

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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File No. L-1/44/2010-CERC

Date: 15th December, 2017

In the matter of

Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations (5th Amendment), 2017

STATEMENT OF REASONS

1. Introduction:

- 1.1. The Commission vide notification dated 28.10.2016 issued the Draft Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Fifth Amendment) Regulations, 2016 along with Explanatory Memorandum seeking comments/ suggestions/ observations from the stakeholders/public.
- 1.2. Comments were received from 49 stakeholders, organizations, and individuals, etc., which included State Power utilities, Central Electricity Authority (CEA), Central Transmission Utility (CTU), Power System Operation Corporation (POSOCO), Inter-state transmission licensees, generating companies in central sector including associations. Thereafter, the Commission conducted public hearing on 17.11.2016. Nine (09) organizations/individuals made oral submissions or presentations during the public hearing. List of stakeholders/individuals who submitted written comments and who made oral submissions/power point presentation during the public hearing is given at Appendix-I & Appendix-II respectively. The detailed comments are available on www.cercind.gov.in. After due considerations of the comments/ suggestions/ objections received, the Commission has finalized the Fifth Amendment to the Sharing Regulations.
- 1.3. The amendments proposed in the draft regulations, deliberation on the comments/suggestions offered by the stakeholders, statutory bodies and individuals, etc., on the proposed amendments and the reasons for decisions of the Commission are given in the succeeding paragraphs. While an

attempt has been made to consider all the comments/suggestions received, the names of all the stakeholders may not appear in the deliberations. However, the name of all the stakeholders is enclosed as Appendix-I and II.

2. Introduction of Reliability Support Charge for Connectivity

- 2.1. Following sentence was proposed to be added at the end of Sub-clause (q) of Clause (I) of Regulation 7 of the Principal Regulations:

“Additionally, Reliability Support Charge shall also be payable by a DIC for the quantum of Connectivity granted by CTU from the date of physical Connection to ISTS including the case where DIC is not availing any LTA / MTOA provided that the total quantum for the purpose of Reliability Charge shall not exceed the quantum of Connectivity granted to a DIC.

Provided further that if Connectivity has been sought in a phased manner, Reliability charges shall be billed accordingly.

Provided also that Reliability Support Charge paid by a DIC under STOA shall be offset against the quantum covered under Connectivity.”

- 2.2. Following was proposed to be added after sub para (2) of Para 4 of Regulation 11:

For Generators having Connectivity over and above LTA + MTOA. The MTOA shall be considered in addition to LTA only if it is over and above LTA.

[Reliability Support Rate in Rs/ MW/ month] x [(Connectivity Quantum- (LTA +MTOA))]

- 2.3. Proposed Amendment to Annexure of the Principal Regulations:

Sub clause under Para 2.8.1.c was proposed to be substituted as follows:

“(i) Reliability Support Charges shall be 10% of the Monthly Transmission Charges. The Reliability Support Rate, in Rs./MW/month shall be as under:

Reliability Support Charge for Withdrawal DIC shall be obtained by multiplying the above rate (in Rs./MW/month) by Approved Withdrawal (LTA/MTOA). For Generator with Long term Access to target region shall be obtained by multiplying these charges by Approved Injection. For Generators whose Connectivity is for quantum more than its LTA+MTOA,

Reliability Support Charges shall be obtained by multiplying the above rate by [Connectivity quantum – (LTA+MTOA)].

The above principle shall also apply for additional MTOA.”

2.4. The Commission had given following rationale while proposing the above amendment:

“(1) It has been observed that a number of generators are availing Connectivity but have not applied for LTA or MTOA or have applied for part LTA. It is provided vide Statement of reasons to CERC (Sharing of inter-state transmission charges and losses) Regulations 2010 while introducing Reliability support charge as follows:

"We agree with POSOCO that all the entities, be it a generator or load serving entity, are availing reliability support of the grid. We are of the view that any user who is connected to the Grid gets access to improved power quality, enhanced reliability and stabilized operation. The interconnected system (Electricity Grid as a whole) gives stability and provides inertia. Transmission system is a common carrier and every entity (whether an injecting or drawing utility) having connectivity to the transmission system avails its services."

(2) Hence, the applicants should be liable to pay Reliability Support charge for the Connectivity quantum. However the applicants may enter into LTA/ MTOA with firm PPA in which case the transmission charges including Reliability support charge is being raised on withdrawal end. Hence the applicant shall be liable to pay Reliability support charge for the balance quantum of Connectivity for which there is no LTA/MTOA.”

2.5. Comments have been received from Jindal Stainless (Hisar) Ltd., IPPAI, POSOCO, POWERGRID, Hindustan Power, APP, ESSAR Power, JITPL, NTPC, Shri Vineet Sarawagi, OTPC, Shree Cement, Vedanta Ltd., MB Power, WBSEDCL, Hero Future Energies, SRPC and DB Power:

2.5.1. Jindal Stainless (Hisar) Ltd. and IPPAI have supported the proposed addition. SEL has submitted that a proviso may be added for reimbursement of excess reliability charges collected.

2.5.2. POSOCO has submitted that it may be categorically specified in the Regulations that CTU will provide the details of effective connectivity quantum of each generator to the Implementing Agency and RPCs.

- 2.5.3. POWERGRID has submitted that under the open access regulation, 2004, there was no provision for generators to apply for Connectivity and Generators applied only for LTA. In order to evolve a uniform approach for arriving at the quantum of power on which the Reliability Support Charge is to be applied, Reliability Support Charge may be calculated on the basis of Generator Installed Capacity connected to the ISTS grid.
- 2.5.4. Hindustan Power has submitted that the levy on generators would not be correct even if connectivity for a higher capacity than existing PPAs is approved but the same is not utilised for any injection by generator as the transmission planning and investments are done to take care of LTA for which charges are borne by concerned DIC. Even for infirm power injection or inadvertent flows to grid, the injected power is actually utilised by unidentified/not previously known drawees through UI as the power injected has to be consumed simultaneously by some consumer at the same time. Ideally, these drawees should bear the Reliability Support Charges as the generator has no means to pay these charges in existing contractual framework. Further, the benefit of Reliability Support in such a case is actually taken by such drawees and it is only fair to transfer this burden, if any, on them. There is no rationale for charging Reliability Support Charges for Capacity that is not injecting any power to the grid and, hence, not availing any reliability service of the grid.
- 2.5.5. APP, ESSAR Power and JITPL have submitted that at the time of application of connectivity, there was no provision for reliability support charges and that it would be inappropriate to bring the Reliability support charges after the connectivity has been sought. Further, it will put additional burden on generators as DISCOMs are not coming forward with long term bids and generators are selling power at sub-optimal price in market.
- 2.5.6. NTPC has submitted that the Reliability Support Charges should be applicable only on those generators which are granted Connectivity after notification of these regulations and for those generators which have already been granted connected Connectivity but connectivity has not yet been established, the charges should correspond to maximum drawl of Start-up power quantum sanctioned by RLDC. Shri Vineet Sarawagi has submitted that there should be no additional burden on Generators for quantum of power not injected into the Grid.
- 2.5.7. OTPC has submitted that in case of implementation of the new proposal of levying RSC on the connectivity quantum, the price of power for the end consumer is set to increase at a time when measures like e-auctioning of power has been implemented resulting in discovery of lower electricity prices. Therefore, there is a requirement to make the markets efficient by

removing additional charges like RSC on the basis of connectivity. The proposed levy of RSC on basis of connectivity goes contrary to the creation of an efficient marketplace. The Commission should consider levying Reliability Support Charges on approved injection/withdrawal instead of connectivity as is the present practice. In case the Commission decides to levy RSC, then the generators should also be adequately compensated and should be allowed to pass through the additional charges to the beneficiaries.

