

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

**Shri Jishnu Barua, Chairperson
Shri I S Jha, Member
Shri Arun Goyal, Member
Shri P K Singh, Member**

No.13/2/7/2015-PM/CERC

Dated: 15th December, 2023

In the matter of

**Central Electricity Regulatory Commission (Cross Border Trade of Electricity)
Regulations (First Amendment), 2023**

Statement of Reasons

1. Introduction

1.1. The CERC issued the “Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019(hereinafter referred to as “CERC CBTE Regulations,2019)” vide Notification No. 13/2/7/2015-PM/CERC Dated: 8th March 2019 effective from 08.03.2019.

1.2. The Ministry of Power issued “Guidelines for Import/Export (Cross Border) of Electricity-2018” on 18.12.2018, inter-alia, provide that a Nodal Agency (Settlement Nodal Agency, i.e. SNA) notified for each country by the Ministry of Power, shall be responsible for the settlement of grid operation-related charges as per the CERC Regulations. The role of SNA has been further detailed in the CERC CBTE Regulations, 2019.

1.3. The Central Electricity Regulatory Commission (hereinafter referred to as “the Commission”), vide notification dated 28th August 2023, issued the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) (First Amendment) Regulations, 2023 (hereinafter referred to as “Draft Amendment

Regulations”) along with the public notice seeking comments/ suggestions/ observations from the stakeholders/ public.

- 1.4. The Commission proposed an insertion to Regulation 2 (Definition clause) and Amendment of Regulation 30, clause 2 of the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019 (hereinafter referred to as “the Principal Regulations”).
- 1.5. Comments/suggestions/objections from stakeholders and interested persons on the provisions of the Draft Regulations were sought by the Commission by 11th September 2023. In response, the Commission received written submissions from Four (4) stakeholders. One of the representatives of the Bangladesh Power Development Board (BPDB), vide their Email dated 18.09.2023, requested permission to participate in the public hearing on 20.09.2023. Accordingly, during the public hearing, the Commission granted permission to the representative of BPDB for oral submission. However, their comments have also been included in the analysis. The list of stakeholders who have submitted their written comments is attached as **Annexure-I** to this document. Some of the stakeholders also requested to attend the public hearing in virtual mode, and the list is attached as **Annexure- II**.
- 1.6. A public hearing on the proposed amendments was also organized on 20.09.2023. After due consideration of the comments/ suggestions provided by the stakeholders, the Commission has finalized the First Amendment to the Principal Regulations.
- 1.7. It may be noted that all the suggestions given by the stakeholders have been considered, and the Commission has attempted to elaborate on all the suggestions as well as the Commission’s decisions on each suggestion in the Statement of Reasons. However, if any suggestion is not specifically elaborated, it does not mean that the same has not been considered. Wherever possible, the comments and suggestions have been summarized clause-wise, along with the Commission’s analysis and ruling on the same.

2. Definition and Interpretation (Regulation 2)

2.1. **Definition of ‘Settlement Nodal Agency Charge’ or ‘SNA Charge’ [Clause (tt)(A)]**

2.2. **Commission’s Proposal:**

*The definition of **Settlement Nodal Agency Charge’ or ‘SNA Charge’** Clause 2(tt)(A) of the Draft Regulations is provided below:*

*“(tt-A) **‘Settlement Nodal Agency Charge’ or ‘SNA Charge’** means the charge payable to the SNA by the cross-border customers for discharging the mandated functions;”*

Comments Received:

2.3. **PTC:** “As per the above definition, Cross-Border Customers include both Indian entities and neighbouring entities who will be applying for Open Access. However, the construct of the SNA services is such that the SNA Agreement is executed between the SNA and the designated entity of the neighbouring country. The delivery of such services by the SNA is also primary to the designated entity of the neighbouring country, which is the counterparty to the SNA agreement. Additionally, as per Explanatory Memorandum Point no. 1.7, the SNA has represented that the CERC Regulation should result in the collection of charges from the neighbouring country entity. **Therefore, in the interest of abundant clarity, it is proposed that the proposed definition should change the term “Cross-Border Customers” to “Cross-Border entities located in the neighbouring countries”** to give effect to the intent of making the designated entity of the neighbouring country as the obligated entity for payment of SNA charges and to maintain the privity of contract.”

