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**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (MULTI YEAR
TARIFF) (FIRST AMENDMENT) REGULATIONS, 2023**

STATEMENT OF REASONS

Dated: 10 February, 2023

Introduction

The Commission based on the Study for deciding the regulatory framework for fixing Threshold Limit for development of Intra-State Transmission System (InSTS) schemes under Tariff Based Competitive Bidding (TBCB) suitable for the State of Maharashtra, formulated the Draft Maharashtra Electricity Regulatory Commission (Multi Year Tariff) (First Amendment) Regulations, 2022 (hereinafter referred as “Draft Multi Year Tariff (First Amendment) Regulations, 2022” or “Draft Regulations”). While formulating the Draft Regulations, the Commission was guided by Capital Investment Schemes submitted by the Transmission Licensees and approved by the Commission over the past few years. The Commission also considered the existing TBCB projects for Transmission Service at Central level and in other States, Guidelines for Encouraging Competition in Development of Transmission Projects, Threshold Limit specified by other SERCs, and international experiences.

The Commission while formulating the Draft Regulations also endeavoured to balance the interest of consumers and Transmission Licensees. Based on its analysis of various aspects, the Commission has tried to bring out the best possible regulatory framework to determine the Threshold Limit above which the transmission projects shall be executed through TBCB process based on the Standard Bidding Guidelines notified by MoP, GoI from time to time. The rationale for the various provisions proposed in the Draft Regulations were elaborated in the Explanatory Memorandum (EM) published along with the Draft Regulations.

Accordingly, the Draft Regulations and the associated Explanatory Memorandum were published on the Commission’s website www.merc.gov.in on 19th August, 2022. A Public Notice was also published in daily newspapers on 19th August 2022 in Marathi (Maharashtra Times and Loksatta) and English (Times of India and Economics Times), inviting comments, objections and suggestions from all stakeholders to be submitted to the office of Commission on or before 19 September 2022.

The Commission has also taken cognisance of the Hon'ble Supreme Court Judgment dated 23rd November 2022 in Civil Appeal No. 1933 of 2022 (The Tata Power Company Limited Transmission (Appellant) Versus Maharashtra Electricity Regulatory Commission & Ors. (Respondents)) where the Hon'ble Supreme Court dismissing the appeal of The Tata Power Company Limited-Transmission directed all State Electricity Regulatory Commissions (**SERCs**) to frame Regulations under Section 181 of the Act on the terms and conditions for determination of tariff within three months from the date of the Judgment. The Hon'ble Supreme Court further directed that Appropriate Commission(s) while framing the guidelines on determination of tariff shall be guided by the principles prescribed in Section 61, which shall also include the National Electricity Policy (NEP) and Tariff Policy (TP). Where the Appropriate Commission(s) has already framed Regulations, they shall be amended to include provisions on the criteria for choosing the modalities to determine the tariff, in case they have not been already included. Accordingly, the Commission (**MERC**) has determined criteria for adoption of the tariff determined through transparent process of bidding for Intra-State Transmission System projects costing above a Threshold Limit under Section 63 of the Electricity Act, 2003.

A total of 08 stakeholders submitted their comments/suggestions/objections on the Draft Regulations. The list of stakeholders who offered their comments/suggestions/ objections on the Draft Regulations and Explanatory Memorandum, which have been considered by the Commission while finalising the Regulations, is placed at **Annexure-I**.

The main comments/suggestions/objections and views expressed by the stakeholders through their written submissions and the Commission's views thereon have been summarized in the following paragraphs. It may be noted that all the suggestions given by the stakeholders have been considered and the Commission has attempted to elaborate all the suggestions as well as the Commission's decisions on each suggestion in the Statement of Reasons, however, in case any suggestion is not specifically elaborated, it does not mean that the same has not been considered. Further, some stakeholders have suggested changes on Syntax/phrase/addition of word(s)/rewording related changes, etc., which have been suitably incorporated, wherever necessary.

Wherever possible, the comments and suggestions or objections have been summarised clause-wise, along with the Commission's analysis and ruling on the same. However, in some cases, due to overlapping of the issues/comments, the clauses have been combined in order to minimise repetition.

Some comments and suggestions were not directly related to the Draft Regulations on which inputs were invited. While the Commission has summarised such comments and suggestions or objections briefly in this Statement of Reasons (SOR), specific rulings on the same have not been provided, as the same are outside the scope of these Regulations.

