

April 02, 2025

To

The Secretary,
Central Electricity Regulatory Commission,
6th, 7th & 8th Floors, Tower B, World Trade Centre,
Nauroji Nagar, New Delhi-110029

Ref: Public Notice No. L-1/261/2021/CERC dated 03.03.2025

Sub: Comments on Draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Fourth Amendment) Regulations, 2025

Dear Sir,

This is in reference to the Public Notice No. L-1/261/2021/CERC dated 03.03.2025, wherein the Hon'ble Commission has invited comments, suggestions, and objections on the Draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Fourth Amendment) Regulations, 2025 ("Draft Regulations").

We, Datta Power Infra Private Limited, are pleased to submit our comments and suggestions for the Hon'ble Commission's consideration. We trust that our inputs will be duly examined and taken into account before the finalisation of the Draft Regulations.

We appreciate the opportunity and remain available for any further discussions or clarifications.

Thanking you.

Yours Sincerely,
For Datta Power Infra Private Limited

Authorised Signatory



S.No.	Regulation number	Proposed clause	Comments
1.	Regulation 2.3 <i>“(ak-i) “Solar hours” means the time blocks of the day as declared by NLDC on each Saturday for the subsequent week starting from Monday to Sunday every week for each State based on anticipated solar insolation</i> <i>(ak-ii) “Non-Solar hours” means the time blocks other than ‘Solar hours’ of the same day;”</i>	Regulation 2.3 <i>“(ak-i) “Solar hours” means the time blocks of the day as declared by NLDC on each Saturday for the subsequent week starting from Monday to Sunday every week for each State based on anticipated solar insolation. NLDC may revise these hours mid-week in response to real-time grid conditions or fluctuations in solar radiation.</i> <i>(ak-ii) Non-Solar hours’ means the time blocks other than ‘Solar hours’ of the same day, as dynamically adjusted by NLDC under Clause (6) of Annexure-IV</i>	The clause has been modified in line with the revised Point (6) of the Annexure VI.
2.	Regulation 5.2a (c) <i>“.....</i> <i>c) In case additional capacity for which approval is sought under Regulation 5.2 of these regulations is REGS (with or without ESS) or ESS (except PSP), the scheduled date of commercial operation for such additional capacity shall not be later than 18 months from date of approval by the Nodal Agency....”</i>	Regulation 5.2a (c) <i>“.....</i> <i>c) In case additional capacity for which approval is sought under Regulation 5.2 of these regulations is REGS (with or without ESS) or ESS (except PSP), the scheduled date of commercial operation for such additional capacity shall not be later than 18 months from date of approval by the Nodal Agency</i> <i>Provided that the Nodal Agency</i>	The proposed proviso ensures regulatory flexibility by allowing extensions beyond the 18-month CoD deadline in cases of delays due to regulatory approvals, force majeure events, or financial constraints beyond the grantee’s control. A rigid timeline without such safeguards could unfairly penalise developers for circumstances they cannot mitigate, discouraging investment and thereby affecting the execution of projects.

		<i>may grant an extension beyond 18 months in cases of regulatory delays, force majeure events, financial constraints, or other circumstances beyond the grantee's control, upon a reasoned request by the applicant..”</i>	
3.	<p>Regulation 5.2a (e)</p> <p>“.....</p> <p>e) <i>The entity which has already made an application or has been granted approval by the Nodal Agency under Regulation 5.2 of these Regulations prior to the date of effectiveness of these amendments, shall furnish the scheduled date of commercial operation for such additional capacity, within a period of two weeks from effectiveness of these regulations:</i></p> <p><i>Provided that, in case such additional generation capacity is REGS (with or without ESS) or ESS (other than PSP), the scheduled date of commercial operation for such additional capacity shall not be later than 18 months from the date of effectiveness of these amendments or date of approval by the Nodal Agency, whichever is later.</i></p>	<p>Regulation 5.2a (e)</p> <p>“.....</p> <p>e) <i>The entity which has already made an application or has been granted approval by the Nodal Agency under Regulation 5.2 of these Regulations prior to the date of effectiveness of these amendments, shall furnish the scheduled date of commercial operation for such additional capacity, within a period of two weeks one month from effectiveness of these regulations:</i></p> <p><i>Provided that, in case such additional generation capacity is REGS (with or without ESS) or ESS (other than PSP), the scheduled date of commercial operation for such additional capacity shall not be later than 18 months from the date of effectiveness of these amendments or date of approval by the Nodal Agency, whichever is later. Provided further that, the Nodal Agency may grant</i></p>	<p>The proposed changes ensure a more practical and balanced regulatory framework by extending compliance timelines and introducing flexibility in meeting the scheduled CoD. Increasing the deadline for furnishing the CoD from two weeks to one month allows developers adequate time for accurate planning and submission. Extending the final compliance window from one month to three months provides a reasonable timeframe for grantees to align with regulatory requirements, minimising disruptions and ensuring a smoother implementation process.</p>

