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-LAW IN ACTION



Legal Updates

Delhi High Court observes that the doctrine of Group of Companies cannot be applied on the directors of the company in order to make them a party to Arbitration

The High Court of Delhi vide judgment dated 24.01.2024 in ARB.P. 667/2023, titled *Vingro Developers Pvt. Ltd. v. Nitya Shree Developers Pvt. Ltd.* has held that the directors of a company cannot be made parties to arbitration proceedings through 'Group of Companies' doctrine as the relationship between the company and its directors is that of the 'Principal and Agent' as defined under Section 182 of the Indian Contract Act.

In the present case, the two Builder Buyer Agreements dated 18.11.2016 and 08.02.2017 for development of township project were executed between Petitioner and Respondent no.1, however the Directors of the Respondent No.1 were also arrayed as Respondents in the petition under Section 11(6) of Arbitration & Conciliation Act, 1996 ("A&C Act"). The Directors challenged petition on the ground that they are being made parties to the arbitration merely because they are the directors of the company acting as the agent of the respondent no. 1 and pleaded that they should not be made parties to the arbitration proceedings.

The Hon'ble High Court observed, that to bind a non-signatory to an arbitration agreement, there must exist a common intention between the parties to do so. In the present case, Respondent no. 2 director was a signatory to the agreement in his capacity as the authorised signatory of Respondent no. 1 and Respondent no. 3 was a non-signatory to the agreement. The relationship of Respondent no.1 company with its directors is that of the Principal and Agent as specified under Section 182 of the Indian Contract Act and directors of a company cannot be made parties to arbitration through 'Group of Companies' doctrine. The Court further held that the agent cannot be personally held liable for the acts carried out on behalf of the principal as per Section 230 of the Indian Contract Act. Proviso to Section 230 requires an express agreement to make directors personally liable for

any action, however no such agreement existed between the parties making Respondent no.2 & no.3 personally liable for acts of Respondent no.1.

Ministry of New and Renewable Energy ("**MNRE**") has issued Scheme Guidelines for implementation of "Strategic Interventions for Green Hydrogen Transition (SIGHT) Programme — Component II: Incentive Scheme for Green Hydrogen Production and Supply (under Mode 2B)" of the National Green Hydrogen Mission, vide notification 353/1/2024-NT, Dated 16.01.2024 ("**Guidelines**").

The Guidelines lay down the framework for the proposed incentives for the production and supply of Green Hydrogen under Mode 2B. The outlay for the incentive scheme for the production of Green Hydrogen and its derivative has been fixed at Rs. 13.050 Crore with the objective to maximize the production of Green Hydrogen in India. The Guidelines provide that the implementation of the scheme will be through a transparent selection process for award of incentives.

The scheme will be implemented by Oil & Gas companies and Centre for High Technology (CHT). Under the scheme, a direct incentive will be provided for 3 years from the date of commencement of Green Hydrogen production and supply which will be Rs. 50/kg of Green Hydrogen in the 1st year of production and supply, Rs. 40/kg during the second year, and Rs. 30/kg during the third year.

The Guidelines also provide the details of selection process of bidders for award of Incentives including the price, eligibility, capacity, payment, and penalties.

MNRE has issued Scheme Guidelines for implementation of "Strategic Interventions for Green Hydrogen Transition (SIGHT) Programme — Component II: Incentive Scheme for Green Ammonia Production and Supply (under Mode 2A)" of the National Green Hydrogen Mission vide notification 353/2/2024-NT, Dated 16.01.2024 ("**Scheme**")

The Scheme lays down the framework for the proposed incentives for the production and supply of Green Ammonia under Mode 2A. The outlay for the incentive scheme for the production of Green Ammonia and its derivative has been fixed at Rs. 13.050 Crore with an foremost objective to maximize the production of Green Ammonia in India. The Scheme states that the implementation of the scheme will be through a transparent selection process for award of incentives.

The scheme will be implemented by MNRE through Solar Energy Corporation of India Limited (SECI) as the Implementing Agency. The details and procedure of implementation of the scheme is provided in the Scheme. Under the Scheme, a direct incentive will be provided for 3 years from the date of commencement of Green Ammonia production and supply which will be Rs. 8.82/kg of Green Ammonia in the 1st year of production and supply, Rs. 7.06/kg during the second year, and Rs. 5.30/kg during the third year.

The Scheme also states the details of selection process of bidders for award of Incentives including the price, eligibility, capacity, payment, timelines and penalties.

The Ministry of Power ("**MoP**"), vide Notification bearing no. G.S.R. 36(E) dated 10.01.2024, notified the amendments to Electricity Rules, 2005 ("**Principal Rules**"). These Rules may be called the Electricity (Amendment) Rules, 2024 ("**Amendment 2024**"), which came into effect from 11.01.2024.

