CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Coram: Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Memb
Shri M.Deena Dayalan, Member

No. L-1/44/2010-CERC **Date of Order: 2.6.2011**

In the matter of

Removal of difficulties for giving effect to certain provisions of the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010

And

In the matter of

1. Central Transmission Utility (CTU) **…….. Respondents**
2. APTRANSCO

ORDER

The Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (hereinafter "Sharing Regulations") were notified on 15th June 2010. These Regulations shall come into effect from 1.7.2011.

2. The Central Transmission Utility (CTU) has been entrusted with the responsibility for billing, collection and disbursement of Point of Connection (PoC) charges under the Sharing Regulations. The CTU, vide its letters No. C/02/Tr. Sh. dated 28th February , 2011 and No. C/02/Tr. Sh. dated 4th April , 2011 has approached the Commission under Regulation 21(1) of the Sharing Regulations for removal of certain difficulties which are being encountered for

giving effect to the various provisions of the said regulation. The CTU has pointed out that a number of difficulties, as enumerated below, have arisen, which need to be dealt with before operationalising the provisions of the Sharing Regulations:

(a) Yearly Transmission Charges (YTC) considered for the computation of PoC Charges;

(b) Dedicated lines owned by Central Transmission Utility for PoC charges;

(c) Interest on bill no. 2 (adjustment of additional MTOA and STOA) and Bill No. 3;

(d) Raising of supplementary bill to take care of Annual Reconciliation;

(e) Billing to distribution companies;

(f) Date of billing for Bill No. 1.

3. Transmission Corporation of Andhra Pradesh (APTRANSCO) vide its letters dated 1.3.2011, 18.3.2011 and 23.3.2011 has requested the Commission that in place of APTRANSCO, four Distribution Companies of Andhra Pradesh or Andhra Pradesh Power Coordination Committee (APCC) may be allowed to sign the Transmission Service Agreement (TSA) with the CTU and bills for transmission charges be allowed to be raised on them.

4. We have carefully considered the submission of CTU and APTRANSCO with regard to the difficulties being encountered by them. Our decisions/directions on these points are discussed in the succeeding paragraphs.

(A) Yearly Transmission Charges considered for the computation of PoC Charges

5. This issue was earlier raised by the Implementing Agency. The Commission in its order dated 4.4.2011 has decided the issue as under:

"10. We have considered the submission of the Implementing Agency. We notice that under the existing system, the transmission charges are billed from the month following the month in which the tariff for any transmission system is determined, whereas the PoC charges under the Sharing Regulations are to be calculated once in the beginning of the year. Since the tariff of all transmission assets have not yet been determined, the YTC may have to be revised from time to time when the fresh tariff orders are issued. We are of the view that the definition of YTC does not prevent revision of YTC from time to time in line with the issue of tariff orders by the Commission. In order to operationalise the Sharing Regulations, it would be prudent to revise the YTC initially on a six monthly basis i.e. on 1st April and 1st October each year and later on three monthly basis, i.e. on 1st April, 1st July, 1st October and 1st December to represent season-wise demarcation."

(B) Sharing of transmission charges for dedicated lines owned by the CTU

6. CTU has pointed out that certain assets of POWERGRID such as Faridabad-Palla, Kayamkulam transmission system etc., are used for evacuation of power from Central Generating Station for consumption within the State. Even though these transmission lines are dedicated to a particular State, nevertheless they should be included in the Inter-State Transmission System (ISTS) for the purpose of calculation of PoC charges as they are part of the ISTS in accordance with Section 2(36)(iii) of the Electricity Act 2003 (the Act). It has been submitted that any asset owned by the CTU shall be a part of the ISTS and their charges should be considered for the purpose of computation of PoC charges. However, the Implementing Agency has not included the same for the calculation of the PoC charges.

7. We have examined the suggestion of the CTU. Though the definition of "Inter-State Transmission System" in Section 2(36)(iii) of the Electricity Act, 2003 includes "the transmission of electricity within the territory of a State on a system built, owned, operated maintained or controlled by Central Transmission Utility". The tariff of such lines owned by Powergrid for evacuation of power from a power station dedicated to any particular state is presently being borne only by the State concerned. These transmission lines are akin to the state lines except that it is owned, controlled and operated by Powergrid. Since the transmission charges of these lines

are not shared by any other State, we are of the view that the existing arrangement should continue under the Sharing Regulations also.

(C) Interest on bill No. 2 (adjustment of additional MTOA and STOA) and bill No. 4 (penalty on account of deviations).