	<p><i>Provided also that such additional generation capacity shall also comply with Clauses (a) to (d) of this Regulation, within a period of one month from the date of effectiveness of this Regulation, failing which approval for such additional generation capacity shall be revoked.”</i></p>	<p><i>an extension beyond 18 months in accordance with clause 5.2a (c).</i></p> <p><i>Provided also that such additional generation capacity shall also comply with Clauses (a) to (d) of this Regulation, within a period of one month three months from the date of effectiveness of this Regulation, failing which approval for such additional generation capacity shall be revoked.”</i></p>	
4.	<p>Regulation 5.11 (b)</p> <p>“....</p> <p>b) The In principle or final grant of Connectivity intimated to an REGS (with or without ESS) based on solar source or an RHGS with a combination of solar source with another source including ESS (including cases where GNA is effective) shall be converted as an entity with restricted access (corresponding to non-solar capacity during non-solar hours) within a period Draft Fourth Amendment to Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State transmission System) Regulations, 2025 5 of one week after the expiry of three months from date of</p>	<p>Regulation 5.11 (b)</p> <p>“....</p> <p>b) <i>The In principle or final grant of Connectivity intimated to an REGS (with or without ESS) based on solar source or an RHGS with a combination of solar source with another source including ESS (including cases where GNA is effective) shall be converted as an entity with restricted access (corresponding to non-solar capacity during non-solar hours) within a period Draft Fourth Amendment to Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State transmission System) Regulations, 2025 5 of one week after the expiry of three months from date</i></p>	<p>The proviso has been included to ensure efficient utilisation of ESS by allowing solar-based REGS with ESS to inject stored solar energy during non-solar hours, thereby enhancing grid reliability without violating restricted access rules.</p>

	<p>effectiveness of this Regulation:</p> <p>Provided that while converting to restricted access, the Nodal Agency shall consider the application which such an entity may make for additional capacity under this Regulation 5.2 or Regulation 5.11(a) of these regulations, within a period of three months from effectiveness of this Regulation:</p> <p>Provided further that if the quantum of Connectivity that can be made available for non-solar hours is less than 50 MW, such RES or RHGS shall not be considered for conversion as an entity with restricted access.....”</p>	<p><i>of effectiveness of this Regulation:</i></p> <p><i>Provided that while converting to restricted access, the Nodal Agency shall consider the application which such an entity may make for additional capacity under this Regulation 5.2 or Regulation 5.11(a) of these regulations, within a period of three months from effectiveness of this Regulation:</i></p> <p><i>Provided further that if the quantum of Connectivity that can be made available for non-solar hours is less than 50 MW, such RES or RHGS shall not be considered for conversion as an entity with restricted access.</i></p> <p><i>Provided that Solar-based REGS (with ESS) may inject installed capacity during non-solar hours, provided such injection is solely from storage systems ”</i></p>	
5.	<p>Regulation 11A - lead in language for Sub-regulation 6:</p> <p><i>“ (6) Any changes in shareholding pattern of the Connectivity grantee upto CoD of the project shall be subject to the following: ..</i></p>	<p>Regulation 11A - lead in language for Sub-regulation 6:</p> <p><i>“ (6) Any changes, after the effectiveness of the fourth amendment, in shareholding pattern of the Connectivity grantee upto CoD of the project shall be subject to the following:..</i></p>	<p>The fourth amendment is intended to be prospective in nature, as it is effective from the date of publication of the amendment in the Official Gazette. There is currently no clarity on the manner of applicability of the provision i.e. from when would the restriction on change in shareholding be applicable. It should be clarified that the revised regulation would only</p>

			<p>apply to change in shareholding undertaken post the effectiveness of the amendment. It is also noteworthy that a retrospective amendment would violate the doctrine of vested rights, imposing new restrictions on past transactions undertaken in compliance with existing law. It may also contradict the doctrine of prospective overruling, which prevents retroactive penalization of lawful actions, and could invite constitutional challenges on grounds of arbitrariness. Clarifying its prospective application would ensure legal certainty and maintain investor confidence.</p>
6.	<p>Regulation 11A(6)(a):</p> <p>“... (a) <i>The promoters of the Connectivity grantee shall not cede control (where control shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors) of the Company..”</i></p>	<p>Regulation 11A(6)(a):</p> <p>“.... (a) <i>The promoters of the Connectivity grantee shall not cede control (where control shall mean the direct ownership, directly or indirectly, of more than 50% of the voting shares of such Company Connectivity grantee or right to appoint majority Directors) of the Company..”</i></p>	<p>The Connectivity is granted basis a defined process under the regulations. It is noted that most tender documents allow for a bidding company to form an immediate SPV for the purposes for implementing the project. Thus, the limitation on control should be limited to only direct ownership and not extend to direct or indirect ownership.</p> <p>A restrictive clause wherein direct or indirect ownership of a Connectivity grantee is limited, would have unintended consequences of limiting the growth of the energy sector.</p>

