

I/33629/2024



भारत सरकार
Government of India
विद्युत मंत्रालय
Ministry of Power
उत्तर क्षेत्रीय विद्युत समिति
Northern Regional Power Committee

दिनांक: 07.02.2024

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

विषय: Comment/suggestion/objection on Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 for the tariff period from 1.4.2024 to 31.3.2029.

Ref: Hon'ble Central Electricity Regulatory Commission public notice vide file no. L-1/268/2022/CERC dated 04.01.2024.

Comment/suggestion/objection on Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 is attached as **Annexure-I** for kind perusal.

Signed by Vijay Kumar (V K Singh)
Singh Member Secretary
Date: 07-02-2024 17:33:37
Reason: Approved

Annexure-I

S.N.	Draft Regulation	Comment/suggestion/objection alongwith justification
1	<p>3. Definitions</p> <p>(32) 'Force Majeure' for the purpose of these regulations means the events or circumstances or combination of events or circumstances, including those stated below, which prevent the generating company or transmission licensee from completing or operating the project, and only if such events or circumstances are not within the control of the generating company or transmission licensee and could not have been avoided, had the generating company or transmission licensee taken reasonable care or complied with prudent utility practices:</p> <p>(a) Act of God including lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred years; or</p> <p>(b) Any act of war, invasion, armed conflict or act of a foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or</p> <p>(c) Industry wide strikes and labour disturbances having a nationwide impact in India; or</p> <p>(d) Delay in obtaining statutory approval for the project except where the delay is attributable to the project developer;</p>	<p>Force majeure conditions are considered while certifying availability of transmission lines as mentioned in Appendix IV of draft as below:</p> <p><i>5. For the following contingencies, the outage period of transmission elements, as certified by the Member Secretary, RPC, shall be excluded from the total time of the element under the period of consideration for the following contingencies:</i></p> <p><i>i) Outage of elements due to acts of God and force majeure events beyond the control of the transmission licensee.</i></p> <p>.....</p> <p>However, the language of Force Majeure definition at point (a) has ambiguity that whether the statistical measures for last hundred years are required for all aforementioned activities i.e. lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises or the statistical measures for last hundred years are required for exceptionally adverse weather conditions other than the above. Therefore, it is suggested that point (a) may be split as below:</p> <p>(a) Act of God including lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or</p> <p>(b) exceptionally adverse</p>

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		<p>weather conditions which are in excess of the statistical measures for the last hundred years; or</p> <p>Accordingly, existing draft points b, c, and d may become c, d, and e.</p> <p>Further, transmission licencees asks for deemed availability in cases of delay in charging code by NRLDC/NLDC or delay in PTW clearance by other utilities.</p> <p>Therefore, at point (d), operation word may also be added with project word so that delays in approvals by NRLDC/NLDC, PTW clearance by other utilities may be considered as Force Majeure. Accordingly, following is suggested:</p> <p>(d) (e) Delay in obtaining statutory approval/ operational clearances for the project/operation except where the delay is attributable to the project developer/ transmission licensee;</p>
2	<p>Appendix IV</p> <p>4. The transmission elements under outage due to the following reasons shall be deemed to be available:</p> <p>i. Shut down availed for maintenance of another transmission scheme or construction of new element or renovation/upgradation/additional capitalization in an existing system approved by the Commission.</p>	<p>There is lack of clarity in point no. i. Therefore, it is suggested that point no. i may be splitted for sake of clarification as below:</p> <p>i. Shut down, availed for maintenance of another transmission scheme, approved by RPCs or</p> <p>ii. construction of new element/ renovation/upgradation approved by RPCs/CEA or</p> <p>iii. additional capitalization in an existing system approved by the Commission.</p>
3	<p>Appendix IV</p> <p>4. The transmission elements under outage due to the following reasons shall be deemed to be available:</p>	<p>Member (Power System), CEA vide letter issued to RPCs dated 19.09.2023 (Annexure-II) has advised to certify deemed availability for cases apart from NHAI, BRO, railways,</p>

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	<p>iii. Shut down of a transmission line due to the Project(s) of NHAI, Railways and Border Road Organization, including for shifting or modification of such transmission line. Member Secretary, RPC may restrict the deemed availability period to that considered reasonable by him for the work involved;</p> <p>Provided that such deemed availability shall be considered only for the period for which DICs are not affected by the shutdown of such transmission line.</p>	<p>UPEIDA, NCRTC, YAMUNA/GANGA expressway, or any other projects execute by Central Government and/or State Government (s) or their PSUs.</p> <p>Therefore, point no. iii may be kept as below:</p> <p>iii. Shut down of a transmission line due to the Project(s) of NHAI, Railways, and Border Road Organization, or any other projects executed by Central Government and/or State Government (s) or their PSUs including for shifting or modification of such transmission line.</p> <p>Member Secretary, RPC may restrict the deemed availability period to that considered reasonable by him for the work involved;</p> <p>Provided that such deemed availability shall be considered only for the period for which DICs are not affected by the shutdown of such transmission line.</p>
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भारत सरकार/Government of India
विद्युत मंत्रालय/Ministry of Power
केन्द्रीय विद्युत प्राधिकरण/Central Electricity Authority
विद्युत प्रणाली स्कंध / Power System Wing

