

**TPL Comments on Draft CERC Sharing of Inter-State Transmission Charges and Losses) (First Amendment) Regulations, 2022**

At the outset, we express our sincere gratitude to the Hon'ble Commission for publishing the draft CERC (Sharing of Inter-State Transmission Charges and Losses) (First Amendment) Regulations, 2022 in light of notification of the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (hereinafter referred as 'GNA Regulations').

We request the Hon'ble Commission to take into consideration the following while issuing the amendment to the Regulation.

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3.	(3) GNA <sub>RE</sub> as computed under Clause (1) of Regulation 13 shall not be considered for apportionment of Yearly Transmission Charges under Regulations 5 to 8 of these regulations.	<p><b><u>Suggestion: To define GNA<sub>RE</sub></u></b></p> <p>It seems that term GNA<sub>RE</sub> seems to have been inadvertently missed out from being defined in the draft Regulations. The CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 also does not define the same.</p>
11.	<p>(1) T-GNA Rate (in Rs/MW/block) shall be published for each billing month by the Implementing Agency which shall be calculated State-wise as under:</p> <p>Transmission charges for GNA for entities located in the State, for the billing month, under first bill (in rupees) x 1.10/ (number of days in a month x 96 x GNA quantum in MW, for all such entities located in the State considered for billing, corresponding billing period)</p>	<p><b><u>Suggestion: Factor of 1.10 should not be applied to compute T-GNA charges.</u></b></p> <ul style="list-style-type: none"> <li>- In existing Sharing Regulations, Transmission Charges for Short term Open Access is considered on equal footing with Long/ Medium Term charges albeit on per unit basis. Now, as per the Explanatory Memorandum, if T-GNA rate is kept the same as GNA rate, an entity may opt for T-GNA even for its regular requirement, thereby burdening other drawee DICs for the period when T-GNA is not being taken.</li> <li>- In this regard, we would like to submit that, since Distribution Licensee are required to adhere to power procurement guidelines of the SERC which mandate certain minimum percentage of tie up from long term sources, the concern of the Hon'ble Commission is already addressed.</li> <li>- The Distribution licensees are exposed to sudden/ unexpected variation in consumer demand due to vagaries of weather including variation in RE Generation, particularly Rooftop installed in the license area. In turn, T-GNA is availed by the distribution licensee to address the demand variability.</li> </ul>

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		<ul style="list-style-type: none"> <li>- Further, as per Section 66 of the Electricity Act, Hon’ble Commission is required to promote the electricity market. This proposal to increase the T-GNA charges is completely contrary to the provisions of the statute.</li> <li>- Also, it may kindly be noted that T-GNA is granted on the margin available in the system and in case of curtailment due to system constraints, T-GNA is curtailed first. Therefore, it actually allows better utilization of the network.</li> <li>- The proposal to charge T-GNA at 1.10 times of the per unit transmission charges will cause burden to the distribution licensee, the cost of which would ultimately get passed on in tariff.</li> <li>- It is hence requested that factor of 1.10 times shall not be applied to compute T-GNA charges.</li> </ul>
12.	<p>(2) Transmission Deviation Rate in Rs/MW, for a State or any other DIC located in the State, for a time block during a billing month shall be computed as under:</p> <p>1.35 X (transmission charges for GNA of entities located in the State, under first bill for the billing month in Rs.)/ (GNA quantum in MW of such entities located in the State, considered for billing, for the corresponding billing period X number of days in a month x 96)</p>	<p><b><u>Suggestion:</u> There should be no increase in Transmission Deviation Charges.</b></p> <ul style="list-style-type: none"> <li>- Draft Amendment proposes Transmission Deviation Charges (TDR) for Additional drawal @ 1.35 times of applicable transmission charges immediately upon crossing approved GNA. As per existing Regulations same was applicable @ 1.05 times. As per the Explanatory Memorandum, the Hon’ble Commission has relied on the Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021 to increase the rates from 1.05 times to 1.35 times. Hence, even as per the Rules, the Hon’ble Commission has discretion to consider the circumstances resulting into the deviation while deciding on the deviation charges.</li> <li>- As an example, technological changes in the Power Sector especially in RE Energy, which is infirm in nature, there may be substantial variation in actual drawal as against schedule resulting in to Deviation Charges.</li> </ul>