- 2.5.8. Shree Cement Ltd. and Vedanta Ltd. have submitted that there are many merchant power plants that are supplying power under short term owing to limited opportunities available for long term supply. Such short term supply is taking place at very low rates, sometimes below variable cost of generation just to run the plants. Further, any charges related to the transmission system should be applicable only up to extent of use of such system. Levy of reliability support charges on connectivity basis will put additional economical burden on Generators and the generator(s) will force recover these charges from utilities and subsequently impact will pass on to the end consumer.
- 2.5.9. MB Power has submitted that any amendments in the regulations should not affect the decisions taken prior to promulgation of such amendments. The prevailing regulations do not entail any financial implications on the quantum of connectivity secured. As such, Projects having already secured connectivity, did not factor any financial implications while taking decisions on the quantum of connectivity to be applied for in the past. Hence any fresh financial impositions on such Projects would severely impair their overall financial viability.
- 2.5.10. WBSEDCL has submitted that Reliability Support Charges are arbitrary and discriminatory in nature inasmuch as the same principles as the uniform charges where the beneficiaries are required to bear 10% of the total yearly transmission charges irrespective of the value of the transmission system available in their region, or that are being used by them. It ultimately results in socialization of costs to contribute towards the cost of transmission assets that have been developed in other regions.
- 2.5.11. Hero Future Energies have submitted that wind and solar power plants should be exempted from payment of reliability support charge.
- 2.5.12. SRPC has submitted that for Generators whose Connectivity is for quantum more than its LTA (including LTA to target Region) + MTOA, additional Reliability Support Charges shall be obtained by multiplying the above rate by [Connectivity quantum – (LTA +MTOA)].

2.5.13. DB Power has submitted that Reliability Support Charges should be 1% of MTC and should be paid from date of physical connection till actual start of LTA/ MTOA/STOA.

2.6. Analysis and decision:

2.6.1. It was proposed to include Reliability support charge stating that there are a number of generators who are availing Connectivity but have not applied for LTA or MTOA or have applied for part LTA. In this regard Mata Prasad Committee Report had suggested as follows:

“6.12.1...

(f) Charges for Connectivity

Few stakeholders have suggested that Connectivity should continue to be free and few have suggested that certain charges should be levied for Connectivity. The Committee has already suggested that application for only Connectivity should not survive and generator should have to mandatorily apply for GNA before it gets physically connected to the grid. However there may be a situation that generator is connected to ISTS for purpose of startup power/injection of infirm power before operationalization of GNA for which period it should be levied Reliability Support Charges. A generator should be charged Reliability charges for the installed capacity of unit post synchronization of the unit and as per the quantum of electricity drawl (under start up) approved by RLDC before synchronization.”

2.6.2. The Commission has vide Public Notice dated 14.11.2017 notified Draft (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017 inviting comments from stakeholders. It has been proposed as follows:

“7.31 CTU shall grant connectivity to the Applicant within the timeline as specified under Regulation 6 of these regulations but the Applicant shall be allowed physical connection with the grid only after filing the application for GNA complete in all respects as specified under Regulation 11 of these Regulations, failing which Connectivity granted shall be deemed to be withdrawn and application fees shall be forfeited. In case of deemed withdrawal of application, the Applicant may file a fresh application for Connectivity”.

2.6.3. It is observed that the rationale of proposing introduction of Reliability Charge with Connectivity should be addressed, if an applicant applies for

LTA within a definite timeframe. Keeping in view the comments received and the proposed draft (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017, we have for the present decided not to introduce Reliability charges for Connectivity as proposed vide the draft Sharing Regulations. We may consider any further review after finalizing the draft Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017.

3. ISTS Charges and Losses for Wind and Solar Project:

- 3.1. A new Sub clause (y) to Clause (1) to Regulation 7 of Principal Regulations was proposed to be added as under:

"No transmission charges and losses for the use of ISTS network shall be attributed to wind based generation for the projects awarded through competitive bidding and commissioned till 31.3.2019. This shall be applicable for a period of 25 years from the date of commissioning of such projects.

Provided that such waiver will be available only for the projects entering into Power Purchase Agreements (PPAs) for sale of electricity to the Distribution Companies for compliance of their renewable purchase obligation."

- 3.2. **The Commission had given following rationale while proposing the above amendment:**

"(1) Tariff Policy notified by MoP dated 28.1.2016 provides at para 6.4 (6) as follows:

"In order to further encourage renewable sources of energy, no inter-State transmission charges and losses may be levied till such period as may be notified by the Central Government on transmission of the electricity generated from solar and wind sources of energy through the inter-state transmission system for sale."

(2) In this regard MoP had vide order dated 30.9.2016 regarding ISTS charges and losses for solar and wind based projects as follows:

"(i) For generation projects based on wind resources, no inter-state transmission charges and losses will be levied on transmission of the electricity through the inter-state transmission system for sale by such projects commissioned till 31.3.2019.

Provided that the above waiver will be available for a period of 25 years from the date of commissioning of such projects.

Provided further that such waiver will be available only for the projects entering into Power Purchase Agreements (PPAs) for sale of electricity to the Distribution Companies for compliance of their renewable purchase obligation.

(ii) For generation projects based on solar resources, no inter-State transmission charges and losses will be charged for use of inter-state transmission system (ISTS) network by such projects commissioned till 30.6.2017 as per the CERC (Sharing of Inter-State Transmission Charges and Losses) (Third Amendment) Regulations, 2015.

Provided that this waiver will be available for a period of 25 years from the date of commissioning of such projects.

(iii) Waiver will be allowed only to those solar and wind projects that are awarded through competitive bidding process."

(3) We observe that Regulations already provide for no ISTS transmission charges and losses for solar based projects commissioned up to 30.6.2017 for useful life of the project. The useful life of solar project under CERC Regulations in vogue is 25 years. Hence there is no need of any further amendment with regards to Solar based generation."

3.3. Comments have been received from POSOCO, APP, GUVNL, KSEBL, MPCL, IPPAI, SEL, NTPC, Open Access Users Association, Bonafide Himachalies Hydro Power Developers Association, InWEA, Jindal Stainless (Hisar) Ltd., Vedanta Ltd., Shree Cement, Vedanta Ltd., ACME, Hindustan Power, NSEFI, Rajasthan Solar Association, Adani Power Limited and Adani Green Energy Limited:

3.3.1. POSOCO has submitted that the application should clearly mention whether the sale of power is from the wind projects awarded through competitive bidding or whether the DISCOM is buying power to fulfill the RPO. This may require amendments in Open Access Regulations also.

3.3.2. APP has submitted that extending the relaxation in transmission charges and losses for solar based generation also till 31.3.2019 will help the low resource States to meet their RPO obligations as per Tariff Policy.

- 3.3.3. GUVNL has submitted that the period of waiver needs to be clarified as there is anomaly in case of solar projects (waiver proposed over useful life) and wind projects (waiver provided for 25 years from CoD).
- 3.3.4. KSEBL has submitted that non-solar and solar RPO targets set for the states as per the notification of the MoP are significantly high and complying with the same will lead to huge financial liability for the DISCOMs. Hence it is highly essential that both non-solar and solar power is available for the DISCOMs at rates as low as possible. Since non-solar and solar power is not spread uniformly across the country, the states have to draw power from other regions to meet their RPO targets. Hence, waiver of transmission charges and losses may be made applicable for all wind based and solar generation projects up to 31.3.2019.
- 3.3.5. MPCL has submitted that the existing rules also provide that the bulk consumer can discharge their RPOs either by way of procuring renewable energy (wind/solar) or by procuring REC certificates. Procurement of renewable energy towards the REC obligation is by way of Open Access. Further, State Regulators e.g. Rajasthan, have imposed heavy charges and other operative restrictions on consumers in case of procurement of power through open access. Hence, waiver of transmission charges should also be applicable to those consumers and wind farms that have entered into firm PPAs for a period of 25 years towards their RPO or consumption requirements according to sanctioned loads.
- 3.3.6. IPPAI has submitted that while the proposed amendment is welcome, the issues that need to be resolved are (i) how do we effectively schedule large quantum of RE (ii) correspondingly, how do we use thermal power for grid stabilization (iii) what happens to existing commitments under thermal power PPAs. CERC regulations must define as to who at the end is going to bear the charges if RE projects are going to be exempted from it. PoC charges may need to be increased to facilitate the same. Further, the proposed relaxation in time-period for the wind projects should be also extended to solar power projects.
- 3.3.7. SEL has submitted that the proposed waiver to renewable will further add to the burden in the form of increase transmission charges to the conventional generators. Therefore, exclusive transmission corridor only for renewable may be planned.
- 3.3.8. NTPC, Open Access Users Association and Bonafide Himachalies Hydro Power Developers Association have submitted that it is great step taken by the Commission towards promotion of wind energy in the market but in such case we suggest the commission to take a step ahead and include Small

Hydro Plants up to 25 MW under the same exemption policy as small hydro is also a renewable form and hence comes under renewable energy approved by MNRE. Such step can bring a boom in the development of new small hydro projects as well as renewable market. In the above case, we would further suggest the commission to give such exemption to the generators in case they sell their power under Open Access arrangement too. The selective treatment to exempt transmission charges for only those wind generators which enter into PPAs with DISCOMs is violative of level playing field for consumers and generators of other RE technologies.

