

Email

Mukesh Kumar

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**Fwd: Additional Comments\_ Tata Power\_ draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023**

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**From :** Shilpa Agarwal <shilpa@cercind.gov.in>

Wed, Dec 27, 2023 10:18 AM

**Subject :** Fwd: Additional Comments\_ Tata Power\_ draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023 1 attachment**To :** Mukesh Kumar <mukeshkr.cea@gov.in>, Awdhesh Kumar Yadav <awdhesh@nic.in>, ramakant ece <ramakant.ece@gmail.com>

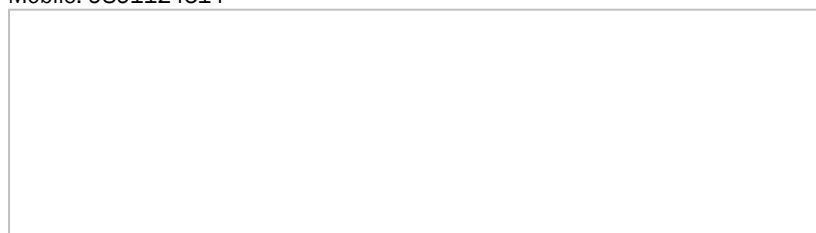
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**From:** "mohdsarim siddiqui" <mohdsarim.siddiqui@tatapower.com>**To:** "Harpreet Singh Pruthi" <secy@cercind.gov.in>, "Shilpa Agarwal" <shilpa@cercind.gov.in>**Cc:** "ajay kapoor" <ajay.kapoor@tatapower.com>, "paramita sahuo" <paramita.sahoo@tatapower.com>, "amit gaur" <amit.gaur@tatapower.com>**Sent:** Tuesday, December 26, 2023 10:58:36 PM**Subject:** Additional Comments\_ Tata Power\_ draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023

Dear Sir/Mam

Please find enclosed **Additional Comments** from Tata Power on [draft Central Electricity Regulatory Commission \(Procedure, Terms and Conditions for grant of Transmission Licence and other related matters\) Regulations, 2023](#)

Regards,  
Mohd Sarim Siddiqui  
Group Head - Advocacy  
The Tata Power Company Limited, Shatabdi Bhawan, B-12 & 13, Sector 4, Noida, UP-201301  
Mobile: 9891124514



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**From:** Siddiqui Mohd Sarim**Sent:** 18 December 2023 22:35**To:** secy@cercind.gov.in; shilpa@cercind.gov.in**Cc:** Kapoor Ajay <ajay.kapoor@tatapower.com>; Sahoo Paramita

<paramita.sahoo@tatapower.com>; Gaur Amit <amit.gaur@tatapower.com>

**Subject:** Tata Power\_ Comments\_ draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023

Dear Sir/Mam

Please find enclosed comments from Tata Power on the draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2023

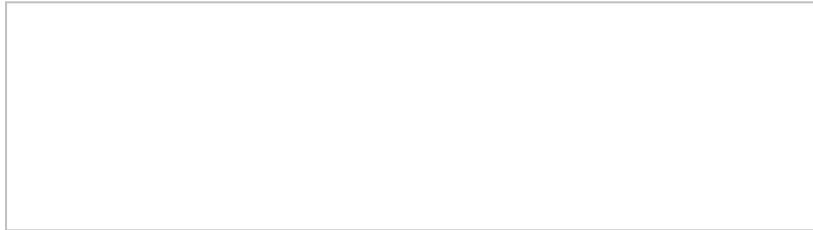
Regards,

Mohd Sarim Siddiqui

Group Head - Advocacy

The Tata Power Company Limited, Shatabdi Bhawan, B-12 & 13, Sector 4, Noida, UP-201301

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**Tata Power\_Additional Comments\_ Draft CERC (Procedure, Terms and Conditions for grant of Transmission Licence and other.pdf**  
788 KB

**Comments/ Suggestions from Tata Power on Draft CERC (Procedure, terms and Conditions for grant of Transmission License and other related matters) Regulations, 2023**

S. No.	Clause No & Details	Suggested/Modified Clause	Remarks
1.	5(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.	Regarding the requirement of publishing notice in digital newspaper mentioned in the Draft regulations we wish to submit that the time and effort required for the process of publishing the Notices either in Physical Newspaper or Digital Newspaper is similar in nature. Hence, with the objective of reducing the burden imposed on businesses/ citizens to promote ease of doing business it is necessary to remove the burdensome compliances under the regulations. Further, also to align the provisions of the Transmission License Regulations with the provisions of the Information and Technology Act, 2000, we request the Hon'ble CERC to apply its decision given vide its Suo motu order in Petition No. 1/SM/2022 dated 22nd January, 2022 wherein the requirement of publication in newspapers has been substituted by the provision for publication on the websites. We Request the Hon'ble CERC to include the similar provision of publishing the Pub digital newspaper.	(5) The applicant shall, within 3 days after filing the application, <b>publish a notice of its application by posting the application on the e-filing portal of the Commission and on its website</b> in Form-II, attached to these regulations, <del>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,</del> inviting comments from the general public.

