

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram:
Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member**

No. L-1/160/2020-CERC

Date: 13th April, 2020

**In the matter of Central Electricity Regulatory Commission (Payment of Fees)
(Second Amendment) Regulations, 2020**

STATEMENT OF REASONS

1. Introduction

1.1. The Central Electricity Regulatory Commission (hereinafter referred to as “the Commission”) vide notification dated 23rd March 2020 issued the Draft Central Electricity Regulatory Commission (Payment of Fees) (Second Amendment) Regulations, 2020 (hereinafter referred to as “Draft Amendment Regulations”) along with the Explanatory Memorandum seeking comments/ suggestions/ observations from the stakeholders/ public.

1.2. The Commission proposed the amendment to Clause (3) of Regulation 7 of the CERC (Payment of Fees) Regulations, 2012 (hereinafter called Principal Regulations) consequent to the notification of CERC (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 (hereinafter called Trading Licence Regulations, 2020) repealing the CERC (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 (hereinafter called Trading Licence Regulations, 2009).

1.3. In response to the Draft Amendment Regulations, comments were received from three stakeholders, namely, PTC India Ltd, Saini Power Transactor (SPT) and RPG Power Trading Company Ltd (RPGPTCL). After due consideration of the comments/ suggestions provided by the stakeholders, the Commission has finalized the Second Amendment to the Principal Regulations.

2. Amendment of Regulation 7 of the Principal Regulations

Commission’s proposal

2.1 The Commission in the Draft Amendment Regulations proposed the following:

(1) Clause (3) of Regulation 7 of the Principal Regulations shall be substituted as under:-

“(3) Any person who has been granted or is deemed to have been granted licence by the Commission for inter-State trading in electricity in accordance with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 (hereinafter called Trading License Regulations, 2020) shall pay annual licence fee at the rates specified hereunder:

S. No.	Category of license	Volume proposed to be traded in a Financial Year	Annual License Fee (Rs. In lakh)
1	Category I	No Limit	40
2	Category II	Upto 7000 MU	15
3	Category III	Upto 4000 MU	6
4	Category IV	Upto 2000 MU	3
5	Category V	Upto 500 MU	3

Provided that the Category III and IV licensees with respect to the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 (hereinafter called Trading License Regulations, 2009) shall pay annual license fee as applicable for Category V of the Trading License Regulations, 2020. Category II licensee of Trading License Regulations, 2009 shall pay annual license fee as applicable for Category IV under the Trading License Regulations, 2020. Category I licensee of the Trading License Regulations, 2009 shall pay annual license fee as applicable for Category I or II or III under the Trading License Regulations, 2020 based on the volume proposed to be traded in a financial year.”

Comments Received

2.2 PTC India Limited has conveyed that it has no objection to the fee structure proposed in the Draft Amendment Regulations.

2.3 SPT has stated that it accepts the annual licence fee proposed under Draft Amendment Regulations for different categories of licensees except the proposal to specify the licence fee of Rs.3 lakh for Category IV and Category V. SPT has submitted that since Category IV licensee can trade 4 times as that of Category V licensee but has to pay the same fee as Category V licensee, it is against the principle of natural justice. SPT

suggested that the licence fee for Category V licensee may be kept as one fourth of the licence fee of Category IV licensee.

2.4 RPGPTCL has submitted the following:

(i) Category II licensee of Trading Licence Regulations, 2009 shall pay annual licence fee as applicable for category IV under the Trading Licence Regulations, 2020. The Commission may clarify whether Category II trading licensee as per Trading Licence Regulations, 2009 shall be eligible to trade up to 7000 MU under the Trading Licence Regulations, 2020.

(ii) The Commission may further clarify whether the provision is applicable to trading licences issued under Trading Licence Regulations, 2020 since Trading Licences granted under the Trading Licence Regulations, 2020 have to pay licence fee to CERC for their respective category of licence irrespective of volume proposed to be traded in a financial year whereas the relief is given to the trading licensees who have got licence under the Trading Licence Regulations, 2009.

(iii) Eligible category of a trading licence is guided on the basis of its Net Worth and accordingly, the permissible volume of trading by that category of trader is decided. In view of the same logic, it is proposed that traders' category should be allowed by CERC based on its net worth and the annual licence fee payable by the trader shall be corresponding to the actual volume traded in a financial year for the following reasons:

(a) A trader can demonstrate his Net Worth strength in the market irrespective of volume traded.

(b) The fee payable by the trader under any category shall be corresponding to its volume, which will reduce unnecessary burden on high Net Worth traders even if volume traded is low.

(c) To increase number of high Net Worth category traders with a view to develop the evolving market coming up with new products.