The SOR is organised in the following Chapters, along the same lines as the MERC (Multi Year Tariff) (First Amendment) Regulations, 2023, summarising the main issues raised during the public consultation process, and the Commission's analysis and decisions on them which underlie the Regulations as finally notified:

Chapter 1: Determination of Threshold Limit

Chapter 2: Schemes to be exempted from TBCB

Chapter 3: Packaging of Upstream/Downstream Projects

Chapter 4: Project qualifies for TBCB but requires execution under Section 62

1 Determination of Threshold Limit

1.1 Regulation 56.3: Annexure IV Sr. No. 1

1.1.1 Proposed in Draft Regulations

“1. The Commission hereby determines the Threshold Limit of Rupees Two Hundred (200) Crore.”

1.1.2 Comments Received

Prayas submitted that there should be revision of Threshold Limit to Rs. 100 Crore instead of Rs. 200 Crore. Prayas stated that five States, viz., Haryana, Punjab, Uttarakhand, Assam and Bihar have specified Threshold Limit at Rs. 100 Crore or below. Prayas further submitted that the Commission in Explanatory Memorandum (EM) has clearly shown that 72% of projects are costing less than Rs. 100 Crore and specifying the Threshold Limit at Rs. 100 Crore would include 28% of projects under the ambit, which is significant and at the same time would exclude a large majority of smaller projects. Moreover, if the Threshold Limit is set at the proposed Rs. 200 Crore, only 9% of the projects on average would qualify and as per the Explanatory Memorandum, STU 5-year Transmission Plan (FY 2022 to FY 2026) has only 9 schemes out of 412 schemes whose Capital Cost is above Rs. 200 Crore. This clearly makes a case for a lower Rs. 100 crore Threshold Limit to bring more projects in the TBCB ambit.

The Tata Power Company Limited - Transmission Business (TPC-T) submitted that the Threshold Limit for TBCB should be specified as at least Rs. 800 Crore for developing new Transmission infrastructure. The Commission, in its approach for determining the Threshold Limit for TBCB has considered past schemes, which were under execution from FY 2015-16 to FY 2021-22. Further, the stakeholder submitted that the Transmission infrastructure Schemes generally have long gestation period of 5 to 7 years. Accordingly, the projects execution under FY 2015-16 to FY 2021-22 were conceptualised in the past, i.e., around FY 2011-12 and the costs were discovered well before the present time frame.

Therefore, these project costs may not be reflective of the current material prices as there have been significant price escalations. Hence, referencing old project costs may not be an appropriate reference point for future projects. Accordingly, it is necessary that the current level of prices / costing needs to be considered for determining the TBCB Limit applicable for future schemes.

Further, TPC-T requested to consider the new schemes proposed by all the Transmission Licensees in the next 5-year STU plan to prescribe the TBCB Limit. TPC-T added that considering the high valuation of land / right of way / Reinstatement (RI) charges / EHV Cable laying in city areas, the preliminary cost of development of a transmission project itself is very high.

The Adani Electricity Mumbai Limited (AEML) submitted that the Threshold Limit for project in Mumbai Metropolitan Region (MMR) and projects in rest of Maharashtra may be determined separately, considering that the cost and complexity of project in MMR cannot be compared with other areas of Maharashtra. AEML further submitted that the lower Threshold Limit would attract non-serious bidders and many small bidders may qualify, which might be un-manageable for the entities in Maharashtra.

AEML further submitted that for standalone or new InSTS project in MMR, the Threshold Limit may be kept at Rs. 1000 Crore while for expansion or augmentation of existing InSTS assets, the Threshold Limit may be kept at Rs. 1500 Crore and for rest of Maharashtra for standalone or new InSTS projects, Threshold Limit may be set as Rs. 500 Crore while for expansion or augmentation of existing InSTS assets, the Threshold Limit may be kept at Rs. 1000 Crore.

The Maharashtra State Electricity Transmission Company Limited (MSETCL), State Transmission Utility (STU) submitted to consider the TBCB Threshold Limit over and above Rs. 800 Crore for safe, secure, disciplined and economic grid operations. Further, the stakeholder submitted that if the Threshold Limit for TBCB is kept at Rs 200 Crore which seems very low, then such low Threshold Limit would attract many bidders including those who do not have the required transmission experience. Moreover, due to low Threshold Limit, there will be increase in number of Transmission pool participants, all such agencies will apply for licence to the Commission resulting into multiple number of Transmission Licensees in the STU pool account. Further, there will be increase in techno-commercial difficulties in respect to coordination between the licensees. The new Transmission Licensees with less experience will affect the Operations & Maintenance (O&M) of the system, availability and may endanger the grid security. Also, there is possibility of compromising in quality.