The following amendments have been made to the Principal Rules:

MNRE Issues Scheme Guidelines for implementation of "Strategic Interventions for Green Hydrogen Transition (SIGHT) Programme — Component II: Incentive Scheme for Green Hydrogen Production and Supply (under Mode 2B)" of the National Green Hydrogen Mission

MNRE issues Scheme Guidelines for implementation of "Strategic Interventions for Green Hydrogen Transition (SIGHT) Programme — Component II: Incentive Scheme for Green Ammonia Production and Supply (under Mode 2A)" of the National Green Hydrogen Mission

MOP issues the Electricity (Amendment) Rules, 2024

1. **Rule 21 renumbered as Rule 24:**

Rule 21 which stipulates “**Issue of Orders and Practice Directions**” has been renumbered as Rule 24 as Rule 21 to Rule 23 have been inserted vide Amendment 2024.

2. **Insertion of Rule 21 “Establishment, operation and maintenance of dedicated transmission lines”:**

A generating company or a person setting up a captive generating plant or an Energy Storage System or a consumer having load of not less than 25 MW in case of Inter State Transmission System and 10 MW in case of Intra-State Transmission System shall not be required to obtain license under the Electricity Act,2003 for establishing, operating or maintaining a dedicated transmission line to connect to the grid, if such company or person or consumer complies with the Regulations, technical standards, guidelines and procedures issued under the provisions of the Act.

3. **Insertion of Rule 22 “Open Access Charges”:**

(1) **Computation of Wheeling Charges:**

The Wheeling charges shall be computed as Annual Revenue Requirement towards wheeling divided by (\div) Energy wheeled during the year.

(2) **Charges for using network of State Transmission Utilities:**

The charges for using State Transmission Utility network by the consumers availing short-term open access or Temporary-GNA, as the case may be shall not be more than 100% of the charges levied on consumers using State Transmission Utility network on long-term basis or on General Network Access basis, as the case may be.

(3) **Additional Surcharge:**

The additional surcharge levied on any Open Access Consumer shall not be more than the per unit fixed cost of power purchase of the distribution licensee concerned. However, the first proviso to Rule 22 (3) provides that for a person availing General Network Access or Open Access, the additional surcharge shall be linearly reduced from the value in the year in which General Network Access or Open Access was granted so that, if it is continued to be availed by this person, the additional surcharge shall get eliminated within four years from the date of grant of General Network Access or Open Access. Furthermore, the second proviso to Rule 23 (3) stipulates that the additional surcharge shall not be applicable for Open Access Consumer to the extent of contract demand being maintained with the distribution licensees, and the third proviso to Rule 23(3) stipulates that the additional surcharge shall be applicable only for the Open Access Consumers who are or have been consumers of the concerned Distribution licensee.

The Explanation to Rule 23 states that the General Network Access and Temporary-GNA shall have the same meaning as defined in the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 as amended from time to time.

4. **Insertion of Rule 23 “Gap between approved Annual Revenue Requirement and estimated annual revenue from approved tariff.**

The tariff shall be cost reflective and there shall not be any gap between approved Annual Revenue Requirement and estimated annual revenue from approved tariff except under natural calamity conditions:

The first proviso to provides that such gap, created if any, shall not be more than three percent of the approved Annual Revenue Requirement.

The second proviso to Rule 24 provides that that such gap along with the carrying costs at the base rate of Late Payment Surcharge as specified in the Electricity (Late Payment Surcharge

and Related Matters) Rules, 2022, as amended from time to time shall be liquidated in maximum three numbers of equal yearly instalments from the next financial year.

Finally, the third proviso to Rule 24 stipulates that any gap between approved Annual Revenue Requirement and estimated annual revenue from approved tariff existing on the date of notification of these rules, along with the carrying costs at the base rate of Late Payment Surcharge as specified in the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, as amended from time to time shall be liquidated in maximum seven numbers of equal yearly instalments starting from the next financial year.

Ministry of Power Notifies Electricity (Second Amendment) Rules, 2024

The MOP, vide Notification G.S.R 45 (E), dated 17.01.2024, notified Electricity (Second Amendment) Rules, 2024 ("**Second Amendment Rules** ") substituting the Rule 22(1) in the Principal Rules.

The Rule 22(1) of the Second Amendment Rules provides that the Wheeling charges shall be computed as Annual Revenue Requirement towards wheeling divided by Energy wheeled during the year. A proviso has been inserted empowering the Appropriate Commission to determine wheeling charges at different voltage levels, separately, in accordance with the above formula.

Ministry of Power Issues a Resolution to Amend the Guidelines for Tariff Based Competitive Bidding Process for Procurement Power from Grid Connected Wind Power Projects

The MOP, vide Resolution No. 48-19/2/2024-NRE, dated 02.02.2024, issued "Amendment to the Guidelines for Tariff Based Competitive Bidding Process for Procurement Power from Grid Connected Wind Power Projects" ("**WPP Competitive Bidding Amendment**") amending the 2023 Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects ("**WPP Competitive Bidding Guidelines**").

The amendment deleted the Clause 14.5 (b)(ii) of the WPP Competitive Bidding Guidelines which stipulated that for delay in commencement of supply of power beyond six months from Scheduled Commencement-of-Supply Date ("**SCSD**"), Wind Power Generator ("**WPG**") was debarred from participating in bids issued by any procurer, or any intermediary procurer for one year, in case of first default; or for not less than 2 years, and not more than 3 years for second and any subsequent defaults.

