



केन्द्रीय विद्युत विनियामक आयोग  
CENTRAL ELECTRICITY REGULATORY COMMISSION



Secy/CERC/2024/04

Dated: 06.09.2024

**The Secretary,**  
Ministry of Power,  
Shram Shakti Bhavan, Rafi Marg  
New Delhi – 110001

**Subject: Advisory under Section 79(2) of the Electricity Act, 2003 on the Development of transmission capacity in an efficient and economical manner under TBCB route and RTM route.**

Dear Sir,

The Commission, in its meeting held on 14.08.2024 examined the issues raised in various petitions relating to the mismatch in the execution and completion schedules of the transmission schemes at the planning stage executed through tariff based competitive bidding and the transmission schemes executed through regulated tariff mechanisms. After careful consideration, the Commission decided to suggest measures on the following issues to facilitate smooth and rapid development of transmission capacity in an efficient and economical manner:

- (i) Mismatch in the Scheduled Commercial Operation Date (SCOD) of a transmission scheme with an interconnecting transmission scheme.
  - (ii) Approval of the Central Government for the transmission schemes.
  - (iii) Exemption from the development of Transmission Schemes through a competitive bidding process.
  - (iv) Determination of tariff for RTM projects.
2. Accordingly, the statutory advice of the Commission under Section 79(2) of the Electricity Act, 2003, on the aforesaid issues is attached as Annexure to this letter for suitable action by the Ministry of Power.
  3. This issues with the approval of the Commission.

Yours Sincerely,

(Harpreet Singh Pruthi)

**Statutory Advice under Section 79(2) of the Electricity Act, 2003 on the Development of transmission capacity in an efficient and economical manner under TBCB route and RTM route.**

**1 Mismatch in the Scheduled Commercial Operation Date (SCOD) of a transmission scheme with an interconnecting transmission scheme**

- 1.1 It has been observed that there are numerous instances of mismatches in the SCOD of a transmission scheme vis-à-vis the SCOD of an interconnecting upstream/downstream transmission scheme, even at the planning and award stage. Such mismatches could be the result of the linked schemes being awarded in different packages and implemented by different companies. Further, the SCOD of the transmission scheme is reckoned in terms of a specified number of months from the SPV transfer date, and if there is any administrative delay in SPV transfer, etc., in one package vis-a-vis the inter-connecting transmission scheme, it will lead to a mismatch in SCOD. For Example, the SCOD of the Fatehgarh-3 – Bhadla-3 400 kV D/c line is 01.02.2025, whereas the SCOD of the inter-connecting sub-station, namely, Bhadla-3 PS is 14.03.2025. This will result in the non-utilization of the transmission line for at least 45 days until Bhadla-3 PS is commissioned.
- 1.2 A mismatch in the SCOD leads to a situation in which when one licensee completes his transmission scheme and becomes entitled to claim transmission charges without the assets being put to any productive use until the interconnecting transmission scheme achieves its COD.
- 1.3 In light of the mismatch issues underlined above, it is suggested that, as far as possible, the packaging of transmission schemes should be such that linked schemes are awarded together under TBCB with a clear-cut matching SCOD. For cases where it is not possible, additional conditions may be included in the Standard Bidding Document and the TSAs. Commission, vide its advisory dated 22nd June 2020 to MoP (copy attached), had suggested incorporating suitable provisions in the bidding documents to provide a window of three months for the declaration of deemed COD by the transmission licensee to address the issue of mismatch.
- 1.4 The Commission has also notified CERC (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023 on 20.10.2023 to address issues of mismatch in actual commissioning of inter-State transmission systems and upstream/downstream system of another transmission licensee with broad features as follows:
- (i) An inter-State transmission licensee shall be paid 50% of the Yearly Transmission Charges (YTC) of its inter-State transmission system for a period of six (6) months from the date of deemed COD or till the commencement of actual power flow, whichever is earlier and in case actual power flow does not commence within a period of 6 months from date of deemed COD, it shall be paid 100% of YTC of its inter-State transmission system from seventh (7th) month till commencement of actual power flow.
  - (ii) In case the inter-State Transmission Licensee is responsible for the delay (for any reason including the reason attributable to Force Majeure events) in the 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 50% of YTC of its transmission system or 50% of YTC of the transmission system which has achieved deemed COD, whichever is lower, till its delayed inter-State transmission system achieves COD. The above provisions seek to address the mismatch due to the actual delay in the commissioning of interlinked transmission systems.

- 1.5 The Ministry of Power may like to address the issue of mismatch at the stage of planning/award through the inclusion of suitable provisions in the Standard Bidding Documents. Till modification in the SBD, SCOD dates may be specified instead of specifying the implementation period from zero date.

## **2 Approval of the Central Govt. for the Transmission Schemes.**

- 2.1 The Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021 were notified by the Ministry of Power on 01.10.2021, which were published in the Gazette of India, Extraordinary, Part-II, Section 3-Sub-section(i) No. 569. Sub-clause 5 of clause 3 of the said rules provides as follows:

*“(5) The Inter-State Transmission System projects drawn up by Central Transmission Utility shall be placed before the National Committee on Transmission constituted by the Central Government and the National Committee on Transmission shall also include a nominee of each Regional Power Committee. The projects along with their timeline for implementation shall be approved by the Central Government after considering the recommendations of the National Committee on Transmission:*

*Provided that the Central Government may approve any transmission project as deemed necessary from the system or strategic point of view, without waiting for the recommendation of the National Committee on Transmission.”*

As per the above, all the transmission projects are required to be placed before the National Committee on Transmission (NCT), and thereafter, the project, along with its timeline, has to be approved by the Central Government, considering the NCT’s recommendation.