8. CTU has submitted that as per Regulations 12(2) and (4) of Sharing Regulations, CTU is required to collect money on account of Bill No.-2 and Bill No.-4. These amounts along with the interest thereon are to be adjusted in the Yearly Transmission Charge (to be used for the computation of Point of Connection charges) of the respective transmission licensee for the next financial year. It has been further submitted that the interest rates have not been indicated in the Sharing Regulations. As per the CTU, Bill No.-1 and Bill No.-3 take care of the ISTS Licensees' transmission charges. Collection on account of Bill No.-2 and Bill No.-4 are additional revenue streams and the quantum of such revenues cannot be predicted. Hence, charging of interest on Bill No.-2 and Bill No.-4 may not be appropriate. Moreover, the Sharing Regulations do not provide for undertaking specific investments of the excess amounts generated, if any, and hence the payment of interest would mean passing on notional gains in actual monetary terms. Therefore, no interest should be charged to CTU for adjustment in the next year's bills. CTU has further submitted that that it is an "on account payment" subject to truing up /adjustment in the subsequent application period(s), and may be considered as interest free.

9. The Commission has analysed the problem projected by the CTU. As per the Sharing Regulations, four bills are to be raised by the CTU to the Designated ISTS Customers (DICs) for the purposes specified in Clause (4) of Regulation 11 of the sharing regulations which is extracted as under:

*"The **first part** of the bill shall recover charges for use of the transmission assets of the*

ISTS Licensees based on the Point of Connection methodology….

This first part of the bill shall be raised based on the Point of Connection charges, Approved Withdrawal and Approved Injection for each Designated ISTS Customer, provided by the Implementing Agency not later than the first working day of each month for the previous month and determined prior to the commencement of the application period."

*"The **second part** of the bill shall recover charges for Additional Approved Medium Term Open Access….*

The second part of the bill shall be raised on the Designated ISTS Customers along with the first part of the bill."

*"The **third** part of the bill shall be used to adjust any variations in interest rates, FERV,rescheduling of commissioning of transmission assets, etc. as allowed by the Commission for any ISTS Transmission Licensee. Total amount to be recovered /reimbursed because of such under recovery / over recovery shall be billed by CTU toeach Designated ISTS Customer in proportion of its average Approved Injection /Approved Withdrawal over previous six months on a biannual basis. This part of the bill shall be raised on first working day of September and first working day of March for the previous six months."*

*"**Deviations shall be billed separately** by the CTU. This bill shall charge the Designated ISTS Customer s for deviations from the sum of the Approved Withdrawal, Approved Additional Medium Term Withdrawal and Approved Short Term Withdrawal (MW) or Approved Injection, Approved Additional Medium Term Injection and Approved Short Term Injection (MW)…..*

This bill shall be raised by the CTU within 3 working days of the issuance of the Regional Transmission Deviation Account by the RPCs."

Further, the method of collection and adjustment for all these four parts is given in Regulation 12, which is reproduced below:

*"12. **Collection.***
(1) The CTU shall collect charges on account of the first part of the bill as computed in accordance with Regulation 11(4) of these Regulations on behalf of the ISTS service providers and thereafter redistribute the same to Transmission Licensees in the ISTS in proportion to their respective Monthly Transmission Charges;

*(2) The CTU shall collect charges on account of the second part of the bill as computed in accordance with Regulation 11(5) of these Regulations and thereafter distribute the same to Transmission Licensees in the ISTS in proportion to their respective Monthly Transmission Charges. **This amount along with the interest thereon shall be adjusted in the Yearly Transmission Charge (to be used for the computation of Point of Connection charges) of the respective transmission licensee for the next financial year**;*

(3) The CTU shall collect charges on account of the third part of the bill as computed in accordance with Regulation 11(6) of the section on Billing of these Regulations and thereafter transfer the same to respective ISTS Transmission Licensees for whom this adjustment bill is required;

(4) The CTU shall collect charges on account of the fourth part of the bill as computed in accordance with Regulation 11(7) of these Regulations and thereafter distribute the same to Transmission Licensees in the ISTS in proportion to their respective Monthly Transmission Charges. ***This amount along with the interest thereon shall be adjusted in the Yearly Transmission Charge (to be used for the computation of Point of Connection charges) of the respective transmission licensee for the next financial year****;"*

10. It is seen from the above that Bills Nos. 2 and 4 are additional revenue streams, which would depend on the amount of additional medium term open access obtained and excess drawals of power as compared to the schedule respectively by the DICs. CTU's contention is that since the amounts obtained through Bill Nos. 2 and 4 are unpredictable, it may not be possible to earn a predictable rate of interest or predictable revenue, and therefore no interest should be payable. We are of the view that interest will accrue on the money lying with the CTU till the time of truing up. Since the Regulations do not provide for payment with interest at a fixed rate, whatever interest is earned on the money collected through Part 2 and 4 of the Bill shall be adjusted in the next year's transmission charges. We are also of the view that truing up exercise should be carried out on monthly basis as the beneficiaries of the extra money would by and large remain the same compared to the truing up carried out after one year when the composition of DICs may undergo slight change. Accordingly, we direct that instead of adjustment of the amount collected through Bill Part 2 & 4 in the next Yearly Transmission Charges, it shall be reimbursed to DICs in the following month, in proportion to monthly billing of respective months.