- 3.3.9. InWEA has welcomed the proposed waiver for wind power projects but has also requested to waive off ISTS charges for all the wind projects developed till 31.3.2019.
- 3.3.10. Jindal Stainless (Hisar) Ltd. and Vedanta Ltd. have submitted that this exemption should be given to all wind based generation projects. Further, the last condition of PPA with DISCOMs is quite dicey as it does not qualify as to entire power is to be sold to DISCOM or a part to DISCOMs and rest to other Obligated Entities.
- 3.3.11. Shree Cement Ltd. has requested to extend the proposed exemption from ISTS charges and losses to Captive Power Plants (CPPs) based on wind generation to promote private investment in the sector.
- 3.3.12. ACME has submitted that there should not be any discrimination in Wind and Solar projects and benefits of ISTS charges & losses should be aligned with NSM. The commissioning of solar projects are getting delayed due to various reasons not attributable to the SPDs like implications of GST, delay due to regulatory approvals of PPAs, land availability issues etc. and hence such projects may not be able to achieve their commissioning before 30.6.2017. Hence, these benefit should be extended till 31.3.2022 i.e. till the NSM achieves its target of 100GW capacity and attains maturity and stability, so that to encourage the developers.
- 3.3.13. Hindustan Power, NSEFI, Rajasthan Solar Association, Adani Power Limited and Adani Green Energy Limited have submitted that the applicability period of waiver of ISTS charges & losses for the solar based projects should be extended till 31.3.2022 to promote inter-State sale of solar power from Solar resource rich States.

3.4. **Analysis and decision:**

- 3.4.1. All stakeholders have welcomed the proposed amendment.

- 3.4.2. We agree with submission of POSOCO that the required information to avail the benefit of the proposed regulation should be made available to POSOCO. Accordingly it is directed that the DIC wishing to avail the waiver of charges as applicable in the said Regulations shall provide the required details through Affidavit to POSOCO.
- 3.4.3. The suggestion seeking extension of the proposed waiver to all types of wind based generation projects , captive power projects , small hydro projects is not accepted as of now keeping in view the Order issues by MoP under Tariff Policy. The Regulation has been amended keeping in view Tariff Policy notified by MoP dated 28.1.2016 and MoP order dated 30.9.2016 and 14.6.2017.
- 3.4.4. Stakeholders have requested to extend waiver in case of solar based generation till 31.3.2019 and to align the period with National Solar Mission. In this regard, Ministry of Power has vide order dated 14.6.2017 modified the earlier order dated 30.6.2016 to extend waiver of ISTS transmission charges and losses for generation projects based on solar resources commissioned till 31.12.2019. The relevant portion of the said order dated 14.6.2017 is reproduced as under:

“Ministry of Power, in consultation with various stakeholders, hereby modify its order of even number dated 30th Sept., 2016 as under:

1.0 Para 3 (ii) of the aforesaid order be read as under:

For the generation projects based on solar resources, no transmission charges and losses will be charged for use of inter-state transmission system (ISTS) network by such projects commissioned till 31.3.2019.

Provided further that the above waiver shall be available for a period of 25 years from the date of commissioning of such projects.

Provided further that such waiver will be available only for the projects entering into Power Purchase Agreements (PPAs) for sale of electricity to the Distribution Companies for compliance of their renewable purchase obligation.

2.0 The other terms and conditions of order No. 23/12/2016-R&R dated 30.9.2016 shall remain applicable.

....”

3.4.5. The Regulation was proposed to be amended keeping in view amended Tariff Policy as quoted above. The Regulation has been amended strictly as per MoP Order issued under amended Tariff Policy. Since MoP had notified ISTS charges and losses waiver for specified wind projects on 30.9.2016, the Regulation shall be effective from date of notification of Order by MoP i.e. 30.9.2016. MoP vide Order dated 30.9.2016 had retained the timeline for ISTS charges and losses waiver for solar projects till 30.6.2017. The existing Sharing Regulations already had a provision of waiver of ISTS charges and losses for solar projects till 30.6.2017. Accordingly no further amendment was proposed while issuing the draft fifth Amendment to Sharing Regulations on 28.10.2016. However MoP vide order dated 14.6.2017 has extended the date of applicability of waiver of ISTS charges and losses for specified solar projects under specified conditions till 30.12.2019. Accordingly additional regulations have been introduced to cover this aspect.

3.4.6. Accordingly, New sub clause (y) and (z) to Clause (1) to Regulation 7 of Principal Regulations shall be added as follows:

"(y) No transmission charges and losses for the use of ISTS network shall be payable for the capacity of the generation projects based on solar resources for a period of 25 years from the date of commercial operation of the such generation projects if they fulfill the following conditions:

- (i) Such generation capacity has been awarded through competitive bidding; and
- (ii) Such generation capacity has been declared under commercial operation between 1.7.2017 and 31.12.2019; and
- (iii) Power Purchase Agreement(s) have been executed for sale of power from such generation capacity to the distribution licensee for compliance of their renewable purchase obligation."

"(z) No transmission charges and losses for the use of ISTS network shall be payable for the generation based on wind power resources for a period of 25 years from the date of commercial operation of such generation if they fulfill the following conditions:

- (i) Such generation capacity has been awarded through competitive bidding; and
- (ii) Since generation capacity has been declared under commercial operation between 30.9.2016 till 31.3.2019; and

- (iii) Power Purchase Agreement(s) have been executed for sale of such generation capacity to the Distribution Companies for compliance of their renewable purchase obligations.”

4. Amendment related to returning back transmission charges collected towards start up power/infirm power

- 4.1. Fourth proviso to Clause (5) to Regulation 8 of Principal Regulations was proposed to be substituted as under:

"Provided also that during the period when a generating station draws start-up power or injects infirm power before commencement of LTA, withdrawal or injection charges corresponding to the actual injection or withdrawal shall be payable by the generating station and such amount received shall be reimbursed to the DICs in the following month, in proportion to the monthly billing of the respective month."

- 4.2. **The Commission had given following rationale while proposing the above amendment:**

“Charges Collected towards Start-up power/infirm power was to be adjusted against the YTC of next quarter. Since Charges towards Start-up power/infirm power are part of Regional Transmission Deviation Account and CTU is raising Bill-4 for them, it is proposed to reimburse the charges collected towards Start-up power/infirm power to the DICs in the following month as in case of deviation charges. Further adjustment against next quarter will result in delayed reimbursement to DICs.”

- 4.3. **Comments have been received from Jindal Stainless (Hisar) Ltd., CEA, JITPL and Hero Future Energies:**

- 4.3.1. Jindal Stainless (Hisar) Ltd. has welcomed the proposed amendment.
- 4.3.2. CEA has submitted to modify the proposed amendment to levy both transmission charges and losses for drawal of start-up power or injection of infirm power ‘before the Date of Commercial Operation (CoD)’ instead of ‘before commencement of LTA’.
- 4.3.3. JITPL has submitted that drawal of start-up power or injection of infirm power is by virtue of the natural operation of the power plant and therefore, PoC charges for drawal of start-up power or injection of infirm power should be waived off.