Ministry of Power Issues a Resolution to Amend the Guidelines for Tariff Based Competitive Bidding Process for Procurement Power from Grid Connected Wind Solar Hybrid Power Projects

The MOP, vide Resolution No. 48-19/2/2024-NRE, dated 02.02.2024, issued "Amendment to the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects" ("**Hybrid Competitive Bidding Amendment**"), wherein it has amended the 2023 Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects ("**Hybrid Competitive Bidding Guidelines**").

The amendment deleted the Clause 15.5 (b) (ii) of the Hybrid Competitive Bidding Guidelines under which for delay in commencement of supply of power beyond six months from Scheduled Commencement-of-Supply Date ("**SCSD**"), Hybrid Power Generator was debarred from participating in bids issued by any procurer, or any intermediary procurer for one year, in case of first default; or for not less than 2 years, and not more than 3 years for second and any subsequent defaults.

Ministry of Power Issues a Resolution to Amend the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects

The MOP, vide Resolution No. 48-19/2/2024-NRE, dated 02.02.2024, issued "Amendment to the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects " ("**SPG Competitive Bidding Amendment**"), wherein it has amended the 2023 Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects ("**SPG Competitive Bidding Guidelines**").

The amendment deleted the Clause 13.3 (b) (ii) of the SPG Competitive Bidding Guidelines which stipulated for delay in commencement of supply of power beyond six months from Scheduled

Commencement-of-Supply Date (“SCSD”), Solar PV Generator was debarred from participating in bids issued by any procurer, or any intermediary procurer for one year, in case of first default; or for not less than 2 years, and not more than 3 years for second and any subsequent defaults.

Ministry of Power Issues a Resolution to Amend the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Firm and Dispatchable Power from Grid Connected Renewable Energy Power Projects with Energy Storage Systems.

The MOP, vide Resolution No. 48-19/2/2024-NRE, dated 02.02.2024, issued "Amendment to the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Firm and Dispatchable Power from Grid Connected Renewable Energy Power Projects with Energy Storage Systems" ("**ESS Competitive Bidding Amendment**"), wherein it has amended the 2023 Guidelines for Tariff Based Competitive Bidding Process for Procurement of Firm and Dispatchable Power from Grid Connected Renewable Energy Power Projects with Energy Storage Systems ("**ESS Competitive Bidding Guidelines**").

The amendment deleted the Clause 14.3 (b) (ii) of the ESS Competitive Bidding Guidelines which stipulated for delay in commencement of supply of power beyond six months from Scheduled Commencement-of-Supply Date (“SCSD”), Renewable Power Generator with Energy Storage System was debarred from participating in bids issued by any procurer, or any intermediary procurer for one year, in case of first default; or for not less than 2 years, and not more than 3 years for second and any subsequent defaults.

The MNRE (Hydrogen Division), vide notification no. 353/80/2023-NT, dated 01.02.2024, issued a Scheme Guidelines for Implementation of Pilot Projects for use of Green Hydrogen in the shipping Sector National Green Hydrogen Mission ("**Shipping Sector Scheme**").

The Shipping Sector Scheme deals with pilot projects in the shipping sector by development and operation of Green Hydrogen based ship propulsion systems, use of Green Hydrogen in vehicles and terminal equipments at port, and development of capabilities to support the export of Green Hydrogen from India, etc. It has also mentioned Thrust areas for utilization of hydrogen in the steel sector such as, inter alia, retrofitting of existing ships to run on Green Hydrogen and Development of bunkering and refuelling facilities on ports for Green Hydrogen based fuels.

The main objective of the scheme is ascertained to support the deployment of Green Hydrogen as fuel for ship propulsion, including bunkering and refuelling, on a pilot basis validate the technical feasibility and performance of Green Hydrogen; to evaluate the economic viability of the use of Green Hydrogen and its performance, etc. Under the Scheme, the budget of Rs. 115 Cr. has been allotted till FY 2025-26.

Salient features of the Scheme are, *inter alia*, supporting the projects with an intention develop pilot scale for replication of technology, selection of pilot projects by transparent and competitive framework, outcome of the pilot project, etc. the scope of the scheme is provided as retrofitting of an existing ocean-going vessel and Development of an inland waterway’s vessel/ coastal waters ship.

The methodology of implementation of the scheme has also been provided in the Scheme wherein the ships and ports will be identified for the implementation of the pilot project. There will be Call for Proposal for the projects. Evaluation of the proposal and other procedure has also been mentioned in the scheme. It also prescribes different stages for disbursement of budget with the provisions of timelines and penalties.

A Monitoring Framework has also been provided under the Scheme wherein a steering committee will be formed which shall be responsible for overall monitoring and implementation of the scheme. A Project Appraisal Committee will also be formed which will monitor/review/evaluate the proposals.

MNRE issues Scheme Guidelines for Implementation of Pilot Projects for use of Green Hydrogen in the Shipping Sector under the National Green Hydrogen Mission

MNRE issues Scheme Guidelines for Implementation of Pilot Projects for use of Green Hydrogen in the Steel Sector under the National Green Hydrogen Mission

MNRE (Hydrogen Division), vide notification no. 353/77/2023-NT, dated 02.02.2024, issued a Scheme Guidelines for Implementation of Pilot Projects for use of Green Hydrogen in the Steel Sector under National Green Hydrogen Mission ("**Scheme**").

