

No. 23/18/2020-R&R
Government of India
Ministry of Power

**

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 21st February, 2022

To

1. Secretary, CERC/FOR, New Delhi.
2. Secretary, SERCs/JERCs

Subject: Clarification on Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021.

Sir/Madam,

Some of the stakeholders such as Association of Power Producers (APP) and Transmission licensees have raised concerns on the manner in which the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 is being interpreted by the Central Electricity Regulatory Commission (Central Commission). They have informed that after notification of the Change in Law Rules, 2021, the Central Commission has disposed of certain Petitions filed by the Transmission Licensees whereby the Central Commission has directed the Developer and other parties i.e. the Respondents to settle the Change in Law claims amongst themselves and approach the Central Commission only in terms of Rule 3(8) of the CIL Rules, 2021. The petitions were filed to the Central Commission before the date of notification of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 and the Central Commission had reserved the order after hearing the matter. This has caused further difficulty to the stakeholders of the power sector. Thus, the Central Commission which has the mandate to adjudicate the matters under section 79 (f) of the Electricity Act 2003, must act in accordance/consistent with the Electricity Act 2003.

2. The matter has been examined in this Ministry and the following is clarified with respect to the applicability of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021:

- i. The Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 were notified by Ministry of Power, vide notification dated 22nd October, 2021 in Gazette of India. As per sub-rule (2) of Rule 1, these Rules shall come into force on the date of their publication in the Official Gazette. These Rules have not stated to have been given any retrospective operation.


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- ii. The aforesaid Rules are applicable on the change in law events occurred on or after the date of notification of these Rules in the Official Gazette i.e. 22nd October, 2021. The change in law events occurred prior to the notification of these Rules shall be dealt in accordance with the prevalent dispensation/rule position at the time of occurrence of the event.
 - iii. The proceedings in the petitions, related to change in law matters, pending before the Appropriate Commissions, shall be dealt in accordance with stipulations made in para (ii) above.
3. This issues with the approval of Competent Authority.

Yours faithfully



(Ghanshyam Prasad)

Joint Secretary to the Govt. of India

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