



NH/Comml./Tariff/29/2023/

17.04.2023

The Secretary

**Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36 - Janpath, New Delhi- 110 001
Fax: 011-23753923**

Sub:-Comments on draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023. - Reg.

Ref:- Public Notice No L-1/250/2019/CERC dated 17.03.2023

Sir,

In reference to above public notices dated 17.03.2023, the comments / suggestions / objections of NHPC on the draft CERC (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023 are enclosed for further necessary action. The comments / suggestions / objections have been uploaded through SAUDAMINI portal under 'e-Regulation'. The soft copy of the same has also been emailed to secy@cercind.gov.in.

Thanking You,
Encl: As above

Yours Sincerely,

Ajay Shrivastava
17/4/23

(Ajay Shrivastava)

General Manager (Comml.)

Comments of NHPC on Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023

CERC has notified draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023, wherein Clause 12 under Regulation 13 has been inserted to deal with the mismatch in the COD of transmission licensee. In this regard, attention is requested at Regulation 13(3), 13 (6) and 13(9) of CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 and amendments thereof, which deals with the mismatch of COD between transmission licensee and generating station.

Regulation 13(3) of CERC Sharing of Transmission Charges of Inter-State Transmission System states that:

“(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:

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.”

As per existing regulation, if COD of the generating station is delayed and the associated transmission system has achieved COD, the generating station is supposed to make payment of **Yearly Transmission Charges (YTC)** (corresponding to the capacity of generating station not declared under COD) as compensation. In this regard, NHPC requests the Hon’ble Commission to kindly consider the following aspects

20/01/23

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

- a. Post availability of transmission system, **a minimum period of 60 days** is essentially required for testing & commissioning of hydro generating units / station prior to COD of the first generating unit of a hydro generating station. This period is essentially required for various testing procedures as under:
- i. Soak test of XLPE Cables for 24 hours
 - ii. Load throw test on full load and overload capacity of machine.
 - iii. Various testings to be performed on full load
 - iv. Notice period of 7 days before trial run
 - v. Trial Run of 12 hours as per IEGC as per Regulation 6.3A of IEGC, 2010, followed by trial run as per Contract conditions.
 - vi. Period of 7 days to RLDC for clearance of trial run
 - vii. Demonstration of repeat trial run if clearance is not received from RLDCs.

These tests are required to be essentially carried after availability of transmission system and before declaration of COD of generating station. It is pertinent to mention that even if the generating company and transmission licensee endeavour to commission the generating units / station and the transmission system in a co-ordinated manner, the delay of minimum 60 days cannot be avoided by a generating company after availability of transmission line due to these technical requirements.

Thus, a generating company is being penalised to pay for transmission charges even for a period for which delay cannot be avoided.

2/10/23

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

Hon'ble Commission has now issued draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023 in which a new Clause 12 has been inserted under Regulation 13 has been inserted to deal with the mismatch of COD between two transmission license.

In the Explanatory Memorandum of Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023 at para 1.4 has referred to MoP Letter dated 15.01.2021, which has been reproduced as under:

“Ministry of Power vide letter dated 15.01.2021 issued directions under section 107 of Electricity Act 2003, to the Commission, for formulating regulations with regard to sharing of transmission charges under force majeure condition, wherein MoP has observed that the penalties should be equitable; and may not extend to compensating either the Generation Companies for the power it could not dispatch because of delay in transmission or to compensate the transmission company for the delay in generation or the associated transmission.

The above direction of MoP clearly mentions that penalties to be imposed on the generating companies or transmission license should be equitable and should not extend to the compensation of complete Annual Fixed Cost.

Based on above directions of MoP, Hon'ble Commission at para 1.11 has highlighted the aspects considered while proposing the amendment. The relevant extract of para 1.11 is reproduced as under:

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

“(a) the liabilities are required to be equitable

(b) The liability of transmission charges for a system under deemed COD without any power flow, cannot be fastened on distribution licensees who are not getting benefit from the same.

(c) The transmission licensee whose transmission system is delayed cannot be denied tariff for a long period of time leading to financial uncertainties.

(d) The transmission licensee who is delayed for any reasons including force majeure needs to make all efforts to commission its system at the earliest so that the stranded asset is put to use at the earliest to avoid national wastage. Hence, such delayed licensee cannot be allowed to go scot-free. Hence, liabilities have been proposed for the delayed transmission licensees so that delay in flow of power is minimized.”

The above aspect has been considered in draft amendment proposed under Regulation 13(12), which is as under:

“(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:

(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.

(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

M/atr

**Comments of NHPC on Draft Central Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

power flow, in case actual power flow does not commence within a period of 6 months from date of deemed COD.

(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: Provided that in case of shortfall in collection under third bill to meet the requirement of payment under sub-clauses (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: 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.

(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.

(e) In case an intra-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 an inter-State transmission licensee which has achieved deemed COD, intra-State transmission licensee of the delayed intra-State transmission system shall pay 20%

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

of YTC of the inter-State transmission system which has achieved deemed COD, till its delayed intra-State transmission system achieves COD.

(f) The billing and collection for the charges in terms of sub-clauses (d) and (e) of this Clause shall be made in accordance with Clause (3) of Regulation 15 of these regulations.

(g) The charges collected as per sub-clause (f) of this Clause shall be reimbursed in terms of Clause (3) of Regulation 12 of these regulations.

(h) In case of inter-State transmission system under Tariff based Competitive Bidding, the first year of the contract shall commence from the date when such transmission licensee starts receiving 100% of YTC under sub-clause (b) of this Clause or under Regulation 5 to 8 of these regulations.”

