

Ref:-MSEDCL/PP/CERC/ 0 2 3 6 0 6

Date:- 2 6 AUG 2019

To,
Mr. Sanoj Kumar Jha,
Secretary,
Central Electricity Regulatory Commission
New Delhi.

Sub: - Comments on Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2019

Ref: - Public notice issued by Hon'ble CERC for Comments on draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2019 dated 24th July 2019

Sir,

This is with reference to Hon'ble CERC's public notice under reference with regard to seeking comments and suggestions of stakeholders on "Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2019".

MSEDCL welcomes the modifications proposed by the Hon'ble Commission in the existing regulations in respect of the obligations by licensee that obligating the trading licensee not to enter in any other contract to sell power for which trading licensee has already entered into contract with buyer.

However, MSEDCL wants to submit some facts which were observed in the past and had huge negative impact on the power planning of MSEDCL. It has been experienced earlier that, the traders/generators instead of supplying power to MSEDCL under contractual obligations, sold power through power exchanges or other modes which hampered MSEDCL's power planning and compelled to buy higher cost power from open market and also to implement load shedding. These unethical practices of traders/generators adversely affect the interest of consumers. Hence it is necessary to make stern provisions in the regulations prohibiting trading licensee/seller/generators for doing such acts and further it is necessary to create a common centralized platform at NLDC/RLDC for monitoring all the contracts of trading licensee/sellers/generators and make mandatory to trading licensee/seller/generators to submit contract details to SLDC/RLDC/NLDC. This will help the LDCs to monitor all the power transactions of trading licensee/seller and ensure the power must be schedule to buyer as per their contracts.

Furthermore in the draft regulation, Hon'ble commission has framed the norms to classify the traders under various categories, further framed the mechanism for upgrade/downgrade the category class or even imposition of penalty in case of noncompliance, however in real time the set norms i.e transacted cumulative MUs during financial year needs to be monitored on regular basis. Hence, instead of rely on the data submitted by traders, it is a necessity to have a system which will monitor the monthly cumulative transaction of all trading licensee and for this purpose MSEDCL suggests to delegate such responsibilities to NLDC /RLDC SLDC.

Also, in the present draft regulations, the trading licensee is excluded from engaging in banking arrangement, however, it is to mention here that there are various activities involved in executing banking transaction such as open access booking, timely payment to RLDC/SLDC, close monitoring of daily power transactions, curtailment of power, etc and some of the Discom's in the country are unaware or having no such systems to carry out the mentioned activities. In such cases traders are the facilitators to smoothen such transactions hence MSEDCL is in view that Trading Licensee to be allowed to engage in Banking of Electricity and the trading margin to be decided mutually between parties.

Considering the points discussed in forgoing paragraphs, the detailed comments are enclosed in Annexure A. It is kindly requested that same may please be taken on record and be considered while finalizing the regulation.

Thanking You.

Yours Faithfully,

Encl: Annexure-A.



(Satish Chavan)

Director (Commercial),
MSEDCL

Copy S.W.R.To,
Chairman and Managing Director, MSEDCL.

MSEDCL Comments on the New Draft Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2019