2.4. **APPCL** requested to replace the word “cross-border customers” in the above-proposed amendments with the word “participating entity located in the neighbouring country”.

2.5. NVVN also suggested replacing the word “cross-border customer” with the **participating entity located in the neighbouring country** for discharging the mandated functions.

Analysis and Decision:

2.6. The Commission has considered the suggestions provided by different stakeholders in the context of the expression “Cross-border customer.” The Commission notes that the SNA Charge is clearly meant for the entities located in the neighbouring countries and has decided to clarify the same in the final amendment.

2.7. In view of the above, the following has been provided in the final amendment, as given below:

“(tt-A) ‘**Settlement Nodal Agency Charge**’ or ‘**SNA Charge**’ means the charge payable to the SNA by the *participating entities located in the neighbouring countries*, for discharging the mandated functions;”

3. Amendment of Regulation 30 of the Principal Regulations

3.1 Commission’s proposal

Amendment to Clause (2) of Regulation 30 of the Principal Regulations

(1) *Clause (2) of Regulation 30 of the Principal Regulations shall be substituted as under:*

“30 Payment of Transmission charges and other charges

(1) *XXX*

(2) *Settlement Nodal Agency may recover SNA charge of 1 paise (One paise)/kWh from the Cross-Border entities located in the neighbouring countries and shall formulate a suitable payment security mechanism for the charges to be collected by it.”*

Comments Received:

3.2 PTC

“We request that the rationale of setting the proposed fee at 1 paise/kWh based on the total annual costs encompassing manpower, office expenses, legal expenses, letter of credit (LC)/bank-related charges, and overhead amounts may be re-examined. **The current benchmark costs for the requirements to deliver the scope of work currently undertaken/ proposed by the SNA are significantly low.** Coupled with a volume exceeding 18 MUs that is envisaged for the cross-border trade in the coming years and the availability of entities like Grid India that can undertake such activities without incremental capital, **we**

believe that any SNA may not require any additional capital support. Therefore, we propose that while setting the SNA fee, only incremental expenditure needs to be considered, and the fee should be minimal to promote cross-border trade.”

3.3. NVVN

“It is further submitted that the proposed change is aligned with the provision regarding General provisions for Connectivity, Long Term Access, Medium Term Open Access and Short-Term Open Access under Regulation 8(1), wherein a Participating Entity located in a neighbouring country shall be required to seek connectivity or long-term access or medium-term open access or short-term open access, as the case may be, through separate applications.

1. *It is submitted that NVVN, as designated SNA, is discharging the entrusted roles and responsibilities for Cross Border Entities including **real-time schedule revisions, Free power scheduling (NHPC) to Nepal, settlement of weekly accounts issued by RPCs e.g. DSM, Reactive Energy, Congestion Accounts etc.** It is submitted that related activities e.g. verification of the issued energy/ DSM accounts, quarterly reconciliations and participation in RPC Meetings on behalf of Cross Border entities requires continuous attention and deployment of commensurate resources.*
2. *It is further submitted that as per the procedure for Cross Border Electricity Trade approved by GOI, import of power from cross border entity is to be ensured from approved generating stations by DA-GOI instead of from the pool of generation source.*
3. *It is submitted that to carry out these responsibilities effectively, **SNA is deploying manpower, including a Senior officer to supervise and ensure the proper execution of scheduling, billing, payment, realization, and settlement of grid-related charges. The proposed revision will enable servicing of SNA’s cost by the recipient of its services.***
4. *It is further submitted that mechanism of settlement of Grid Operation related charges (e.g. Settlement of charges in respect of the Weekly accounts issued by RPCs for DSM, Reactive Power etc.) through nominated Settlement Nodal Agency (SNA) for cross border electricity trading has been able to provide a way ahead for uniform implementation of CERC Regulations related to Grid Operation including DSM regulations for all the cross border entities e.g. Bhutan.*
5. *The proposed amendment in the regulation, for payment of "Settlement Nodal Agency Charge" or "SNA Charge" to SNA towards rendering its services is a step forward and enhancement in responsibilities of SNA under IEGC Regulations / GOI's DA Approval Procedure acknowledges the critical role of SNA in overseeing and taking care of our country's interest in cross-border electricity trade. This SNA charge is essential to cover the costs incurred by the SNA in managing cross-border transactions including manpower cost, office expenses, legal expenses, working capital requirements etc.*

