

Ref No.: AEPL/Reg23-24/003
Date: 18 December 2023

To,
The Secretary,
Central Electricity Regulatory Commission,
3th & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi- 110001.

Subject: Comments on the Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023 (“**Draft Regulations**”)

Respected Sir,

By way of introduction, Apraava Energy Private Limited (“**Apraava**”), is a diversified power company in India, jointly owned by the CLP Group – one of the largest investor-owned power businesses in Asia – and Caisse de dépôt et placement du Québec (“**CDPQ**”) – a global investment group.

Founded in 2002, the company’s portfolio comprises 3,150 MW of installed capacity which includes 924 MW of wind, 250 MW of solar energy projects across seven states and a 1320 MW coal-fired super critical power plant. Apraava also owns and operates one intra-state transmission asset in Madhya Pradesh, and one inter-state transmission asset transmitting power to the states of Assam, Manipur and Nagaland. Further, Apraava has recently won two bids to build own operate, maintain and transfer inter-state transmission assets in the state of Rajasthan, subsequent to which the subsidiaries Fatehgarh III Transmission Limited and Fatehgarh IV Transmission Limited were setup.

In response to the Draft Regulations, please find below our response and representations for your kind review and perusal:

Clause no. of the Draft Regulations	Comments on/ Suggestions to the Draft Regulations	Justification for the Comments/Suggestions
<p>5. Procedure for Grant of Licence</p> <p>(8) The applicant shall within 3 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the digital newspapers in which the notice has been published and the date and place of their publication including the relevant copies of the newspapers in which the notice has been published.</p>	<p>Proposed revised provision:</p> <p>The applicant shall within 7 working days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the digital newspapers in which the notice has been published and the date and place of their publication including the relevant copies of the newspapers in which the notice has been published.</p>	<p>Applicants are required to issue public notice in local newspapers in the vernacular language as well, which are often in remote locations. Receiving copies of the public notice from offices of such local newspapers often gets delayed due to logistical issues. Therefore, the compliance requirement of submitting in three days shall be very difficult to comply, especially when coupled with the fact that the public notices have to be filed along with an affidavit to the Commission.</p> <p>Under the CERC (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 (Present Regulations), Applicants were provided 15 days to comply with this requirement.</p>

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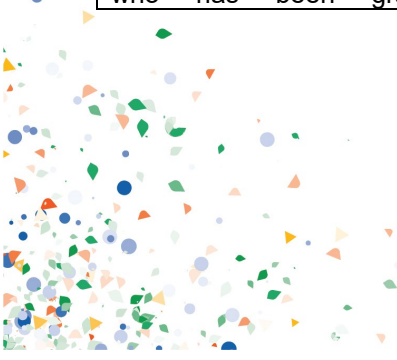
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		Accordingly, it is suggested to at least provide 7 working days (<i>the term working days is to be considered as per the Commission's working days</i>) to the Applicants to e-file their affidavit.
<p>5. Procedure for Grant of Licence</p> <p>(9) The Central Transmission Utility shall send its recommendations, if any, to the Commission on the proposal made in the application as far as practicable within a period of 10 (ten) days from the date of receipt of the application with a copy to the applicant: Provided that if the Central Transmission Utility is unable to submit its recommendations within a period of 10 days, it shall inform the Commission the reasons for the same and submit its recommendations within a period of 30 (thirty) days from the date of receipt of the application. Explanation: The recommendations of the Central Transmission Utility shall not be binding on the Commission.</p>	<p>Proposed proviso to be included:</p> <p><i>Provided further that the Central Transmission Utility, within a period of 10 (ten) days from the date of receipt of the application shall submit on an affidavit, the approval of the Central Government as required for the transmission scheme under the Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021 notified by the Ministry of Power on 1.10.2021 for the specific transmission element/project.</i></p>	<p>It is observed in multiple proceedings filed before this Commission seeking grant of transmission licences that parties that the Central Transmission Utility (CTU) has been directed to duly submit the approval received from the Central Government for the relevant transmission scheme as per the terms of the Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021.</p> <p>With the intention to ensure timely and efficient disposal of transmission licence proceedings, it is proposed that this Commission seek the Central Government approval from CTU at the time of filing its recommendations/comments, or prior to the admission of the application itself, so that the Commission is equipped with all the relevant procedural documentation at the outset.</p>
<p>5. Procedure for Grant of Licence</p> <p>(10) The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the public notice published by it, within 3 days of receipt of such suggestions and objections, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.</p>	<p>Proposed revised provision:</p> <p>The applicant may file its comments, duly supported by an affidavit, on the recommendations made by the Central Transmission Utility and the suggestions and objections, if any, received in response to the public notice published by it, within 15 (fifteen) days of receipt of such suggestions and objections, with an advance copy to the Central Transmission Utility or the person who has filed the suggestions and objections on the proposal made in the application, as the case may be.</p>	<p>It is submitted that providing 3 days to the Applicant to respond to objections or suggestions raised by the public or the Central Transmission Utility to the grant of transmission licence is impractical and will result in partial analysis of such submissions by the Applicant.</p> <p>Under the Present Regulations, the Applicant was granted 45 days.</p> <p>However, in the interest of efficient disposal of such matters along with ensuring that the Applicant is provided adequate time to represent itself in a coherent and holistic manner, it suggested that the Applicant be provided with at least 15 days to respond to any such suggestions or objections received.</p>

