

No.15/03/2008/Trans
Government of India
Ministry of Power

Shram Shakti Bhavan, Rafi Marg,
New Delhi, the 29th June 2008

To

1. Power / Energy Secretaries, all State Governments / UT
2. Chairman, State Power Utilities / SEBs

Sub: Standard Bidding Documents, viz. Request for Proposal (RfP) and Transmission Service Agreement (TSA) for procurement of Transmission Services through tariff based competitive bidding –amendment req.

Sir,

I am directed to refer to this Ministry's letters No. 11/12/2006-PG/Trans dated 17.9.2008 on the subject cited above and to say that with the approval of competent authority the following amendments have been made in the Standard Bidding Documents, RfP and TSA:

Sl. No.	Existing Clause	To be substituted
	A. RFP	
1.	Definition of Element: "Element" shall mean each Transmission Line or each circuit if the Transmission Lines (where there are more than one circuit) or each bay of the Sub-station or switching station or HVDC terminal or inverter station of the Project, which has a separate scheduled COD as per Schedule 4 of the TSA and a separate percentage for recovery of Transmission Charges on achieving COD as per Schedule 7 of the TSA;	Definition of Element: "Element" shall mean each Transmission Line or each circuit if the Transmission Lines (where there are more than one circuit) or each bay of the Sub-station or switching station or HVDC terminal or inverter station of the Project, which has a separate scheduled COD as per Schedule 3 of the TSA and a separate percentage for recovery of Transmission Charges on achieving COD as per Schedule 6 of the TSA;
2.	Clause 2.11.2: "The Quoted Transmission Charges of the Selected Bidder shall be inserted in Schedule 7 of the TSA."	Clause 2.11.2: The Quoted Transmission Charges of the Selected Bidder shall be inserted in Schedule 6 of the TSA.

B. TSA

Sl No	Existing Clause	Amendment Proposed (To be substituted)
3.	Definition: "Availability" in relation to the Project or in relation to any Element of the Project, for a given period shall mean the time in hours during that period the Project is capable to transmit electricity at its	Instead of reference in SBD, the following text should be inserted; "Availability" in relation to the Project or in relation to any Element of the Project, for a given period shall mean

	<p>Rated Voltage and shall be expressed in percentage of total hours in the given period and shall be calculated as per the procedure contained in Appendix-III to Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 attached herewith in Schedule 9;</p>	<p><i>the time in hours during that period the Project is capable to transmit electricity at its Rated Voltage and shall be expressed in percentage of total hours in the given period and shall be calculated as per the procedure contained in [BPC to insert reference to applicable regulations] attached herewith in Schedule 9</i></p>
4.	<p>Definition: Contract Performance Guarantee shall mean the irrevocable unconditional bank guarantee, submitted and to be submitted by the TSP or by the Selected Bidder on behalf of the TSP to the Long Term Transmission Customers from a bank mentioned in Annexure 13 of the RFP, in the form attached here to as Schedule 11, in accordance with Article 3 of this Agreement and which shall include the additional bank guarantee furnished by the TSP under this Agreement</p>	<p>Contract Performance Guarantee shall mean the irrevocable unconditional bank guarantee, submitted and to be submitted by the TSP or by the Selected Bidder on behalf of the TSP to the Long Term Transmission Customers from a bank mentioned in Annexure 12 of the RFP, in the form attached here to as Schedule 11, in accordance with Article 3 of this Agreement and which shall include the additional bank guarantee furnished by the TSP under this Agreement</p>
5.	<p>Definitions of Lenders: means the banks, financial institutions, multilateral funding agencies, non banking financial companies registered with the Reserve Bank of India (RBI) , mutual funds, etc., including their successors and assigns, who have agreed on or before COD of the Project to provide the TSP with the senior debt financing described in the capital structure schedule, and any successor banks or financial institutions to whom their interests under the Financing Agreements may be transferred or assigned;</p> <p><i>Provided that, such assignment or transfer shall not relieve the TSP of its obligations to the Long Term Transmission Customers under this Agreement in any manner and shall also does not lead to an increase in the liability of any of the Long Term Transmission Customers;</i></p>	<p>Definitions of Lenders : means the banks, financial institutions, multilateral funding agencies, non banking financial companies registered with the Reserve Bank of India (RBI), mutual funds, etc., including their successors and assigns, who have agreed on or before COD of the Project to provide the TSP with the debt financing described in the capital structure schedule, and any successor banks or financial institutions to whom their interests under the Financing Agreements may be transferred or assigned.</p> <p><i>Provided that, such assignment or transfer shall not relieve the TSP of its obligations to the Long Term Transmission Customers under this Agreement in any manner and shall also does not lead to an increase in the liability of any of the Long Term Transmission Customers;</i></p>