4.3.4. Hero Future Energies has submitted that exception to wind and solar power plants need to be created as ISTS charges and losses are waived.

4.4. **Analysis and decision:**

4.4.1. Jindal Stainless (Hisar) Ltd. has welcomed the proposed amendment.

4.4.2. We do not agree to submission of JITPL to waive off PoC charges for drawal of start-up power or injection of infirm power. The drawal of start-up power or injection of infirm power requires usage of transmission system and hence charges are payable.

4.4.3. We do not agree with submission of Hero Future Energies to exempt wind and solar based generation projects. It is clarified that the waiver of charges as provided in Regulation 7 (1) is applicable post CoD of the project only prior to which it shall be liable to pay applicable charges.

4.4.4. We do not agree to CEA submission of replacing words 'before commencement of LTA' with words 'before the Date of Commercial Operation (CoD)'. The Regulation specifies the limit as "before commencement of LTA" since on commencement of LTA the entity already becomes liable to pay applicable transmission charges.

4.5. Accordingly, fourth proviso to Clause (5) to Regulation 8 of Principal Regulations shall be substituted as under:

"Provided also that a generating station drawing start-up power or injecting infirm power before commencement of LTA shall be liable to pay the withdrawal or injection charges corresponding to the actual injection of infirm power or withdrawal start-up power during a month (concerned month) and the amount received on account of such payments shall be reimbursed to the DICs in the month following the month of billing, in proportion to the billing of the DICs during the concerned month."

5. **Amendments with regard to POC Rates to be considered for billing DICs whose rate is not available**

5.1. A new Clause (7) was proposed to be added after Clause (6) to Regulation 8 of Principal Regulations:

"(7) For generators with LTA to target region, whose POC rate has not been determined for the quarter, shall be billed at Average PoC rate of target region."

5.2. **The Commission had given following rationale while proposing the above amendment:**

“SRPC during 3rd Validation Committee Meeting held on 30.8.2016 sought a clarification on PoC rates to be considered for generators whose rate has not been notified. It has been recorded vide the minutes of meeting dated 9.9.2016 for 3rd Validation Committee meeting for Q3 2016-17 as follows:

“PoC rates of generator whose rate has not been notified: Agenda by SRPC

PoC rate for some generators having LTA without identified beneficiaries have not been computed since their LTA was not identified prior to beginning of PoC Quarter. RPCs are finding it difficult to apply the PoC rate to arrive the transmission charges payable by such generators. Representative from SRPC highlighted the point regarding the non-availability of PoC rate for TPCIL and SEPL for the month of Jun’16. In this regard, CERC representative clarified that there is a provision in the Sharing Regulations for new generating units.

Proviso to Clause 5 of regulation 8 of Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015 provides as under:

"Provided that in case the commissioning of a generating station or unit thereof is delayed, the generator shall be liable to pay Withdrawal Charges corresponding to its Long term Access from the date the Long Term Access granted by CTU becomes effective. The Withdrawal Charges shall be at the average withdrawal rate of the target region."

In line with the above provision for new generators, it was agreed that generators which has been commissioned but for whom PoC rate have not been notified, may be charged at average withdrawal rate of the target region. Chief (Engg.) stated that CTU should provide LTA data prior to beginning of quarter prudently so that such cases do not arise."

5.3. **Comments have been received from Jindal Stainless (Hisar) Ltd., POSOCO, APP, Shri Vineet Sarawagi, SRPC and NTPC:**

5.3.1. Jindal Stainless (Hisar) Ltd. has welcomed the proposed amendment.

5.3.2. POSOCO has submitted that rate should be Average **withdrawal** PoC rate of target region.

- 5.3.3. APP and Shri Vineet Sarawagi have submitted that generator should be charged minimum PoC rate of target region until its liability is determined.
- 5.3.4. SRPC has submitted that average of the slab rates published by CERC i.e. 5th Slab may be considered. This would be more appropriate as this would not require averaging the existing slabs and get a new rate.
- 5.3.5. NTPC has submitted that after determination of actual POC charge in the next quarter, the same shall be adjusted if actual POC rate is different than Average POC rate.

5.4. **Analysis and decision:**

- 5.4.1 We agree with POSOCO that rate should be at “Average Withdrawal PoC rate of target region”. This shall be in line with provision of Regulation 8 (5) which provides as under:

“Provided that in case the commissioning of a generating station or unit thereof is delayed, the generator shall be liable to pay Withdrawal Charges corresponding to its Long term Access from the date the Long Term Access granted by CTU becomes effective. The Withdrawal Charges shall be at the average withdrawal rate of the target region:”

- 5.4.2 Accordingly, a new Clause (7) shall be added after Clause (6) to Regulation 8 of Principal Regulations:

“(7) DIC with LTA to target region whose POC rate has not been determined for the quarter, shall be billed at Average PoC rate of the target region.”

6. **Rates of STOA/MTOA**

- 6.1. Sub-clause (l) of Regulation 9 of the Principal Regulations was proposed to be substituted as under:

"(1) The transmission charges for MTOA customers who are not availing LTA to target region for the capacity under MTOA shall be charged 1.25 times of the LTA POC rates as notified by the Commission from time to time.

(2) The transmission charges for STOA customers who are not availing LTA to target region for the capacity under STOA shall be charged 1.35 times of the normal STOA POC rates as notified by the Commission from time to time:

Provided that the surplus charges collected under above clauses shall be reimbursed back to DICs paying charges under first bill in the next month."

- 6.2. Following was proposed to be added after sub-para (1) of Para 4 of Regulation 11.

For DICs having MTOA over and above LTA:

[PoC transmission rate of demand zone in Rs/MW/month] x [1.25] x
[{{Approved withdrawal}/ {Approved injection}}]

- 6.3. **The Commission had given following rationale while proposing the above amendment:**

".....

(4) The Connectivity Regulations provides for free connectivity and in result many generators have applied for the LTA much lesser than their connectivity/Installed Capacity. Also, the generators who have applied for LTA quantum corresponding to their Installed capacity intend to remain connected with the Grid but at the same time they are relinquishing the LTA in order to avoid the commitment for payment of transmission charges. There are number of petitions and applications before CERC wherein the generators are relinquishing their LTA quantum but at the same time evacuating power under STOA/MTOA markets. This causes burden of higher transmission charges on other long term customers. The MTOA and STOA are granted only on the margins available in the transmission system and no augmentation is carried out for the purpose of granting MTOA/STOA. As our transmission planning is connected with LTA, this scenario is likely to lead to under building of transmission capacity thereby leading to instances of congestions.

....."

- 6.4. **Comments have been received from Shri Ravinder, TPDDL, WBSEDCL, POSOCO, J Sagar Associate, Jindal Stainless (Hisar) Ltd., ADHPL, Open Access Users Association, TPTCL, JITPL, ESSAR Power, DVC, Vedanta Ltd., BRPL, IPPAI, APP, Hindustan Power NVVN, SEL, MPCL, Shree Cement Ltd., NVVN, TPCIL, DB Power, IEX, PHD Chamber of Commerce & Industry, Harekrishna Metallica Private Limited, Mandi Gobindgarh Induction Furnace Association, SRPC, Adani Power Limited, RSWM limited, OTPC, Directorate of Energy, HP and Shri VS Ailawadi:**

- 6.4.1. Shri Ravinder, TPDDL, WBSEDCL, POSOCO has welcomed the proposed amendment. WBSEDCL has suggested that MTOA should be charged at

1.35 times and STOA should be charged at 1.5 times of the LTA POC rates as notified by the Commission from time to time.