Sr.	Clause in New Draft Regulations 2019	Comments/Suggestions																		
1.	<p>Clause no. 3 (3) Capital adequacy and Liquidity Requirements (a) Considering the volume of inter-State and undertaken by the Applicant on the basis of minimum Net Worth of the Applicant on audited special balance sheet accompanying than the amounts specified hereunder:</p> <table border="1" data-bbox="625 1087 1084 1900"> <thead> <tr> <th>Category of the trading licence</th> <th>Minimum Net Worth (Rs.in Crore)</th> <th>Volume of electricity proposed to be traded in a financial Year</th> </tr> </thead> <tbody> <tr> <td>Category I</td> <td>75</td> <td>Above 5000 MUs upto 10,000 MUs</td> </tr> <tr> <td>Category II</td> <td>35</td> <td>Not more than 5000 MUs</td> </tr> <tr> <td>Category III</td> <td>20</td> <td>Not more than 3000 Mus</td> </tr> <tr> <td>Category IV</td> <td>10</td> <td>Not more than 1500 MUs</td> </tr> <tr> <td>Category V</td> <td>2</td> <td>Not more than 500 MUs</td> </tr> </tbody> </table> <p>Provided that for Category I Trading Licensee, an additional net worth of Rs. 20 Crores would be required for every 3000 MUs of electricity traded over and above 10,000 MUs during a Year. Provided further that volume of electricity traded shall include inter-State, intra-State and Cross Border Trade in long term, medium term and short term transactions, including transactions undertaken through power exchanges.</p>	Category of the trading licence	Minimum Net Worth (Rs.in Crore)	Volume of electricity proposed to be traded in a financial Year	Category I	75	Above 5000 MUs upto 10,000 MUs	Category II	35	Not more than 5000 MUs	Category III	20	Not more than 3000 Mus	Category IV	10	Not more than 1500 MUs	Category V	2	Not more than 500 MUs	<p>MSEDCL submits that in the regulation Hon'ble Commission has framed the norms to classify the traders under various categories, further CERC has also framed the mechanism for upgrade/downgrade the category class or even imposition of penalty in case of noncompliance, however in real time the set norms i.e transacted cumulative MUs during financial year needs to be monitored. Hence MSEDCL proposes to delegate the responsibilities to NLDC/RLDC/SLDC for the same purpose.</p>
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Clause in New Draft Regulations 2019		Comments/Suggestions
2.	<p>Clause no. 4 (2) Disqualifications:</p> <p>The Applicant shall not be qualified for grant of licence if: “The Applicant holds a licence for transmission of electricity”</p>	<p>MSEDCL submits that the purpose of introducing this clause is to avoid the conflict/vested interest of applicant especially in corridor booking activities , hence MSEDCL proposes in addition to applicant holding license for transmission; associate / affiliate / partner of an applicant holding transmission licensee may also be included in clause.</p> <p>MSEDCL further submits that the following additional clause for applicant and existing trader needs to be incorporated in the regulations: <i>“In case any event of default of trader in any of the power trading arrangement had occurred resulting in non-performance as per contractual obligations in the past, then the applicant is liable to disqualify</i></p>
3.	<p>Chapter IV – Clause no. 8 (1) (a) The trading margin shall be charged on the scheduled quantity of electricity</p>	<p>MSEDCL submits that trading margin should be charge on schedule energy at delivery point.</p>
4.	<p>Chapter V – Obligations of the Trading Licensee Clause no. 9 (2) The Trading Licensee shall maintain the Net Worth, Current Ratio and Liquidity Ratio in accordance with Regulation 3 of these regulations at all times.</p>	<p>MSEDCL submits that, no specific time horizon i.e. monthly/quarterly/annually has been mentioned in the regulation for maintaining the net worth which should be specified as at all times is a very generic term.</p>
5.	<p>Chapter IV – Obligations of the Trading Licensee Clause no. 9 (10) The Trading Licensee shall make payment of dues upon the agreed due date to the seller for purchase of the agreed quantum of electricity through an escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of seller. Such escrow arrangement or irrevocable, unconditional and revolving letter of credit in favour of seller shall be equivalent to: (a) two point one (2.1) times the average monthly bill amount</p>	<p>MSEDCL submits that, there should be some monitoring mechanism to keep track/records of the LC provided by Trading Licensee to sellers. MSEDCL submits that in presence of payment security mechanism as per the guidelines by MoP, in case a buyer has provided LC to trading licensee and the same is not provided to seller by trading licensee, then the default may not be counted of Buyer / Distribution licensee and the power supply arrangement need to be continued in line with the contract agreement.</p>

