

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

No. L-7/14/2010/CERC

4th June , 2010

NOTIFICATION

In exercise of the powers conferred by Sections 178(1) and 178(2)(ze) of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, namely:-

1. Short title and commencement:

- (1) These regulations may be called the Central Electricity Regulatory Commission (Power System Development Fund) Regulations, 2010.
- (2) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions:

- (1) In these regulations, unless the context otherwise requires:
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003), including amendments thereto;
 - (b) "Commission" means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 of the Act.
 - (c) "Congestion Amount" has the same meaning as assigned to it in the Central Electricity Regulatory Commission (Power Market) Regulations, 2010"

(d) "Congestion Charge" has the same meaning as assigned to it in the Central Electricity Regulatory Commission (Measures to relieve congestion in real time operation) Regulations, 2009 as amended from time to time;

(e) "Fund" means the Power System Development Fund constituted under Regulation 3 of these regulations.

(f) "Reactive energy charges" has the same meaning as assigned to it in the Indian Electricity Grid Code Regulations, 2010;

(g) "Unscheduled Interchange charges" has the same meaning as assigned to it in the Central Electricity Regulatory Commission (Unscheduled Interchange Charges and related matters) Regulations, 2009 as amended from time to time;

(2) Save as aforesaid and unless repugnant to the context or the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act, or the regulations made thereunder by the Commission, shall have the meanings assigned to them respectively in the Act or the regulations.

(3) The provisions of the General Clauses Act, 1897 (10 of 1897) as amended from time to time shall apply for the interpretation of these regulations as they apply for the interpretation of an Act of Parliament.

3. Constitution of the Fund:

(1) There shall be constituted a fund to be called the "Power System Development Fund" and there shall be credited thereto.-

(a) Congestion charges standing to the credit of the "Congestion Charge Account" after release of amounts payable to Regional Entities entitled to receive congestion charge along with

interest, if any, in accordance with the Central Electricity Regulatory Commission (Measures to relieve congestion in real time operation) Regulations, 2009 as amended from time to time;

(b) Congestion amount arising from the difference in the market prices of different regions as a consequence of market splitting in power exchanges in accordance with Central Electricity Regulatory Commission (Power Market) Regulations, 2010.

(c) Unscheduled Interchange charges standing to the credit of the “Unscheduled Interchange Pool Account Fund” after final settlement of claims of Unscheduled Interchange Charges in accordance with the Central Electricity Regulatory Commission (Unscheduled Interchange Charges and related matters) Regulations, 2009 as amended from time to time;

(d) RLDC reactive energy charges standing to the credit of Reactive Energy Charges Account;

(e) such other charges as may be notified by the Commission from time to time:

Provided that amounts representing the sources as specified in sub-clauses (a) to (d) of clause 1 of this regulation and lying in the custody of Central Transmission Utility together with interest earned thereon upto 30th of April, 2010 shall be credited to the Fund.

(2) The agencies which are authorized to collect Congestion charges, Congestion amount, Unscheduled Interchange charges, Reactive energy charges under the respective regulations and such other charges as may be notified by the Commission from time to time, shall transfer to the credit of the Fund the balance amounts in the charges under sub-clauses (a) to (e) of clause (1) of this regulation on monthly basis or such

other basis as deemed fit by the Managing Committee in accordance with Regulation 5.

(3) Separate account shall be maintained for each fund represented in sub-clauses (a) to (e) of clause (1) of this regulation subject to other terms and conditions as specified in the relevant regulations.

4. Utilisation of the Fund:

The Fund shall be utilised for the purpose being permissible under the relevant regulations specified by the Commission.

5. Disbursement of Fund in respect of projects, schemes and activities:

(1) Subject to the provisions of Regulation 6, the amount in the funds shall be disbursed for the projects, schemes or activities mentioned under Regulation 4 of these regulations.

(2) The Managing Committee shall prepare a detailed procedure for disbursement from the Fund consistent with the provisions of these regulations.

(3) For the sake of removal of doubts, it is further clarified that no amount from the fund shall be disbursed without the approval of the Commission.

6. Procedure for identification and prioritization

(1) The Managing Committee as constituted under Regulation 7 shall scrutinize the schemes or activities proposed to be financed from the Fund and if all the schemes or activities cannot be sanctioned due to shortage of resources in the Fund, the Managing Committee shall prioritize the projects, schemes or activities for release of funds with the approval of the Commission.

(2) The Central Electricity Authority, Regional Power Committees, generating companies, transmission licensees, Load Despatch Centers, Power Exchange as the case may be, shall furnish necessary details of the projects, schemes or activities to the Managing Committee to facilitate identification and prioritization of the schemes.