6.4.2. TPDDL has submitted that suppose there is a case where an IPP/Generator having a capacity of 1320 MW takes target LTA of, say, 500 MW. For such a Generator, connectivity lines have a transfer capacity of 1320 MW up to pooling station. Beyond the pooling station most probably CTU will plan a system capable of evacuating 1320 MW otherwise there will be frequent complaints of Congestion & Market splitting. As a result the generator will be able to get a transmission system capable of handling its full capacity (1320 MW) even if it is liable to pay transmission charges only to the extent of 500 MW for which it is availing LTA. For remaining capacity it will pay MTOA/STOA charges only when it actually schedules power. This tantamount to gaming and avoiding the servicing of the sunk investment done in ISTS for that Generator. The burden of transmission charges underpaid by the generator would be socialized on other LTA holders like TPDDL. Hence, TPDDL opposes to allow the possibility of any Gaming by such Generators. Further, it would be pertinent to mention that peak injection by a Generator is generally equal to its installed capacity less auxiliary and there is no uncertainty about it. On the other hand DISCOMs like TPDDL have to constantly reassess its peak drawl requirement from ISTS because the demand of a DISCOM is a dynamically varying figure. Therefore, any generator connected to ISTS, whether private or CSGs, should be mandated to avail LTA corresponding to its installed capacity (IC) or ex-bus Installed capacity. The flexibility granted should be applicable for Drawl DICs only where the demand pattern keeps on varying due to multiple factors like weather, Govt. policies, etc. Only DISCOMs and other Drawl DICs may be allowed to avail MTOA/STOA at normal rates up to 120% of their "Approved withdrawal" (MW). However, beyond 120% of their "Approved withdrawal" (MW), the Discoms/Drawal DICs may be charged at the rate of 125% of the normal rates for excess drawl under MTOA and at the rate of 135% of the normal rates for excess drawl under STOA. Certain states like Punjab, Haryana, Chandigarh and Rajasthan are importing huge quantum of power under MTOA/STOA in addition to their approved withdrawal and the same amounts to a drawl from ISTS as high as 160% of their "Approved Withdrawal" on many occasions. This tantamount to gaming for avoiding the payment of LTOA charges while getting additional ISTS capacity being created for them through the so called process of Coordinated planning. The commission may direct CTU to create such import capacity in ISTS only if there is a matching increase in the commitment to pay LTA charges by such states under the BPTA with the CTU.

6.4.3. POSOCO has submitted that there is a need to increase the rates for MTOA and STOA transactions by the generators who have not obtained LTA for full

quantum. RPCs may find it difficult while preparing RTAs for such beneficiaries as two different rates will be applied for two different quanta for the same beneficiary. All MTOA/STOA transactions may be charged at a higher rate instead of 1.25 or 1.35 times the PoC rate and an offset may be given to the generators who have availed LTA for full quantum through the bill raised in the next month. POWERGRID has submitted that this proviso may be revisited in the light of recommendations made by the Committee under the Chairmanship of Shri Mata Prasad to review transmission planning, connectivity, long term access, medium term open access and other related matters wherein the committee has recommended to increase the charges for MTOA & STOA. The surplus transmission charges collected should be reimbursed back to the DICs only in the next month bill after payment has been made by the concerned generator(s).

- 6.4.4. J Sagar Associate, Jindal Stainless (Hisar) Ltd., ADHPL, Open Access Users Association, TPTCL, JITPL and ESSAR Power, DVC, Vedanta Ltd have opposed the proposed amendment.
- 6.4.5. BRPL has submitted that DISCOMS are taking sufficient LTA which remains generally underutilized. Most of the counter parties are dealing in ST market only through which DISCOMS are tying up to meet their fluctuating peak load. The most important instrument of ST market being used by DISCOMS is "Banking". Banking is done with other State Utilities which are also paying under LTA. BRPL has requested the Commission to exempt Banking under the proposed amendment. Further, the intention of draft Regulation is to penalize GENCOs who are intentionally taking less LTA and selling in STOA to avoid long term charges. BRPL has suggested to suitably modified the proposed amendment so that it is only applicable on DICs other than DISCOMS.
- 6.4.6. IPPAI has requested to introduce GNA and has advised the Commission to direct CTU to undertake transmission planning under STOA/power exchange.
- 6.4.7. APP and Hindustan Power have submitted that DISCOMs are not entering into long term PPAs because of their poor financial health and generator are left with no other option but to sell their power at sub-optimal price through STOA. At this stage, no further increase in transmission charges may be imposed and the Commission may direct CTU to undertake transmission planning for STOA/power exchange/ rather than bringing additional financial implications upon the generators. The Commission may also consider implementing the GNA framework at the earliest. The Commission may direct CTU to carry out system strengthening on their own without linking it with LTA as shift in planning criteria is need of the hour.

- 6.4.8. SEL has submitted that these increased rates shall be undue burden on most of the customers. Take the case of smaller size generators, who are not eligible to even participate in Long term/Medium Term (DBFOO/FOO) tenders owing to smaller capacities (minimum bid quantum cannot be complied with), thereby never having opportunity to schedule their power under LTA. Hence, all generators cannot be perceived to be 'gaming' who are scheduling power only in the short term after getting connectivity, as it is the only way they can sell power in the absence of LT/MT Tenders and minimum quantum requirements if at all some of such tenders are available. Similarly, Industries are already burdened with deterrents for open access like CSS, Addl. Surcharge, wheeling charges etc. This premium in STOA charges will further hit open access, which is actually to be encouraged as per Electricity Act, 2003.
- 6.4.9. MPCL has submitted that the choice of opting LTA, MTOA or STOA is available to beneficiaries under the law and respective regulations. Levy of higher transmission charges will not provide a level playing field to all the generators/customers and hydro generators with low PLF are likely to run out of the competition just because they are not the LTA customers. In addition to this it will make power costlier in if a short term requirement is to be met urgently either through bilateral or IEX arrangement. The said proposal will further prejudice the intra-state entities who are selling their power in the inter-state region after paying the high wheeling and transmission losses. Presently MTOA and STOA customers are given open access only from the margins available in the system and no additional capacity is actually created for them. It is also a recognized fact that in order to build large transmission capacity it is very important that the LTA customers should be large in numbers so as to fund the transmission assets. But the same cannot be done by imposing higher transmission charges on one category who are given only inherent margins and least priority. Therefore, the concept of equal transmission charges for LTA, MTOA and STOA in prevailing regulations is logical where as proposed higher charges for MTOA and STOA are illogical. Therefore, improvement in Transmission Asset Base can also be achieved by promoting the execution of generating assets and imposing a condition on the beneficiary seeking connectivity in the ISTS that at least 50% of the total capacity or so should be on LTA basis.
- 6.4.10. Shree Cement Ltd. has submitted that use STOA by generators is not by choice or for any economic gains but out of compulsion as no long term power sale opportunities are available for such players. Higher charges for STOA are only justified if additional value in terms of firmness in reservation of capacity can be provided to MTOA & STOA transactions. Merely increasing STOA charges won't help as there are no plans to build transmission assets using this additional revenue. Open Access consumers

are embedded in STU & DISCOM network. Apart from POC charges, they have to bear surcharges, transmission charges & losses of STU & DISCOM network also. Due to high incidence of Cross Subsidy, Additional Surcharge, Transmission and wheeling charges, Open Access has become unviable in most of the states. In order to keep competition operating in the sector, it is desirable that these charges are lowered. It is highly retroactive that the viability of open access is being threatened by increasing MTOA/STOA charges further. OA will become unviable in some more states and competitive markets will be threatened more.