6.	<p>Definitions: Non-Escalable Transmission Charges</p> <p>“Non-Escalable Transmission Charges” shall mean the charges as specified in column (D) of Schedule 6 of this Agreement;</p>	<p>Definitions: Non-Escalable Transmission Charges</p> <p><i>“Non-Escalable Transmission Charges” shall mean the charges as specified in column (4) of Schedule 6 of this Agreement</i></p>
7.	<p>Article 6.3 (Heading): “Liquidated Damages for delay due to Long Term Transmission Customer Event of Default or Indirect Non Natural Force Majeure Events or Direct Natural Force Majeure Event (affecting the Long Term Transmission Customer)”</p>	<p>Article 6.3 (Heading): <i>“Liquidated Damages for delay due to Long Term Transmission Customer Event of Default or Direct Non Natural Force Majeure Events or Indirect Non Natural Force Majeure Event (affecting the Long Term Transmission Customer)”</i></p>
8.	<p>Article 6.3.1: “..... Long Term Transmission Customer Event of Default or due to Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer) provided such Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) has continued for a period of more than three (3) continuous or non-continuous Months, the TSP shall, until the effects of the Long Term Transmission Customer Event of Default or of Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) no longer prevent the TSP from connecting the Element(s) of the Project,</p>	<p>Article 6.3.1: <i>“..... Long Term Transmission Customer Event of Default or due to Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer) provided such Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) has continued for a period of more than three (3) continuous or non-continuous Months, the TSP shall, until the effects of the Long Term Transmission Customer Event of Default or of Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) no longer prevent the TSP from connecting the Element(s) of the Project,</i></p>
9.	<p>Article 6.3.1 (d): “In case of delay due to Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)), the Long Term Transmission Customer(s) shall be liable to make payments mentioned in (b) and (c) above, after commencement of Transmission Service, in the form of an increase in</p>	<p>Article 6.3.1 (d): <i>“In case of delay due to Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)), the Long Term Transmission Customer(s) shall be liable to make payments mentioned in (b) and (c) above, after commencement of Transmission Service, in the form of</i></p>