An abstract reading of above draft regulation shows that Hon'ble Commission while dealing with mismatch of COD between transmission lines has taken into account the advise issued by Ministry of Power vide letter dated 15.01.2021, however, the same rationale has not been applied by Hon'ble Commission while dealing with mismatch in COD of generating station and transmission licensee under Regulations 13(3), 13(6) and 13 (9) of CERC Sharing of Transmission Charges Regulations, 2020.

In view of the submissions made herein above in respect of requirement of minimum 60 days period for testing purpose after availability of transmission system (grid voltage) and the view adopted by the Hon'ble Commission for dealing with mismatch of COD of transmission licensee, Hon'ble Commission is requested to levy 20 % of yearly transmission charges (YTC) for a period of 6 months from date of deemed COD of transmission assets or till commencement of

2/1/21

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

actual power flow, whichever is earlier and levy 100% yearly transmission charges (YTC) from 7th month.

Additional Comments

CERC has notified Sharing of Inter-State Transmission Charges and Losses (First Amendment) Regulations, 2023 vide notification dated 07th February 2023. In the first amendment to the principal regulations, Clause (2) of Regulation 13 of the principal regulation has been substituted with Clauses (2) and (2A). In the Sub-clause (e) of Clause (2) of Regulation 13 of the first amendment, waiver of Inter-state Transmission charges has been extended to hydroelectric power plants, whose PPAs have been signed on or after 01.12.2022 and on or before 30.06.2025 and construction work has been awarded on or before 30.06.2025.

In this regard, It is pertinent to mention that the said clause 13(2)(e) was not proposed in the draft amendment and hence no comment could be offered during public hearing of the draft first amendment. Therefore, comments/suggestions of NHPC to the Sub-clause (e) of Clause (2) of Regulation 13 of the first amendment is as under:

Regulation 13(2)(e) of CERC (Sharing of Inter-State Transmission Charges and Losses) (First Amendment) Regulations, 2023 mentions that:

“(2) Waiver of transmission charges for the use of ISTS shall be applicable for scheduling power under GNA, GNARE T-GNA and T-GNARE from (i) REGS or RHGS based on wind or solar sources or (ii) ESS charged with energy sourced

2/2/23

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

from REGS or RHGS or (iii) generation based on hydro power sources, subject to the following conditions:

.....

(e) Hydro generating station where (a) PPAs are signed on or after 1.12.2022 but on or before 30.06.2025 and (b) construction work is awarded on or before 30.06.2025 shall be considered for waiver of transmission charges under this Regulation, for a period of 18 years from the date of COD of the hydro generating station”

In the notified regulation 13(2), the transmission charges have been waived for the hydro projects whose construction work has been awarded on or before 30.06.2025 and whose PPA has been signed on or after 01.12.2022 but on or before 30.06.2025.

PPA of Eligible Projects

The waiver of transmission charges in respect of hydropower stations has come in the back drop of Press release on 02 Dec 2022. The relevant extract of the press release is as under:

“In order to remove this discrepancy and to provide a level playing field to hydro projects, Ministry of Power in Government of India has now decided to extend the waiver of ISTS Charges on the transmission of power from new hydro power projects, for which construction work is awarded and PPA is signed on or before 30.06.2025.”



**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

From above, it is clear that Ministry of Power, Govt. of India has no intention to restrict the waiver of transmission charges for new hydro projects whose PPA has been signed before 01.12.2022.

Further, denying the waiver of transmission charges for new hydro projects to the beneficiaries who have signed the PPA before 01.12.2022 and allowing the waiver of transmission charges for new hydro projects to the beneficiaries who have signed the PPA after 01.12.2022, shall be against the principle of natural justice as the beneficiaries who have shown keen interest in purchase of power from hydro projects and have signed the PPA earlier shall have to pay higher landed cost as compares to the ones who have signed PPA after 01.12.2022.

For instance, NHPC has already signed PPA with Chhattisgarh State DISCOM (CSPDCL) for Teesta VI before 01.12.2022, whereas PPA(s) with other DISCOMs for Teesta VI are yet to be signed. Thus, as per present amendment there will be no waiver of transmission charges for CSPDCL and CSPDCL will have to pay higher landed cost as compared to other DISCOMs for the power procured from Teesta VI.

Eligible Projects:

The notified amendment nowhere mentions the projects eligible for waiver of transmission charges. Ministry of Power, Government of India in its pursuit to make new hydropower projects in the country viable, Ministry of Power in its OM dated 08th march 2019 declared hydro power projects as the renewable source of power.

30/12/21

**Comments of NHPC on Draft Central Electricity
Regulatory Commission (Sharing of Inter-State Transmission
Charges and Losses) (Second Amendment) Regulations, 2023**

However, waiver of inter-state transmission charges, provided to solar and wind projects was not extended to hydro power projects, which resulted in discrepancy.

The waiver of inter-state transmission charges has been extended to hydro power projects to remove this discrepancy and provide a level playing field to hydro power projects. Thus, it is quite logical that the new hydro projects to be considered for waiver of ISTS charges should be the ones which have been declared under commercial operation after declaration of hydro projects as renewable energy sources i.e. hydro projects commissioned on or after 08.03.2019.

It is therefore proposed to modify Regulation 13(2)(e) of draft amendment as under:

(e) New Hydro generating station (commissioned on or after 08.03.2019) where PPAs have been signed on or before 30.06.2025 and construction work is awarded on or before 30.06.2025 shall be considered for waiver of transmission charges under this Regulation, for a period of 18 years from the date of COD of the hydro generating station.

2/alt