- 6.4.11. NVVN has submitted that the increase in transmission charges in short term and medium will adversely affect the short term power market.
- 6.4.12. TPCIL has submitted that there should not be any premium for LTA customers who are not availing LTA but supplying under MTOA /STOA as per the PPA guidelines.
- 6.4.13. DB Power has submitted that the existing regulation should not be changed. As per the approach laid down by National Electricity Policy (NEP) and further emphasized under the Tariff Policy (TP), prior agreement with the beneficiaries should not be a precondition for network expansion and that CTU/STU should undertake network expansion after identifying the demand requirement and generation coming up. Increasing the MTOA & STOA charges so that generators move to LTA and hence, transmission systems be planned based on LTA is against NEP and TP. Even as per current regulations, though LTA is not mandatory, connectivity is mandatory and to know how much of capacity is coming up, CTU already has details of upcoming capacity under connectivity granted. Further, implementation of the regulation would be practically not possible.
- 6.4.14. Vedanta Ltd. has submitted that this move of increasing POC charges for STOA and MTOA shall affect the present market scenario, and has requested not to increase POC rates for STOA and MTOA.
- 6.4.15. IEX and PHD Chamber of Commerce & Industry have submitted that any increase STOA charges is devoid of economic rationale. CERC regulations have been used as guiding principles by SERCs. Whenever STOA charges were increased by the Commission, most of the SERCs adopted similar trend in determining STU and wheeling charges. Now with the proposed increase in STOA charges by 35%, similar increase is likely to be done by SERCs. In such a scenario, Open Access will virtually become unviable. The Commission is already in the process of framing of regulations pertaining to implementation of GNA which inter-alia would address the issue of building transmission capacity based on demand and supply scenario without any

discernment to type of access. Further, while calculating per kWh PoC charges for STOA, the charge calculations are currently being done on LTA and not total forecast load of the State as validated by validation committee. This results in higher per unit PoC charge. Therefore, the Commission is requested to change the methodology for PoC calculations.

- 6.4.16. Harekrishna Metallica Private Limited has submitted that usage of STOA is mostly by the small generators for shorter term owing to their seasonal operation due to multitude of reasons. If large capacity LTA is being surrendered to opt for MTOA/STOA putting the transmission planning in jeopardy, a cap can be put on the quantum that is to be surrendered above which the proposed charges of 1.25/1.35 times can be loaded on the MTOA/STOA Charges. Any increase in the STOA charges will have a direct bearing on the viability of many participants. They have requested to exempt STOA through power exchanges from the proposed increase at least for DAM.
- 6.4.17. Mandi Gobindgarh Induction Furnace Association has submitted that STOA is utmost necessary to keep the sale of power tariff to consumers as low as possible otherwise DISCOM will be burdened with fixed charges of surrendered power. They have requested the Commission to take into account the difficulties of DISCOMs and consumers while deciding on the relief proposed to be given to the generators who have obtained LTA based on target region but after commissioning of their projects are not able to find buyers. The STOA is availed mainly by DISCOM or industrial consumers through bilateral contracts and Power exchange and the proposed regulation will increase the charges and pose a threat to purchase of such power.
- 6.4.18. SRPC has proposed to enhance charges for deviation.
- 6.4.19. Adani Power Limited has submitted that the intention of the Commission is a welcoming feature for generating companies, it may cause further difficulties to them as the medium term and short term contracts are based on delivered price which includes transmission charges also. In a situation where DISCOM is not in a position or not willing to procure power at a higher price, then the generating companies which are under selling pressure will lose their margins further or the capacity remains idle. Therefore, restrictions should be imposed on DISCOMs for procuring power under STOA/MTOA to meet load requirements. The Commission may take a decision on implementing the GNA concept at the earliest, rather than bringing in the proposed amendment at this stage. In addition, the Commission has not provided any rationale for 25% and 35% increase in MTOA and STOA charges respectively. In case the Commission desires to fix higher charges, they should be considered only for short term and not for medium term.

- 6.4.20. RSWM limited and PHD Chamber of Commerce and Industry have submitted that since, no investment is made for MTOA/STOA, therefore STOA/MTOA charges should not be more than LTA charges.
- 6.4.21. OTPC has submitted that generator would ideally like to sale its entire generation capacity in long term at higher prices than in short term with lower/volatile prices, however, they are not able to do so in view of paucity of DISCOMs Case-I and Case-II bids. The Commission may advise state DISCOMs to ensure that 85% of demand is met by long term PPAs. Further, MTOA/STOA charges may not be increased. Even if the Commission intends to dis-incentivize, the increased STOA and MTOA charges should be applicable only for state utilities/ procurers/ beneficiaries.
- 6.4.22. Directorate of Energy, HP has suggested that PoC charges for STOA should be 50% of Long Term PoC charges. As size of short term market is around 10% of total market size in terms of volume, they have also suggested that 10% of corridor may be reserved for STOA transaction (both bilateral as well as Exchange). Shri V S Ailawadi has submitted there is no study or empirical data except System Operators report has been put in public domain to suggest losses from STOA & MTOA. Justification for proposed changes is not sound nor is it rational when no data has been put in public domain to enable it contest by all stakeholders. The transmission system planning based on long term PPAs has become a subject of review. The inadequacies in intra-State level system and gaps in the regional grid is the area required greater planning to address the factors coming in the way of achieving optimal utilization of transmission capacity. The expert Committee has suggested a complete departure from existing principles for transmission planning and thus, it is inadvisable to go ahead with the proposed change for interim period.

6.5. **Analysis and decision:**

- 6.5.1. We have analyzed the comments received from stakeholders. The Commission had proposed increase in transmission charges in respect of power transaction under MTOA and STOA in view of the fact that transmission system is planned to cater the requirements of LTA customers but nowadays, LTA customers are relinquishing their LTA right for variety of reasons to avoid commitment for payment of transmission charges. At the same time, they want to be connected to the grid and avail power through MTOA or STOA for which no augmentation is carried out and is granted only on the margins available in the transmission system. This commission was of the view that this scenario would lead to sub-optimal transmission planning leading to increase of congestion.

6.5.2. The Commission has vide Public Notice dated 14.11.2017, notified the Draft Central Electricity Regulatory Commission (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017 which addresses the issues raised above. Keeping in view the above said draft regulations and the views of stakeholders, as of now we have decided not to go with the proposed draft. The Commission may review and reconsider it after finalising the said draft GNA Regulations.

7. Amendments related to offset provided for charges paid under MTOA /STOA by LTA Customer

7.1. Second proviso to clause (5) of Regulation 11 of the Principal Regulations was proposed to be substituted as under:

“Provided further that while billing transmission charges for next month, the quantum of Medium-term Open Access to any region shall be adjusted against the quantum of Long-term Access to the target region without identified beneficiaries limited up to quantum of Long Term Access:”

7.2. **The Commission had given following rationale while proposing the above amendment:**

“5. The Regulations provides that a DIC with LTA to target region shall be given offset for STOA/MTOA to any region. However it is required that more clarity is required in the same to clarify following.

(1) The offset shall be provided for the quantum only. A DIC may be paying an injection POC rate under LTA to target region which may be different from POC rates paid by it under STOA/ MTOA. A DIC shall be provided offset in the LTA bill of next month for the quantum for which it has already paid under MTOA /STOA in previous month.

(2) Such an offset shall be provided only if DIC which is paying charges for LTA under target region does STOA/MTOA which effectively implies it has paid both for LTA and MTOA/STOA. In case a DIC(or a trader on its behalf) has not sought STOA/MTOA and has not paid charges towards MTOA/STOA it shall not be given offset for same. Offset is to be provided only to entity which is paying charges for the same quantum twice.

- (3) Accordingly draft amendments have been proposed to bring clarity in how the offset is to be provided. An example is provided below for clarity:

DIC "A" has LTA of 500 MW from WR to SR (Target Region). PoC Injection Rates (PoC + Rel. Supp. Charges + HVDC Charges) applicable to this DIC is Rs. 1,50,000/- Per MW per Month. DIC will pay Rs. 7,50,00,000/-. In case DIC identifies beneficiary through MTOA for 200 MW and withdrawal rate of beneficiary identified is Rs. 2,00,000/- Per MW per Month, then charges collected for MTOA of 200 MW from DIC is Rs. 4,00,00,000/-. In next month bill the DIC having LTA to target region have to pay PoC Charges for balance quantum of 300 MW after offsetting the quantum of MTOA of 200 MW @ Rs. 150000 / MW i.e. next month's bill under LTA will be Rs. 4,50,00,000/-."

