



**Public Hearing: Inputs and Submissions from
Sterlite Power Transmission Limited**

**Draft CERC (Sharing of ISTS Charges and
Losses) (2nd Amendment) Regulations, 2023**

Dated 1st May 2023 at 10.30 AM

Recovery of X'mission Charges: One ISTS licensee is ready and another ISTS/ InSTS licensee is delayed

Draft as per Clause	Proposed Clause	Rationale
<p>13(12)(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>13 (12) (a) The inter-State transmission licensee shall be paid 20% 100% 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>Subsequent to above changes, Regulation 13 (12) (b) and 13 (12) (h) may be deleted.</p>	<ol style="list-style-type: none"> 1. Contractual Position – TSP is entitled to 100% of YTC on the CoD 2. Dictum of Barh-Balia is not applicable on mismatch between two TSP. 3. Proposed financial support for initial 6 months for deemed commissioned asset is grossly inadequate. 4. Mismatches are bound to happen, but the Importance of the deem commissioned transmission assets should not be seen in the narrow prism of its immediate utilization during the initial years but need to be assessed over the entire life cycle of the assets. <ul style="list-style-type: none"> ➤ As India accelerates towards its ambitious RE goals, there is an urgent need for a rapid transmission build-out. ➤ Therefore, as soon as the transmission licensee validly declares its COD, recovery of 100% transmission charges should automatically commence from the PoC Pool. ➤ Hon'ble Commission may consider recovery of at least 65% of YTC for 3 months after deemed commissioning of any ISTS element/project and recovery of 100% of YTC from 4th Month.



Rationale: Contractual Position – TSP is entitled to 100% of YTC on the CoD

- Under the provisions of the Standard TSA notified by the MOP under Section 63 of the Electricity Act, the term Commercial Operation Date has been defined as the date as per Article 6.2 of the TSA.
- Further, as per Article 6.2.1 of TSA, COD means, either (i) Seventy-two (72) hours following the connection of the element with the Interconnection Facilities or (ii) Seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP or Seven (7) days after the date of deferment. Article 6.2.1. is quoted below:

“An element of the project shall be declared to have achieved COD seventy two (72) hours following the connection of the element with the Interconnection Facilities or (ii) Seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP or Seven (7) days after the date of deferment, if any, pursuant to Article 6.1.2”
- Further, Article 6.2.2 of the TSA provides that when a project developer has achieved Deem COD as per Article 6.2.1, the elements 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, shall be eligible for payment of the monthly transmission charges applicable for such element.
- It is also worthwhile to note that the Standard TSA provides under Article 10.5.1 that the month following the month in which COD of an asset occurs, the TSP shall submit the LTTCs monthly invoices to be paid by the LTTCs. Article 10.5.1. is quoted below:

“10.5.1 TSP's Invoices
(a) Commencing with the month following the month in which the COD of an Element (which is first Commissioned) occurs, the TSP shall submit to Long Term Transmission Customers by the fifth day of such and each succeeding month (or, if such day is not a Business Day, the immediately following day) an invoice in the Agreed Form (the “Monthly Transmission Charge Invoice”) signed by the authorized signatory of the TSP setting out the computation of the Monthly Transmission Charges to be paid by the Long Term Transmission Customers to the TSP in respect of the immediately preceding month in accordance with this Agreement; and
(b) Each Monthly Transmission Charge Invoice shall include detailed calculations of the amounts payable under it, together with such further supporting documentation and information as Long Term Transmission Customers may reasonably require/request, from time to time.”
- As per the above contractual arrangement, TBCB based TSP has right to get 100% of MTC from the date of achieving the COD in both the scenarios mentioned under Article 6.2.1. Whereas, under the proposed 2nd Amendment to the Sharing Regulations 2020, the Central Commission has proposed that in case of deemed commissioning TSP shall receive 20% of YTC for first 6 months or till the power flow whichever is earlier. This proposal puts a TSP at higher risk in comparison to the existing mechanism of recovering full MTC from the delaying entity.

Recovery of X'mission Charges: One ISTS licensee is ready and another ISTS/ InSTS licensee is delayed