(D) Raising of supplementary bill to take care of Annual Reconciliation.

11. CTU has submitted that the Sharing Regulations do not provide for Supplementary Bills, which may become necessary due to adjustments of the following:

a) Adjustments, if any, required with respect to First Invoice, Second Invoice, Third Invoice or Fourth Invoice
b) Annual Reconciliation

Moreover, it could also be due to the recovery of following approved charges:

a) License Fee
b) Recovery of RLDC fee & Charges, as billed to them
c) Charges for communication systems (Non-POSOCO assets)
d) Petition filing fee
e) Publication expenses
f) Any other item which is allowed by the Commission and not captured in the PoC

12. The CTU has also stated that the ISTS licensees, for whom they would also be billing, should provide proper documentation to CTU in support of their claims on account of above.

13. The Commission is of the view that supplementary bills are being raised for adjustments and reconciliation, without there being a specific provision of the same in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 and the same procedure may be followed after the Sharing Regulations came into force, in the absence of specific provisions for such bills in the Sharing Regulations.

14. Recovery of RLDC fees & Charges, would be done for the first time, in accordance with CERC (Fees and charges of Regional Load Despatch Centre and other related matters) Regulations, 2009, and would be billed to CTU as previously the RLDC charges were not being

borne by the transmission licensees. Charges for communication systems (Non-POSOCO assets) were being billed earlier under the ULDC Scheme as ULDC Charges. Since the ULDC charges were being billed as a separate bill as ULDC Charges, we are of the view that the same method can be followed. Similarly, billing for (c) to (f) can continue to be done as per the present practice. Reimbursement of licence fee is under the consideration of the Commission if approved by the Commission, then bill for (a) can be clubbed with bills for (d) and (e). Billing for (b) and (c) would require to be done monthly, whereas bills for the other items can be raised on a yearly basis.

(E) Payment by Discoms:

15. CTU has submitted that the Sharing Regulations envisage billing to and payment of transmission charges by the STUs on behalf of DISCOMs. CTU has proposed that the Regulation may be suitably modified to include payment of ISTS Charges by the DISCOMs/entities representing DISCOMs in case STU is not inclined to discharge the responsibility of making the repayments for various commercial and administrative reasons.

16. APTRANSCO has submitted that consequent to reorganization of Andhra Pradesh State Electricity Board, Powergrid is raising bills on Andhra Pradesh Power Coordination Committee (APPCC) which was formed by Govt. of AP for trading activities on behalf of four Distribution Companies of Andhra Pradesh (APDISCOMs). The CTU transmission charges are being shared among the AP DISCOMs in the ratio of their power allocations. It has been requested that procedure of raising bills on APPCC on behalf of APDISCOMs by CTU may be considered.

17. We note that in different States, different procedures are being followed for payment of transmission charges. We are of the view that the existing arrangements followed by the states for payment to CTU should be allowed to continue. Accordingly, the CTU may enter into the Transmission Service Agreement either with the State DISCOMs or with the STU in accordance with the existing arrangement. In case of APDISCOMs, they shall enter into TSAs with CTU and based on the allocation (in %) of transmission charges among APDISCOMs to be intimated by APTRANSCO, CTU would raise the bills on APDISCOMs accordingly.

18. It is however clarified that Bill No. 4, which is raised for deviations, would continue to be the responsibility of STU. This would be like the UI charges of power drawn in deviation from the schedule. The STU would be responsible for allocation of the deviations among the DISCOMs on similar lines.

(F) Date of Billing for Bill No.1:

19. Regulation 11(4) of Sharing Regulations provides that the Bill No.1 shall be independent of Regional Transmission accounts prepared by the RPCs. In accordance with the Regulation 8(6), long term customers availing supplies from inter-State generating stations (ISGS) shall be billed directly for the charges payable by the ISGS for such long term supply based on their share in ISGS.