The Maharashtra State Electricity Distribution Company Limited (MSEDCL) submitted that the transmission projects to be undertaken in Maharashtra shall be implemented by STU/MSETCL under Section 62 of the Electricity Act, 2003 (Act). However, the Threshold Limit determined by the Commission may be revised to Rs. 500 Crore.

MSETCL Projects suggested to continue the prevailing practice for implementation of projects under Section 62 of the Act, for the following reasons:-

- a) The estimated cost for new projects at 220 kV level is generally in the range of Rs. 150-200 Crore and for 400 kV level, project cost in the range of Rs. 300 – 500 Crore depending upon type of technology and length of associated transmission line.
- b) Further, there is escalation in scheme cost due to revision of Schedule of Rates from time to time due to market fluctuations. Therefore, all new infrastructure

projects of the transmission utilities should be carried out by respective utilities, even if the project cost is above Rs. 200 Crore.

- c) Furthermore, increase in urbanization and implementation of the revised Government Regulations linked with ready reckoner rates has led to increase in the cost of RoW which directly affects the project cost.
- d) The stakeholder submitted that the 400 kV Vikhroli project was carried out under TBCB process and to expedite the execution, MSETCL/GoM took lot of efforts to coordinate with respective stakeholders especially for land, forest and RoW clearances during execution of the project. However, even after allotting the said project in TBCB, there is cost overrun and time over run and the project has not been completed within the desired timeline.
- e) Further, MSETCL in 2009, had initiated the new concept of Engineering, Procurement and Construction (EPC), where projects were to be executed in packages and these packages were awarded to renowned EPC global agencies. Even these agencies could not manage and execute the complete packages timely and some of them even got bankrupt in the process. This led to the delay of project commissioning and hence, had cost overrun and time overrun.

Sterlite Power Transmission Limited (Sterlite Power) submitted that given the need for development of upcoming Intra-State Transmission Infrastructure in Maharashtra in a cost-effective and timely manner, they agree with the Commission's stance on notifying Threshold Limit as Rs. 200 Crore for award of InSTS projects under TBCB. Sterlite Power further submitted that the proposed Threshold Limit should be uniformly applicable for all new transmission projects [transmission lines (overhead/ underground cables/ combination of both) / sub-station (AIS/ GIS/ hybrid/combination)/combination of both] so as to be developed through TBCB mode only.

Sterlite Power further submitted that the existing Threshold Limit of Rs. 500 Crore as specified by the Empowered Committee is an absolute outlier as compared to other States, where the Threshold Limits are in the range from Rs. 50 to 250 Crore. Such higher limit has acted as an impediment for qualification and development of InSTS projects at competitive rates under TBCB.

1.1.3 Analysis and Commission's Decision

The Commission while proposing Threshold Limit has observed that the Standard Bidding Guidelines and the Standard Bidding Documents do not specify any Threshold Limit for Transmission Project to be considered under TBCB mode.

Further, taking a cue from National Committee on Transmission that the project should not be too small as it will not attract competitive tariff thus, curtailing competition and considering the actual investment approval data for various schemes executed and under execution and also to encourage competition amongst various stakeholders and based on Threshold limit specified by other SERCs and considering

the actual project cost of Transmission projects executed, the Commission had proposed Threshold Limit of Rs 200 Crore along with flexibility to STU to take up any project of strategic importance/faster executed through Cost Plus approach with prior approval of the Commission.

The Commission has received mixed suggestions from the stakeholders as elaborated above. Prayas has requested to reduce the Threshold Limit from Rs 200 Crore to Rs 100 Crore. One of the active Developers in the Inter-State transmission projects, M/s Sterlite Power has agreed with the Threshold Limit of Rs 200 Crore proposed by the Commission in the Draft Regulations. On the other hand, the existing Transmission Licensees in the State of Maharashtra, State Transmission Utility and State Distribution Company have requested to increase the Threshold Limit for safe, secure, disciplined and economic grid operations.

As regards the submission that the Threshold Limit was specified based on the cost of projects executed in the past and hence, the Threshold Limit should be increased as the cost of projects have increased over a period of time, the Commission has revised the Threshold Limit appropriately.