Dictum of Barh-Balia is not applicable on mismatch between two TSP	Mismatches are bound to happen
<ul style="list-style-type: none"> ➤ It is important to note that there is no legal prohibition against recovering transmission charges from beneficiaries before the transmission line is operating for transmission project commissioned under Section 63 of the Electricity Act. ➤ The Barh-Balia Judgement created an embargo on a Section 62 developer to recover transmission tariff prior to achieving commercial operations on the basis of definition of Commercial Operation Date defined under the Tariff Regulations. ➤ Whereas, in cases where a TBCB project had achieved and declared its COD in terms of TSA, TBCB licensee are directed to recover transmission tariff for the entire period of mismatch from the defaulting party. ➤ The difference in approaches while dealing with a stranded asset commissioned under the provision of Section 62 of the Act versus a transmission project commissioned under Section 63 of the Act is primarily due to the contractual provisions of the TSA. ➤ Under the proposed 2nd Amendment to the Sharing Regulations, the Central Commission has proposed that in case of deemed commissioning TSP shall receive 20% of MTC for first 6 months or till the power flow whichever is earlier. ➤ This proposal puts a TSP at higher risk in comparison to the existing mechanism of recovering full MTC from the delaying entity. 	<ul style="list-style-type: none"> ➤ Report on Transmission System for integration of over 500GW RE Capacity by 2030: Highlights that transmission system has to be planned well in advance for RE projects. The report estimated that INR 2,44,000 crores of investment is expected into the ISTS transmission assets by 2030. ➤ When Transmission system planned for group of RE generators there is obvious possibility that some of the generator might get delayed and mismatch would happen between transmission and generator. ➤ The ISTS schemes currently under bidding also show heavy interdependence between interconnecting transmission projects. Commissioning of various upcoming ISTS projects including the KPS3 is dependent on the timely commissioning of KPS2. ➤ Any mismatch in commissioning is bound to cause severe cash flow issues for the impacted entity that is commissioned on time for no fault of its own. ➤ Concept of socialising the impact of uncontrollable events is not new. In fact, it has been applied by the Hon'ble Commission for transmission projects implemented under the Regulated Tariff Mechanism (RTM) route (in terms of the applicable tariff regulations, transmission projects implemented under the RTM route are allowed to seek truing up of tariff on account of uncontrollable parameters such as FM and CIL. ➤ Case in point: The HVDC bipole (800kV Biswanath Chariali) line was planned for Evacuation of Hydro Power from NER, Sikkim and Bhutan. It is worth to note POSOCO's comment recorded in order dated 8.1.2016 in Petition No 67/TT/2015, "Importance of the subject transmission assets should not be seen in the narrow prism of its immediate utilization during the initial years but needs to be assessed over the entire life cycle of the assets which will carry the hydro power from the huge potential in North East for the benefit by the entire country". ➤ Redundancy has to be built: As we understand, Singapore has derived the Required Reserve Margin (RRM) as 27% in order to maintain a reliable electricity supply and even CERC in its 2015 Report of the committee on Spinning Reserve dated 17.09.2015 has referred to the NEP mandate of India to maintain spinning reserve of at least 5% of the installed capacity. ➤ In order to have reliable power supply, the consumers do pay for such redundancy and the same principle can also be applied for developing large transmission network where big investment are expected.



Recovery of X'mission Charges: One ISTS licensee is ready and another ISTS/ InSTS licensee is delayed

Rationale: Proposed financial support for initial 6 months for deemed commissioned asset is grossly inadequate.

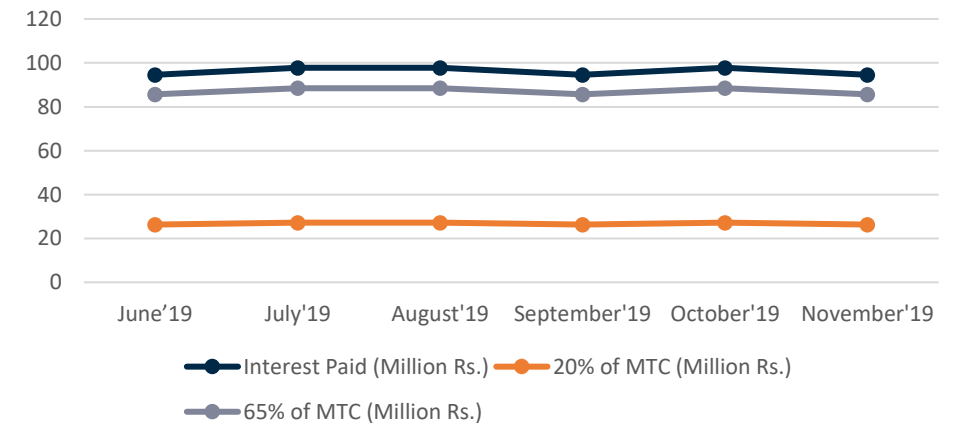
- The proposed financial support, i.e. 20% of transmission charges for initial 6 months, is not sufficient to meet even the basic obligations of part of debt servicing. Further, apart from interest payment, TSPs whose transmission system is ready are liable to pay O&M charges, insurance premiums, etc.