- 2.2 We have observed that the transmission schemes up to Rs. 100 Crore are being approved by the Central Transmission Utility, and the transmission schemes between Rs. 100 to Rs. 500 Crore are being approved by NCT. The Central Government approval is not obtained for such cases by the CTUIL. Since the Rules provide for approval of the Central Government, not obtaining such approval may cause difficulties in the recovery of transmission charges for such assets. Accordingly, the requirements as per the Rules may be incorporated in the approval process or by way of separate and specific approval under the Rules for smooth implementation and recovery of transmission charges. However, keeping in view the timelines within which the transmission license is to be issued, the Commission has been processing the transmission license subject to seeking clarification from the Government.
- 2.3 Similarly, nominees of RPC are not part of the composition of the NCT as required in the Rules. Since transmission charges are levied on the distribution licensees who are members of RPCs, the absence of nominees of RPCs in NCT may lead to problems in recovering transmission charges from the distribution licensees. Accordingly, requirements as per the Rules may be incorporated into the approval

process for smooth implementation and recovery of transmission charges for a transmission system.

### **3 Exemption from the development of Transmission Schemes through a competitive bidding process.**

- 3.1 Para 7.1.7 of the Tariff Policy dated 28<sup>th</sup> January 2016 provides as under:  
*“(7) While all future inter-state transmission projects shall, ordinarily, be developed through competitive bidding process, the Central Government may give exemption from competitive bidding for (a) specific category of projects of strategic importance, technical upgradation etc. or (b) works required to be done to cater to an urgent situation on a case to case basis.”*

As per the above provision, the Central Government may give exemption from competitive bidding only specific categories of projects of strategic importance, technical upgradation, etc. or works required to be done to cater to an urgent situation on a case-to-case basis.

- 3.2 Commission has noticed that a number of transmission schemes having capital costs up to Rs. 100 Crore are being approved by the Central Transmission Utility, and the transmission schemes with capital costs between Rs. 100 and Rs. 500 Crore are being approved by NCT for implementation under the RTM route, without obtaining an exemption in terms of Para 7.1.7 of the Tariff Policy from the Central Government.
- 3.3 Accordingly, the Commission advises that in compliance with the Tariff Policy, approval may be granted only by the Central Government to projects identified to be implemented under RTM, irrespective of their cost.

### **4 Determination of tariff for RTM projects**

- 4.1 The Commission also observes that a number of projects are being awarded under RTM. An issue arises while determining the tariff for such projects under Section 62 of the Act in the context of prudence check of Capital cost and interest on the loan. It has been observed that contracts are awarded to sister companies/ related companies without following the due process of competitive bidding and also loans at very high rates are taken from the sister/related companies. The Commission advises that to facilitate the tariff determination for these projects, it should be specified upfront while awarding the RTM projects that the awardee needs to follow competitive bidding while awarding the contracts for the procurement of materials or services or selection of EPC contractors for execution of the projects and they should endeavour to obtain a loan at reasonable rates which in no case should exceed the rates specified by sectoral lenders such as PFC/REC.

### **5 Way Forward:**

- 5.1 To summarize, with a view to facilitating the smooth and rapid development of transmission capacity in an efficient and economical manner, there is an urgent need for the implementation of the measures suggested above. Therefore, the Central Electricity Regulatory Commission, in the exercise of powers under Section 79(2) of the Electricity Act, 2003, advises the Ministry of Power as follows.
- (a) As far as possible, packaging the transmission schemes should be such that linked schemes are awarded together with the same date as SCOD. For cases where it is

not possible to award the scheme together, additional requirements may be included in the Standard Bidding Document and TSAs that SCOD for such linked schemes shall be included by CTUIL in the TSA, which shall be the same for all the transmission elements, of the linked schemes. Suitable provisions may be incorporated in the bidding documents to provide a window of three months for the declaration of deemed COD by the linked transmission licensee to address the issue of mismatch. Till modification in the SBD, the implementation schedule of linked schemes may be intimated as specific SCOD dates instead of specifying the implementation period from zero date.

- (b) The Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021, provides for the inclusion of RPC nominees in the NCT. The same may be included in the approval process of transmission schemes for smooth implementation and recovery of transmission charges of a transmission system.
- (c) Specific approval of the Central Government may be granted for exemption from competitive bidding for the transmission system to be implemented through the RTM route as per Para 7.1.7 of the Tariff Policy.
- (d) The provisions for payment of transmission charges by a TBCB licensee on the declaration of deemed COD by an upstream/ downstream transmission system may be included in the Standard Bidding Documents as per the Second Amendment to the Sharing Regulations,2020.
- (e) When approving projects under RTM, it may be specified that the project developer must follow competitive bidding while awarding the contracts and should not obtain loans at rates higher than those specified by sectoral lenders such as PFC/REC.