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S. No.	Clause No & Details	Suggested/Modified Clause	Remarks
2.	<p>16. Amendment of Licence</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 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>May be re considered to be deleted/exempted/modified</p>	<p>The proposed amendment for the requirement of afresh Application to Hon'ble CERC every time there is an additional element/s to the transmission project may be re considered on three grounds, To begin with, The Electricity Act, 2003 ("The Parent Act") clearly stipulates that the essence of granting license is on the basis of geographical area and is not Asset/Project specific this essence may be highlighted by Section 14 which stipulates that the grant of License for transmission/distribution/trading would be provided by Appropriate Commission, area wise and according to the Section 79 and 86 of the Parent Act the CERC and SERC have the jurisdiction to grant inter-state and intra state Transmission Licenses, respectively and the section 19(2) which also stipulates that license will be revoked area wise either wholly or partially for the transmission/distribution licensee, the same is produced below for your ready reference-</p> <p align="center"><b><i>"Section 14 (Grant of licence): The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -</i></b></p> <p align="center"><i>(a) to transmit electricity as a transmission licensee; or</i></p> <p align="center"><i>(b) (b) to distribute electricity as a distribution licensee; or</i></p> <p align="center"><i>(c) (c) to undertake trading in electricity as an electricity trader,</i></p>

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			<p><b><i>in any area as may be specified in the licence:</i></b></p> <p><i>Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:</i></p> <p><b><i>Section 19. (Revocation of licence): - (2) Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his</i></b></p>

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			<p align="center"><i>area of distribution or transmission or trading upon such terms and conditions as it thinks fit."</i></p> <p>Therefore the proposed additional condition for grant of license on the basis of Asset/Project was never contemplated by the provisions of The Parent Act. It is a well settled law that the power of the regulation making authority, must be in accordance to the four corners of the Act and must be interpreted keeping in view the provisions of the Parent Act. Reliance is placed on the Hon'ble Supreme Court's judgement in Civil Appeal Nos. 3457-3458 of 2009 dated 11.05.2009 in Global Energy Limited vs CERC: <u>"...As Section 52 does not empower the Regulation making authority to provide for qualification or disqualification, the delegated legislation or a subordinate legislation as is well known must conform exactly to the power granted."</u></p> <p>In addition to it, under section 14 the applicant undergoes through the worthiness test for grant of transmission/distribution/trading license thereby casting any further obligation on the Applicant to apply afresh each time a new/additional transmission asset is created, leads to <b>Regulatory Overburden</b>.</p> <p>Lastly, omission of the proposed amendment would also lead to <b>Ease of Doing Business</b> and an regulatory friendly environment, the correlation between relaxed norms and Ease of doing business was highlighted by the Hon'ble Commission itself in its Order dated 22.01.2022 in Petition No.</p>

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			<p>1/SM/2022 the relevant extract of the said Order are as follows-</p> <p align="center"><i>"2. Ministry of Power, Government of India, based on the meeting of Committee of Secretaries, communicated 360 issues on various Regulations/ Procedures notified/ issued by the Commission, with a request to examine/analyse the same <b>and remove the burdensome compliances under the regulations, with the objective of reducing the burden imposed on businesses/ citizens. Based on the said examination/analysis, the Commission was also requested to carry out necessary amendments to its Regulations/ Orders. For this Suo Motu Order 1 /SM/2022 Page 3 purpose, the Commission was required to identify and categorise these 360 issues as Burdensome/ Non-burdensome/ Not applicable/ Repetitive or Forwarded."</b></i></p> <p>It may kindly be noted that there is no requirement of project details in existing rules/regulations in eligibility for grant of license. Therefore, there is no requirement for granting project specific licenses. Once a company is granted a transmission license based on</p>

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			<p>its credentials, the list of projects being executed/completed by the company may be updated and informed to Hon'ble Commission by the company itself.</p> <p>In this regard, MoP in its amendment to electricity rules dated 30.06.2023 has allowed automatic renewal of license after 25 years for a further period of 25 years in order to promote ease of doing business. This automatic extension is not applicable to project awarded under Section 63 probably because the quoted tariff is for 35 years and only 10 years extension is warranted. Hon'ble Commission may also consider automatic extension for 25 years except for Section 63 project which may be automatically extended for balance period of quoted tariff.</p> <p>Therefore, we request the Hon'ble Commission to re consider such an Amendment and consider granting the inter-state license for the whole geographical area of the country which is in consonance with The Parent Act. Hence, for streamlining the Regulatory compliance and oversight we propose the following suggestion -</p> <p>The Hon'ble Commission may grant inter-state license for the whole country without restricting it to one or more projects/elements. The licensee may be obligated to maintain a record of all its transmission Assets and update any addition of under construction/ new Assets within 7 days on their website with public Access.</p>

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