After considering the stakeholders' suggestions, the Commission has decided to specify the Threshold Limit as Rs 500 Crore excluding cost of land due to following reasons:

- The cost of land is higher in Mumbai Metropolitan Region (MMR) as compared to other States;
- It will not be appropriate to specify different Threshold Limit for MMR and rest of Maharashtra;
- The limit of Rs 200 Crore specified in the Draft Regulations was based on analysis of projects executed during FY 2015-16 to FY 2021-22 and the Project Cost of new projects will be higher with the increase in cost of transmission systems over a period of time.

Accordingly, the provision in the MERC Multi Year Tariff (First Amendment) Regulations, 2023 shall be as follows:

“1. The Commission hereby determines the Threshold Limit of Rupees Five Hundred (500) Crore excluding land cost.”

Further, the Commission will again review the above Threshold Limit while framing the new Multi Year Tariff Regulations for next Control Period based on the progress of projects achieved under TBCB under current Control Period till FY2024-25.

2 Schemes to be exempted from TBCB

2.1 Regulation 56.3: Annexure IV Sr. No. 2 and 3

2.1.1 Proposed in Draft Regulations

“2. All new Intra-State Transmission Systems costing Rupees Two Hundred (200) Crore or more shall be implemented by STU through Tariff Based Competitive Bidding in accordance with the competitive bidding guidelines notified by the Central Government from time to time.

3. This Threshold Limit shall be applicable for all new Intra-State Transmission Systems (Projects) for which approval is yet to be accorded by the Commission (excluding the projects for which application for in-principle approval is already submitted to the Commission and the same is under consideration by the Commission) or Commission’s approval is not valid or approval cancelled by the Commission as the case may be.”

2.1.2 Comments Received

TPC-T submitted that Transmission Licensees, as a part of their 5-year planning, propose list of schemes comprising new (Greenfield) as well as upgradation / augmentation of existing infrastructure. While the clause clearly specifies “new Intra-State Transmission system” the amendment Regulation must define what is meant by “new Intra-State Transmission System” or provide an exclusion list.

Further, TPC-T submitted that the scheme for upgradation / augmentation of existing infrastructure would raise the issue of ownership as the licence for existing assets has already been granted to one Transmission Licensee. Hence, such scheme may be difficult to consider under TBCB.

TPC-T accordingly, suggested to amend the provision as follows:

“2. All new Intra-State Transmission Systems excluding the schemes involving the upgradation / augmentation of Assets forming part of the existing Transmission Licensee, costing Rupees Eight Hundred (800) Crore or more shall be implemented by STU through Tariff Based Competitive Bidding in accordance with the competitive bidding guidelines notified by the Central Government from time to time.

3. This Threshold Limit shall be applicable for all new Intra-State Transmission Systems (Projects) for which approval is yet to be accorded by the Commission excluding the projects which are already approved by MTC and GCC and for which application for in-principle approval is already submitted to the Commission and the same is under consideration by the Commission or Commission’s approval is not valid or approval cancelled by the Commission as the case may be. “

Prayas submitted that it is critical that competitive bidding is applicable for all projects who qualify above the cost threshold, irrespective of whether application has been

filed or not by the effective date of the Regulations. This will limit the risk of a spate of applications before the effective date is applicable and provide a level playing field for all projects.

MSETCL, STU submitted that all brownfield projects irrespective of voltage level and type of projects such as upgradation, renovation, capacity augmentation, reactive power compensation, automation and communication, etc., should be conducted by respective transmission utilities and being brownfield projects, these projects involve outage management. Hence, it is necessary to exempt brownfield projects from the ambit of TBCB.

AEML submitted that the projects, which are appearing in the Licence of the Transmission Licensees or have been allocated to a Transmission Licensee in STU five-year plans or the DPRs are already submitted to STU/Commission, or the Transmission Licensee has considerably worked on the planning of the project should also be excluded from TBCB process. AEML further submitted that as per Maharashtra Electricity Regulatory Commission (Approval of Capital Investment Schemes) Regulations, 2022, transmission schemes costing above Rs. 100 Crore are to be technically and financially evaluated by the STU and the Commission is to only ensure that the STU has followed the process as envisaged. Therefore, it is the STU, which would actually be evaluating and approving the schemes costing above Rs. 100 Crore. Hence, logically, all schemes already submitted for consideration of STU (irrespective of the cost) by the Transmission Licensees, should be excluded from the process of TBCB, just the same way as the Commission has excluded from TBCB, the schemes already submitted to it for approval.