6. *It is submitted that SNA as the interface Indian entity for Grid-India, RPCs etc. towards transaction/ Indian grid usage by neighbouring countries, provides safeguard against risk of International Arbitration or Dispute resolution nuances. However, It is required to provide/ extend adequate resources to SNA to take care of any risks related to International Arbitration.*
7. *It is submitted that NEA-Nepal and DGPC-Bhutan have already agreed to pay SNA charges that may be approved by Hon'ble Commission, in the SNA agreement signed by them with NVVN. The SNA agreement with BPDB, Bangladesh has been finalized on the similar lines in 21st meeting of Joint Steering Committee on Bangladesh-India Cooperation in Power Sector held on 03rd May 2023 in Bangladesh.*
8. *It is submitted that to start with, SNA Charge of one (01) paise per kWh is expected to enable cost recovery by the SNA considering the cost towards manpower, office infrastructure and other overhead expenses etc. Additionally, the provision of a suitable payment security mechanism for the collection of SNA charges will secure payments to SNA and ensure financial prudence.*
9. *Therefore, this amendment strikes an appropriate balance between the interests of cross-border entity, market participants, and the regulatory framework. It will contribute to the overall growth and development of cross-border electricity trade in India. The introduction of the SNA Charge is a necessary and well-considered step towards enhancing the efficiency and transparency of cross-border electricity trade while ensuring the financial viability of the SNA."*

3.4 GRID India

"Grid-India supports the contention that determination of fees/charges payable for undertaking the various activities of the Settlement Nodal Agency as envisaged in the Guidelines for Import/Export (Cross Border) of Electricity and the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, is sine-qua-non for smooth and independent functioning of any regulated entity performing statutory functions. Hence, the provision of SNA charge of One (1.00) paise/ kWh from the cross-border customers and mandate for formulation for a suitable payment security mechanism for collection of such charges **will be an enabler for functioning of SNA.**

However, it may be noted that the proposed paise/ kWh charge model provides **inherent incentive to the SNA for facilitating greater volume of trade. In the interest of independent functioning of SNA, it should ring fence** the trading and SNA activities. The two distinct roles of SNA and trader have to be separated out as there may be conflict of interest."

Analysis and Decision:

- 3.5. The Commission notes that the stakeholders have commented primarily on two counts, viz., the estimation of the annual cost for performing SNA functions; and the total volume (Scheduled energy) that needs to be managed by SNA.
- 3.6. As regards the cost obligations of SNA, the Commission notes that SNA is expected to provide the interface for all the cross-border entities (CBEs), {i.e., the entities located in the neighbouring country(ies)} in respect of scheduling, etc., by them with the Indian entities, e.g. RLDC/NLDC/ Grid-India, RPCs, etc. To meet the requirement of efficient data handling of scheduling data in respect of real-time operation, archiving, retrieving, etc., a web-enabled system with the desired security level will have to be developed by SNA for the scheduling of the CBEs. All inputs for scheduling related activities from CBEs, including daily availability declaration/ daily demand requisitions, inter-day/ intraday or other scheduling revisions, etc. will flow only through the SNA scheduling system to the Grid-India system. All reconciliation of energy and pool-related charges with cross-border entities will be the responsibility of SNA. In a similar manner, the handling of energy meter readings of CBEs, the despatch of power from stations of the neighbouring countries in conformity with Gol Cross Border Power Trading Guidelines/ Designated Authority's approval, associated grid data display, SCADA system etc. would be required. As the volume of cross-power trade grows with time, the system's complexities and responsibilities will also increase.
- 3.7. The Indian Electricity Grid Code effective from October 1, 2023, has added responsibilities for the SNA, such as scheduling power for various cross-border entities and ensuring compliance with cybersecurity measures. These measures are vital to ensuring the reliability and security of cross-border energy transactions.
- 3.8. All this is expected to entail cost obligations such as **manpower, including a Senior officer to supervise and ensure proper execution of scheduling, billing, payment, realization, and settlement of grid-related charges and costs related to the development and recurring maintenance thereof, office expenses, legal expenses, letter of credit (LC)/bank-related charges, and**

overhead amounts. The annual recovery of Rs. 8.00 Cr. decided, considering the above functions, is necessary for enhancing the efficiency and transparency of cross-border electricity trade while ensuring the financial viability of the SNA.