The Scheme in an effort to enhance low-carbon steel production capacity, prescribes for pilot projects for steel plant by blending a small percentage of Green Hydrogen in the process. It has also mentioned Thrust areas for utilization of hydrogen in the steel sector, *inter alia*, cover use of 100% of Hydrogen in DRI process, use of Hydrogen in Blast Furnace, Substitution of fossil fuels with Hydrogen, etc. This will ensure that these plants are able to participate in future global low-carbon steel markets.

The main objective of the scheme is ascertained to advance technologies for the utilization of Green Hydrogen in steel making process; to support the deployment of Green Hydrogen in the steel, to evaluate the economic viability of the use of Green Hydrogen and its performance, etc. Under the Scheme, a budget of Rs. 455 crores has been allocated till FY 2029-30.

Some of the salient features of the Scheme are:

1. supporting the projects with an intention develop pilot scale for replication of technology;
2. Ministry of Steel to develop a transparent and competitive framework for selection of pilot projects;
3. The Scheme Implementing Agencies ("**SIAs**") finalised by the Ministry of Steel shall issue the call for proposals for projects under the scheme in line with the selection framework developed by Ministry of Steel;
4. The MNRE will issue administrative sanctions for the projects under the Scheme based on the recommendations of Project Appraisal Committee ("**PAC**");
5. The SIA will share knowledge and the outcome of the pilot projects through project completion report, monitoring reports, workshops, and publications to disseminate findings, best practices, and lessons learned from the pilot.
6. The Scheme would primarily fund capital equipment required for use of Hydrogen in the iron & steel manufacturing process Expenses on account of production of Hydrogen, land, etc. will not be funded. The cost of preparing the Detailed Project Report ("**DPR**") may be covered under the scheme for approved projects subject to the ceiling specified in the Scheme;
7. The SIAs will identify the thrust areas for the implementation of the pilot project;
8. The SIAs shall issue Call for Proposal for the projects. Evaluation of the proposal and other procedure has also been mentioned in the scheme. It also provides different stages for disbursement of budget with the provisions of timelines and penalties.
9. A Monitoring Framework has also been provided under the Scheme wherein a Steering Committee will be formed which shall be responsible for overall monitoring and implementation of the scheme. A Project Appraisal Committee will also be formed which will monitor/review/evaluate the proposals.

NCLT Delhi observes that a Debt Assignment Deed cannot be challenged in CIRP Proceedings under Section 7 of IBC, 2016.

The National Company Law Tribunal, New Delhi Bench ("**NCLT**"), in the matter of *CFM Asset Reconstruction Pvt. Ltd. vs. M.G. Finvest Pvt. Ltd. bearing Company Petition IB No. 115/PB/2022*, has held that a Debt Assignment Deed cannot be challenged in Corporate Insolvency Resolution Process ("**CIRP**") under Section 7 of Insolvency and Bankruptcy Code, 2016 ("**IBC, 2016**")

In the present case, M/s. Action Ispat & Power Pvt. Ltd. ("**Principal Borrower**") had availed various credit facilities from the consortium of banks including State Bank of India ("**SBI**"). The Corporate Debtor i.e., MG Finvest Pvt. Ltd. was the guarantor of the financial facilities availed by the Principal Borrower. CFM Asset Reconstruction Pvt. Ltd. ("**Petitioner**" or "**Applicant**") was the assignee of SBI. Since the Principal Borrower was unable to repay its debts and owing to the request of the Borrower, a Master Restructuring Agreement and a Deed of Guarantee were executed by Corporate Debtor in favour of the Principal Borrower. SBI classified the account of Principal Borrower in the doubtful category, as it continued to default on its repayment obligations.

The debt of the Borrower was also classified Non-Performing Asset. SBI and the Applicant had executed an Assignment Agreement (“**Assignment Agreement**”), by virtue of which SBI had assigned its rights, title and interest issued in respect of the repayment of the Loans extended to the Borrower, to the Applicant. Pursuantly, CIRP was initiated against the Principal Borrower and its guarantors by SBI which were admitted by NCLT.

NCLT vide an Order dated 24.01.2024 observed that the Debt Assignment Deed is essentially a civil proceeding. Considering the exemption provided under Section 5(1A) of SARFAESI Act, 2002 NCLT further observed that the said Assignment Agreement is legally enforceable although not registered. Lastly, NCLT observed that Assignment Agreement cannot be challenged in CIRP under Section 7 of IBC since such proceedings are summary proceedings and it is beyond NCLT’s ambit to delve into the details regarding the requirement or exemption of registration of the Assignment Agreement.

NCLAT, New Delhi Bench holds that an Application under Section 7 against a Financial Service Provider is not maintainable.

The National Company Law Appellate Tribunal, New Delhi Bench (“**NCLAT**”), vide Judgment dated 19.01.2024 passed in *Globe Capital Market Ltd. vs. Narayan Securities Ltd., bearing case no. Company Appeal (AT) (Insolvency) No.32 of 2024 & I.A No. 62 of 2024*, has held that an Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) against a Financial Service Provider is not maintainable.