2.1.3 Analysis and Commission's Decision

The Commission has clearly specified in the Draft Regulations that the Threshold Limit shall be applicable to all new Intra-State Transmission Systems (Projects) excluding the Projects for which approval is already granted by the Commission or the Scheme is already submitted to the Commission for approval.

The Commission has considered the stakeholders' suggestion regarding exclusion of schemes/ projects involving the upgradation/augmentation of assets forming part of the existing Transmission Licensee.

As regards whether the scheme submitted to STU and approved by MTC and GCC should be excluded from TBCB, the Commission is of the view that if schemes submitted to STU are excluded, then most of the schemes of 5-year plan will get excluded from TBCB and there will be hardly any project for execution under TBCB. Further, the schemes approved by MTC and GCC (if not part of Transmission Licensees) cannot be excluded from the process of TBCB as after notification of this amendment, STU has to identify the projects to be executed under TBCB route in accordance with the provisions of Regulations and recommend the same to the Empowered Committee (EC) for its approval and as per the functions of Empowered Committee. Thereafter, the Empowered Committee will select the transmission

projects to be executed under TBCB route as per the recommendations of the STU and also form the Bid Evaluation Committee. Therefore, the stakeholders' suggestion in this regard have not been accepted. In view of the above, the Commission has not made any modifications in the Draft Regulations in this regard.

The Commission also finds merit in suggestion that if certain scheme is already a part of Licence of Transmission Licensee, such scheme needs to be excluded from the ambit of TBCB as for each project awarded under TBCB, the Project Company has to obtain the Transmission Licence. Hence, if certain project is already a part of existing licence, fresh licence cannot be issued for the same project.

Accordingly, the Commission has modified the provision in the MERC Multi Year Tariff (First Amendment) Regulations, 2023 as follows:

“2. All new Intra-State Transmission Systems excluding the schemes involving the upgradation / augmentation of Assets forming part of the existing Transmission Licensee and excluding the schemes which appear in the Licence of the Transmission Licensees, costing Rupees Five Hundred (500) Crore or more excluding land cost shall be implemented by STU through Tariff Based Competitive Bidding in accordance with the competitive bidding guidelines notified by the Central Government from time to time.

3. This Threshold Limit shall be applicable for all new Intra-State Transmission Systems (Projects) for which approval is yet to be accorded by the Commission (excluding the projects for which application for in-principle approval is already submitted to the Commission and the same is under consideration by the Commission) or Commission's approval is not valid or approval is cancelled by the Commission, as the case may be.”

3 Packaging of Upstream/Downstream Projects

3.1 Regulation 56.1

The Commission in order to have more clarity has decided to amend the Regulation 56.1 as follows:

“56.1 The Regulations contained in this Part shall apply to the determination of Tariff for access and use of the intra-State transmission system pursuant to a Bulk Power Transmission Agreement or other arrangement entered into with a Transmission System User, which are not covered under Regulation 56.3 dealing with adoption of tariff through TBCB Route under Section 63 of the Act:

Provided that in case a new transmission system set up by a new Transmission Licensee is added to the existing system during the Control Period, the Commission shall redetermine the Tariff for the remaining years of the Control Period having regard to the Petition for determination of Aggregate Revenue Requirement submitted by such Transmission Licensee for the remaining years of the Control Period.”

3.2 Regulation 56.3: Annexure IV Sr. No. 4

3.2.1 Proposed in Draft Regulations

“4. The entire Intra-State independent transmission systems including any upstream/downstream project shall be designed as single project for inviting bids for development of project through Tariff Based Competitive Bidding.”

3.2.2 Comments Received

TPC-T suggested to provide an example of end-to-end transmission scheme for clarity to this Regulation.

Sterlite Power submitted that it agrees with the Commission in its view. Sterlite Power further submitted that careful planning and packaging of elements, i.e., Substations, Associated Transmission Lines, LILO's required, bay implementation, Augmentation required, etc., would yield several packages with overall value more than Rs, 200 Crore. Therefore, Threshold Limit should be uniformly applied on such designed/required packages to be executed by STU/MSETCL rather than on individual elements required.

Sterlite Power further submitted that having a right bid size/value through appropriate packaging of elements is vital to have interest of credible developers, invite quality competition and thus have economies of scale kick in leading to discovery of competitive tariffs.