7.3. Comments have been received from Jindal Stainless (Hisar) Ltd., POSOCO, ESSAR Power, JITPL and SEL:

- 7.3.1. Jindal Stainless (Hisar) Ltd. has welcomed the proposed amendment.
- 7.3.2. POSOCO has submitted that the PoC rates used for billing and accounting purposes are known upfront. Therefore, instead of adjusting the transmission charges through bill raised in the next month, the quantum of MTOA to any region may be adjusted in the current month against the quantum of LTA to the target region limited up to quantum of LTA.
- 7.3.3. ESSAR Power and JITPL have submitted that the offset should in Rupees terms.
- 7.3.4. SEL has submitted that it is always better to offset the exact charges already paid instead of simple adjustment of quantum.

7.4. Analysis and decision:

- 7.4.1. We have analyzed the submission by stakeholders.
- 7.4.2. We agree with submission of POSOCO that the quantum of MTOA to any region may be adjusted in the current month against the quantum of LTA to the target region limited up to quantum of LTA. The adjustment suggested by POSOCO shall be possible in case MTOA transaction for the said DIC is known prior to notification of PoC rates in which case PoC rates shall be determined taking into account such offset. However if MTOA transaction is entered into after PoC rates are notified for a particular quarter, specific offset of quantum in next month billing shall be required.

7.4.3. We do not agree to suggestion of ESSAR Power, JITPL and SEL that offset should be on Rupee terms. The concept of offset has been introduced to make sure an entity is not billed twice for the same quantum of power. An MTOA transaction is with identified beneficiary for which Withdrawal PoC rates shall be applicable. A DIC with LTA to target region should be liable to pay Withdrawal charges in case it agrees into firm contract for part/full of its power with a firm beneficiary subject to terms of its contract with beneficiary related to liability of the charge. Hence for such a transaction LTA quantum to be billed should reduce by the quantum for which firm contract has been entered into. Hence offset shall be on quantum only.

7.4.4. Accordingly, Second proviso to clause (5) of Regulation 11 of the Principal Regulations shall be substituted as under:

“Provided further that the quantum of Medium Term Open Access to any region availed during a month by a DIC having Long Term Access to a target region without identified beneficiaries shall be adjusted against the Long-term Access of such DIC limited to the granted quantum of Long Term Access:”

8. Clause (6) of Regulation 11

8.1. Clause (6) of Regulation 11 of the Principal Regulations was proposed to be substituted as under:

"The third part of the bill shall be used to adjust any variations in FERV, Incentive, 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 Charges over the three months of PoC application period on quarterly basis. This part of the bill shall be raised on first working day of September, December, March and June for the previous PoC application period."

8.2. **The Commission had given following rationale while proposing the above amendment:**

“As per principal regulation, third part of the bill was to 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. This part of the bill was to be raised on first working day of September and first working day of March for the previous six months. Initially, for FY 2012-13, PoC Charges were determined on six

monthly basis, which later changed to quarterly basis. In order, to have harmony with Calculation of PoC Rates and to adjust any variation as early as possible, it is necessary to raise the Bill-3 on quarterly basis coinciding with PoC Computations. Arrears arising out of various True up orders & final orders are being included in Bill-3, and same has been included in the draft amendment.”

8.3. Comments have been received from APP, Adani Power, KSEBL and Jindal Stainless (Hisar) Ltd. :

8.3.1. APP and Adani Power Limited have submitted that the said regulation may be modified to take into account any variations in interest rates and tax rate as per existing Tariff Regulations.

8.3.2. KSEBL has submitted that the PoC rates arrived for each quarter based on forecasted injection/withdrawal quantum may also be revised based on actual and the difference in PoC charges collected from DICs may be adjusted in bill-3 along with other adjustments.

8.3.3. Jindal Stainless (Hisar) Ltd. has welcomed the proposed amendment and has suggested that the deletion of adjustment on account of variation in interest rates does not seem to be in order.

8.4. Analysis and decision:

8.4.1. Jindal Stainless (Hisar) Ltd. has welcomed the proposed amendment.

8.4.2. We are not inclined to consider the submission of KSEB as of now since the same was not proposed in the draft Regulations.

8.4.3. We do not agree with the views of APP, Adani Power and Jindal Stainless (Hisar) Ltd. that the said regulation should be modified to take into account any variations in interest rates and tax rate as per existing Tariff Regulations since any variations in tax rate or interest rate shall be considered by Transmission Licensee in its tariff petition / true up petition under the Tariff Regulations. The same shall be recovered on issue of final order or true up tariff Order by the Commission. Hence the requirement of specific inclusion of interest rate or tax rate in this Clause does not arise. However arrears arising out of issue of final order or true up Order shall be billed by the licensee under Bill-3.

8.4.4. Regarding suggestion of KSEBL for trueing up of PoC rates based on actual data, it is noted that CERC has vide Office Order dated 10.7.2017, constituted a Task Force under the Chairmanship of Shri A.S. Bakshi,

Member, CERC, consisting of representatives from CEA, CTU, POSOCO to "Review of the framework of Point of Connection (POC) Charges". The suggestion of KSEBL has been included for deliberation under the taskforce and decision on same shall be considered after receiving recommendations of the Taskforce.

- 8.4.5. Accordingly, Clause (6) of Regulation 11 of the Principal Regulations shall be substituted as under:

"The third part of the bill shall be used to adjust any variations in FERV, Incentive, rescheduling of commissioning of transmission assets, arrears due to any revision Order etc. as allowed by the Commission for any ISTS Transmission Licensee. Total amount to be recovered or reimbursed on account of such under-recovery or over-recovery shall be billed by the CTU to each DIC in proportion of its average Approved Injection or Approved Withdrawal Charges over the relevant PoC application period. This part of the bill shall be raised on first working day of September, December, March and June for the previous PoC application period."

9. First, Second and third proviso to clause (9) of Regulation 11

- 9.1. First, Second and third proviso to clause (9) of Regulation 11 of the Principal Regulations was proposed be substituted as under:

"Provided that a DIC which has been granted LTA to a target region and is paying injection charges for Long Term Access avails Short Term Open Access to any region, the quantum of Short Term Open Access shall be adjusted in the following month against the quantum of Long Term Access to target region limited to quantum of Long Term Access to the extent of the quantum for which DIC has paid charges.

Provided further that a DIC, who has been granted Long-term Access to a target region, shall be required to pay PoC injection/ withdrawal charge for the Approved Injection/Withdrawal for the remaining quantum after offsetting the quantum for Medium-term Open Access, and Short-term open access to the extent of the quantum for which DIC has paid charges.

Provided also that the Withdrawal PoC charges paid by DIC towards Short-term open access given to a DIC shall be offset against the corresponding Withdrawal PoC charges to be paid by the Withdrawal DICs for Approved withdrawal limited to difference of Approved Withdrawal and Net withdrawal (load minus own injection) considered in base case, if Approved withdrawal is less than the Net Withdrawal:"

9.2. Comments have been received from Open Access User Association, IEX, PHD Chamber of Commerce & Industry, NTPC, Jindal Stainless (Hisar) Ltd., TPDDL and SRPC:

9.2.1. Open Access User Association (OAU) has welcomed the proposed Amendment and has requested the Commission to come up with a mechanism for implementation of the same so that it clarifies the process regarding the above mentioned process.

9.2.2. IEX and PHD Chamber of Commerce & Industry have submitted that the adjustment of quantum should be done in all the cases (including identified beneficiary). Similarly, for Power Exchange transactions, adjustment of withdrawal quantum should be done where net withdrawal is less than the approved withdrawal. States have taken LTA for drawing power from ISGS and UMPPs and average drawl is less the contracted quantum due to partial operation on account of outages, maintenance etc. Hence, withdrawal quantum availed by states under STOA should offset against the total LTA quantum thereby avoiding duplication of charges.

9.2.3. NTPC has submitted that STOA Charges against URS sale by Generating Company as per consent of beneficiary to be offset against withdrawal charges of consenting beneficiaries.

9.2.4. Jindal Stainless (Hisar) Ltd. has reworded the Second and Third proviso to the proposed amendments:

2nd Proviso may be reworded as under:

Provided further that a DIC, who has been granted Long-term Access to a target region, shall be required to pay PoC injection/ withdrawal charge for the Approved Injection/Withdrawal only for the remaining quantum after offsetting the quantum and charges already paid for Medium-term Open Access, and Short-term open access.