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		<ul style="list-style-type: none"> <li>- There has been substantial penetration of Rooftop Solar which impacts actual drawal of Distribution Company as compared to its schedule. Further, RE being must run, actual generation of RE is considered as scheduled on post facto basis. In turn, variation from schedule becomes inevitable.</li> <li>- For RE rich states like Gujarat, variation in RE Generation impacts scheduled Inter-state drawal of the State which in turn results in overdrawal and consequentially reflects in RTDA.</li> <li>- Similarly, there are other factors affecting demand during a particular time slot of 15 mins. and incidents of crossing approved access quantum may occur frequently for almost all the DICs. Considering large number of DICs, it is anticipated that there will be substantial accumulation of deviation charges under the proposed arrangement.</li> <li>- As per earlier methodology, 20% buffer in the actual quantum over approved Open Access was permitted and should be reinstated and TDR may be applicable only for the quantum above 120% of aggregate Open Access in any time block @ 1.05 times of applicable transmission charges.</li> </ul>
13.	<p>(1) No transmission charges for the use of ISTS shall be levied for the following GNA quantum (GNARE), for scheduling power from (i) REGS or RHGS based on wind or solar sources or (ii) ESS charged with REGS or RHGS based on wind or solar sources:</p> <p>.....</p> <p>(2) No transmission charges for the use of ISTS shall be levied for the following T-GNA quantum, for scheduling power from (i) REGS or RHGS based on</p>	<p><b><u>Suggestion:</u> To revise the proposed computation methodology of GNA<sub>RE</sub> and T-GNA<sub>RE</sub> as detailed hereunder and to remove minimum total drawl schedule at 75%.</b></p> <p>It is humbly submitted that the preamble of the GNA regulations issued by the Hon’ble Commission clearly specifies to provide non-discriminatory open access to licensees or generating companies or consumers for use of grid. That said, any conjoining Regulations to GNA also needs to serve the said purpose in toto.</p>

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	<p>wind or solar sources or (ii) ESS charged with REGS or RHGS based on wind or solar sources:</p> <p>.....</p> <p>Provided that in case total drawl schedule (in MW) under T-GNA through ISTS from all sources for a time-block, is less than 75% of maximum schedule corresponding to T-GNA for the time-block, the “SDT<sub>TG</sub>” shall be taken as 75% of maximum schedule corresponding to T-GNA.</p> <p>Provided further that the reimbursement, from the already paid T-GNA charges, on account of T-GNA<sub>RE</sub> shall be made ex-post on finalization of schedules, by 15th day of the next month.</p>	<p><b>A) Proposed Formula for Compuation of GNA<sub>RE</sub> &amp; T-GNA<sub>RE</sub></b></p> <ul style="list-style-type: none"> <li>- It may kindly be noted that Ministry of Power had granted waiver of ISTS charges and losses for particular RE projects. The purpose behind this was to encourage faster capacity addition based on solar or wind energy sources in accordance with para 6.4 (6) of the Tariff Policy, 2016 and sub-rule 12 of rule 5 of the Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021.</li> <li>- MOP had issued this notifications vide orders dated 14.06.2017, 13.02.2018, 06.11.2019, 05.08.2020, 15.01.2021, 21.06.2021. MOP’s final order was issued on 23.11.2021 suppressing all the above orders.</li> <li>- Additionally, trajectory for waiver of ISTS charges for RE Projects was also provided in order to provide long term visiblity and certainty for the prospective investors.</li> <li>- Further, it may kindly be noted that the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 have already provided the definition of REGS and RHGS. Addition of words “<i>based on wind or solar sources</i>” provides the limitation which is not in consonance with the objective detailed out by MOP.</li> <li>- It may kindly be noted that due to the above, if the said exemptions by MOP are now <b>not being considered in totality</b> then that will: <ul style="list-style-type: none"> <li>• Impact the RE Projects under pipeline</li> <li>• Negatively affect prospects and sentiments of the developers</li> <li>• Lead to litigations, and</li> <li>• Greatly hinder the overall objective of installing 450GW RE projects by 2030 by GOI</li> </ul> </li> </ul>
	<p>(3) Clauses (1) and (2) of this Regulation shall be applicable for scheduling of power from (i) REGS or RHGS based on wind or solar sources or (ii) ESS charged with REGS or RHGS based on wind or solar sources which have declared commercial operation upto 30.6.2025.</p>	