Sr.	Comments/Suggestions
<p>Clause in New Draft Regulations 2019 (estimated average of monthly billing amounts for three months or actual monthly billing amount for preceding three months as the case may be) with a validity of one year for long term contracts; (b) one point zero five (1.05) times of contract value for short term contracts.</p>	
<p>6. Chapter IV – Obligations of the Trading Licensee Clause no. 9 (23) In the event Trading Licensee has entered into a contract for sale of power with a buying entity for a particular period, then the Trading Licensee shall not enter into any contract for sale of same power with any other entity for such period except with the prior consent of the buying entity.</p>	<p>MSEDCL welcomes the provision under Clause no. 9 (23). However MSEDCL submits that in the past, in the month of October-18 and November-18, MSEDCL had issued LOIs to the successful bidders for procurement of power under short term contract as per tender terms and conditions. But it was observed that some of the traders/sellers/generators instead of supplying power to MSEDCL as per contractual obligations sold the same power in the power exchanges without any intimation/consent of buyer. Thus in spite of proper power planning, due to such unethical act of traders/sellers/generators, MSEDCL were compelled to purchase high cost power from market which unduly burdened the consumers and also to implement load shedding. In this regards, MSEDCL has filed the petition before Hon'ble CERC vide 83/MP/2019 and is subjudice.</p> <p>In view of the above MSEDCL submits that apart from traders, the sellers and generators are also needs to be made accountable and responsible in performing the contracts. Hence, MSEDCL submits that to maintain the sanctity of contract, it is necessary to make stern provisions in the regulations prohibiting the seller/generators also from doing such unethical act.</p> <p>It is submitted that, in order to curb such unethical practices, it is necessary to monitor all the contracts of trading licensees/sellers/generators at common centralized platform, hence MSEDCL</p>

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7.	<p>Chapter IV – Clause no. 9 (24)</p> <p>Trading Licensee shall not engage in Banking of electricity.</p>	<p>propose that a trading licensee/seller/generators should be made mandatory to submit the contract details to SLDC/RLDC/NLDC and the NLDC and the respective LDCs should monitor all power transaction of trading licensee/seller/generators according to the types of contracts and ensure that power must be scheduled to buyers as per their contract. Further priority for power scheduling should be strictly as per type of contract i.e long term, medium term, short term and then power exchange.</p> <p>MSEDCL submits that though the banking is a barter system between two discoms, there are various activities involved in executing such transaction such as open access booking, timely payment to RLDC/SLDC, close monitoring of daily power transactions, curtailment of power, etc. Even today most of the discoms in country are unaware or having no such systems to carry out the mentioned activities. In such cases traders are the facilitators to smoothen such transactions hence MSEDCL submits that Trading Licensee to be allowed to engage in Banking of Electricity and the trading margin to be decided mutually between parties.</p>
8.	<p>Chapter V – Clause no. 13 – Prudential Reporting</p>	<p>It is experienced in past that the generators/sellers has sold the power which was already contracted through traders in power exchanges/ to other parties , hence to have the check/control on such unethical practises MSEDCL submits that any such incidence of sellers/generators selling the power through any other contract/exchange instead of supplying to the original buyer under contractual obligation, needs to be prudentially checked and reported to the Commission by the trading licensee.</p> <p>Therefore following clause need to be incorporated in the Prudential</p>

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		<p>reporting: <i>“any incidence of trading licensee/seller/generators selling power through any other contract/exchange for higher commercial gain, instead of supplying to buyer under contractual obligations should be reported to the Commission by the Trading Licensee.”</i></p>
9.	<p>Chapter VI – Clause no. 17 - Contravention by Trading Licensee</p>	<p>It is observed that, trading licensee and generators instead of supplying power to buyer under contractual obligation, has sold power in other contracts/exchanges without original's buyer consent. Hence MSEDCL proposes to incorporate the following sub-clause in the Contravention by Trading Licensee:</p> <p><i>“Default in power supply at the cost of material breach of contract/agreement by the way of selling power outside contract/agreement for undue commercial gain.”</i></p> <p>MSEDCL further submits that, the contraventions be classified as serious and non-serious, similar to the provisions in 2009 regulation (existing), so that severity of penalty can be stipulated.</p>
10.	<p>Chapter VII - Clause no. 20 – Revocation of Licence</p>	<p>MSEDCL submits that if trading licensee has made contract for sale of power with buyer for particular period and found selling of same power for same period without buyer's consent to other entity/through exchange then such act of trading licensee shall be liable for revocation of licence.</p>