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<p>5. <u>Procedure for Grant of Licence</u></p> <p>(13) The Commission may, after consideration of the further suggestions and objections, if any, received in response to the public notice as aforesaid, grant licence in Form-III attached to these regulations or for reasons to be recorded in writing, reject the application.</p>	<p>Proposed proviso to be added:</p> <p><i>Provided that if no suggestions or objections have been received in response to the public notice issued by the Commission or the Applicant, this Commission may grant the licence in Form-III attached to these Regulations or for reasons to be recorded in writing, reject the application within 15 days of the Commission reserving the application for orders.</i></p>	<p>In a case where no comments or suggestions have been received against the Application, to ensure efficient disposal of such <i>prima facie</i> proceedings, it is proposed that this Commission can simplicitor either grant the licence or reject the application without any further delay.</p> <p>It is therefore suggested that in such matters, the Commission may ensure a timeline in within which the final order can be issued.</p>
<p>10. <u>Terms of Licence</u></p> <p>(1) The transmission licence shall, unless revoked earlier, continue to be in force for a period of 25 years from the date of issue.</p>	<p>Proposed revised provision:</p> <p>The transmission licence shall, unless revoked earlier, continue to be in force for a period of 35 years from the date of issue</p>	<p>As per the terms of the Ministry of Power's Guidelines for Encouraging Competition in Development of Transmission Projects on 10 August 2021 and revised Standard Bidding Documents dated 6 August 2021, a transmission service provider is to be appointed for a standard period of 35 years from the COD.</p>
<p>10. <u>Terms of Licence</u></p> <p>(2) If the useful life of the transmission asset (other than for connecting transmission line to bulk consumer) for which the transmission licence has been issued extends beyond the period of 25 years, the Commission may consider the merit of each case to grant a licence for another term for which the licensee may make an application in accordance with Regulation 7 of these regulations two years before the expiry of the initial period of licence: Provided that when the licensee does not make an application for an extension of licence beyond the initial period of 25 years, the Commission may, to protect the interest of the consumers or in the public interest, issue such directions or formulate such schemes as it may deem necessary for the operation of the transmission assets for the remaining part of its useful life: Provided further that if the bulk consumer who has been granted a licence for connecting</p>	<p>Proposed proviso to be added:</p> <p><i>Provided further that in case where the tariff of the transmission assets has been determined by the Commission under Section 63 of the Act, the Commission may grant the term of the licence to be for the duration of the corresponding Transmission Service Agreement executed in favour of the applicant.</i></p>	<p>However, with the term of the licence being granted for only 25 years, the transmission service provider/ Applicant will be required to apply for renewal of the licence, despite being allotted for the project for 35 years in advance. This will cause distress to financiers funding such projects, as well as to the shareholders of such entities.</p> <p>Hence, it is suggested that for Section 63 projects, the Commission may consider the term of the licence, when being granted, to be analogous to the period of the transmission service agreement entered into by the entity to avoid additional procedural steps.</p>