7.	<p>Regulation 11A (6)(b):</p> <p>“</p> <p><i>b) In case the Connectivity grantee has multiple promoters (but none of the shareholders have more than 50% of voting rights and paid-up share capital), the shareholding pattern shall be maintained and cannot be changed upto COD of the project.”</i></p>	<p>Regulation 11A(6)(a):</p> <p>“ ...</p> <p><i>b) In case the Connectivity grantee has multiple promoters (but none of the shareholders have more than 50% of voting rights and paid-up share capital), the shareholding pattern shall be maintained and cannot be changed upto COD of the project then the promoters jointly shall not cede control of the Connectivity grantee the collective shareholding, where control shall have meaning as set out in sub-regulation 11A(6)(a).</i></p>	<p>The existing provision completely prohibits any change in the shareholding pattern of Connectivity Grantees with multiple promoters, where no individual shareholder holds more than 50% of voting rights and paid-up share capital. While the intent is to ensure project stability and avoid speculative ownership changes, a blanket restriction imposes an extremely onerous obligation, which would impede legitimate corporate restructuring, financial optimisation, and investor participation. In cases where there are multiple promoters a restriction similar to that set out in sub-regulation 11A(6)(a) can be introduced with respect to the promoters jointly. The proposed amendment introduces conditional flexibility by allowing limited shareholding adjustments, ensuring that the promoters together continue to be in control, while allowing for limited flexibility for restructuring, investment, etc.</p> <p>It is further noted that the SECI tender provisions quoted in the Explanatory Memorandum are not the accurate representation of restrictive covenants</p>

			<p>across tenders. Many authorities like NTPC, SJVN, etc. at no point require that there shall be no change in shareholding if there are multiple promoters. As stated above, a clause of this nature would impede the growth of the sector by limiting investments and restructuring.</p>
8.	<p>Regulation 11A (6)(c):</p> <p>“....</p> <p><i>c. Any change in shareholding pattern other than covered in sub-clauses (a) and (b) shall require prior approval of the nodal agency and shall be filed for information of commission within 45 days of such approval. Nodal Agency may allow such application considering the practical requirement for change in shareholding.”</i></p>	<p>Regulation 11A (6)(c):</p> <p>“....</p> <p><i>c. Any change in shareholding pattern other than covered in sub-clauses (a) and (b) shall require intimation prior approval to the nodal agency and shall be filed for information of commission within 45 days of such change of such approval. Nodal Agency may allow such application considering the practical requirement for change in shareholding.”</i></p>	<p>Sub-regulation (a) and (b) set out the restriction for change in control of the Connectivity grantee. Any other change in shareholding of Connectivity grantee cannot be limited by the requirement of an approval of the nodal agency, as it would impede bona fide investments, restructuring, employee benefit plans, etc. Energy sector requires investments and financing for the growth of the sector, an onerous and prohibitive requirement of seeking an approval for any change in shareholding would prove to be a catalyst for downfall in the sector. The absolute restriction in change in shareholding is not supported by the very nature of the sector and would impede the growth witnessed by the sector in the past.</p> <p>It is further noted that in the SECI tender provisions quoted in the Explanatory Memorandum there is no requirement for approval of SECI for change in any shareholding. Arguably</p>

			a similar restriction with identified carve outs is proposed by SECI till execution of PPA. The rationale being that post PPA execution heavy investments are required to set up a project. The proposed amendment is extremely onerous and is not in line with the tenders floated by Government companies such as SECI, NTPC, SJVN, etc. and would have the unintended consequence of impeding growth in the sector.
9.	Regulation 19.2 <i>“Provided that such additional GNA quantum to be added in each of the next three financial years shall be applicable from a specified date(s) of the respective financial year subject to a maximum four dates for a year ”</i>	Regulation 19.2 <i>“Provided that such additional GNA quantum to be added in each of the next three financial years shall be applicable from a specified date(s) of the respective financial year subject to a maximum 8 dates for a year. Provided further that for urgent grid requirements (such as system emergencies, sudden demand-supply mismatches, or contingencies declared by RLDC/NLDC) additional dates beyond the eight-date limit may be allocated to ensure grid stability.”</i>	The modification increases the maximum number of specified dates for adding additional GNA quantum from four to eight per financial year, allowing greater flexibility in capacity planning and integration. The further proviso introduces an exception for urgent grid requirements, permitting additional allocation dates beyond the eight-date limit in cases of system emergencies, sudden demand-supply mismatches, or contingencies declared by RLDC/NLDC.