The facts leading to the Appeal are that an Order dated 03.07.2023 (“**Impugned Order**”) was passed by NCLT, New Delhi bench (“**NCLT**”) by virtue of which the Application filed by the Appellant under Section 7 of the IBC had been rejected. NCLT had observed that an application is not maintainable against a Financial Service Provider (“**FSP**”). In appeal proceedings, the Ld. NCLAT while upholding the order, further observed that FSPs are not included in the definition of ‘Corporate Person’ as defined under Section 3(7) of IBC.

PNGRB issues Public Notice for initiation of suo-motu proposal for the development of a natural gas pipeline from Kochi to thoothukudi

The Petroleum and Natural Gas Regulatory Board (“**PNGRB**”), vide public notice dated 15.01.2024, initiated a public consultation process for establishing a Natural Gas pipeline from Kochi to Thoothukudi (formerly Tuticorin) via Kanyakumari to meet the Natural Gas demand in the Southern regions of Kerala and Tamil Nadu as per the provisions of Regulation 4(2) read with Regulation 6 of the Natural Gas Pipeline (“**NGPL**”) Authorization Regulations. The proposed pipeline will commence from KKMBPL/PLL’s LNG Terminal in Kochi and connect to IOCL’s Ennore – Thiruvallur – Bengaluru – Puducherry – Nagapattinam – Madurai – Tuticorin Natural Gas Pipeline at Tuticorin, facilitating the onward transportation of gas to major interconnecting pipelines across the country.

Interested parties, stakeholders, or entities are invited to submit written views/comments sent to the Secretary, PNGRB, either via email at secretary@pngrb.gov.in or by post within 30 days from the date of publication of this public notice on the PNGRB website. Suggestions regarding the terminating point, route, and minimum capacity for the proposed Kochi – Kanyakumari - Thoothukudi Natural Gas pipeline are also sought.

CERC approves the Guidelines on Availability of Communication System

The Central Electricity Regulatory Commission (“**CERC**”), vide order dated 19.01.2024, approves the Guidelines on Availability of Communication System (“**Guidelines**”), submitted by National Power Committee (“**NPC**”) under Regulation 7.3 of the CERC (Communication System for inter-State Transmission of Electricity) Regulations, 2017 (“**Communication Regulations**”).

Regulation 6(3) of the CEA (Technical Standards for Connectivity to the Grid) stipulates for provision of necessary facilities for voice and data communication and transfer of online operational data, such as voltage, frequency, line flows and status of breaker and isolator position and other parameters as prescribed by the appropriate load dispatch centre. Regulation 5(1) of the CEA (Technical Standards for Communication System in Power System Operations) Regulations, 2020 (“**Technical Standards**”) provides for transmission of all operational data as required by appropriate control centre. Further Regulation 11 of the Indian Electricity Grid Code,

2023 stipulates for data and communication facilities. On this line, following Guidelines have been issued.

1. The Guidelines shall apply to the Central Transmission Utility (“CTU”) and the State Transmission Utility (“STU”) for the Communication System Infrastructure of inter-state and intra-state respectively, till appropriate regulation on communication is framed by the respective State Electricity Regulatory Commission.
2. CTU (or STU) shall have back-to-back co-ordination/agreement with transmission licensees, generators, dedicated transmission line owners, bulk consumers and concerned entities for providing power system communication on their network.
3. CTU (or STU) shall be responsible for submission of the details of communication channels including the redundant channels configured for use of voice/data/video exchange, protection, Tele-protection / SPS to respective Regional Load Dispatch Centre (“RLDC”) (State Load Dispatch Centre (“SLDC”)) on a monthly basis incorporating the details of new channels configured during the previous month.
4. Outage time of communication system elements due to acts of God and force majeure events shall be considered as deemed available. The onus of satisfying the Member Secretary, Regional Power Committee (“RPC”) shall rest with the communication provider.
5. Any outage of duration more than one (01) minute in a time-block shall be considered as not available for the whole time-block. Any outage of duration less than or equal to one (01) minute in a time-block shall be treated as deemed available provided such outages are not more than ten (10) times in a day.
6. All other outages not covered under 4.1 and 4.2 shall be considered as not available during the whole block for the computation of channel availability.
7. The Guideline provides for the methodology for computation of the availability of the communication system.

The CERC, vide order dated 19.01.2024, approved the Guidelines on “Interfacing Requirements (“**Interfacing Guidelines**”)), submitted by National Load Dispatch Centre (“NLDC”) under Regulation 7.4 read with Regulation 14.2 of the Communication Regulations. Some of the salient features of the guidelines are as follows-