20. It is seen that allocation of power from the unallocated quota gets modified a number of times in a year. For the purpose of arriving at the approved withdrawal in a month, the long term contracts along with allocation and pre-decided medium term contracts, as existing in the beginning of the year, are considered. Because of the variation in unallocated quota, the

weighted average allocation of the State is worked out by the RPCs when the Regional Energy Accounts are issued by them. Therefore, Bill No. 1 can only be issued after the RPCs issue the Regional Energy Accounts. The CTU shall raise the First Invoice for each DIC on the next working day of uploading of Regional Energy Accounts in each month for the previous month.

(G) Bill-3

21. CTU has submitted that the Regulations 11(6) of the Sharing Regulations provides for truing up on account of variations in interest rates, foreign exchange rate variation, rescheduling of commissioning of transmission assets, etc. The relevant Clause is reproduced below:

> "The third part of the bill shall be used to adjust any variations in interest rates, FERV rescheduling of commissioning of transmission assets, etc. as allowed by the Commission for any ISTS Transmission Licensee. Total amount to **be recovered /reimbursed because of such under recovery / over recovery** shall be billed by CTU to each Designated ISTS Customer in proportion of its average Approved Injection /Approved Withdrawal over previous six months on a biannual basis. This part of the bill shall be **raised on first working day of September and first working day of March for the previous six months**."

22. CTU has proposed that though the above regulation provides for reimbursement of any adjustments to the DICs in case of over recovery, there is no provision for payment by the ISTS Licensee to DICs. It has been suggested that the adjustment for any over recovery by an ISTS licensee should be done by way of reducing his Yearly Transmission Charges for the subsequent application period(s). CTU has further suggested that the periodicity of Bill-3 should be made quarterly for smoothening of any sudden tariff spikes.

23. We have considered the submission of CTU. Regulation 11(6) of Sharing Regulations provides that "total amount to be recovered /reimbursed because of such under recovery / over

recovery shall be billed by CTU to each Designated ISTS Customer….". This provision caters for any ***under recovery/over recovery of transmission charges and other charges*** which can be raised through a debit/credit bill, even though the raising of bill on the ISTS licensee is not specifically mentioned in the regulation. We are of the view that there is no need modify the provision of Regulation 11(6) of the Sharing Regulations and the CTU may raise the bill on ISTS Licensee and after getting payment from them reimburse the amount to DICs as per provision of the Regulation.

24. To sum up the discussion above, the following course of action should be adopted:

(a) The charges for transmission lines owned by Central Transmission Utility for evacuation of power from a Central Generating Station, which is dedicated to a particular State, shall be borne only by the concerned State.

(b) Instead of adjustment of transmission charges and other charges collected through Bill Nos. 2 &4 in next year YTC, it shall be reimbursed to DICs in the following month, in proportion to monthly billing of respective DICs in the given month.

(c) Recovery of RLDC fees & Charges, and Charges for communication systems (Non-POSOCO assets) may be billed under the respective heads on a monthly basis. Bills for License Fee, Publication expenses and Petition filing fee may be clubbed and raised on a yearly basis.

(d) The existing system of billing by CTU to distribution companies or the STU shall continue and TSAs may be entered into accordingly. However, the STU shall be responsible for allocation of the deviations among the distribution companies in the case of deviation bills.

(e) The CTU shall raise the First part of the Bill for each DIC on the next working day of uploading of Regional Energy Accounts in each month for the previous month.

25. Regulation 21 of Sharing Regulations vests the Commission the power to remove difficulty under certain circumstances. Regulation 21 is extracted below:

*"21. **Power to Remove Difficulties***

(1) If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission, may by general or special order, direct the Implementing Agency, NLDC, CTU, RLDC, RPC, ISTS Licensees and Designated ISTS Customers, to take suitable action, not being inconsistent with the provisions of the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulties.

(2) The Implementing Agency, NLDC, CTU, RLDC, RPC, ISTS Licensees and Designated ISTS Customers may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these Regulations.

(3) Notwithstanding Sub-Regulations (1) and (2), if any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty."

26. In exercise of power under Regulation 21 of Sharing Regulations, we direct the clarifications given in para 24 above shall be given effect to for operationalizing the Sharing Regulations. We also direct the staff of the Commission to initiate appropriate measures to amend the Sharing Regulations and other related Regulations, if required, to appropriately incorporate the charges approved above.

Sd/-	sd/-	sd/-	sd/-
(M.DEENA DAYALAN)	**(V.S.VERMA)**	**(S.JAYARAMAN)**	**(Dr. PRAMOD DEO)**
MEMBER	**MEMBER**	**MEMBER**	**CHAIRPERSON**