

Electricity (Change in Law, Must-run status, and other Matters) Rules, 2020

Ministry of Power (MoP) issued a draft on 1st Oct, 2020 on Electricity (Change in Law, Must-run status, and other Matters) Rules, 2020. Key points of the rules are given below:

❖ Adjustment in Tariff on Change in Law -

- i. The appropriate Government may prescribe a formula by notification as per formula declared in the Electricity (Change in Law, Must-run status, and other Matters) Rules, 2020 by MoP, if the formula for compensation has not included in PPA/PSA agreement or bidding document.
- ii. 'Pass through' will come into effect automatically after 30 days of the Change in Law event. Within 30 days of the pass through coming into effect, the Generator/Intermediary Procurer will submit the pertinent documents/calculation to the Appropriate Commission for truing up the rate of pass through per unit.
- iii. The Appropriate Commission will verify the calculation and do the truing up within 60 days of the pass through coming into effect after which the rates of pass through will be adjusted, if necessary, according to the truing up.

❖ Must-run –

- i. Power generated from must-run power plant may be curtailed or regulated in the event of any technical constraint or for the reasons of security of the electricity grid.
- ii. In case of the curtailment or regulation of power, the provision of Indian Electricity Grid Code (IEGC) will be adhered.
- iii. Curtailment of supply from the must-run power plant, compensation will be payable by the procurer to the Generator at the rate specified in the PPA.
- iv. Curtailment is received by the Generating Company of such a power plant at least 24 hours in advance from the scheduled supply, it will mandatorily sell the power which is not scheduled on the Power Exchange (PX).
- v. The amount realized by a power plant from such sale of power on a PX, after deducting expenses, if any, in such sale, will be adjusted against the compensation payable as per PPA, on monthly basis. Excess realization during a month from sale of power in a PX, if any, will be carried forward and adjusted in the next month(s).
- vi. If rate of compensation is not prescribed in the PPA/PSA, it will be at rate of 75% of the PPA rate per unit.

❖ Trading Licensee to procure power for Distribution Licensee -

- i. Trading and Distribution Licensee prior coming into effect of these rules for sale of power from renewable energy suppliers selected through bidding process conducted under the guidelines issued by the Government under Section 63 of the Act.
- ii. The tariff applicable will be the weighted average tariff of all the suppliers selected in the same bidding process.
- iii. The Appropriate Commission will adopt the weighted average tariff after hearing the parties concerned.
- iv. The tariff will be trued up by Appropriate Commission on yearly basis.
- v. The trading licensee will be allowed to retain only the trading margin as specified in the agreements or the regulation or as determined by the Appropriate Commission.

The Regulation can be accessed [here](#).

CER Opinion –

CER Change in Law:

Conditions for change in law should exclude (Rule – 2 (1) (b)):

- i) Change in DSM regulations itself.
- ii) Change in DSM charges.
- iii) Change in applicable frequency band.
- iv) Any other change in the grid code.

CER Change in Law – Perspective of Buyer (DISCOMs):

Current provision related to change in law only gives the perspective of seller. Change in law may also result in reduction in cost of the electricity (or transmission services) being supplied to a buyer (DISCOMs). Specific provisions should be inserted to ensure that such benefits on account of change in law should be promptly passed on to the buyer with analogues applicability of relevant provisions mentioned therein.

CER ‘Occurrence’ of Change in Law – In case of varying interpretations:

The interpretation about occurrence of ‘change in law’ as specified in these rules sometimes may itself be a subject of disagreement. Given the provision for automatic pass through of the cost implication because of such interpretation of ‘change in law’, an institutional mechanism should be available with the respective regulator to assuage any concerns regarding hasty interpretations. (Rule – 3 (a))

CER Change in Law to Impact Different Components of Tariff:

A change in law may have implication on one or all the components of tariff. For example - fixed charge (escalable or non-escalable), variable charge (escalable or non-escalable), transportation charge, etc. Thus, the calculation of pass through element arising on account of change in law may need to be undertaken separately for different cost components.

Calculation of pass through only on the basis of per unit charge may sometimes lead to under- recovery for the entity selling or transmitting electricity. Rule 3 (c) and (d) should be appropriately amended to incorporate the same.

