

संदर्भ :CC/RC/ Tr License Regulations, 2023

दिनांक: 22/12/2023

सचिव,
सैंट्रल इलेक्ट्रिसिटी रेगुलेट्री कमीशन (सी.ई.आर.सी.),
तीसरा एवं चौथा तल, चन्द्रलोक भवन,
36, जनपथ, नई दिल्ली - 110001.

विषय - "Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023".

- Submission of comments/suggestions thereof.

महोदय,

This has reference to public notice no. L-1/270/2023/CERC dated 28th November 2023 vide which comments were sought on the subject draft regulations.

In this regard, please find enclosed POWERGRID's comments/suggestions on proposed "Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023" for consideration of Hon'ble Commission.

Thanking you,

Yours faithfully



(V C Sekhar)

General Manager (Regulatory Cell)

Encl:

POWERGRID's comment on subject draft Regulations

**POWERGRID comments/Suggestions on
“Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023”**



Clause no.	Proposed provision as per Draft CERC Transmission Licence Regulations, 2023	Comments suggestion	Remarks
2. Definitions			
		<p>Following definitions may be added for clarity:</p> <p>'Licence' means a licence granted by the Commission under Section 14 of the Act to a person to undertake inter-State transmission of electricity;</p> <p>'Licensee' means a person who has been granted a licence, and includes a deemed licensee;</p>	<p>The terms 'licence' and 'licensee' have been used throughout the instant regulations but the definition for the same is not provided. Further, in the proposed regulations, the term 'deemed licensee' has been provided whereas the definition of licensee has been deleted. Accordingly, the deleted definitions may be retained for better clarity and understanding. Alternatively, the term 'transmission licensee' may be replaced with 'transmission licensee including deemed transmission license', wherever it appears, in the proposed regulations.</p>
5. Procedure for grant of Transmission License			
5(4)	(4) The applicant shall also upload the complete application along with annexures on its website, in English and in the Indian language of the State or Union Territory where an element of the project or concerned transmission line is situated or proposed to be situated. The application shall be kept on the web site of the applicant till such time the licence is issued or the	(4) The applicant shall also upload the complete application along with annexures on its website, in English and in the Indian language of the State or Union Territory where an element of the project or concerned transmission line is situated or proposed to be situated. The application shall be kept on the web site of the applicant till such time the licence is issued or the	As per the present regulations, the applicant uploads the complete application on its website, which includes Form-II in English as well as the local vernacular language of the State/UT where the concerned element/ project is situated, giving details of the assets, cost, timeline, etc. for information and awareness of the stakeholders. In addition, License application language is highly technical in nature and Petitioner shall only be dependent on discretion of translator. It will be difficult for the Petitioner to verify the translated contents which may lead to legal issues.

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	application is rejected by the Commission.	application is rejected by the Commission.	In view of the above, Licensee may be exempted from uploading complete application in concerned state Indian language on its website since all relevant details are already being provided in Form-II. Further, same will also reduce regulatory burden and enhances ease of doing business.
5(5) & 5(7)	<p>(5)The applicant shall, within 3 days after filing the application, publish a notice of its application in Form-II, attached to these regulations, on its website and in at least two leading daily digital newspapers, one in English language and another in Indian language of the State or Union Territory where an element of the project or concerned transmission line is situated, inviting comments from the general public.</p> <p>(7) In the notice published in the digital newspapers and on the applicant’s website under this Regulation, it shall be indicated</p>	<p>(5) The applicant shall, within 3 7 working days after filing the application, publish a notice of its application in Form-II, attached to these regulations, on its website and in at least two leading daily digital newspapers, one in English language and another also in Indian language of the State or Union Territory where an element of the project or concerned transmission line is situated, inviting comments from the general public.</p> <p>(7) In the notice published in the digital newspapers and on the applicant’s website under this Regulation, it shall be indicated</p>	<p>It is submitted that with a view to ease the regulatory process for stakeholders, this Hon’ble Commission vide order in Petition no. 1/SM/2022 dispensed with publication of notice in newspapers under CERC grant of transmission license regulations. Similar dispensation may be provided in proposed regulations so as to reduce regulatory compliances and enhancing ease of doing business.</p> <p>In addition, existing time limit of 7 working days for publication of notice may be retained considering the process involved and past experience.</p> <p>Furthermore, clause 5(7) may also be modified accordingly.</p>