RPGCTL has given the following illustration to explain its contention:

“Illustration:

A category I trading licensee shall pay his licence fee to CERC either Rs. 40 lakhs (trade under no limit) or Rs. 15 lakhs (trade upto 7000 MUs) or Rs. 6 lakhs (trade upto 4000 MUs) depending on its volume proposed to be traded in a financial year. Similarly, a Category II trading licensee shall pay the licence fee to CERC either Rs.

15 lakhs (trade upto 7000 MUs) or Rs. 6 lakhs (trade upto 4000 MUs) or Rs. 3 lakhs (trade upto 3000 MUs or 500 MUs) since his Net Worth is making him eligible for a Category II trading licence”.

Analysis and Decision

2.5. The Commission has analysed the comments received from the stakeholders. After due consideration of the comments received, the Commission is of the view that Regulation 3(3) of the Trading Licence Regulations, 2020 specifies five categories of licensees based on minimum Net Worth criteria and volume of electricity proposed to be traded in a financial year. Further, Regulation 9(2) of Trading Licence Regulations, 2020 provides as under:

*“(2) The Trading Licensee shall maintain the Net Worth in accordance with Regulation 3 of these regulations at all times and shall maintain Current Ratio of 1:1 and Liquidity Ratio of 1:1 at the end of every financial year:
Provided that if the current ratio or the liquidity ratio at the end of the financial year is less than 1:1, then the Trading Licensee shall be required to maintain additional Net Worth of 100% of the Net Worth stipulated for the respective category of trading licence.”*

Therefore, the trading licensees are required to maintain the minimum Net Worth of the category for which they have been granted licence and the licence fee will be payable according to their respective category of licence.

Further, Regulation 21 of Trading Licence Regulations, 2020 provides additional provisions (including the payment of fee) in respect of Existing Licensees as under:

“21. Additional provisions in respect of Existing Licensees

(1) The Existing Licensees shall meet the Net Worth, Current Ratio and Liquidity Ratio criteria specified in clause (2) of Regulation 9 and submit an audited special balance sheet within a period of six months from the date of commencement of these regulations to support the compliance of Net Worth requirement:

Provided that in case the Existing Licensee fails to comply with the above, the Existing Licensee shall submit an application for category change within six months from the date of commencement of these regulations.

(2) The Existing Licensees shall charge trading margin in accordance with Regulation 8.

(3) The Existing Licensees shall pay the licence fee as may be specified by the Commission from time to time:

Provided that the licence fee when revised, shall be payable by the Existing Licensees on pro rata basis from the date of such revision till the end of the Year.”

As per the above provisions, the existing licensees shall meet the Net Worth, current ratio and liquidity ratio criteria and submit audited balance sheet in support of the compliance within 6 months from the date of commencement of Trading Licence Regulations, 2020. The above regulations further provide that if the existing licensee fails to achieve the Net Worth of the respective category, it is required to apply for category change within 6 months from the date of commencement of Trading Licence Regulations, 2020. Therefore, the trading licensees are required to achieve the Net Worth of their respective category of licence or seek change of category in accordance with its Net Worth within 6 months from the date of commencement of Trading Licence Regulations, 2020.

2.6 The proposed amendment specifies the licence fee for each category of trading licence under Trading Licence Regulations, 2020. After the exercise in terms of Regulation 21 is carried out, the respective category of the existing licensees in accordance with the provisions of Trading Licence Regulations, 2020 will be determined and accordingly, the licensees will be liable to pay their fees for the respective category of their licence. As per the Principal Regulations, the licensees are required to pay their licence fee by 30.4.2020 without payment of late payment surcharge. Accordingly, the proviso has been proposed to enable the trading licensees to pay their licence fees for the financial year 2020-21 pending determination of their category of licence in accordance with Regulation 21 of the Trading Licence Regulations, 2020.

2.7. With regard to RPGPTCL’s query whether a Category II trading licensee under Trading Licence Regulations, 2009 while paying the licence fee of Category IV under Trading Licence Regulations, 2020 shall still be eligible for trading 7000 MUs of electricity, it is clarified that the category of licence has been based on the basis of Net Worth as well as the volume of electricity proposed to be traded during the year. Therefore, a Category II licensee under Trading Licence Regulations, 2009 will have to achieve the Net Worth of Category II under Trading Licence Regulations, 2020 in order to be able to trade 7000 MUs of electricity during a year. Pending demonstration of its Net Worth for Category II under Trading Licence Regulations, 2020 or change of category in accordance with Regulation 21 of Trading Licence Regulations, 2020, it will be eligible to

trade only 1500 MUs and pay the licence fee for Category IV. As regards the other suggestion of RPGPTCL that the traders' category should be allowed on the basis of Net Worth and that the annual licence fees payable by a trader should be corresponding to the actual volumes traded in a financial year, the Commission is of the view that the suggestion if implemented will result in loss of seriousness on the part of the trader to achieve the trading volume commensurate to its category of licence. Since the category of licence is based on both Net Worth and volume to be traded during a year, the trader is required to meet both the requirements. Further, Clause (4) of Regulation 9 pertaining to obligations of Trading Licensees provides as under:

“(4) The Trading Licensee shall make an appropriate application accompanied by prescribed fees for up-gradation of its licence to a higher category or down-gradation of its licence to a lower category in order to fulfil the conditions of these regulations in accordance with the procedure specified in Regulation 15 of these regulations.”

Regulation 9(4) read with Regulation 15 makes it clear that trading licensees have to apply for upgradation/ down-gradation of its category on the basis of volume proposed to be traded in a year. Further, if a trading licensee is unable to trade the required volume under its category of licence, it can apply for change of category under Regulation 21 of Trading Licence Regulations, 2020. In view of the above, we cannot accept the suggestion of RPGPTCL.

2.9. SPT has suggested that the licence fee for Category V should be kept at 1/4th of the licence fee of that of Category IV on the basis of the volume of electricity proposed to be traded. The Commission is of the view that under Trading Licence Regulations, 2009, Category IV licensee was allowed to trade upto 100 MUs and was required to pay the licence fee of Rs.3 lakh whereas under Trading Licence Regulations, 2020, a Category IV licensee is allowed to trade upto 2000 MUs. Keeping in view the annual licence fee applicable for lowest category (Rs.3 lakh for Category IV) in the repealed Trading Licence Regulations, 2009, the same annual licence fee was proposed for Category IV and Category V in the Draft Amendment Regulations. Considering the comments of SPT, the Commission has now decided to fix the annual licence fee applicable to Category V licensee as Rs.2 lakh in place of proposed Rs.3 lakh.

2.10. In the final amendment, the Commission has decided that Clause (3) of Regulation 7 of the CERC (Payment of Fees) Regulations, 2012 shall be substituted as under:-

“(3) Any person who has been granted or is deemed to have been granted licence by the Commission for inter-State trading in electricity in accordance with Trading Licence Regulations, 2020 shall pay the annual licence fee at the rates specified hereunder:

S. No.	Category of licence	Volume of electricity proposed to be traded in a Financial Year	Annual Licence Fee (Rs. in lakh)
1	Category I	No Limit	40
2	Category II	Upto 7000 MUs	15
3	Category III	Upto 4000 MUs	6
4	Category IV	Upto 2000 MUs	3
5	Category V	Upto 500 MUs	2

Provided that the licensees shall pay the annual licence fee of their respective categories of licence under the Trading Licence Regulations, 2020 based on their Net Worth and volume of electricity, as determined in accordance with Regulation 21 of Trading Licence Regulations, 2020:

Provided further that the annual licence fee shall be paid for the financial year 2020-21 as under:

- (a) Category III and IV licensees under Trading Licence Regulations, 2009 shall pay the annual licence fee as applicable for Category V licensee under the Trading Licence Regulations, 2020;
- (b) Category II licensees under Trading Licence Regulations, 2009 shall pay the annual licence fee as applicable for Category IV licensee under the Trading Licence Regulations, 2020; and
- (c) Category I licensees under Trading Licence Regulations, 2009 shall pay the annual licence fee as applicable for Category I or II or III or IV licensee, as applicable, under the Trading Licence Regulations, 2020 based on the volume proposed to be traded during 2020-21:

Provided also that the annual licence fee for the financial year 2020-21, paid as per (a), (b) or (c) of second proviso above, is subject to adjustment of fee as per the determination of

category of trading licence in accordance with Regulation 21 of the Trading Licence Regulations, 2020.”

3. Since the Trading Licence Regulations, 2009 and Trading Licence Regulations, 2020 have been frequently used in this amendment to the Principal Regulations; the same have been included under “definitions” as under:

“(n) “Trading Licence Regulations, 2009” means the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009, as amended from time to time;

(o) “Trading Licence Regulations, 2020” means the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020, as amended from time to time.”

3. Accordingly, Regulations 2 and Regulation 7 (3) of the CERC (Payment of Fees) Regulations, 2012 have been amended.

Sd/-
(Arun Goyal)
Member

Sd/-
(I.S. Jha)
Member

Sd/-
(P.K. Pujari)
Chairperson