

ALL INDIA POWER ENGINEERS FEDERATION



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No. 72-2022/Draft EA Rules 2022

11-09-2022

Secretary Power

Ministry of Power

Shram Shakti Bhawan

New Delhi

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Sub Draft Electricity (Amendment) Rules-2022

Please refer to the Ministry of Power letter 23/02/2022-R&R dated 12/08/2022 for sending comments on Draft Electricity (Amendment) Rules-2022 by 11/09/2022.

All India Power Engineers Federation (AIPEF) had sent several requests to the Ministry of Power to extend the date from 11-09-2022 to 11-11-2022. As the subject matter of rules is new and would require further time. However, since the ministry of power's reply to extend time by 2 months has not been received, All India Power Engineers Federation is submitting its interim comments while reiterating that more time of 2 months would be required for detailed comments.

2. Draft of ministry of power page 1 para 2 (i) b : definition of Central pool Ministry of power documents makes reference to procurement under section 63 as per bidding guidelines.

Comment : bidding guidelines for competitive bidding under section 63 were issued on 19 1 2005 and updated by power ministry up to 21.7.2010 vide Ministry of power letter 23 11 2004 – R & R (Vol ix) (Pt -B) dated 22.7.2010.

Para 2 of this letter States

“I am directed to enclose herewith a soft copy of the complete documents containing up to date amendments as on 217 2010 to the above mentioned guidelines and the standard building documents (RFP/PPA)”.

From this it is concluded that while the originally issued guidelines from section 63 were issued on 19.01.2005 and these were updated wide Ministry of

power letters of 22.07.2010. Subsequent to 22.07.2010 we are unable to locate the further amendments to Section 63 guidelines. The ministry of power circular of 12th August 2022 for (amendment to rules and section 63 bidding etc) makes several references to Section 63 guidance while the guidelines referred to have not been attached.

It is therefore requested that an updated compilation of Sec 63 guidelines may be compiled and issued by the Power Ministry on a pattern similar to compilation of 22.7.2010. The soft copy of updated bidding guidelines upto 12-8-2022 may be compiled and put on Ministry of Power website so that if there is any reference to section 63 bidding anywhere in the draft of 12.8.2022, the same could be located and comments could then be given.

The comments on any proposal referring to Section 63 bidding cannot be given in absence of consolidated compilation up to 12th August 2022 of section 63 guidelines.

3. Ministry of power page 2 definition (d) implementing agency

The particular details of the implementation agency are not stated and not known. In absence of requisite information/ details , no comments can be given.

4. Ministry of power page 2 para e intermediary procurer.

The details, functions and duties of intermediary procurer have not been given.

Further, what are the guidelines issued by Central Government referred to are not known.

As already stated, the consolidated compilation of guidelines (w.r.t. sec 63) are required.

5. Page 3 para 14

The subject of recovery of power purchase cost is to be decided by the state regulator SERC. Since power purchase and fuel cost are the main items of Expenditure these have to be considered and decided by SERC as a part of true up exercise.

5.1 In a particular case of coal shortage which occurred in 20-21 and 21-22 the ministry of power had been stressing upon state discoms and state Gencos to import coal even though the cost of imported coal had increased by several hundred percent.

The view of states was that since shortage of coal was due to factors attributed to the Government of India/ Central Government, the cost impact of imported coal must not be loaded on to state discoms or state thermal stations, and should be borne by the central government.

5.2 The decision of the Government of India Ministry of power to get coal import routed through NTPC would tend to cause higher coal import cost by the NTPC knowing that the cost is being booked to the state Genco or Discom concerned .

5.3 The solution to such a problem would not lie in the domain of making the fuel cost recovery rules more stringent. The solution lies elsewhere that the Ministry of power has the far more important role of an end user having a direct stake in ensuring that production and supply of domestic coal is maintained and not allowed to suffer. This includes addressing all such bottlenecks that cause domestic coal production to suffer - which ultimately become the driving force for high cost Import of coal. The Ministry of power also has the role to ensure that coal supply to state sector thermals is not allowed to suffer due to shortage of Wagons. While there was a proposal from Ministry of power that states should buy the rail Wagons /rakes from state finances is for their coal movement, this is another example where Ministry of power as end user must take up with Railway ministry to ensure that shortage of Wagons is not allowed to affect coal supplied to thermal TPS.

