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CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

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Dated: 28th September, 2010

NOTIFICATION

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, namely:-

CHAPTER I

GENERAL

1. Short title and commencement

(1) These regulations shall be called the Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010.

(2) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions

(1) In these regulations, unless the context otherwise requires:

- a) "Act" means the Electricity Act, 2003 (36 of 2003), including amendments thereto;
- b) "Agreement" means the power purchase agreement between the Beneficiary and the Generating Company which owns the generating stations or the bulk power transmission agreement between the Beneficiary and the Transmission Licensee, as the case may be, or such other agreements by whatever name called binding the Generating Company/Transmission Licensee and their Beneficiaries;
- c) "Beneficiary" means the person who has been allocated electricity or is being supplied electricity generated from a generating station through long-term access or medium-term open access or who is a user of the transmission system of a transmission licensee, as the case may be;
- d) "Commission" means the Central Electricity Regulatory Commission referred to in Section 76 of the Act;

- e) "Defaulting entity" means a beneficiary having outstanding dues of a generating company or a transmission licensee or not maintaining the required Letter of Credit or any other agreed Payment Security Mechanism in terms of the Agreement;
- f) "Default Trigger Date" means the date from which the default in payment or default in maintaining Letter of Credit or any other agreed Payment Security Mechanism has been established.

Explanation I:- In case of non payment of dues, this date shall be the next working day after completion of the 60 days period from the date of service of the bill by the generating company or the transmission licensee as the case may be.

Explanation II:- In case of non maintenance of the required Letter of Credit or any other agreed Payment Security Mechanism, the Default Trigger Date shall be third working day after the payment security mechanism, as per the Agreement, ceases to exist.;

- g) "Load Despatch Centre" means Regional Load Despatch Centre or State Load Despatch Centre, as the case may be.
- h) "Outstanding dues" means the dues of a generating company or of a transmission licensee, which remains unpaid beyond a period of 60 days from the date of service of the bill on the beneficiaries;
- i) "Regulating entity" means the generating company or the transmission licensee, as the case may be, within the jurisdiction of the Commission, which notifies the Regional Load Despatch Centre or the State Load Despatch Centre, to regulate the power supply of the defaulting entity;

- j) “Regulated Entity” means the defaulting entity whose power supply is regulated in accordance with these Regulations;
- k) “User” means a person such as a Generating Company including Captive Generating Plant or Transmission Licensee (other than the Central Transmission Utility and State Transmission utility) or Distribution Licensee or Bulk Consumer, whose electrical plant is connected to the ISTS at a voltage level 33kV and above;

(2) Save as aforesaid and unless repugnant to the context or if the subject matter otherwise requires, words and expressions used and not defined herein, but defined in the Act shall have the meanings as assigned to them under the Act.

3. Scope and Applicability: These Regulations shall be applicable to the generating station and the transmission system where there is a specific provision in the Agreement between the Beneficiaries and Generating Company or the Transmission Licensee as the case may be, for regulation of power supply in case of non-payment of outstanding dues or non-maintenance of Letter of Credit or any other agreed Payment Security Mechanism.

CHAPTER II

PROCEDURE FOR REGULATION OF POWER SUPPLY

4. [In]¹ case of the outstanding dues or in case the required Letter of Credit or any other agreed Payment Security Mechanism is not maintained as per the Agreement, the generating company or the transmission licensee, as the case may be, may serve a notice for regulation of power supply, on the Defaulting Entity, for reducing the drawl schedule in the case of the generating company or with-drawl of open access/access to Inter State

¹ Amended vide Corrigendum dated 6.9.2011

Transmission System in the case of the transmission licensee.. Such notice may be served on or after the default trigger date and shall include the following details:

(a) The amount of outstanding dues against the Defaulting Entity or the duration of non-maintenance of Letter of Credit or any other agreed Payment Security Mechanism, as the case may be;

(b) Quantum and duration of reduction in drawl schedule of Defaulting Entity in case the Regulating Entity is a Generating company or the quantum and duration of denial of medium-term open access and/or long-term access, as the case may be, in case the Regulating Entity is a Transmission licensee;

Provided that in case the Regulating Entity is a Generating company, such notice shall also include the following additional details:

(i) Source(s) of power from which reduction/diversion is to be made in case of regulation of power supply and quantum alongwith duration of reduction of drawl schedule/ diversion of power from each of them ; and

(ii) Whether reduction of drawl schedule of Defaulting Entity is likely to cause reduction in generation or the excess power available consequent to regulation is to be sold to any other entity, whether directly or through trader; and

(iii) In case of diversion of power, the particulars of the person to whom power is to be diverted and the price agreed to be charged from such person, if determined in advance.