3.2.3 Analysis and Commission's Decision

The Commission has clearly specified in the Draft Regulations that the entire Intra-State independent transmission systems including any upstream/downstream project shall be designed as single project for inviting bids for development of project through Tariff Based Competitive Bidding to ensure that the projects package consist of a right bid size and amount with individual elements so that the individual elements do not remain stranded due to coordination issues and/or delay of other elements.

Further, the Commission is of the view that appropriate packaging of the project will ensure competition and determination of tariffs in competitive manner. Therefore, the Commission has not made any modifications in the Draft Regulations in this regard.

4 Project qualifies for TBCB but requires execution under Section 62

4.1 Regulation 56.3: Annexure IV Sr. No. 5

4.1.1 Proposed in Draft Regulations

“5. In case the STU intends to implement any Intra-State Transmission System above the Threshold Limit through cost-plus approach under Section 62 of the Act, due to some specific reasons such as project is of critical nature (e.g., Transmission System being developed for Defence, Railways, Airport, etc.) or the Project may lead to ownership or interface issues, i.e., the ownership of new Intra-State Transmission System cannot be delineated from the assets of existing transmission assets, the STU shall obtain prior approval of the Commission for the same. Further, in case the STU intends to implement any Intra-State Transmission System below the Threshold Limit through Tariff Based Competitive Bidding, due to some specific reasons, STU can decide to implement such projects through Tariff Based Competitive Bidding with valid reasons to do so and with prior approval of the Commission.”

4.1.2 Comments Received

Sterlite Power agreed with the Draft Regulations that transmission projects that are of strategic / State / National importance may be allowed by the Commission to be executed under cost plus route, subject to exemption sought by Empowered Committee / STU/ GoM.

Prayas submitted that it is vital that critical parameters be tracked and monitored for all the projects on periodic basis, whether Cost-plus or competitively bid. Prayas further suggested to amend the Tariff Regulations such that STU issues periodic reports (say quarterly) or status of all major projects in the State, with project details as well as progress details. This could be modelled on the CEA update reports for ongoing and completed ISTS Transmission projects. Beside this, such reporting shall be made part of the Regulation 19 of the MERC (Approval of Capital Investment Schemes) Regulations, 2022 and also mandate that such information is available in the public domain.

TPC-T suggested that capex projects involving upgradation / augmentation to assets forming part of the existing Transmission Licensee needs to be necessarily implemented under Section 62 of the Act as the same may lead to the ownership or interface issues, i.e., the ownership of new Intra-State Transmission System cannot be delineated from the assets of existing transmission assets. Hence, such exemptions may be clearly provided for in the Regulations itself to avoid ambiguities in the interpretation of the clause. TPC-T further stated that such exemptions have also been provided in the Tariff Policy, 2016, as follows:

“(7) While all future inter-state transmission projects shall, ordinarily, be developed through competitive bidding process, the Central Government may give exemption from competitive bidding for:

(a) specific category of projects of strategic importance, technical upgradation etc. or

(b) works required to be done to cater to an urgent situation on a case to case basis.

(8) CERC has specified Regulation on framework for the inter-State transmission. A similar approach should be implemented by SERCs for the intra-State transmission, duly considering factors like voltage, distance, direction and quantum of flow.”

TPC-T further suggested that the provision of option of carrying out projects below the Threshold Limit through TBCB shall create disputes, create uncertainty and would further delay the development of Transmission Infrastructure. Further, prima facie, there appears to be no reason why STU would lower the Limit once it is formalized by the Commission. Hence, either the conditions under which the STU would be making such proposal needs to be spelt out in the Regulations or the clause may be entirely deleted.

TPC-T accordingly suggested to amend the provision as follows:

“In case the STU intends to implement any new Intra-State Transmission System other than the excluded list (as commented under sr.2) above the Threshold Limit through cost-plus approach under Section 62 of the Act, or the Project may lead to ownership or interface issues, i.e., the ownership of new Intra-State Transmission System cannot be delineated from the assets of existing transmission assets, the STU shall obtain prior approval of the Commission for the same. OR

*In case the STU intends to implement any new Intra-State Transmission System above the Threshold Limit through cost-plus approach under Section 62 of the Act, due to some specific reasons such as project is of critical nature (e.g., Transmission System being developed for Defence, Railways, Airport, **the schemes involving the upgradation / utilization of licensees asset / augmentation of Assets forming part of the existing Transmission Licensee which are part of its transmission license etc.**) or the Project may lead to ownership or interface issues, i.e., the ownership of new Intra-State Transmission System cannot be delineated from the assets of existing transmission assets, the STU shall obtain prior approval of the Commission for the same.”*