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	that the suggestions and objections to the application, if any, may be filed by any person within 15 days of publication of the notice to The Secretary, Central Electricity Regulatory Commission at the address where the office of the Commission is situated and at email id: registry@cercind.gov.in. Any suggestion or objection furnished shall be forwarded to the applicant and the respondents by the registry of the Commission.	that the suggestions and objections to the application, if any, may be filed by any person within 15 days of publication of the notice to The Secretary, Central Electricity Regulatory Commission at the address where the office of the Commission is situated and at email id: registry@cercind.gov.in. Any suggestion or objection furnished shall be forwarded to the applicant and the respondents by the registry of the Commission.	
5(8)	(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	(8) The applicant shall within 3 ⁰⁷ working days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published in the website, indicating the digital newspapers in which the notice has been published and the date of the publication and place of their publication including the relevant	As stated in above clauses, the requirement of publication of notice in newspapers may be exempted. Further, the time limit of filing of notice details may be increased to 07 working days.

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	in which the notice has been published.	copies of the newspapers in which the notice has been published.	
5(10)	(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.	(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 10 working 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>Time limit to submit the response may be kept as 10 working days as compilation of data or inputs for preparation of response and administrative approval for the same takes considerable time.</p> <p>In addition, CTU may be directed to forward a copy of recommendations made to the Petitioner while filing the same before Hon’ble Commission.</p> <p>Similarly, Form-II (Notice format) format provides that suggestions/objections, if any, to be filed before Secretary, CERC. Suitable provision may be kept in the format of Form-II so that suggestions/objections made by general public is also forwarded to Petitioner simultaneously.</p>
<u>6. Determination of Transmission Charges</u>			
Clause 6	(1) In case the licensee has been selected for implementation of the project in accordance with the competitive bidding guidelines, the transmission charges shall be adopted by the Commission in	(1) In case the licensee has been selected for implementation of the project in accordance with the competitive bidding guidelines, the transmission charges shall be adopted by the Commission in	To bring clarity regarding incentive/ disincentive and other charges to be allowed as per TSA under TBCB projects.

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	accordance with Section 63 of the Act.	accordance with Section 63 of the Act. Further, incentive, or disincentive and any other charges including impact of Change in law and Force Majeure events etc shall be allowed in accordance with the provisions of the Transmission Service Agreement (TSA).	
10. Terms of Licence			
10(2)	(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:	(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 5 of these regulations two years before the expiry of the initial period of licence:	The procedure for grant of license is provided at Regulation 5 of the instant regulations instead of 7. Thus clause numbering may be changed to 5.

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Clause 10 (4)	New clause	<p>(5) For the projects being developed under competitive bidding guidelines issued by the Ministry of Power Government of India on 06.08.2021 and as may be further amended from time to time:</p> <p>(a) the tariff for the extended period from the 26th year to the 35th year shall be payable on the basis of the rate quoted at the bidding and adopted by the Commission for the respective years of operation.</p> <p>(b) the tariff for the period beyond the 35th year shall be as per the terms of competitive bidding guidelines issued by the Ministry of Power Government of India on 06.08.2021 and as may be further amended from time to time.</p>	<p>Similar provision may need to be made to include the projects being developed under competitive bidding guidelines issued by the Ministry of Power, Government of India on 06.08.2021.</p> <p>Accordingly, a new clause may be inserted to take care of guidelines dated 06.08.2021. Further, as per these new guidelines, mode of implementation has been changed from Build Own Operate Maintain (BOOM) model to Build Own Operate Transfer (BOOT) model i.e. after expiry of the contract period of 35 years the project assets shall compulsorily be transferred to CTU at zero cost. The project then be awarded to successor bidder selected through a competitive bidding process by CTU.</p>

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14. Submission of Information			
Clause 14	(14) The licensee shall submit such information, as may be called for from time to time by the Commission or the Regional Load Despatch Centre, or the Regional Power Committee in order to fulfill the responsibility of supervision and control over the inter-State transmission system entrusted to the licensee under the Act:		In case of any information / data which is proprietary to the Transmission licensee then the same can be shared on signing of non-disclosure agreement.
16. Amendment of Licence			
16 (d)	(d) Where a bulk consumer, instead of applying for licence for connecting transmission line, engages an existing licensee who has either been granted a transmission licence pursuant to (i) process under the competitive bidding guidelines or (ii) being nominated by Central Government or its authorized agency to implement transmission	(d) Where a bulk consumer, instead of applying for licence for connecting transmission line, engages an existing licensee who has either been granted a transmission licence pursuant to (i) process under the competitive bidding guidelines or (ii) being nominated by Central Government or its authorized agency to implement transmission	A new proviso may be added for sake of clarity in case connecting transmission line is being implemented by deemed transmission licensee for which no amendment is required.