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		<p><b>B) Request for similar treatment of Gas based power plants</b></p> <ul style="list-style-type: none"> <li>- It may be considered that out of ~25 GW capacity of Gas based Power Plants in the Country ~11 GW capacity is stranded and remaining have been running on nil/low PLF due to un-availability of economical gas or due to un-tied capacity of power. Further, as per the GNA Regulations these plants are compelled to pay GNA charges for full installed capacity irrespective of their actual utilisation.</li> <li>- It is worthwhile to note that gas-based power plants are acknowledged to be best suited for RE integration and sufficing peak power requirements.</li> <li>- Earlier this quarter, the European Union has voted to make natural gas investments as green energy. The European Union has argued that natural gas plays a key role in transitioning to renewable energy and emits 40% less carbon dioxide than coal which will help EU achieve its pledge by 2030 to cut planet-heating emissions by 55% from 1990 levels.</li> </ul> <p>In reference to the above, if waiver of transmission charges for use of ISTS is being provided to RE plants then it becomes imperative to give equitable consideration to the existing gas-based plants as well.</p> <p><b><u>Proposed Clause:</u></b> In the above background, it is humbly requested that the Hon’ble Commission may consider modifying this clause as per the following:</p> <p><i>“(1) No transmission charges for the use of ISTS shall be levied for the following GNA quantum (GNARE), for scheduling power from (i) REGS or RHGS <del>based on wind or solar sources</del> or (ii) ESS charged with REGS or RHGS <del>based on wind or solar sources</del> or (iii) Existing Gas based generating stations:</i></p> <p>...</p>

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		<p><i>(2) No transmission charges for the use of ISTS shall be levied for the following T-GNA quantum, for scheduling power from (i) REGS or RHGS <del>based on wind or solar sources</del> or (ii) ESS charged with REGS or RHGS <del>based on wind or solar sources or</del> (iii) Existing Gas based generating stations:”</i></p> <p><b>C) Not to specify any minimum drawal for GNA<sub>RE</sub> &amp; T-GNA<sub>RE</sub></b></p> <ul style="list-style-type: none"> <li>- Explanatory memorandum issued by the Hon’ble Commission doesn’t provide any detailed rationale for considering minimum total drawl schedule at 75%.</li> <li>- It is worthwhile to note that the entire scheduling and despatch is monitored and accounted very appropriately by respective nodal agencies to compute the deviation charges. It would be proper if such historical deviation percentages for appropriate applicable period is considered to arrive at such cushion percentages.</li> <li>- This will not only help regulate the utilisation of the system but will also help in developing sound &amp; reliable grid over a period.</li> <li>- <b>Therefore, it is requested to kindly keep the total drawl schedule in reference to some scientifically derived method based on actual data.</b></li> </ul>
13.	<p>(3) Where COD of a Connectivity grantee is delayed from start date of Connectivity in terms of GNA Regulations, and the Associated Transmission System has achieved COD, which is not earlier than such start date of Connectivity, the Connectivity Grantee shall pay Yearly Transmission Charges for the Associated Transmission System corresponding to Connectivity capacity which have not achieved COD.</p>	<p><b><u>Suggestion: No Transmission Charges for RE Generator in case of delay in COD due to Force Majeure events or reasons not attributable to the Developer.</u></b></p> <ul style="list-style-type: none"> <li>- It is humbly submitted that recovery of any generation project starts when energy is injected into the grid and revenue is realised from the beneficiaries.</li> <li>- During execution of the Project any developer faces numerous challenges including delays due to Force Majeure or reasons not attributable to the Developer.</li> </ul>

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	<p>Provided that Yearly Transmission Charges in respect of Associated Transmission System corresponding to the Connectivity capacity which have achieved COD shall be included for determination of transmission charges of DICs in accordance with Regulations 5 to 8 of these regulations.</p>	<ul style="list-style-type: none"> <li>- It can't be the motive of any developer to delay execution of the project as any delay would increase cost of the project due to IDC. Passing through of such additional cost entirely depends on the contract between the Parties. It may also be noted that any delay would also affect recovery of the investment for the developer.</li> <li>- It may also be noted that any eventualities arising out of non-fulfilment of obligations due to force majeure circumstances can't be assigned to either Party of the contract.</li> </ul>
13.	<p>(7) Where Connectivity is granted to a Connectivity grantee on existing margins and COD of such Grantee is delayed, the Connectivity grantee shall, corresponding to the capacity that is delayed, pay transmission charges from the start date of such Connectivity at the rate of Rs. 3000 /MW/month:</p> <p>Provided that the amount so received in a billing month, shall be reimbursed to the DICs in proportion to their share in the first bill in the following billing month.</p>	<ul style="list-style-type: none"> <li>- Hence, compelling these developers to carry the burden for transmission assets equivalent to its installed capacity will result in levy of charges with respect to the capacity which has not been installed.</li> <li>- This will put additional financial burden on such already stressed assets.</li> <li>- Therefore, levying charges on the plants for its entire installed capacity, where COD is getting delayed due to Force Majeure or reasons not attributable to the Developer, would not only be against the principle of natural justice but would also be against the underlining principle of the recovery of assets where network usage is required to be compensated to the network provider.</li> </ul>
13.	<p>(9) Where a dedicated transmission line has already been constructed or is under construction by an inter-State transmission licensee under coordinated transmission planning of the Central Transmission Utility, the Yearly Transmission Charges for such dedicated transmission line shall be payable by the concerned generating station to the inter-State transmission licensee (including deemed inter-State transmission licensee) from the COD of the dedicated transmission line till COD of</p>	<ul style="list-style-type: none"> <li>- In the above background, the Hon'ble Commission is requested to explicitly provide exception for delay in COD due to Force Majeure events or reasons not attributable to the Developer in the respective Regulations itself to remove any ambiguity and avoid any future litigations on the subject matter.</li> </ul>

