

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

IN THE MATTER OF: Draft “Uttar Pradesh Electricity Regulatory Commission
(Grant of Connectivity to intra-State Transmission System)
Regulations, 2010”

The following were present:

1. Sri. A. K. Singh, Chief Engineer (Operation), UPPTCL
2. Sri. B. K. Saxena, EE, Power System
3. Sri. Sanjeev K. Bhasker, AE, Power System
4. Sri. Sarnath Ganguly, Sr. Manager, NPCL
5. Sri. K. N. Ranasaria, U. P. Sugar Mills Cogen Association
6. Sri. Durga Prasad, U.P. Sugar Mills Cogen Association
7. Sri. R.K Chakravarti, Secretary, U. P. Sugar Mills Cogen Association
8. Sri. Ram Sharma, M/s Simbhaoli Sugars Ltd.
9. Sri. R. K. Modwell, M/s Dwarikesh Sugar Industries Ltd.
10. Sri. C. P. Dwivedi, M/s Dalmia Chini Mills
11. Sri. Anil Gupta, M/s BCML

ORDER

(Date of public hearing - 26.08.2010)

1. In exercise of powers conferred under section 181 of the Electricity Act, 2003 (the Act) and all other powers enabling it in this behalf, the Commission prepared the draft of the “Uttar Pradesh Electricity Regulatory Commission (Grant of Connectivity to intra-State Transmission System) Regulations, 2010”. A public notice dated 13.07.10 was published in daily newspapers “Hindustan Times (English)” and “Danik Jagaran (Hindi)” inviting comments / suggestions from State Transmission Utility (STU) and other stakeholders on the aforementioned draft Regulations by 12.08.10. Hearing in the matter was fixed on 26.08.10 at 15:00 hrs.. The draft Regulations was made available on the website of the Commission at www.uperc.org. A copy of draft Regulations along with public notice dated 13.07.10 was sent to U.P. Power Transmission Corporation Ltd. (STU), being essential party to the proceedings, vide UPERC letter no. 593 dated 16.07.10. Copy of the same was also sent to U.P. Power Corporation Ltd., U.P. Rajya Vidyut Utpadan Nigam Ltd., U.P. Jal Vidyut Nigam Ltd., Madhyanchal Vidyut Vitran Nigam Ltd., Purvanchal Vidyut Vitran Nigam Ltd., Paschimanchal Vidyut Vitran Nigam Ltd., Dakshinanchal Vidyut Vitran Nigam Ltd., Kanpur Electric Supply Co. Ltd., Noida Power Company Ltd, Chief Engineer, Power System Wing which is discharging the function of State Load

Despatch Centre (SLDC), Non-conventional Energy Development Agency, U.P. Sugar Mills Cogen Association, M/s Hindalco Industries Ltd., M/s Kanoria Chemicals & Industries Ltd., M/s Jaiprakash Associates Ltd., M/s Alaknanda Hydro Power Company Ltd., M/s Rosa Power Supply Company Ltd., M/s Lanco Anpara Power Pvt. Ltd., M/s Jaiprakash Power Ventures Ltd. and U.P. State Office (Confederation of Indian Industry).

Pursuant thereto, comments / suggestions were received from the following stakeholders:

- (i) Chief Engineer (Power System), U.P. Power Corporation Ltd., vide letter no.1741 dated 25.08.10;
- (ii) Chief Engineer (Operation), U.P. Power Transmission Corporation Ltd., vide letter no.3362 dated 25.08.10;
- (iii) Noida Power Company Ltd. (NPCL), vide letter no. P-77L(II)/095 dated 11.08.10;
- (iv) U.P. Sugar Mills Cogen Association (UPSMCA), vide letter no. UPSMCA/2010-11 dated 12.08.10;
- (v) M/s Jaiprakash Associates Ltd. (JAL), vide letter dated 12.08.10;
- (vi) M/s a2z Powercom Pvt. Ltd., vide letter dated 10.08.10.

2. The Commission has perused the comments / suggestions submitted by the various stakeholders and its opinion on the same are as follows.

(1) M/s a2z Powercom stated that the definition of the term – “applicant” under clause 2.1(b) of the draft Regulations excludes generating stations of capacity less than 5 MW supplying or drawing power at voltage below 33 kV. As per the Ministry of New and Renewable Energy’s policy for promotion of biomass based power, and the guidelines for its implementation during 11th Plan, small generation plants of capacity less than 5 MW are to be connected to the 'tail-end' of the grid and shall also have a localized distribution component. These plants may be allowed to interconnect at 11 kV voltage level at 33/11 kV substations of the concerned distribution utility. In view of this, a2z Powercom suggested that the 'grant of connectivity' regulations must include such cases in the manner it may deemed fit.