1. Interfacing Guidelines focus on the general data acquisition systems for Remote Terminal Units (“RTUs”), Substation Automation System (“SAS”) Gateway computers, communications and Advanced Metering Infrastructure (“AMI”) metering systems required for reliable, secure and economic operations of the control centre(s).
2. All Users, State Load Dispatch Centres (“SLDCs”), Regional Load Dispatch Centres (“RLDCs”), NLDC, CTU, State Transmission Utilities (“STUs”), National High Power Test Laboratory (“NHPTL”), Renewable Energy Management Centre (“REMC”), Forecasting Service Provider (“FSP”), Power Exchanges and Inter-State Transmission System (“ISTS”) licensees etc. shall abide by these guidelines.
3. The Interfacing Guidelines shall be applicable to Main and Backup Control Centre (wherever applicable) irrespective it is mentioned or not mentioned separately in subsequent sections.
4. All entities in the Interfacing Guidelines, shall provide Systems to telemeter power system parameters such as flow, voltage and status of switches/ transformer taps etc. in line with interface requirements and other guideline made available by NLDC. Users, seeking connection to the ISTS, shall require to include functionalities and the interfaces compatible with the respective Control Centre data collection systems available and being maintained at NLDC / RLDCs and SLDC/Sub-LDC and other LDC level.
5. The communication media being used for data transfer and data rate shall be in accordance with the Central Electricity Authority (Technical Standards for Communication System in Power System Operations) Regulations, 2020.
6. At each point of interconnection on Indian side; respective transmission licensee should ensure facilitating interface requirement for cross border interconnections and shall take necessary measures to comply with the Interfacing Regulation and the interface guidelines

CERC approves the Guidelines on Interfacing Requirements

issued by NLDC in this regard. From Network Security point of view, at Landing Locations (in India Side) a layer of isolation shall be made between interfacing point/node & ISTS Communication Network node. Further complete separation shall also be maintained for configuring End-to-End connectivity of Identified Data & Voice Channels.

7. Necessary firewall/router as per requirement shall be provided by the respective users while connecting the remote equipment with the control centre network. Direct connectivity with the operational network be avoided while connecting the remote station and shall be through firewall with necessary virtual local area network configuration.
8. The Users plan for communication interfaces accordingly at the time of implementation shall support Real time data exchange including AGC/Control signal with Control Centre (Main & Backup), Phasor data exchange, Meter data exchange, Protection signal transmission (Direct Tripping and Permissive Tripping Carrier Signal etc.), Voice communication, Video Communication; Other requirements, if any, users may include while designing the local communication interface requirement.
9. The required communication interfaces shall be provided for both sending and receiving ends based upon jurisdiction/ownership. All the interfaces shall be provided with audio-visual status indication to indicate its normal operation as per relevant standards.

The CERC, vide order dated 19.01.2024, approved the Procedure on Centralized supervision for quick fault detection and restoration (“**Restoration Procedure**”), prepared by CTU under the discharges of its obligation under Regulation 7.2 of the CERC (Communication System for inter-State Transmission of Electricity) Regulations, 2017 (“**Communication Regulations**”). The Restoration Procedure prescribes for followings:

1. The Restoration Procedure shall be applicable to the Communication System Infrastructure of Inter-State transmission system and Intra-State transmission system, till appropriate regulation on Communication is framed by the respective State Electricity Regulatory Commission.
2. In line with the Communication Regulations, for Centralized Supervision for Quick Fault Detection and Restoration (“**CSQFDR**”), a Centralized Network Management System (“**CNMS**”) consisting of necessary Hardware and Software, shall be implemented on National and Regional level by CTU. All Users/Owners shall provide necessary support to interface their network management system or network element with CNMS to fully comply the functionalities as mentioned under the Restoration Procedure in accordance with the Technical Standards.
3. CTU and STU shall be the nodal agency for implementation of Centralized Supervision and Monitoring System of communication system (“**CSMS**”) for Inter-State transmission system and Intra -State transmission system respectively.
4. Control Centre shall have Centralized Supervision and Monitoring System by integrating its network management system with Network Management System of other users/ owners and standalone network elements, which are not being monitored on network management system within its jurisdiction on national and regional basis.
5. Centralized Supervision and Monitoring System shall be in main and back-up control centre architecture with centralized database and twenty-four hours operations & maintenance on all days
6. The user/owner shall be responsible for the Operation and Maintenance (“**O&M**”) of their respective Communication system and to maintain the availability of the communication system as per the Communication Regulations.
7. O&M Personnel shall be deployed by user/owner for Operation, Monitoring and Quick Fault Restoration of communication system or any other assistance. Specialized training shall be provided to the persons manning the centralized monitoring centre and to the field support staff as well as O&M Personnel deployed in accordance with the Central Electricity Authority Technical Standards for Communication.
8. Whenever any fault/abnormality is observed in the communication system by the Network Management System, it shall automatically notify to the concerned user/ owner for rectification of faults/trouble tickets within agreed time frames, which will subsequently be

CERC approves the Procedure on Centralized supervision for quick fault detection and restoration

taken up with maintenance personnel of the concerned faulty communication system at site to take corrective action(s) for rectification of faults/trouble tickets within agreed time frames.

9. Restoration activities of the communication system are to be carried out by the owner/ user, whenever, any system-related problem is reported by the Communication system user/ and Network Monitoring Transport (“**NMT**”) or CTU. This shall include fault detection, repair or replacement of defective parts, restoration of services and final functional checking. The owner/user shall identify Nodal officer (s) for their respective area/ system. Nodal officer shall be single point coordinator, responsible for co-ordination with NMT of CTU.

The CERC, vide order dated 19.01.2024, approved the Procedure on Maintenance and testing of Communication System (“**Maintenance Procedure**”) prepared by CTU in discharge of its obligation under Regulation 9 of the Communication Regulation.