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	such generating station after which Yearly Transmission Charge for the dedicated transmission line shall be considered in accordance with Regulations 5 to 8 of these regulations	
13.	(10) Regional entity Generating stations (a) drawing start-up power or (b) drawing power during shutdown after COD or (c) for REGS drawing power during non-generation hours or (d) injecting infirm power, through ISTS, shall pay transmission charges for injection or drawal beyond its T-GNA, at the rate of Transmission Deviation Rate for the State in which they are located.	<p><b><u>Suggestion:</u> Clarification as suggested may kindly be provided</b></p> <ul style="list-style-type: none"> <li>- As per Regulation 26.1 of the CERC GNA Regulations, Generating stations including REGS are eligible for T-GNA for meeting its auxiliary consumption or start-up power or for meeting its supply obligations in terms of clause (3) of Regulation 6 of the Power Market Regulations.</li> <li>- In this background, we request that Hon’ble CERC may kindly clarify that “shutdown after COD” shall include both planned and forced outage.</li> </ul>
13.	<b>New Clause</b>	<p><b><u>Suggestion:</u> No Transmission Charges for Generator connected to ISTS &amp; InSTS within its LTA+MTOA</b></p> <ul style="list-style-type: none"> <li>- The Distribution Company may have connectivity with multiple networks viz. ISTS, InSTS or embedded generation. Similarly, Generating Company also has multiple connectivities i.e. ISTS, InSTS, Dedicated Line etc. Under the circumstances, GNA Charges shall be applicable only for capacity corresponding to GNA sought on ISTS network.</li> <li>- In the existing Sharing Regulation 13(11), clarity was provided on this aspect. However, in the draft Regulation, the same is proposed to be deleted on the ground that generators are not liable to pay ISTS charges or losses under GNA Regulations.</li> <li>- In this background, we suggest to retain Cl 13(11) of existing Sharing Regulations with necessary changes as follows:</li> </ul>



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		<ul style="list-style-type: none"> <li>- <b>Proposed Clause:</b> <i>“Where a Generating Station or Distribution Licensee is connected to multiple networks viz. ISTS, intra-State Transmission System or in case of Distribution Licensee with embedded generation, only ISTS charges and losses shall be applicable on the quantum of GNA capacity sought to ISTS.”</i></li> </ul>
19.	<p><b>Letter of Credit and other instruments of Payment Security Mechanism</b></p> <p>(2) In case tripartite agreement for securitization on account of arrears against the transmission charges with the Government of India exists, the Letter of Credit of the acceptable instrument of payment security mechanism shall have a term of 12 (twelve) months and shall be for an amount equal to 1.05 (one point zero five) times the average amount of the First Bill for a year:</p> <p>Provided that where such tripartite agreement does not exist, the DIC shall open the Letter of Credit or provide an acceptable instrument of payment security mechanism for an amount equal to 2.10 (two point one times) the average amount of the first bill of a year.</p>	<p><b>Suggestion:</b> LC should be equal for all the Distribution Companies.</p> <ul style="list-style-type: none"> <li>- It may kindly be noted that Electricity Act, 2003 provides level playing field to all distribution licensees be it Government and Private. Hence, there cannot be any discrimination between the distribution licensees.</li> <li>- Accordingly, the amount of LC for all distribution companies shall be equal to 1.05 times average amount of the First Bill for a year irrespective of any tripartite agreement. In turn, proviso to Clause 19(2) may be deleted.</li> </ul>

In addition to the above, we also request the Hon’ble Commission to give due consideration to the applicable clauses & provisions of the Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021, the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules, 2021, Notifications of Ministry of Power related to “Waiver of inter-state transmission charges on transmission of the electricity generated from solar and wind sources of energy under Para 6.4(6) of the Tariff Policy” and other applicable rules, regulations, policy & guidelines while finalising the proposed amendments to ensure harmonious interpretation and to avoid any disputes/litigations.