6. MOP document Page 3 Para 14

On the subject of timely recovery of power purchase costs by distribution licensees, the Govt. of India has tried to dictate or impose a price adjustment formula, through the rules, while this issue is clearly within the domain of SERC.

The Electricity Act 2003 in its statement of objects and reasons has the principle, "to provide for distancing the Government from determinations of tariffs." By dictating the procedure for recovery of costs, to be adopted by SERC, the Ministry of Power is clearly going contrary to the statement of objects and reasons of the Electricity Act 2003.

7. Page 3 Para 15 Subsidy Accounting

The accounting of subsidy is to be done by SERC as a part of the annual tariff exercise and ARR determination which includes the true up of past periods. This exercise may not be left to the licensee.

8. Resources adequacy is the ability of a utility's reliable capacity to meet the customers system load or demand at all hours. The nature of this objective or target can be achieved with the coordination between States power systems with regional and national grids. It is suggested that a report should be finalized between CEA, POSOCO and SLDCs on the basis of which further action plans can be taken up. This is an issue of optimum and least cost development of the power system rather than any regulation or rules. The issue of resource adequacy is to be taken up and executed on integrated system operation and proposal for having non compliance charges is not justified and not agreed to.

9. 17 Hydro Power

Hydro Power is a state subject as per 7th schedule of Constitution of India, List –II- STATE LIST at sr no 17

Sr. no 17 water, that is to say, water supplies, irrigations and canals, drainage and embankments, water storage and water power subject to provision of entry 56 of List -1.

Entry 56 of union list 1 in 7th schedule specified as follows . “56 Regulation and development of interstate rivers and river valleys to the extent to which such regulation and development under the control of the union is declared by parliament by law to be expedient in the public interest.”

It is concluded that as specified in constitution of India, state list sr. 17, water power is a state subject and exemption is for inter-state river projects s per no. 56 of the union list.

Hence, the development of hydro power, vide MOP para 17 page is a state subject and hence content of para on hydro power is to be kept in state purview under constitution. Only those inter state projects covered under sec 56 and exempted can be considered under Union

10. Sr. 19 Page 6

At Para 19 (b) page 6 it is stated that the implementing agency shall compute the renewable energy tariff. This procedure wherein a Govt. Agency (implementing agency) computes the tariff is against the principle contained in Electricity Act 2003, statement of objects and reasons viz. “ to provide for distancing of government from determination of tariff”

11. Page 7 Par4a (g)

It is stated that the tariff to be charged by intermediary procurers or end procurers shall be determined through competitive bidding u/s 63 of Act. However, it is not known which are the Competitive Bidding guidelines which are adopted/ applicable in this case. The existing guidelines mostly relate to thermal power station tariff etc. Copy of Guidelines is required to be supplied.

12. Statement of objects and reasons.

It is considered critically important that a statement of objects and reasons be given so as to explain and elaborate the purpose of amendments proposed. The statement would be important for the rationale behind various amendments proposed and how the amendments would be useful in achieving the objectives. To give one example, a major target in the electricity sector is how to achieve 50% energy from renewable sources by 2030, and how to achieve the target of reducing carbon emissions by 1 Billion tonnes by 2030.

While achieving the above targets at the same time it is essential to meet the electricity demand of consumers for which the concept of “resources adequacy” is important.

It is for the Govt. of India to give a credible and purposeful statement of objects and reasons which would be necessary also if the targets are to be achieved.

In view of the importance of achieving the goal of replacing coal based energy with renewable energy the statement of objects and reasons is considered necessary. While several of the draft rules proposed are for meeting

Green Energy targets these need to be co related with nationally declared time limits. In absence of Statement of Objects and Reasons the correlation becomes impossible .

Since the above Comments are interim, the MOP may allow further two months for detailed comments.

Thanks.

Yours Sincerely

Shailendra Dubey

Chairman