	<p>Non Escalable Transmission Charges. These amounts shall be paid from the date, being the later of a) the date of cessation of such Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) and b) the completion of sixty (60) days from the receipt of the financing agreements by the Long Term Transmission Customer(s) from the TSP.</p> <p>Provided such the TSP had been paid amounts mentioned in (b) above in a situation where the Force Majeure Event had not occurred.”</p>	<p><i>an increase in Non Escalable Transmission Charges. These amounts shall be paid from the date, being the later of a) the date of cessation of such Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Long Term Transmission Customer(s)) and b) the completion of sixty (60) days from the receipt of the financing agreements by the Long Term Transmission Customer(s) from the TSP.</i></p> <p><i>Provided such the TSP had been paid amounts mentioned in (b) and (c) above in a situation where the Force Majeure Event had not occurred.”</i></p>
10.	<p>Article 8.1: Calculation of Availability for the Elements and for the Project, as the case may be, shall be as per Appendix – III of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, as applicable seven (7) days prior to the Bid Deadline and as appended in Schedule 9.</p>	<p><i>Article 8.1: Calculation of Availability for the Elements and for the Project, as the case may be, shall be as per [BPC to insert reference to applicable regulations], as applicable seven (7) days prior to the Bid Deadline and as appended in Schedule 9.</i></p>
11.	<p>Article 10.6.4: All payments made by the Long Term Transmission Customers shall be appropriated by the TSP in the following order of priority;</p> <p>towards Late Payment Surcharge, payable by the TSP,</p>	<p><i>Article 10.6.4: All payments made by the Long Term Transmission Customers.....</i></p> <p><i>towards Late Payment Surcharge, payable to the TSP, if any</i></p>
12	<p>Article 10.8.1: Any amount due from one Party to the other, pursuant to this Agreement and remaining unpaid after the Due Date, shall bear</p>	<p><i>Article 10.8.1: Any amount due from one Party to the other, pursuant to this Agreement and remaining unpaid for thirty (30) days after the Due Date, shall bear</i></p>
13.	<p>Article 10.9.8: For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the concerned Long Term Transmission Customer shall, without prejudice to</p>	<p><i>Article 10.9.8: For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the concerned Long Term Transmission Customer shall, without prejudice to its</i></p>

	<p>its right to Dispute, be under an obligation to make payment, of the lower of (a) an amount equal to simple average of last three (3) months Invoices (being the undisputed portion of such three months Invoices) and (b) Monthly Invoice which is being disputed, provided such Monthly Invoice has been raised based on the Regional Energy Account and in accordance with this Agreement.</p>	<p><i>right to Dispute, be under an obligation to make payment, of the lower of (a) an amount equal to simple average of last three (3) months Invoices (being the undisputed portion of such three months Invoices) and (b) Monthly Invoice which is being disputed, provided such Monthly Invoice has been raised based on the Allocated Project Capacity and in accordance with this Agreement</i></p>
<p>14.</p>	<p>Article 10.11.1 (i):</p> <p><i>The provisions at Article 13.4 (e) shifted by adding the new Article 10.11.1 (i).</i></p>	<p>Article 10.11.1 (i)</p> <p><i>(i) If a Long Term Transmission Customer fails to pay (with respect to a Monthly Bill or Supplementary Bill) an amount exceeding thirty percent (30%) of the most recent undisputed Monthly Bill, for a period of seven (7) days after the Due Date and the TSP is unable to recover the amount outstanding to the TSP through the Letter of Credit,</i></p> <p><i>(i) the TSP shall issue a notice to such Long Term Transmission Customer within seven (7) days from such period, with a copy to each of the other Long Term Transmission Customers, highlighting the non payment of such amount by such Long Term Transmission Customer;</i></p> <p><i>(ii) If such Long Term Transmission Customer still fails to pay such amount within a period of thirty (30) days after the issue of notice by TSP as mentioned in (i) above, the TSP shall approach the RLDC / SLDC (as the case may be) requesting for the alteration of the schedule of dispatch of the lowest cost power of such Long Term Transmission Customer(s) from the Central Generating Stations, and the RLDC / SLDC shall</i></p>

		<p><i>continue to reschedule the lowest cost power till all the dues of the TSP are recovered;</i></p> <ul style="list-style-type: none"> - <i>Provided that in this case, the quantum of electricity and the corresponding period in which it would be rescheduled for dispatch shall be corresponding to the amount of default. This electricity will then be dispatched to other utilities by the concerned RLDC/SLDC, as the case may be, during the peak hours, i.e., 7pm to 10 pm. The price of this electricity will be determined as per the UI rate;</i> - <i>Provided further that the revenue from such diverted power would be used to pay the dues first of the generating company (which would include the capacity charges as well as the energy charges) and the remainder would be available for covering the default amount and the balance (if any), after recovering both the charges, would be paid to the defaulting Long Term Transmission Customer</i>
15.	<p>Article 11.7 (c): For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event, as per Article 11.3 affecting the TSP shall be as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2004 as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as per Appendix III to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2004, then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Long Term Transmission Customers as per Schedule 5, for the duration of</p>	<p>Article 11.7 (c): For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event, as per Article 11.3 affecting the TSP shall be as per [BPC to insert reference to applicable regulations] as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as per [BPC to insert reference to applicable regulations], then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Long Term Transmission Customers as per Schedule 5, for the duration of such event(s).</p>