Provided further that in case of sale through Power Exchange or otherwise, the price may be intimated as and when such price is discovered.

Provided further that where the Regulating Entity is a Transmission Licensee, such notice shall also include the transmission line or the transmission corridor on which medium-term open access and / or long-term access to the defaulting Entity is to be restricted, in consultation with the Regional Load Despatch Centre/s in whose control area the transmission line or transmission corridor is located and the source of power, preferably the cheapest power station in that corridor from which schedule is to be restricted by Regional Load Despatch Centre/State Load Despatch Centre.

5. A copy of the notice under Regulation 4 shall be forwarded by the Regulating Entity to the Regional Load Despatch Centre or State Load Despatch Centre in whose control area (s) the Regulating Entity is situated with a request to prepare implementation plan. Copies of the notice shall also be served on other concerned Regional Load Despatch Centres, State Load Despatch Centres, Regional Power Committees.

Provided that the notice and request for preparing implementation plan of regulation of power supply shall be served on the Defaulting Entity, concerned Regional Load Despatch Centre, State Load Despatch Centre, and Regional Power Committee and shall also be posted on the website of the Regulating Entity at least three (3) days in advance of the proposed date of commencement of regulation of power supply.

Provided further that the Regulating Entity shall undertake to indemnify, defend and save concerned Regional Load Despatch Centre/State Load Despatch centre and hold them harmless from any and all damages, losses, claims and actions, demands, suits, recoveries, cost and expenses, court cost, attorney fees, and all other obligations by or to third parties arising out of or resulting from the regulation of power under these regulations.

6. Upon receipt of the notice under Regulation 4 and within 3 days thereafter, the concerned State Load Despatch Centre/Regional Load

Despatch Centre, in whose control area the [Regulating Entity]² is situated, shall make a plan in writing for implementing the regulation of power supply and shall inform the Regulating Entity, Regulated Entity, concerned State Load Despatch Centres, Regional Power Committees, and Regional Load Despatch Centres of the said Plan and shall post the implementation plan on its website.

Provided that if in the opinion of the concerned Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, the proposal for regulation of power supply made by the Regulating Entity cannot be carried out under the prevailing system conditions, then it shall inform the Regulating Entity of its decision in writing and the basis for such decision within three (3) days of receipt of the notice under Regulation 4, along with the expected date from which regulation can be implemented.

7. The plan for implementation shall be prepared by concerned Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, in such manner that the amount of reduction in drawl schedule shall be progressively increased in quantum in accordance with the notice given by the Regulating Entity. Such progressive increase shall be in accordance with the Agreement, if so mentioned in the Agreement.

Provided that for each case of additional regulation of power supply, a three (3) days advance notice, under Regulation 4 shall be given , in writing before actual implementation.

8. The regulation of power supply for the Regulating Entity shall be implemented from the fourth day of the notice as per plan prepared by the Regional Load Despatch Centre/State Load Despatch Centre unless the Regulating Entity requests cancellation of the regulation of power supply.

² Amended vide Corrigendum dated 05.09.2011

9. In case the Regulating Entity decides to withdraw or postpone the regulation of power supply, it shall communicate its decision in writing to the concerned Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, and the Defaulting Entity, along with reasons thereof.

Provided that the communication for withdrawal /postponement of the regulation of power supply shall be given at least two days prior to the day of withdrawal or postponement of such regulation.

Provided further that Regulating Entity shall communicate the time and date of withdrawal of regulation of power supply, keeping in view that the regulation of power supply has to be withdrawn immediately after the outstanding dues are recovered.

10. Where the Regulated Entity has defaulted in making payment to both Generating Company and Transmission Licensee, the regulation of power supply on the Regulated Entity for these defaults shall be implemented concurrently. The adjustment towards the Outstanding Dues shall be in accordance with Regulation 17 of these regulations.

11. (1) During the period of regulation of power supply, the Regulated Entity shall restrict its drawal to the revised schedule given by the Load Despatch Centre and the deviations, if any, from the drawal schedule shall be subjected to unscheduled inter-change charges in accordance with the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 as amended from time to time.

(2) The Regional Load Despatch Centre or State Load Despatch Centre, as the case may be, during the period of regulation of power supply, shall consider the regulation of power supply taking into consideration grid security, and may temporarily suspend

implementation of the plan of regulation of power supply, if in its opinion, grid security is in imminent danger.

(3) The concerned Regional Load Despatch Centre shall keep Member-Secretary, Regional Power Committee of the region informed of the implementation of the regulation of power supply.