7. Managing Committee

(1) A Managing Committee shall be appointed by the Commission for the administration of the Fund, consisting of the following members:-

(i) Head of NLDC/entity entrusted with the function of NLDC and RLDCs shall be designated by the Commission as the Chairperson of the Managing Committee;

(ii) Representative of each of the Regional Power Committees (RPC);

(iii) Representative of each of the RLDCs;

(iv) an officer of NLDC, not below the rank of General Manager, as nominated by the head of NLDC shall be the Member Convenor; and

(v) Two independent external members nominated by the Commission and of whom one member, in the opinion of the Commission, shall have special knowledge or experience in the field of finance in the power sector and other member shall have the wide experience in the power sector:

Provided that appointment of the independent external members shall be subject to their acceptance of the nomination.

(2) A member of the Managing Committee, other than the independent external members, shall hold office for the duration for which they have been nominated by the respective organization(s).

(3) The tenure of the independent external members shall be for a period of two years from the date of his acceptance of the nomination and he shall cease to be a member of the Managing Committee after expiry of two years:

Provided that the independent external members shall be eligible for re-appointment.

(4) The Secretary of the Fund shall be nominated by the head of the NLDC from amongst its officers of the level of Dy. General Manager and above who shall be responsible for the records of the Fund.

(5) An officer of the NLDC of the level of Senior Manager or above shall be nominated by the head of NLDC as the Treasurer of the Fund.

(6) A Member of the Managing Committee may, by notice in writing under his hand addressed to the Chairperson of the Fund, resign from his office:

Provided that a copy of the resignation letter shall be forwarded by the Secretary of the Fund to the Commission:

Provided further that the Member of the Managing Committee shall, unless he is permitted by the Commission to relinquish his office sooner, continue to hold office until the expiry of (thirty) 30 days from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of term of office, whichever is the earlier.

8. Removal of members of the Managing Committee

The Commission may, by giving a notice, remove any member of the Managing Committee from his office, if he:

- (a) has been adjudged an insolvent by a court of law;
- (b) has been convicted of an offence by a court of law which, in the opinion of the Commission, involves moral turpitude;
- (c) has become physically or mentally incapable of acting as a Member of the Managing Committee;
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member of the Managing Committee;
- (e) has so abused his position as to render his continuance in office of the Managing Committee prejudicial to the public interest;
- (f) has been guilty of proven misbehaviour;
- (g) absents himself from three consecutive meetings of the Managing Committee without obtaining leave of absence from the Chairperson of the Committee.
- (h) in the opinion of the Commission, has failed or is unable to carry out his duties satisfactorily:

Provided that before issuing any such notification, the Commission shall give the member an opportunity of being heard in the matter.

9. Meetings of the Managing Committee

- (1) There shall be at least four meetings of the Managing Committee in a year on such dates and at such places as the Chairperson of the Managing Committee may deem fit and the interval between any two meetings shall not, preferably, exceed six months.

(2) At every meeting of the Managing Committee, the Chairperson of the Managing Committee shall preside or if he is unable to attend a meeting, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination, any Member chosen by the Members present from among themselves, shall preside over the meeting.

(3) The Secretary of the Fund may at any time convene a meeting of the Managing Committee by notice in writing of fourteen (14) days. Such notice shall contain a detailed agenda of the business to be transacted at the meeting and a statement of any resolutions to be put at the meeting:

Provided that in case of urgency, a special meeting of the Managing Committee may be convened at any time by the Chairperson of the Managing Committee, who shall inform the Members of the subject matter for discussion and reasons for convening the meeting. No ordinary business shall be transacted at such special meetings.

(4) Notwithstanding anything contained hereinabove, the Commission may also at any time convene a meeting of the Managing Committee.

10. Quorum

(1) No business shall be transacted at a meeting of the Managing Committee unless atleast five of its Members are present.

(2) If within half an hour after the time appointed for the holding of a meeting of the Managing Committee, quorum is not present, the meeting shall be adjourned to the same place and time seven (7) days later. Each Member shall be notified immediately by facsimile message or electronic mail of such adjournment. If at such adjourned meeting quorum is not present within half an hour of its commencement, the Members so present shall constitute a quorum for the purposes of the transaction of the business of that meeting.

11. Filling of Casual Vacancy

(1) Any casual vacancy in the membership of the Managing Committee shall be filled by the Commission.

(2) Any person appointed against the casual vacancy shall hold office till the regular incumbent is available or the vacancy is filled up on regular basis.

12. Committees and Sub-Committees

The Managing Committee may constitute Committees or sub-Committee(s) out of its own members to look after day-to-day operations or for any other specific purpose.