CER RE Curtailment:

- a) Given the increasing share of RE across a number of states it is likely that such states may witness pre-dominantly RE generation during certain days of the year given a variety of technical and operational constraints faced by system operator and conventional generating stations, RE curtailment may need to be resorted. It would be advisable that a certain percentage of allowable RE curtailment (averaged over the year) may be incorporated in the respective power purchase agreement with such generators.
- b) To ensure that the RE curtailment due to non-technical reasons are not camouflaged as ‘system constraints’, SLDCs should be separated as an independent system operator.

CER Must-run – Merit Order Among Must-run Plants:

In case of the states having high share of renewable energy, a situation may arise wherein electricity demand may be completely met through renewable energy sources

(including hydro & nuclear). In such a scenario, curtailment of must-run plants based on merit order consideration within these must-run plants may need to be exercised. Thus, a specific provision providing for curtailment of the must-run plants based on merit order needs to be incorporated. (Rule – 4 (1))

CER Must-run Status to be limited to Generation originally forecasted & requested for the ‘Cut-off’ schedule:

RE plants, particularly variable RE (VRE) plants, are not able to provide a reliable forecast for the 96 time blocks of the following day by the time of submission of first schedule request submitted by the afternoon of the previous day. Such VRE generators can provide relatively reliable forecast about 4-6 hours prior to the time block. A provision for identifying the ‘cut-off’ schedule submitted about 4-6 hour in advance. This could be treated as a ‘must run schedule’, any over injection beyond this should not attract the must-run status. This would also provide incentive to prepare better forecast schedule as well.

CER Gaming for RE curtailment revenue - DSM provisions for RE:

In the absence of applicability of DSM charges for a 15% band of absolute forecasting error, as prevalent across many states, an RE generator would be incentivised to over-forecast the generation and request for its scheduling. In the case of RE curtailment, such generators would derive windfall gains for RE that would never have been generated and injected into the grid. Therefore, the must-run plants should now be subjected to progressively tighter band for forecasting error and similar DSM charges as applicable to the conventional generators.

CER Sale of ‘excess’ power on account of advance curtailment 24 hour in advance:

The SLDCs/RLDCs usually releases their first schedule for the next day starting at 00:00 hours by early evening of the previous day. Thus, the question of advance curtailment of a renewable energy plant 24 hours or earlier (as referred to in the Draft Rules) does not arise.

Given the uncertainty associated the short-term forecast as well as RE forecast, the respective SLDC may be in a position to curtail the schedule of such must-run plants about 4-6 hours in advance. Rule 4(2) thus needs to be appropriately modified to account for the same.

CER G-TAM as a Platform for Curtailed RE Power:

The curtailed RE schedule, to be sold on the power exchanges (PXs) should not adversely affect the market outcome as the marginal cost associated with the same is almost zero (for Solar and Wind Energy). Given the reduced ‘cut-off schedule’ time, the curtailed RE energy should bid in the G-TAM market (intra-day, DAC etc.). This would also enhance liquidity in the G-TAM market.

CER Transaction Cost associated with sale of Curtailed RE on PXs:

The excess/curtailed power to be sold on PXs should be directly bid by the generator or in its behalf, avoiding cost for any other intermediary. The cost associated with sale on PXs should only include the transaction cost directly payable for such platform,

and should exclude any cost associated with managing/operationalising such transactions on PXs.

Rate of Compensation to the respective Rule 4(4) should be modified as “Where the rate of compensation is not laid down in the PPA/PSA, it shall be at rate of 75% of the variable component of the tariff specified in the PPA.” This is particularly important in the context of two-part tariff for biomass, WTE etc. Thus, in the case of two-part PPA, such compensation should be limited to the variable component only.

CER Excess Realisation from Sale on PXs:

If Rate of compensation is limited to 75% of the VC under the respective PPA (in the absence of a rate of compensation laid down in PPA/PSA), the excess realization should also be calculated for sale of curtailed energy on PXs beyond this limit.

A provision should also ensure that any accumulated excess realization towards the end of the PPA is paid back promptly to the buying entity.

CER Correction in Monthly Interest Rate Calculation used in Annuity Formula:

Annuity formula specified in Annexure – I results in compounding of the monthly interest rate arrived at using $(R/12*100)$. This would lead to resultant higher annual rate than the originally used rate of interest (R), thus placing higher interest burden on the delayed compensation payment. The following formula should be used for calculating monthly interest rate (R_m).

$$R_m = R^{\frac{1}{12}} - 1$$