CHAPTER III

REGULATION BY GENERATING COMPANY

12. (1) The generating company shall be entitled to sell the power rendered surplus due to regulation of power supply, to any person, including any of the existing beneficiaries, during the regulation of power supply, subject to grid security, as ascertained by the concerned Regional Load Despatch Centre, or may reduce generation in case any of the above options is not possible. The Generating Company shall inform the Regional Load Despatch Centre or the State Load Despatch Centre, as the case may be, the Defaulting Entity and Member-Secretary, Regional Power Committee of the region, of the quantum, duration and rate of such sale.

Provided that, unless the Agreement otherwise provides, the liability to pay the capacity charges of the generating station, in respect of which the schedule has been restricted, shall be of the Regulated Entity.

(2) Open access in case of diversion of power shall be regulated in accordance with the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2009 and Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-Term Open Access to the inter-State Transmission and related matters) Regulations, 2009, as amended from time to time.

13. The amount received from sale of surplus power by generating company due to regulation of power supply, shall be adjusted against the outstanding dues of the

Regulated Entity, after deduction of energy charges, trading margin and other incidental expenses borne by the Generating Company, if any, and the remaining amount, if any, shall be passed on to the Regulated Entity. As mentioned in Regulation 9 above, the regulation of power supply shall be withdrawn as soon as outstanding dues are recovered.

14. During regulation of power supply, through a hydro generating station, in order to avoid spillage of water, if a buyer cannot be found or is not found for the full quantum of power rendered surplus, the generating station can inject power under Unscheduled Interchange (UI) mechanism, if grid conditions allow, with the permission of the Regional Load Despatch Centre in which it is located, subject to the stipulations in the Central Electricity Regulatory Commission, (Unscheduled Interchange charges and related matters) Regulations, 2009, as amended from time to time. The loss of energy charge, in case of spillage of water, shall be made good from the revenue earned through sale of power and/or UI from injection of power rendered surplus due to regulation, on first charge, and the balance amount shall be adjusted in accordance with Regulation 13.

CHAPTER IV

REGULATION BY TRANSMISSION LICENSEE

15. On the request of a Transmission Licensee for Regulating the power supply, the Regional Load Despatch Centre may, under intimation to the concerned generating company, curtail the medium-term open access or long-term access of the allocated power or power supply contracted by the Defaulting Entity, on account of regulation according to the notice served under Regulation 4 of these regulations, preferably from the cheapest generating station in that corridor. The Regulating Transmission Licensee may decide the quantum and duration of denial of open access/ access in consultation with any of the concerned generating companies who have a

contract to sell power to the Regulated Entity and the concerned Regional Load Despatch Centre. The Transmission Licensee can propose the quantum and duration of regulation of power supply based on an estimated price, indications of which can be taken from the Power Exchange Uniform Market Clearing Price and the prevailing price of electricity sold through traders directly.

16. The generating company, as a result of reduction of open access shall be entitled to sell the power rendered surplus due to regulation of power supply, to any person including any of the existing beneficiaries, during the regulation of power supply. The revenue received on account of sale of this power shall be utilised in following sequence:

- a) to pay the energy charges and any incidental expenses, including trading margin if power is sold through a trader, of the generating company;
- b) to pay the outstanding dues of the transmission licensee;
- c) any remaining amount to be passed on to Regulated Entity.

17. In case of such reduction of drawl schedule, the liability of payment of capacity charges for its original share in the generating station shall remain with the Regulated Entity.

18. During regulation of power supply, through a hydro generating station, in order to avoid spillage of water, if a buyer cannot be found or is not found for the full quantum of power rendered surplus, the generating station can inject power under Unscheduled Interchange (UI) mechanism, if grid conditions allow, with the permission of the Regional Load Despatch Centre in which it is located, subject to the stipulations in the Central Electricity Regulatory Commission,(Unscheduled Interchange charges and related matters) Regulations, 2009, as amended from time to time. The loss of energy charge, in case of spillage of water, shall be made good from the revenue earned through sale of power and/or UI from injection of power rendered

surplus due to regulation, on first charge, and the balance amount shall be adjusted in accordance with Regulation 16.

19. In case the Regulated Entity owes outstanding dues to a Generating Company and a Transmission Licensee simultaneously, the payments received from sale of power, after adjustment of energy charges and incidental expenses of the Generating Company shall be shared by the Generating Company and the Transmission Licensee in proportion to their outstanding dues, till the dues are neutralised and the balance amount, if any, shall be passed on to the Regulated Entity.

CHAPTER V

MISCELLANEOUS

20. **Power to remove difficulty:** If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

(Alok Kumar)

Secretary

Note – The Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010 were published in Part III, Section 4, No. 248 of the Gazette of India (Extraordinary) dated 30.09.2010 and amended vide Corrigendum published in Part III, Section 4, No. 185 of the Gazette of India (Extraordinary) dated 06.09.2011.