	such event(s)	
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16.	<p>Article 13.4 (e) “In case of Long Term Transmission Customers Event of Default occurring on account of Article 13.2(a) and after the expiry of Consultation Period if the Event of Default is still not remedied, the TSP shall approach the RLDC / SLDC (as the case may be) requesting for the alteration of the schedule of dispatch of the lowest cost power of the defaulting Long Term Transmission Customer(s) from the Central Generating Stations, and the RLDC / SLDC shall continue to reschedule the lowest cost power till all the dues of the TSP are recovered.” Provided.....</p>	<p><u>The entire Article 13.4 (e) deleted as this has been added as Sec 10.11/(1(i) and 13.4(f) is renumbered as 13.4(e)</u></p>
17.	<p>Article 14.4.1:”the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.</p>	<p>Article 14.4.1:”the Indemnifying Party shall become liableof the Dispute, if such Dispute is settled in favour of the Indemnified Party”</p>
18.	<p>Schedule : 5</p> <p>1.2.1 Computation of Monthly Transmission Charges</p> <p>The Monthly Transmission Charges for any month m in a Contract Year n shall be calculated as below:</p> <p>If CA>=NA;</p> <p>Monthly Transmission Charge MTC (m)=</p> $\sum_{t=1}^m T / \text{No. of days in the Contract Year} * \text{No. of days in the month for which bill is raised}] - \mathbf{[MTC (m-1)]}$ <p>ELSE</p> <p>Monthly Transmission Charge MTC</p>	<p>Schedule : 5,</p> <p>1.2.1 Computation of Monthly Transmission Charges</p> <p>The Monthly Transmission Charges for any month m in a Contract Year n shall be calculated as below:</p> <p>If CA>=NA;</p> <p>Monthly Transmission Charge MTC (m)=</p> $\sum_{m=1}^M [T_{mn} / \text{No. of days in the month 'm' in Contract Year 'n'} * \text{No. of days in the month 'm' in Contract Year 'n' for which bill is raised}]$ <p>- $\sum_{m=1}^{M-1} \mathbf{[MTC (m-1)]}$</p>