CEA-PS-14-77/4/2022-PSETD Division

Date:19.09.2023

To,

Member Secretary, Northern Regional Power Committee 18-A, Qutab Institutional Area, Shaheed Jeet Singh Marg, Katwaria Sarai, New Delhi-110 016	Member Secretary, Eastern Regional Power Committee 14, Golf Club Road Tollygunje Kolkata-700033 (W.B.)
Member Secretary, Southern Regional Power Committee, 29, Race Course Road, Bengaluru, 560009 Karnataka	Member Secretary, North Eastern Regional Power Committee, NERPC Complex, Dong Parmaw Lapalang, Shillong – 793006 (Meghalaya)
Member Secretary, Western Regional Power Committee F-3, MIDC Area, Marol, Opp. SEEPZ, Central Road, Andheri (East), Mumbai - 400 093	CE (NPC), CEA CE (GM), CEA CE (PSPM), CEA CE (PSPSA-I/II), CEA SA to Member (GO&D), CEA SA to Member (E&C), CEA

विषय: Deemed availability certificate by Regional Power Committees (RPCs) for shutdown period availed by transmission licensee/Transmission Service Provider (TSP) for shifting of their Inter-State Transmission System (ISTS) lines (including but not limited to shifting/raising the height of towers/diverting/modifying the layout or change of configuration).

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The issues and references to the subject matter are deliberated at various fora from time to time. It is considered that the RPCs are the appropriate forum to decide the deemed availability certificate in the subject matter. With regard to the above, the following is relevant:

1. It may be appreciated that for the development/execution/construction/augmentation of any infrastructure projects in the country for broader public utilization/benefit by any entity, many times the existing electrical transmission lines are required to be shifted (including but not limited to shifting/raising the height of towers/diverting/modifying the layout or change of configuration). For this shifting works, not granting the deemed availability to these transmission lines [of any TSP awarded through Regulated tariff Mechanism (RTM) or Tariff Based Competitive Bidding (TBCB) or any other route] is basically a

disincentive/undue penalization without any fault on the part of the concerned TSP.

2. In this regard, MoP's OM No. 34-3/18/2022-Trans Dated 03-08-2022 provides a broad principle and states that Transmission Lines Availability may be granted for shifting of Transmission Line required for the construction of Infra Project by Railway, Highway, BRO etc, provided the Transmission Customers are not affected due to shut down of the said transmission line.
3. In view of the above, it is felt that granting deemed availability in the cases, where shifting of lines is necessitated on account of execution of all types of developmental/infrastructure projects with broader public utilization/benefits may be considered for grant of Deemed Availability in true spirit of above OM of MoP.
4. Therefore, it is advised that apart from the projects of NHAI, BRO and Railways, projects of UPEIDA, NCRTC, Yamuna/ Ganga Expressway or any other project(s) executed by the Central Government and/or State Government(s)/ their PSUs meant for broader public utilization shall be considered under the meaning of "etc" of the said OM of MOP for certification of deemed availability in respect of transmission lines. Before granting Availability, the respective RPC Secretariat shall ensure whether the Transmission Customers were affected or not during the shutdown period with inputs from the concerned RLDC/ SLDC as applicable.
5. Further it is stated that the infrastructure projects are planned/developed and constructed keeping in view the larger public interest/benefit and hence are of National and social importance. Infrastructure development is mutually dependent on other sectors/assets and requires the involvement of multiple stakeholders for the overall growth of the society and economy. More so ever the facilities to be created are necessary to fulfill certain objectives and provide ease of living for the people.
6. The cases of shifting of transmission lines on account of the developmental/infrastructure projects assume importance, and in such cases allowing the deemed availability of transmission lines to any Transmission Service Provider (TSP) deserves merit. Hence, it is suggested that the projects awarded through [Regulated tariff Mechanism (RTM) or Tariff Based Competitive Bidding (TBCB) or any other route] for such cases may be considered under the meaning of "etc" of MoP's OM No. 34-3/18/2022-Trans Dated 03-08-2022 for certification of deemed availability in respect of transmission lines.
7. The issuance of the "certificate of deemed availability" by respective Regional Power Committees (RPCs) for the period of shutdown

availed by the transmission licensees/transmission service providers for shifting of lines (including but not limited to shifting/raising the height of towers/diverting/modifying the layout or change of configuration) in case of the Inter-State Transmission System (ISTS) Lines [awarded through Regulated tariff Mechanism (RTM) or Tariff Based Competitive Bidding (TBCB) or any other route] necessitated due to the construction of infrastructure projects of national importance may be dealt in accordance with the above points.

8. Also, para 15, of the Standard Operating Procedure (SoP) circulated vide CEA's letter dated 10-03-2023 directs RPC's to provide a deemed availability certificate for the period of shutdown availed by transmission licensees for shifting of transmission lines (including but not limited to shifting/raising the height of towers/diverting/modifying the layout) the Inter-State Transmission System (ISTS) Lines (awarded by RTM or TBCB or any other route) necessitated due to the construction of other infrastructure projects. (i.e. the projects other than those covered under the category of national importance), under this case, the MoP accords approval for the shifting of the ISTS lines considering the wider public interest involved in such shifting and hence these are eligible for deemed availability.

In view of the above, all RPCs are therefore advised to process the cases for the issuance of the certificate of deemed availability for the period of shutdown availed by the transmission licensees in respect of transmission lines where the shifting of transmission lines is necessitated due to the construction of other infrastructure projects, in line with the above.

भवदीय ,
19-9-23
(अशोक कुमार राजपूत)
सदस्य (विद्युत प्रणाली)