3.9 A number of stakeholders have sought a review of the total volume that is to be managed by SNA. The Commission has considered the suggestions. According to the draft amendment regulation, the total volume of 8500 MUs was calculated by using the average of the volumes that SNA handled over the course of the previous three years. The Commission notes that going forward, the SNA's role is to expand beyond the handling of deviation charge-related matters. The SNA is expected to handle all energy accounting-related affairs for the participating entities of the neighbouring countries. It would, therefore, be desirable that the entire volume of cross-border energy transactions be taken into consideration for determining the SNA Charge.

3.10 In accordance with the reports of GRID India, the total volume that SNA managed during the fiscal year 2022-23 was 18085 MUs.

Country	Import schedule from India in MU	Export schedule to India in MU	Total Schedule
Nepal	1420.88	1262.83	2683.72
Bhutan	199.95	6579.70	6779.65
Bangladesh	8622.14	0.00	8622.14
Total			18085.51

3.11 Furthermore, taking into consideration the suggestions made by the stakeholders and the fact that the flow of energy would continue to increase, we are of the view that the volume of energy scheduled can be taken as 18000 MUs for the purpose of calculating the per unit rate of SNA Charge.

Accordingly, SNA charges have been re-calculated on the basis of the following assumptions: -

- Total Yearly cost incurred by SNA Rs 8 Cr. per year
- Absolute values of the import and export scheduled energy, i.e.18000 MUs have been considered for deriving the total schedule.

Hence, the Per Unit Charge recoverable by SNA works out to 0.50 Paisa (Half Paisa) per kWh.

3.12 GRID India has also suggested that the activities of trading and SNA should be ring-fenced. Within the terms of the provisions of the Central Electricity Regulatory Commission (Procedure, Terms, and Conditions for grant of trading licence and other related matters) Regulations, 2020, the Commission has addressed the aforementioned matter under Regulation 10 as follows;

“10. Accounts of the Trading Licensee and Regulatory Audit

(1) The Trading Licensee shall-

(a) keep the accounts of the business covered by the licence separate from any other business, whether licensed or otherwise;

.....”

Accordingly, the SNA is expected to maintain a separate account of its trading and SNA functions.

3.13 One stakeholder has suggested eliminating the requirement for a payment security mechanism to recover SNA charges. However, the Commission believes that SNA should serve as a crucial risk mitigation tool between electricity exporters and importers, as well as for settling the pool account. Therefore, a payment security mechanism should be in place to ensure the collection of SNA charges.

3.14 In view of the discussion above, the Commission has specified in the final amendment as follows; -

“Amendment to Clause (2) of Regulation 30 of the Principal Regulations

(1) Clause (2) of Regulation 30 of the Principal Regulations shall be substituted as under:

“30 Payment of Transmission charges and other charges

(1) XXX

(2) Settlement Nodal Agency may recover from the participating entities located in the neighbouring countries SNA charge of 0.50 paisa (Half paisa)/kWh on the energy scheduled, and shall formulate a suitable payment security mechanism for the charges to be collected by it.”

**Sd.-
(Shri P K Singh)
Member**

**Sd.-
(Arun Goyal)
Member**

**Sd.-
(I.S.Jha)
Member**

**Sd.-
(Jishnu Barua)
Chairperson**

**List of stakeholders who submitted written comments/suggestions on Draft
Regulations**

1. PTC India Limited
2. NTPC Vidyut Vyapar Nigam Limited (NVVN)
3. Grid Controller of India Ltd. (Grid-India)
4. Arunachal Pradesh Power Corporation Pvt. Limited
5. Bangladesh Power Development Board (BPDB)

**List of stakeholders who made oral submission/presentation during Public Hearing
held on 20.09.2023 on Draft Regulations**

1. PTC India Limited
2. Tata Power Trading Company Limited
3. NTPC Vidyut Vyapar Nigam Limited (NVVN)
4. ARUNACHAL PRADESH POWER CORPORATION PVT LTD
5. GRID India Limited
6. Shri Saeeda Khan (Individual)
7. Shri J D Trivedi (Individual)
8. Shri Abhay Kardani(Individual)
9. Bnagladesh Power Development Limited (BPDB)