All Figures are in Rs. Million

Sample Project	Commissioning	Monthly Interest	YTC	MTC	20% of MTC	65% of MTC
Project 1 in ER	June'19	94.57	1603.01	133.58	26.72	86.83
Project 2 in WR	March'21	104.94	1877.87	156.49	31.3	101.72
Project 3 in NER	Feb'21	179.54	3938.40	328.2	65.64	213.33
Project 4 in NR	Mar'20	63.62	1555.72	120.81	24.162	78.53
Project 5 in WR	Jan'23	118.59	2111.66	175.97	35.19	114.38
Average		112.25		183.01		118.96

Interest Cost Curve vis a vis 20% and 65% MTC for first 6 Month

Project 1 in ER: Interest Paid Vis a Vis 20% and 65% MTC



- The proposal will also add another dimension to the risk sensitivity as it is not possible to predict the mismatch duration and 20% of transmission tariff for 6 months after deemed commissioning of any ISTS project has a significant impact on the Equity IRR of the project as depicted below:

Sample Project Size	Deemed CoD to CoD - 6 Month			Deemed CoD to CoD - 3 Month		
	Delta in EIRR with 20% tariff	Delta in EIRR with 50% tariff	Delta in EIRR when interest cost is recovered	Delta in EIRR with 20% tariff	Delta in EIRR with 50% tariff	Delta in EIRR when interest cost is recovered
	(~62-70% YTC in these cases)			(~62-70% YTC in these cases)		
Average	-2.31%	-1.37%	-0.68%	-0.89%	-0.35%	-0.05%



Recovery of X'mission Charges: ISTS licensee is ready and Connectivity grantee is delayed

Draft as per Clause	Proposed Clause	Rationale
<p>13(3) Where COD of a Connectivity grantee other than Renewable Power Park Developer has not achieved COD on or before start date of Connectivity in terms of GNA Regulations, and the Associated Transmission System has achieved COD, which is not earlier than start date of Connectivity, the Connectivity grantee shall pay Yearly Transmission Charges for the Associated Transmission System corresponding to Connectivity capacity which has not achieved COD:</p> <p>Provided that where a Connectivity grantee is Renewable Power Park Developer and the generation capacity within the Renewable Power Park has not declared COD on or before start date of Connectivity in terms of GNA Regulations, and the Associated Transmission System has achieved COD, which is not earlier than start date of Connectivity, the Renewable Power Park Developer shall pay Yearly Transmission Charges for the Associated Transmission System corresponding to generation capacity which has not achieved COD:</p> <p>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.</p>	<p>13(3) Where COD of a Connectivity grantee other than Renewable Power Park Developer has not achieved COD on or before start date of Connectivity in terms of GNA Regulations, and the Associated Transmission System has achieved COD, which is not earlier than start date of Connectivity, the Connectivity grantee shall pay Yearly Transmission Charges in the POC Pool for the Associated Transmission System corresponding to Connectivity capacity which has not achieved COD and Transmission Service Provider shall get Yearly Transmission Charges from the POC Pool:</p> <p>Provided that where a Connectivity grantee is Renewable Power Park Developer and the generation capacity within the Renewable Power Park has not declared COD on or before start date of Connectivity in terms of GNA Regulations, and the Associated Transmission System has achieved COD, which is not earlier than start date of Connectivity, the Renewable Power Park Developer shall pay Yearly Transmission Charges in the POC Pool for the Associated Transmission System corresponding to generation capacity which has not achieved COD and Transmission Service Provider shall get Yearly Transmission Charges from the POC Pool:</p> <p>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.</p>	<ul style="list-style-type: none"> ➤ With the notification of the GNA Regulations, the transmission system associated with generating stations has been limited to the Immediate Evacuation System. Further, the provisions of the GNA Regulations require the generators to submit Con-BG- II which corresponds to the total cost of the associated transmission system estimated by CTU. This Con-BG-II shall be encashed in an event of delay in commissioning of the generating station. ➤ Under the existing provisions of the Sharing Regulations 2020, the Hon'ble Commission has provisioned for payment of bilateral transmission charges by the delaying generator to the TSP from the date of COD of TSPs transmission assets. ➤ It is proposed for the consideration of the Hon'ble Commission that through the 2nd amendment, Hon'ble CERC may consider aligning the provisions of the Sharing Regulations with the mechanism provided under Section 63 TSAs. Since the TSA provides for the payment of transmission charges by the LTTCs, appropriate provisions may be incorporated to allow the recovery of tariff by the TSP under the POC mechanism and the Con-BG-II of the generating company be encashed to recuperate the POC Pool instead of the proposed bilateral billing by the TSP.



Liability: One ISTS licensee is delayed and another ISTS licensee is ready

Draft as per Clause	Proposed Clause	Rationale
<p>13(12)(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.</p>	<p>13(12)(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.</p>	<p>➤ Hon'ble CERC may like to consider relief under FM event which is not considered in the present draft amendment.</p> <p>As per Article 11.7 (a) of the TSA, “no party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event,”</p>



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