<p>(m)=</p> $\sum_{t=1}^m T / \text{No. of days in the Contract Year} * AA/NA * \text{No. of days in the month for which bill is raised}] - \mathbf{[MTC (m-1)]}$ <p>CA is the Cumulative Availability, as per REA, from the first day of the Contract Year 'n' in which month 'm' occurs upto and including upto the end of month 'm',</p> <p>AA is the actual Availability, as per REA (expressed in percentage);</p> <p>NA is the Target Availability;</p> <p>m- month considered for payment in the Contract Year</p> <p>T=Annual Transmission Charges which is equal to the payable escalable transmission charges (ETCmn) and payable non-escalable charges (NETCmn)</p> <ul style="list-style-type: none"> • Payable Escalable Transmission Charges (ETC mn) <p>The ETCmn is the payable Escalable Transmission Charges for month 'm' for the Contract Year 'n' expressed in Rs. and is equal to the escalable charges for the contract year 'n' as provided in schedule 6 provided that</p> <p>the Escalable Transmission Charges shall be duly escalated by the following formula to arrive at an Escalated Transmission Charge for the Contract Year, viz., ETC to further calculate the monthly Payable Escalable Transmission Charge (ETCmn)</p> <p>ETC = Escalable Transmission Charge for the Contract year n *</p>	<p>ELSE</p> <p>Monthly Transmission Charge MTC (m)=</p> $\sum_{m=1}^M [T_{mn} / \text{No. of days in the month 'm' in Contract Year 'n' * AA/NA * No. of days in the month 'm' in Contract Year 'n' for which bill is raised}] - \sum_{m=1}^{M-1} \mathbf{[MTC (m-1)]}$ <p>where:</p> <ul style="list-style-type: none"> • <i>m is the month in Contract Year 'n'</i> • <i>M= month considered for payment in the Contract Year 'n'</i> • <i>T_{mn}= Transmission Charges for the month 'm' in Contract Year 'n' and is equal to the sum of Monthly Escalable Transmission Charges (METC mn) and Monthly Non Escalable Transmission Charges (MNETC mn)</i> • <i>CA is the Cumulative Availability , as per REA, from the first day of the Contract Year "n" in which month 'm' occurs upto and including upto the end of the month "m";</i> • <i>AA is the actual Availability for the month 'm' in the Contract Year n, as per REA, (expressed in percentage);</i> • <i>NA is the Target Availability;</i> • <i>MTC (m-1) is the Payable Monthly Transmission Charge for the month '(m-1)' for the Contract Year 'n'</i> • Monthly Escalable Transmission
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	<p>p/q</p> <p>where,</p> <p>'p' is the escalation index as per schedule 7 at the beginning of the month (expressed as a number)</p> <p>'q' is the escalation index as per schedule 7 applicable as at the beginning of the first Contract Year mentioned in Schedule 6 (expressed as a number)</p> <p>Provided further, that the Escalable Transmission Charges (ETCmn)</p> <p>a. For the first contract year, shall be divided by the no. of months starting from the Scheduled COD of the Element/Project and ending up to the end of the first Contract Year and</p> <p>b. For the subsequent contract years except the last Contract Year, shall be divided by 12 and</p> <p>c. For the last contract year, shall be divided by the no. of months starting from the start of the last Contract Year up to the Expiry Date.</p>	<p>Charges (METC mn)</p> <p><i>The Monthly Escalable Transmission Charges (METCmn) for month 'm' for the Contract Year 'n' shall be calculated by the following formula,</i></p> <p><i>METCmn = [Escalable Transmission Charge for the first Contract year (as provided in Schedule 6)/No. of days in the Contract Year 'n'] * No. of days in the month 'm' * p/q</i></p> <p><i>Where,</i></p> <p><i>'p' is the escalation index as per Schedule 7 at the beginning of the month 'm' (expressed as a number)</i></p> <p><i>'q' is the escalation index as per Schedule 7 applicable as at the beginning of the first Contract Year mentioned in Schedule 6 (expressed as a number)</i></p> <p>• Monthly Non Escalable Transmission Charges (MNETCmn)</p> <p><i>The Monthly Non Escalable Transmission Charges (MNETCmn) for month 'm' for the Contract Year 'n' shall be calculated as follows;</i></p> <p><i>MNETCmn = [Non Escalable Transmission Charge for the Contract year 'n' (as provided in Schedule 6) / No. of days in the Contract Year 'n'] * No. of days in the month 'm'</i></p> <p><i>Provided, no Transmission Charges shall be paid during the period for which the RLDC has not allowed the operation of the Element/Project due to the failure of the TSP to operate it as per the provisions of the Grid Code.</i></p>
19.	Schedule 9: Appendix III of Central Electricity Regulatory Commission	Schedule 9: [Appendix of Regulations applicable seven (7) days prior to the

(Terms and Conditions of Tariff) Regulations, 2004

Bid Deadline to be inserted by BPC]
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The above document is posted on this Ministry's website: www.powermin.nic.in

Yours faithfully,

(Lokesh Chandra)
Director (Trans)
Telefax: 23715250

Copy to:

1. Chairperson, CEA, New Delhi.
2. CMD, PGCIL, Gurgaon.
3. CMD, PFC, New Delhi.
4. CMD, REC, New Delhi.

Copy also to: Sr. PPS to AS(AK) / PPS to AS(GBP) and all Joint Secretaries of Ministry of Power.