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	element(s) under regulated tariff mechanism, such licensee shall be eligible to add such connecting transmission line to its existing licence, after making an application before the Commission in terms of this Regulation.	element(s) under regulated tariff mechanism, such licensee shall be eligible to add such connecting transmission line to its existing licence, after making an application before the Commission in terms of this Regulation. Provided that no such application shall be required to be made by deemed transmission licensee for addition of such connecting transmission line in its license.	
Forms			
Form -I	Form I 3. <i>Levelised transmission charges in case of project selected through the guidelines of competitive bidding and estimated completion cost of the project in other cases:</i>	Form I 3. Quoted annual transmission charges in case of project selected through the guidelines of competitive bidding and estimated completion cost of the project in other cases:	With the revised guidelines for transmission project, the bidder is required to quote single annual transmission charges applicable for 35 years only and the levelized tariff is not envisaged. The same may be included for completeness. In addition, the word “levelized” may be replaced with “Quoted” in tables given at Form-II (a) & Form-II (b).
Form-I	Form I	This may be deleted.	The successful bidder has no role in obtaining approval of Central Government and same is taken by CTU. Similarly, the evaluation report is not made public by the BPC.

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	<p>4. In case applicant has been selected in accordance with the competitive bidding guidelines, enclose: (a) Approval of Central Government as per Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021.</p> <p>b) Evaluation report made public by the Bid Process Coordinator.</p>		<p>Accordingly, CTU may be asked to made public the approval of Central Government as per Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021 for each transmission projects enabling Petitioner to file the same before Hon’ble Commission. Similarly, BPC may be asked to made public evaluation report for bidding conducted by it enabling Petitioner to file the same before Hon’ble Commission.</p>

Additional Comments/Suggestions:

The instant regulations provides for amendment of existing transmission license granted to an entity for specific TBCB project and such TBCB licensee subsequently selected through the process under the competitive bidding guidelines to implement additional transmission element(s) under ‘**project mode**’. For ‘project mode’ bidding under TBCB, revision in relevant clauses of SBDs is required as the present bidding guidelines allows projects to be bid under SPV mode.

Further, proposed regulations do not cover scenario wherein existing transmission licensee executing/executed project under TBCB route is awarded transmission works under Regulated Tariff Mechanism. In this regard, for ease of process and reducing regulatory burden, the situation of granting multiple transmission licenses to single entity may be avoided. In addition, there may be requirement of single transmission license to implement both TBCB as well as RTM projects by way of amendment in existing transmission license. On this background, following are the additional suggestions;

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(i) One company one license:

Electricity Act only specify requirement of license but do not specify anything related to requirement of separate license for TBCB and RTM projects. Accordingly, for the entity executing TBCB or RTM project as the case may be, for the first time, it shall continue to approach Hon'ble Commission for grant of license as per regulations. However, once a transmission license is granted by Hon'ble Commission to implement a project either through TBCB route or RTM route, the same license may be appended/amended whenever subsequent transmission projects either awarded through TBCB or allocated under RTM route.

(ii) No requirement to file petition for amendment:

CEA/CTUIL plans the ISTS network and the same is put up to NCT and depending on the estimated cost of the planned transmission system, the route of execution of project through bidding/ regulated tariff mechanism is decided by CTUIL/NCT/MoP on case to case basis. Projects are required for evacuation of power/strengthening of national grid. As such the allocation/award to an entity goes through above diligent process.

Considering the above, in case transmission license is granted to an entity and subsequently, additional transmission element(s) is awarded through TBCB or allocated under RTM route and entity opts to execute the project on Project route basis, then such works may be appended to the already issued licence for which the entity may intimate the Hon'ble Commission that the element has been won/allocated to it by statutory authority as per the necessary guidelines of the Govt. of India with suitable documentary evidence. The entity shall also pay requisite licence fees for the additional elements/works as per relevant regulations.

Accordingly, the process may be simplified through provision of issuing company-wise single license, with list of assets appended/deleted based on the intimation to Hon'ble Commission to reduce regulatory burden. Such revised list of assets may be hosted on CERC website. As such after first time grant of transmission license for particular transmission project, there may not be any need to file application for amendment of transmission license for additional scope of works awarded either through TBCB or allocated under RTM route.

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