and in view of developments in the sector, the Commission amended the 2019 Tariff Regulations vide Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2020 (2020 Amendment Regulations). The 2020 Amendment Regulations provides for regulatory framework to determine supplementary tariff on account of additional capital expenditure towards installation of Emission Control Systems by the generating companies set up under Section 62 of the Electricity Act, 2003.
- In case of the TPPs whose tariff has been adopted by the Commission under Section 63 of the Act, and where the MoEFCC Notification dated 7.12.2015 qualifies as "Change in Law" event as per the contractual provisions of the PPA, the Commission has provided for a compensation mechanism vide order dated 13.8.2021 in Petition No.6/SM/2021. The Commission in the aforesaid order has devised a methodology for determination of supplementary tariff of Emission Control System separately from normal tariff.

6.0 Item No. 5: Direction to the Central Electricity Regulatory Commission under Section 107 of the Electricity Act, 2003 regarding reduction of Late Payment Surcharge (LPS)

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6.1 *Direction by the Ministry of Power, Government of India vide letter No.23/22/2019-R&R Part-4 dated 28.3.2020 under Section 107 of the Electricity Act, 2003.*

6.2 **Status**

- The Commission vide order dated 3.4.2020 in Petition No. 6/SM/2020 had observed as follows:
 - (a) to address the difficulties faced by the distribution companies (beneficiaries of the generating stations and long term customers of inter-State transmission systems) on account of the unprecedented situation arising out of the restrictions placed by the Central Government and State Governments on the movement of public and opening of offices and establishments etc., the Commission in exercise of its powers under Regulation 76 of the 2019 Tariff Regulations relaxes the provisions of Regulation 59 of 2019 Tariff Regulations to provide that if any delayed payment by the distribution companies to the generating companies and inter-State Transmission licensees beyond 45 days from the date of presentation of the bills falls between 24.3.2020 and 30.6.2020, the concerned distribution companies shall make the payment with LPS at the reduced rate of 12% per annum that translates into 1% per month.
 - (b) the generating companies whose tariff has been determined under Section 63 of the Act by this Commission, relief on the LPS for payment which become delayed beyond 45 days (from the date of presentation of the bill) during the period from 24.3.2020 to 30.6.2020 may be claimed in terms of the force majeure provisions of the respective power purchase agreements (PPAs).
 - (c) in cases of inter-State transmission licensees whose tariff has been adopted under Section 63 of the Act by the Commission, LPS shall be governed in accordance with the provisions of Transmission Service Agreements (TSAs) read with 2010 Sharing Regulations and the procedures issued there-under.

7.0 **Item No. 6: Direction to the Central Electricity Regulatory Commission under Section 107 of the Electricity Act, 2003 regarding Connectivity and Long Term Access provisions to further accelerate renewable capacity addition programme-reg**

7.1 *Direction by the Ministry of Power, Government of India vide letter No.23/17/2020-R&R dated 11.1.2021 under Section 107 of the Electricity Act, 2003 (Act).*

7.2 **Status**

- The Commission by way of seventh amendment to the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, (2009 Connectivity Regulations), notified on 28.1.2019, has substituted the existing sub-clause which provides for connectivity for any renewable energy generating station of 5 MW capacity and above developed by a generating company or by a Renewable Power

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Park Developer within or outside the premises of its existing generating station to the existing connection point with inter-State Transmission System through the electrical system of the generating station subject to availability of connectivity capacity in existing station as assessed by CTU.

- Further, the draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2021 also provides for suitable provisions to take care of the Ministry of Power's directions dated 11.1.2021. The Commission has invited comments/ suggestions/ objections from the stakeholders and interested persons on the draft GNA Regulations which shall be finalised taking into consideration the objections/ suggestions/ comments from the stakeholders and interested parties.

8.0 Item No. 7: Mismatches in provisions of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) (Seventh Amendment) Regulations, 2019 and Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects.

8.1 *Direction by the Ministry of Power, Government of India vide letter No. 15/3/2020-R&R dated 12.2.2021, under Section 107 of the Electricity Act, 2003 (Act).*

8.2 Status

- The Regulation 15.3 of the draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2021 provides that any person which acquires 51% or more shareholding of the company or its subsidiary or affiliate company owning REGS or part thereof, after COD of such part, apply to the Nodal Agency for transfer of Connectivity. The Nodal Agency shall issue revised grant of Connectivity on submission of applicable Conn-BG2 and Conn-BG3 by such person. The original grantee may substitute its Conn-BG2 and Conn-BG3 with revised Conn-BG2 and Conn-BG3, to be intimated by CTU. On issue of revised grant of Connectivity, such person shall enter into a fresh Connectivity Agreement and be responsible for compliance with all applicable regulations. However, all liabilities and obligations in accordance with these regulations, for the Connectivity not transferred, shall continue to remain with the original Connectivity grantee.
- The Commission has invited comments/ suggestions/ objections from the stakeholders and interested persons on the draft Regulations. The draft Regulations shall be finalised taking into consideration the objections/ suggestions/ comments from the stakeholders and interested parties and the Regulations will be notified accordingly.

9.0 The meeting ended with vote of thanks to the chair.


(P. K. Singh)
Member


(Arun Goyal)
Member


(I. S. Jha)
Member


(P.K. Pujari)
Chairperson