13. Record of Business

(1) The Secretary of the Fund shall maintain the records of the business transacted by the Managing Committee and copies of such record shall be submitted to the Commission from time to time.

(2) The record of business transacted at every meeting of the Managing Committee shall be signed by the Chairperson of the Managing Committee or the Member presiding at such a meeting.

14. Voting

All questions which come up before any meeting of the Managing Committee shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

15. Functions of the Managing Committee

(1) The Managing Committee shall open accounts titled “Power System Development Fund” or by such other name as may be decided by the Managing Committee with any of the Scheduled Banks/ Nationalised Banks at New Delhi as the main account and with subsidiary accounts at such other branches of the said bank as the Managing Committee considers appropriate.

(2) The Managing Committee shall maintain proper accounts and manage the Fund as an independent fund and shall ensure that the Fund is not mixed up with the accounts of the Commission.

(3) On receipt of project proposals for funding from the Fund, the Managing Committee shall scrutinize such proposals having regard to the objects of the Fund as specified in Regulation 4 above, the importance of the project(s) and quantum of fund required for such project(s).

(4) The Managing Committee may invest the money lying in the Fund in securities authorized under the Indian Trusts Act, 1882 or frame guidelines from time to time with the approval of the Commission for the investment of balance funds.

(5) After scrutinizing such proposals, the Managing Committee shall submit its recommendations in writing to the Commission for approval for disbursement from the Fund:

Provided that an independent system for concurrent monitoring and evaluation of the projects, schemes and activities shall be evolved to ensure effective and proper utilization of the Fund:

Provided further that if the Commission or the Managing Committee is satisfied that the amounts disbursed out of the Fund are not being utilized properly, the Commission or the Managing Committee shall

have the power to withhold or suspend the release of balance sanctioned fund or part thereof.

(6) In discharge of its functions, the Managing Committee may consult the Central Electricity Authority, generating companies or transmission licensees or appoint consultants to assist the Managing Committee on such terms and conditions, fees, and remuneration as deemed fit by the Managing Committee.

(7) The Managing Committee shall decide the TA/DA, sitting fees for members of the Managing Committee, allowances, remuneration of contractual employees, administrative expenses, fees of the Consultants, advisors, auditors and other agencies whose services are availed of by the Fund, and shall meet the said expenses from the Fund.

16. Operation of the Fund

(1) The bank accounts of the Fund shall be operated by any two persons designated as authorised signatories by the Managing Committee from time to time.

(2) The authorized signatories shall not make any withdrawal from the accounts of the Fund except through proper authorisation and/or after sanction from the Managing Committee.

17. Property and Income of the Fund

(1) All properties of the Fund, whether movable or immovable, shall vest in the name of the Fund and shall be administered by the Managing Committee.

(2) No part of the Fund shall be used directly or indirectly by way of dividend, bonus or otherwise, or by way of profit to persons who at any time are or have been members of the Fund or to any of them or to any

person claiming through them:

Provided that nothing herein shall prevent the payment in good faith of remuneration to a Member of the Managing Committee or to any other persons in return for service rendered to the Fund or for travelling allowance, halting allowance and such other charges.

18. Audit of Accounts

(1) A registered chartered accountant firm/ Chartered Accountant shall be appointed by the Managing Committee to audit the accounts of the Fund annually.

(2) The Managing Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be decided by the Managing Committee in consultation with the auditor appointed in accordance with clause (1) of this regulation.

19. Annual Reports

The Managing Committee shall prepare the annual report of the Fund including the work undertaken during the year, together with balance sheet and audited account, and submit the same for the information of the Commission. The Managing Committee shall prepare summarized quarterly reports of funds utilization which will be displayed on the website of the Commission.

20. Dissolution of the Fund

(1) The Commission may, on being satisfied that it is necessary so to do in public interest, direct by notification in the Official Gazette that the Fund shall be dissolved from such date and for such period as may be specified in the notification.

(2) When the Fund is dissolved under the provisions of clause (1) this regulation,

(a) all members of the Managing Committee, notwithstanding that their term of office has not expired, shall from the date of dissolution, vacate their office as members;

(b) all powers and duties of the Managing Committee shall, during the period of dissolution, be exercised and performed by such person or persons as the Commission may appoint in this behalf.

(c) all funds and other properties vested in the Fund shall during the period of dissolution, vest with such entity to be nominated by the Commission in this behalf.

(3) As soon as the period of dissolution expires, the Fund shall be reconstituted.

21. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act and the regulations made thereunder as may appear to be necessary for removing the difficulty.

Sd/-
(Alok Kumar)
Secretary