

सेंट्रल ट्रांसमिशन यूटिलिटी ऑफ इंडिया लिमिटेड
CENTRAL TRANSMISSION UTILITY OF INDIA LIMITED
(Wholly Owned Subsidiary of Power Grid Corporation of India Limited)
(A Government of India Enterprise)

Ref: CTUIL/SR2020/2nd Amend/Comments

Date: 27.04.2023

To,
Secretary
Central Electricity Regulatory Commission (CERC)
3rd & 4th Floor, Chanderlok Bhawan,
36, Janpath, New Delhi - 110001

Subject: Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission System Charges & Losses) (2nd Amendment) Regulations, 2023 -Submission of comments reg.

Sir,

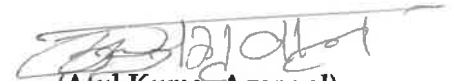
This has reference to public notice no. L-1/250/2019/CERC dated 17.03.2023 vide which comments/suggestions/ objections from the stakeholders were invited on the subject draft amendments.

In this regard, please find enclosed CTUIL's comments/suggestions on proposed "Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission System Charges & Losses) (2nd Amendment) Regulations, 2023" for consideration of Hon'ble commission. Delay in submission of comments/suggestions may please be condoned.

Thanking you,

Yours faithfully,

On behalf of CTUIL


(Atul Kumar Agarwal)
Chief GM (CTUIL)

Encl: CTUIL's comments on subject amendments

CTU Comments/Suggestions on draft 2nd amendment to CERC Sharing Regulations, 2020

CTU comments on various regulations of the proposed draft 2nd amendment to CERC Sharing Regulations, 2020 are as hereunder:

Sr. No.	Clause as per existing regulation	Changes proposed in draft Amendment	CTU Comments
1	<p>2. Definitions</p> <p>(1) <i>In these Regulations, unless the context otherwise requires: -</i></p>	<p>A new sub-clause (i-i) shall be added after sub-clause (i) of Clause (1) of Regulation 2 of the Principal Regulations as under:</p> <p><i>“(i-i) ‘Deemed COD’ means the (a) COD of the transmission system approved by the Commission in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or (b) deemed COD of the transmission system declared by the transmission licensee, in terms of Transmission Service Agreement under Tariff Based Competitive Bidding.”</i></p>	<p>For better clarity minor modification is suggested in the proposed amendment as below;</p> <p><i>“(i-i) ‘Deemed COD’ means the (a) COD of the transmission system or an element thereof, approved by the Commission in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or (b) deemed COD of the transmission system or an element thereof, declared by the transmission licensee, in terms of Transmission Service Agreement under Tariff Based Competitive Bidding.”</i></p> <p>Further, it is proposed that the word “<i>or an element thereof</i>” may be inserted after word “<i>transmission system</i>” in proposed Regulation 13 (12) also.</p>
2	<p>13. Treatment of transmission charges and losses in specific cases</p> <p>.....</p>	<p>Clause (12) of Regulation 13 of the Principal Regulations shall be substituted as under:</p>	<p>Regarding deemed COD by TSP, Clause 6.2.2 & 6.3.1 of TSA provides as follows:</p>

<p>6.2.2 - Once any Element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have Availability equal to the Target Availability till the actual charging of the Element and to this extent, TSP shall be eligible for the Monthly Transmission Charges applicable for such Element</p>	<p>6.3.1 - If the TSP is otherwise ready to connect the Element(s) of the Project and has given due notice, as per provisions of Article 6.1.1, to the concerned agencies of the date of intention to connect the Element(s) of the Project, where such date is not before the Scheduled COD, but is not able to connect the Element(s) of the Project by the said date specified in the notice, due to Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event or Natural Force Majeure Event affecting the Nodal Agency has continued for a period of more than three (3) continuous or non-continuous Months, the TSP shall, until the effects of the Direct Non Natural Force Majeure Event or of Indirect Non Natural Force Majeure Event or Natural Force Majeure Event affecting the Nodal Agency no longer prevent the TSP from connecting the Element(s)</p>
<p>13. Treatment of transmission charges and losses in specific cases “(12) For the cases other than those covered Clauses (3), (6) or (9) of Regulation 13 of these regulations, the YTC for the inter-State transmission system approved or declared as deemed COD shall be treated as follows:</p> <p>a) The inter-State transmission licensee shall be paid 20% of YTC of its inter-State transmission system for a period of six (6) months from date of deemed COD or till commencement of actual power flow, whichever is earlier.</p> <p>b) The inter-State transmission licensee shall be paid 100% of YTC of its inter-State transmission system from seventh (7th) month till commencement of actual power flow, in case actual power flow does not commence within a period of 6 months from date of deemed COD.</p> <p>(c) The charges under sub clauses (a) and (b) of this Clause shall be disbursed from charges collected under third bill in terms of Clause (3) of Regulation 12 of these regulations:</p> <p>Provided that in case of shortfall in collection under third bill to meet the requirement of payment under sub-clauses</p>	<p>(12) In case of a transmission system where COD has been approved in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or where deemed COD has been declared in terms of Transmission Service Agreement under Tariff based Competitive Bidding, the Yearly Transmission Charges for the transmission system shall be:</p> <p>a) paid by the inter-State transmission licensee whose transmission system is delayed till its transmission system achieves COD, or</p> <p>(b) paid by the generating company whose generating station or unit(s) thereof is delayed, till the generating station or unit thereof, achieves COD, or</p> <p>(c) shared in the manner as decided by the Commission on case to case basis, where more than one inter-State transmission licensee is involved or both transmission system and generating station are delayed,</p>