Some of the major provisions of the Maintenance Procedure-

1. The Maintenance Procedure is applicable to the Communication System Infrastructure of Inter-State transmission system and Intra-State transmission system, till appropriate regulation on Communication is framed by the respective State Electricity Regulatory Commission; all users as defined under Regulation 2(i)(aa) of the Communication Regulations.
2. All ISTS communication System Owners/ Users, ISTS, Inter-State Generating Stations (“**ISGS**”), Independent Power Procedures (“**IPPs**”), RLDCs, SLDCs shall coordinate with NMTs deployed by CTU for maintenance & testing activity for updating the CNMS as applicable.
3. Communication system owner/user shall identify Nodal officer (s) who shall be responsible for maintenance of the communication system in their respective area/ system.
4. The maintenance shall be part of Annual Maintenance Contract (“**AMC**”) contract placed for all components/ subsystem of users/owner's communication system in order to meet the availability guidelines mentioned in the document. Nodal officer and maintenance team shall coordinate for working out detailed plan for maintenance and to assess the requirement & procurement of resources such as spares, T&P, Test Equipment, Transportation, mobile sets or other electronic communication devices etc. Based on the assessment during Preventive, Predictive and Breakdown Maintenance, mobilization of maintenance teams shall be coordinated by Nodal Officer along with required resources.
5. Breakdown maintenance includes the maintenance of the facilities, during the sudden failure of the communication system. On occurrence of any breakdown noted in NMS/CNMS, Nodal Officer/NMT through Nodal Officer of User/Owner shall instruct the maintenance team to take up steps as mentioned as Maintenance Procedure.

Inter-State Communication system user/ provider shall ensure that the communication equipment have got tested as per relevant contemporary Indian or International Security Standards e.g. IT, OT and IT related elements against ISO/IEC 15408 standards, for Information Security Management System against ISO 27000 series Standards, in line with cyber security guidelines of Central Govt.

Maharashtra Electricity Regulatory Commission (“**MERC**”) has issued a Public Notice vide Advt No. 32/2023-24, dated 03.02.2024 along with a Draft Order having Case No. 3/SM/2024 for inviting objections and suggestions on the Draft Order (Suo-Moto).

The Draft Order states that the MERC will not be determining the Generic Tariff and will only adopt the tariff discovered through transparent competitive bidding process as has been specified in the MERC (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2019 (“**RE Tariff Regulations, 2019**”).

CERC approves the Procedure on Maintenance and testing of the Communication System

MERC invites Objections/Suggestions on its Draft Order in the Matter of Determination of Generic Tariff for Renewable Energy Technologies for FY 2024-25 within Maharashtra

Through this Suo-motu Draft Order, MERC intends to notify the Generic Tariff rates for Rooftop PV projects for FY 2024-25 and to undertake the process of determining variable charges for Biomass and Non-fossil fuel-based Co- generation Projects for FY 2024-25 which is given in details in the Draft Order as per RE Tariff Regulations, 2019.

The Draft Order states that while determining the Average Power Purchase Cost ("APPC"), the procurement from renewable energy sources and liquid fuel sources needs to be excluded. Accordingly, the Order notifies the new APPC (Distribution Licensee wise) for the year 2024-25. The MERC has also determined the Variable Charges for the year 2024-25 as Rs. 6.23.kWh for Biomass Project and as Rs. 4.80kWh for Non-fossil fuel-based co-generation project which shall be applicable from 01.04.2024.

The suggestions/objections are to be sent in hard copy to the given address on or before 24.02.2024. The hearing is fixed on 27.02.2024 at 11:00 AM.

The Karnataka Electricity Regulatory Commission ("KEREC") has notified the Draft KEREC (Implementation of Peer to Peer Solar Energy Transaction through block chain based platform) Regulations, 2024 (**draft Regulations**).

With the emergence of the new concept of sale of energy between consumer/prosumer to another consumer through an arrangement known as Peer to Peer (P2P) solar energy transactions through blockchain based platform, KEREC has framed the draft Regulations with an objective to promote rooftop solar, efficient utilization of existing assets and to implement innovative technologies by facilitating transactions of rooftop solar energy through blockchain based P2P platform.

The draft Regulations define various relevant terms such as blockchain, participant, P2P Consumer, P2P Prosumer, P2P Platform, P2P transaction, Service Provider etc.

The draft Regulations provide that in preferential trading, prosumers have to choose consumers and offer them a percentage of their excess energy at a specific price, or any other mutually negotiated tariff that trade will be carried out before any other trading occurs, which means that prosumers can choose their preferred off taker. It further provides that in the dynamic trading option, prosumers and consumers trade with each other, settling their own prices. The trade can be finalized through numerous ways which may be decided as per the regulatory environment/framework. The cleared price can be the highest price offered by the buyer, the lowest price offered by the seller, or an average of buyer-seller price or market determined price by any other methodology. In case there is no excess energy available in a P2P network, then the consumer's energy needs will be met by distribution licensee. Similarly, if no buyer is available for the P2P then it will be sold back to the distribution licensee as per the Power Purchase Agreement executed between distribution licensee and the consumer.

The draft Regulations also provide for the conditions to be met by the P2P participants, Service Provider and Distribution Licensee for implementation of Peer to Peer solar energy transaction through blockchain based platform.