AEML suggested that in case any project, costing above the Threshold Limit, is required to be executed in compressed time schedule due to its critical requirement for the stability of the transmission system or where transmission infrastructure is required on priority for meeting system demand, then the project should be allocated to the Transmission Licensee better placed to implement the project. In such cases also, the projects should be executed through Regulated Tariff Mechanism (RTM) after getting prior approval from the Commission. Similarly, any project costing above the Threshold Limit and required to meet the specific load requirement for bulk consumers at 220 kV by augmentation/modification of existing system, should be carried out through RTM, after getting prior approval from the Commission.

AEML also suggested that where the ownership or interface issues exist, and if the existing Licensee is at advantageous position to get awarded under TBCB, such projects should be only executed under Section 62 of the Act.

AEML further suggested that the responsibility of getting prior approval for the project in the above cases should rest with the Utility and STU's role should be limited to providing recommendation to the Commission about the project to be carried out through RTM (costing above Threshold Limit) and the Utility better placed to implement the project.

4.1.3 Analysis and Commission's Decision

The Commission has clearly specified in the Draft Regulations that the STU may decide to execute the projects above Threshold Limit under Section 62 of the Act, on account of specific reasons such as projects of critical nature (e.g., Transmission System being developed for Defence, Railways, Airport, etc.) or the project may lead to ownership or interface issues, i.e., the ownership of new Intra-State Transmission System cannot be delineated from the assets of existing transmission assets with prior approval of the Commission. Further, for projects below Threshold Limit, the Draft Regulations clearly specify that the STU may execute the project below Threshold Limit under TBCB with valid reasons subject to prior approval of the Commission.

As regards the projects referred by AEML regarding faster execution for any project costing above the Threshold Limit, the Commission is of the view that proposed Draft Regulation 56.3 Annexure IV Sr. No. 5 is adequate and covers this type of projects.

As regards the suggestion of excluding upgradation/augmentation projects from the ambit of TBCB, this aspect has already been dealt with while providing clarity on New projects, as discussed in preceding part of the SOR.

As regards the stakeholder suggestion that no project below Threshold Limit should be executed under TPCB route, the Commission is of the view that flexibility has been provided in the Regulations and the reasons for executing such projects under TBCB route shall be examined at the time of prior approval by the Commission.

As regards tracking and monitoring of critical parameters for all the projects on periodic basis whether Cost-plus or competitively bid and publication of report on same, the issue does not pertain to the Regulations.

In view of the above, the Commission has not made any modifications in the Draft Regulations in this regard.

5 Other Comments

5.1 Transmission Service Agreement

5.1.1 *Comments Received*

Tractebel Engineering Pvt. Ltd submitted that Article 18 of Transmission Service Agreement (TS) as part of Standard Bidding Documents (SBD) issued by Ministry of Power on August 6,2021 indicates appointment of an Independent Engineer for quality monitoring purpose. Tractebel suggested to adopt he same provision for the State of Maharashtra.

5.1.2 *Analysis and Commission's Decision*

The Commission notes that the suggestion made is regarding the incorporation of provision related to appointment of Independent Engineer in TSA and does not relate to the Threshold Limit to be specified by the Commission. For implementation of projects related to TBCB, Standard Bidding Documents are to be followed and hence this provision will get incorporated in TSA to be executed for TBCB projects.

In view of the above, the Commission has not made any modifications in the Draft Regulations in this regard.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson

Annexure I

| Sl. No. | Name of Stakeholders |
|---------|--|
| 1. | M/s Maharashtra State Electricity Distribution Company Limited (MSEDCL) |
| 2. | M/s Maharashtra State Electricity Transmission Company Limited (MSETCL) (STU) |
| 3. | M/s Maharashtra State Electricity Transmission Company Limited (MSETCL) (Projects) |
| 4. | M/s Prayas (Energy Group) |
| 5. | M/s Sterlite Power Transmission Limited (Sterlite Power) |
| 6. | M/s The Tata Power Company Limited - Transmission Business (TPC-T) |
| 7. | M/s Adani Electricity Mumbai Limited (AEML) |
| 8. | M/s Tractebel Engineering Pvt. Ltd. |