	<p><i>(a) and (b) of this Regulation, the balance shall be paid from charges collected under T-GNA in terms of Clause (3) of Regulation 11 of these regulations:</i></p> <p><i>Provided further that in case of shortfall in charges collected under T-GNA to meet the requirement of payment under sub-clauses (a) and (b) of this Regulation, the balance shall be paid from Deviation and Ancillary Service Pool Account under DSM Regulations.</i></p> <p>.....</p>	<p><i>of the Project, be deemed to have achieved COD relevant to that date and to this extent, be deemed to have been providing Transmission Service with effect from the date notified, and shall be treated as follows:</i></p> <p>.....</p> <p>As per above provision of TSA, TSP is entitled to receive full YTC after declaring deemed COD, whereas, as per draft amendment, TSP is entitled only 20% of YTC for first Six (6) months. Hon'ble commission may incorporate clarification on the applicability of provisions of Sharing Regulations, 2020 vis-à-vis above provisions of the TSA.</p>
3	<p>Clause (12) of Regulation 13.....</p> <p><i>(d) In case an inter-State transmission licensee is responsible for the delay (for any reason including the reason attributable to Force Majeure events) in commencement of power flow in the inter-State transmission system of another inter-State transmission licensee which has achieved deemed COD, inter-State transmission licensee of the delayed inter-State transmission system shall pay 20% of YTC of its transmission system OR 20% of YTC of the transmission system which has achieved deemed COD, whichever is lower, till its delayed inter-State transmission system achieves COD.</i></p>	<p>(1) As per proposed clause 13(12-d), defaulting ISTS licensee is to be billed lower of 20 % of YTC of the delayed ISTS system or 20 % of YTC of the ISTS system which has achieved deemed COD. However, there may be cases where YTC of either side may not be available as given below:</p> <p>(a) If either or both of the transmission licensee are under RTM: Transmission charges of such projects are determined generally after COD and some time is required in obtaining the tariff approval from CERC. In such cases, CTU may be allowed to provisionally bill YTC @ 18 % of indicative cost of elements involved. Upon finalisation of tariff of RTM</p>

<p>projects, adjustment bill may be raised by CTU.</p> <p>(b) If either or both of the transmission licensee are under TBCB: In case of such projects, bifurcation of element wise tariff may not be available. In such cases CTU may be allowed to use indicative cost to arrive at the proportionate trans. Charges to be billed for element involved.</p> <p>(c) Suitable proviso may be added to address the above issues.</p>		

(2) The TSA has a provision of LD as given below:

"6.4 Liquidated Damages for Delay in achieving COD of Project: 6.4.1 If the TSP fails to achieve COD of any Element of the Project or the Project, by the Element's / Project's Scheduled COD or such Scheduled COD as extended under Articles 4.4.1 and 4.4.3, then the TSP shall pay to the Nodal Agency, a sum equivalent to 3.33% of Monthly Transmission Charges applicable for the Element of the Project [in case where no Elements have been defined, to be on the Project as a whole] / Project, for each day of delay up to sixty (60) days of delay and beyond that time limit, at the rate of five percent (5%) of the Monthly Transmission Charges applicable to such Element / Project, as liquidated damages for such delay and not as penalty, without prejudice to any

rights of the Nodal Agency under the Agreement."

As per the TSA, the above LD is payable by the defaulting TBCB TSP in case of delay in its project. Further, as per Regulation 13(12d) of the proposed amendment, the defaulting TSP is liable to pay 20% of YTC of its transmission system OR 20% of YTC of the transmission system which has achieved deemed COD, whichever is lower, till its delayed inter-State transmission system achieves COD.

Hon'ble commission may incorporate clarification on the applicability of both LD & transmission Charges payable by defaulting TBCB TSP in case of delay in its project.