3rd Proviso may be reworded as under:

Provided also that the Withdrawal PoC charges paid by DIC towards Short-term open access given to a DIC shall be offset against the corresponding Withdrawal PoC charges to be paid by the DICs for Approved withdrawal limited to lower of the Approved and/or Net withdrawal.

9.2.5. TPDDL has welcomed the proposed amendments and has requested to provide the same principle of 100% offset to target LTA holders (in lieu of MTOA/STOA), to DICs having point to point LTAs otherwise it will result in

inequity and discrimination in the LTA category. Any MTOA/STOA quantum/charges availed by drawl DICs such as TPDDL should be offset to the extent of unutilized LTA quantum in MW calculated by finding the difference between the “Approved withdrawal” and the maximum scheduled quantum of power in MW against such LTA on a monthly basis.

- 9.2.6. SRPC has submitted that offset should be provided only to entity which is paying charges for the same quantum twice. The charges paid by a generator under LTA cannot be correlated with the transmission charges paid by the same generator under STOA for same quantum due to difference in the methodology of calculation. Offset of STOA needs to be given to two parties both injecting and withdrawal as it is collected from two parties which is not in the case of LTA and which may have resulted into double payment.

9.3. **Analysis and decision:**

- 9.3.1. We have analyzed the comments of the stakeholders.

- 9.3.2. We do not agree with suggestion of NTPC to provide offset to generating Company for sale by it since any offset can be extended to an entity which is liable to pay charges for it to avoid double charging. Hence suggestion of NTPC is not accepted.

- 9.3.3. IEX, PHD Chamber of Commerce & Industry and TPDDL have requested to provide offset for unutilized tied up LTAs also. In this regard it is observed that tied up LTAs provide assured scheduling for LTA Customers. Any underutilisation has already been covered under Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) (Sixth Amendment) Regulations, 2017 notified on 17.2.2017 through Regulation 16B which provides as follows:

“16B. Underutilisation of Long term Access and Medium term Open Access:

In case it is observed by RLDCs that the LTA or MTOA customer's request for scheduling is consistently (for more than 5 days) lower than the quantum of LTA or MTOA granted by the Nodal Agency (i.e.; CTU), RLDC may issue a notice to such LTA or MTOA customer asking the reasons for such under-utilization. The LTA or MTOA customer shall furnish the reasons for such under-utilization and will provide such details like the reduced requirement, likely period, etc. by the following day. The un-utilized transfer capability will then be released for scheduling of Medium term and Short-term open access transaction depending upon

the period of such underutilization with a condition that such transaction shall be curtailed in the event original LTA or MTOA customer seeks to utilize its capacity: Provided that where the capacity tied up under LTA is released under MTOA, the concerned generator shall not be liable to pay the LTA charges for such reallocated capacity. “

Accordingly the provision of relief for underutilisation of LTA has already been considered in case said capacity is utilised by other customer.

9.3.4. Accordingly, Provisions under Clause (9) of Regulation 11 of the Principal Regulations shall be substituted with new Clause (10) as under:

“(10) The offset for STOA for a DIC paying charges under LTA shall be as follows:

(a) If a DIC, having LTA to a target region without identified beneficiaries and paying injection charges for Long Term Access, avails Short Term Open Access to any region:

(i) The charges for the quantum of Short Term Open Access shall be adjusted in the following month against the charges for Long Term Access of such DIC limited to the granted quantum of Long Term Access.

(ii) This offset shall be limited to the extent of the quantum for which DIC has paid transmission charges towards long term access.

(b) The quantum of power for which a DIC is granted STOA shall be offset against the Approved withdrawal for which Withdrawal PoC charges are paid by the concerned DIC. This offset shall be limited to difference between Approved Withdrawal and Net withdrawal (load minus own injection) considered in base case, if Approved withdrawal is less than the Net Withdrawal:

(c) For Withdrawal DIC, this adjustment shall be given only for STOA transaction by DIC, and shall not be applicable to intra-State entities embedded in State network and availing STOA:

(d) The adjustment for STOA availed by a DIC having LTA to target region without identified beneficiaries shall also be applicable in case of collective transactions undertaken by concerned DIC. In such cases, Injection DICs shall be given adjustment corresponding to injection charges and

withdrawal DICs shall be given adjustment corresponding to withdrawal charges:

- (e) The adjustment of STOA against LTA shall not be applicable for collective transactions and bilateral transactions undertaken by a trading licensee, who has a portfolio of generators in a State for which LTA was obtained by the trading licensee to a target region."

9.3.5. Further vide Public Notice dated 14.11.2017 notified Draft (Grant of Connectivity and General Network Access to the inter-State transmission system and other related matters) Regulations, 2017 has been notified for public comments whereby the methodology of scheduling and Sharing of transmission charges have also been indicated in the Explanatory Memorandum. Any further view on this aspect shall be considered at the time of finalizing the GNA Regulations.

10. Additional Comments

Stakeholders have suggested amendments on certain issues not covered under the draft amendment. All such suggestions shall be kept in view while proposing future amendment to Sharing Regulations.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

List of Stakeholders submitted written Comments/Suggestions

S. No.	Company/Stakeholder/Individual
1.	ACME Cleantech Solutions Private Limited (ACME)
2.	AD Hydro Power Limited (ADHPL)
3.	Adani Green Energy Limited
4.	Adani Power Limited
5.	Association of Power Producers (APP)
6.	Bonafide Himachalies Hydro Power Developers Association
7.	BSES Rajdhani Power Limited (BRPL)
8.	D B Power Limited
9.	Directorate of Energy, Himachal Pradesh
10.	DVC
11.	Essar Power
12.	Gujarat Urja Vikas Nigam Limited (GUVNL)
13.	Hare Krishna Metallic Pvt. Ltd.
14.	Hero Future Energies Pvt. Ltd.
15.	Hindustan EPC-CO Private Limited
16.	IEX
17.	Independent Power Producers Association of India (IPPAI)
18.	Indian Wind Energy Association (INWEA)
19.	Indian Wind Power Association (IWPA)
20.	J. Sagar Associate (JSA)
21.	Jindal India Thermal Power Limited (JITPL)
22.	Jindal Stainless (Hisar) Ltd.
23.	Kerala State Electricity Board Ltd. (KSEBL)
24.	M B Power (Madhya Pradesh) Ltd.
25.	Madhya Pradesh Power Management Company Limited (MPPMCL)
26.	Malana Power Company Limited (MPCL)
27.	Mandi Gobindgarh Induction Furnace Association
28.	National Solar Energy Federation of India (NSEFI)
29.	NHPC Limited (NHPC)
30.	NTPC Ltd. (NTPC)
31.	NTPC Vidyut Vapar Nigam Ltd. (NVVN)
32.	ONGC Tripura Power Company Limited (OTPC)
33.	Open Access Users Association (OAUA)
34.	PHD Chamber of commerce and industries (PHD)
35.	POSOCO
36.	POWERGRID
37.	RSWM Limited

38.	Shree Cement Ltd.
39.	Shri Ravinder
40.	Shri V S Ailawadi
41.	Shri Vineet Sarawagi
42.	Simhapuri Energy Limited (SEL)
43.	Southern Regional Power Committee (SRPC)
44.	Tata Power Trading Company Limited (TPTCL)
45.	Tata Power-DDL (TPDDL)
46.	The Rajasthan Solar Association (RSA)
47.	Thermal Powertech Corporation India Ltd. (TPCIL)
48.	Vedanta Limited
49.	West Bengal State Electricity Distribution Company Limited (WBSEDCL)

**List of Stakeholders given comments/suggestions during Public Hearing held
on 17.11.2016**

S. NO.	COMPANY/STAKEHOLDER/INDIVIDUAL
1.	Adani Green Energy Limited
2.	IEX
3.	Jindal Stainless Steel Ltd.
4.	NTPC
5.	NVVN
6.	POSOCO
7.	POWERGRID
8.	TPTCL