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<p>transmission line does not make an application for extension of licence beyond the initial period of 25 years, it shall not be entitled to transmit power on the said transmission line after expiry of 25 years.</p>		
<p>10. <u>Terms of Licence</u></p> <p>(5) In case transmission elements of a licensee (original licensee) are required to be modified or re-configured due to the transmission plan of CTU, any additional financial implication towards modification or reconfiguration in the transmission elements of the original licensee, shall be borne by the licensee to whom the modification or reconfiguration work is assigned, without affecting the transmission charges of the original licensee.</p>	<p>Proposed revised portion:</p> <p>In case transmission elements of a licensee (original licensee) are required to be modified or re-configured due to the transmission plan of CTU, any additional financial implication towards modification or reconfiguration in the transmission elements of the original licensee, <i>shall be passthrough for the licensee to whom the modification or reconfiguration work is assigned. The licensee will be required to approach this Commission to confirm the additional tariff to be paid to the licensee for the additional work done shall be borne by the licensee to whom the modification or reconfiguration work is assigned, without affecting the transmission charges of the original licensee.</i></p>	<p>It is submitted that for any modification in the transmission elements due to change in the CTU's transmission plan cannot cause any prejudice and/or additional financial burden upon the Licensee, especially since such change was not initiated due to delay or laches of the Licensee.</p> <p>In view thereof, it is proposed that any expenses incurred by the Applicant due to such modification or reconfiguration should not be made a burden upon the Licensee. The same should be treated as a passthrough for the Licensee to subsequently recover from the CTU. The Licensee should also be directed to file necessary proceedings before this Commission to confirm the additional expenditure incurred by it and its recovery via increase in the monthly tariff.</p>
<p>16. <u>Amendment of Licence</u></p> <p>(1) (b) Where an existing licensee who has been granted a transmission licence pursuant to selection under the competitive bidding guidelines, and is subsequently selected through the process under the competitive bidding guidelines to implement additional transmission element(s) under project mode, it shall be eligible to add such transmission element(s) to its existing licence, after making an application before the Commission in terms of this Regulation.</p> <p>(c) Where an existing licensee who has been granted a</p>	<p>Proposed revision provision:</p> <p>(c) Where an existing licensee who has been granted a transmission licence pursuant to selection under the competitive bidding guidelines, and is subsequently selected through the process under the competitive bidding guidelines to implement additional transmission element(s) under project/ <i>Special Purpose Vehicles</i> mode, it shall be eligible to add such transmission element(s) to its existing licence, after making an application before the Commission in terms of this Regulation.</p>	<p>It is submitted that currently the projects under TBCB are awarded in SPV mode, wherein BPC forms the SPV before the bidding process is completed and same thereafter gets transferred to the successful bidder.</p> <p>Therefore, the revision has been proposed so that creation of Special Purpose Vehicles and being granted transmission licences are also clarified in the Draft Regulations.</p>



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<p>transmission licence pursuant to being nominated by the Central Government or its authorized agency to implement transmission element(s) under regulated tariff mechanism, is nominated to implement additional transmission element(s) under regulated tariff mechanism, it shall be eligible to add such transmission element(s) to its existing licence, by making an application before the Commission in terms of this Regulation.</p> <p>(d) ...</p>	<p>Proposed sub-clause to be added:</p> <p><i>(e) Where an existing licensee who has been granted a transmission licence pursuant to selection under the competitive bidding guidelines and is subsequently nominated to implement additional transmission element(s) under regulated tariff mechanism, it shall be eligible to add such transmission element(s) to its existing licence, by making an application before the Commission in terms of this Regulation.</i></p>	<p>The National Committee for Transmission has, on multiple occasions, granted additional responsibility to Section 63 projects to be implemented under Section 62. Such projects currently are required to apply for a fresh licence for every such additional responsibility.</p> <p>While the Draft Regulations in its current form correctly grants Section 63 licensees to implement additional elements under project mode u/s section 63, they are not allowed to amend their licence in case of the additional elements being implemented under Section 62.</p> <p>Hence, it is suggested that when such additional responsibility under Section 62 is granted to a licensee under Section 63, such licensee may also be eligible to amend their licence to add such additional elements, provided that the entity implementing the additional responsibility shall remain the same.</p>

We kindly request you to consider above comments and would be happy to provide any additional information in this regard, as required.

Thanking you,



Authorized Signatory
For Apraava Energy Private Limited