The draft Regulations further sets out the procedure for implementation and reporting. The P2P participant who wants to participate shall register itself with the respective Distribution Licensee who in turn shall communicate the same to the Service Provider. The Distribution Licensee and the Service Provider shall jointly check the compatibility of P2P participant's system for readiness for P2P exchange within 15 days of submission of registration. In case of rejection, the reasons for the same shall be communicated to the Applicant in writing. Upon acceptance, the P2P participant shall be registered on P2P platform within 15 days after all the activities are carried out in accordance with the procedure set out under the draft Regulations. To avail P2P services, the Prosumer/Consumer shall have to install at their own cost post-paid smart meters at their premises. The cost for any additional hardware/software shall be borne by the Service Provider. For day

KERC issues Draft KEREC (Implementation of Peer to Peer Solar Energy Transaction through block chain based platform) Regulations, 2024



ahead transactions, P2P participants shall submit their schedule for the energy to be transacted on P2P platform on Nth day by 17:00 hrs. of Nth day. No deviation of schedule is allowed beyond this time. For intraday transactions, P2P participants shall submit their schedule for the energy to be transacted on P2P platform at least four time blocks before the commencement of the schedule. No deviation of schedule is allowed beyond this point.

KERC has invited the stakeholders and interested persons to file their objections/suggestions on the draft Regulations with the Secretary on or before within 30 days from the date of publication in the official gazette. The copy of the draft Regulations can be accessed [here](#).

The Madhya Pradesh Electricity Regulatory Commission (“MPERC”) has published the following amendment(s) in the Madhya Pradesh Electricity Regulation Commission (Power Purchase and other matters with respect to conventional fuel based captive power plants) Regulations, 2009 (“**Principle Regulations**”) and issued Second Amendment to the Principle Regulations, (“**Amended Regulations**”) vide notification [RG-30 (I) (ii) of 2024] dated 17th January 2024. Some of the major amendments are as follows:

- Regulation 1.6 of the Principle Regulation has been substituted in the manner that if, during any financial year, the captive generator and/or captive user(s) do not meet the conditions outlined in the Electricity Rules, 2005, they will face the consequences as detailed in Regulation 7 of the MPERC (Verification of Captive Generation Plants and Captive Users) Regulations, 2023. However, the captive generator and captive user(s) have the right to appeal against the determination of their captive status under Regulation 9 of the MPERC (Verification of Captive Generation Plants and Captive Users) Regulations, 2023.
- The 2nd proviso of Regulation 4.15 of the Principle Regulation is to be substituted in a way where the commitment charges, as outlined in the order dated 14.12.2023, will apply until the start date of this amendment. The updated commitment charges will be effective until 31.03.2027, after which they will be subject to review.
- The Commission seeks to invite suggestions/ objections/ comments in writing for the Draft Regulation till 08.02.2024.

The MPERC has repealed the MPERC (Manner of payment of subsidy by State Government) Regulation, 2007 in order to align them with Electricity (Second Amendment) Rules, 2023 as notified on 26.07.2023 by the Ministry of Power, Government of India. The Madhya Pradesh Electricity Regulatory Commission (Manner of payment of subsidy by the State Government) Regulations 2024 (“**Draft Regulations**”) have been published and provide for:

- If the State Government of Madhya Pradesh provides any direct financial assistance to compensate someone affected by tariff adjustments directed by the State Government, it is considered a subsidy.
- If the State Government intends to grant a subsidy, it must inform the Commission and Distribution Licensees. The subsidy should be declared separately for each consumer category on a per unit or per kW/kVA/HP basis.
- The distribution licensee must account for the subsidy under Section 65 of the Act following the Standard Operating Procedure issued by the Central Government.
- The distribution licensee should submit a quarterly report to the Commission within 30 days of the quarter's end, detailing subsidy demands, actual payments, and other relevant details.
- The Commission will review the report, make corrections if necessary, and its finalized report will be binding on the distribution licensee in case of unmetered or assessed consumption.
- The distribution licensee will bill the State Government's Energy department for the subsidy quarterly and ensure balance payment within 30 days.
- The State Government will pay interest for delayed payments beyond 30 days, as per specified rules.

MPERC issues Madhya Pradesh Electricity Regulatory Commission (Power Purchase and Other Matters with respect to conventional fuel based Captive Power Plants) Regulations, 2009, (Second Amendment)

MPERC issues Madhya Pradesh Electricity Regulatory Commission (Manner of payment of subsidy by the State Government) Regulation, 2024.

- If the subsidy is not paid in advance, the distribution licensee will bill consumers according to Section 65 of the Act.
- If subsidy accounting and billing are not compliant with regulations, the Commission may take action against the distribution licensee.
- Consumer bills will clearly state both the full tariff cost and the subsidy provided by the State Government.
- The Commission seeks to invite suggestions/ objections/ comments in writing for the Draft Regulation till 09.02.2024.

A-142, Neeti Bagh
New Delhi – 110 049, India
T: +91 11 4659 4466 F: +91 11 4359 4466
E: mail@neetiniyaman.co
W: www.neetiniyaman.co

Office No. 501, 5th Floor,
Rehman House Premises CHS,
Nadirsha Sukhia Street, Fort,
Mumbai-400001, India

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