The Commission opines that since the draft Regulations under consideration deals with Connectivity to intra-State Transmission System

only, the issue regarding connectivity with distribution system is not being discussed in these proceedings.

(2) M/s JAL stated that CERC Connectivity Regulations is applicable to generating stations including captive generating plants above 250 MW or open access users for duration of 3 months or more (i.e. medium or long term open access users) besides other categories. However, UPERC draft Regulations is proposed to be applicable to captive generating plants of capacity 5 MW or above and all open access customers. JAL suggested that the capacity of the captive generating plants for which it should be applicable be raised. Regarding open access customers, regulations should be applicable for customers of more than 3 months duration which is in consonance with the UPERC Open Access Regulations also.

The Commission opines that the draft Regulations specifically deals with grant of connectivity whereby an applicant shall apply for “connectivity” to the intra-State transmission system at voltage 33 kV and above. After the grant of connectivity an applicant may seek open access as per the concerned regulations specified by the Appropriate Commission.

UPERC (Terms and Conditions for Open Access) Regulations, 2004 specifies a period of five years or more for long-term open access and up to one year for short-term open access. Therefore, in view of this, there is no issue of specifying period as suggested by M/s JAL.

3. U.P. Power Transmission Corporation Ltd. (UPPTCL) submitted its written submissions stating that comments of Power System be treated as comments of UPPTCL.

The Commission opines that the draft Regulations proposes that STU shall, in accordance with the provisions of these regulations and consistent with the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, act as the Nodal Agency to undertake functions incidental to grant of connectivity. Therefore, UPPTCL, in the capacity of STU, was made an essential party to the proceedings but has failed to make any meaningful contribution.

UPPTCL is under statutory obligation to act as the Nodal Agency for grant of connectivity to intra-State transmission system under these regulations. It must, therefore, immediately set up a “Regulatory Affairs Unit” to deal with such matters.

4. The Commission has considered the written submissions as well as the oral submissions made by those who attended the public hearing on 26.08.10. Deliberations and decisions of the Commission on the comments / suggestions received are as hereunder:

(1) The following points were raised by the stakeholders in respect of ‘definitions’ provided in the draft Regulations:

- Definition of the word “applicant” includes, amongst others, a ‘bulk consumer’ who may seek connectivity to receive electricity at voltage 132 kV and above. Power System stated that unless a consumer is an open access customer, the cause of connectivity of a consumer should be taken up by a distribution licensee. Power System submitted during the hearing, that a bulk consumer connected to the intra-State transmission system becomes an importing point for the concerned distribution licensee. As such it was suggested that reference to ‘bulk consumer’ may be deleted from clause 2.1(b), 2.1(r) and proviso to clause 8.1.
- Power System stated that definition of the word “applicant” provides connectivity at different voltages while restricting captive users or open access consumers to voltage 132 kV and above. Whereas under the definition of the word “user” it is at voltage 33 kV and above. It is suggested that definition of “applicant” may be harmonized with the definition of “user” so far as voltage level of connectivity is concerned.
- Power System urged that the term “pooling station” be defined. During the hearing Power System enquired how it was different from sub-station.
- UPSMCA requested during the hearing to clarify whether voltage level of connectivity of open access consumer or captive user is 132 kV and above as mentioned in draft Regulations or 33 kV and above.

Considering the above submissions, the Commission agrees that the words “or a bulk consumer” in the definition of the words “applicant” &

“user” and in the proviso to clause 8.1 shall be deleted. Similarly, the words “bulk consumers” under clause 3 shall also be deleted. Further, definition of “bulk consumer” under clause 2.1(c) shall be deleted and the subsequent sub-clauses shall be renumbered accordingly.

Also, the definition of the word “applicant” which includes, amongst others, “captive user” and “open access consumer” shall be modified as under:

“a captive user or an open access consumer, seeking connectivity for its new / modified / augmented substation and / or electric line to receive electricity exceeding 10 MW at voltage 132 kV and above:”

Further, for the sake of clarity, following explanation shall be inserted at the end of cause 2.1(b):

“An application for connectivity is not required to be made by any captive user or open access consumer for receiving electricity upto and including 10 MW at voltage below 132 kV, since their requirement shall be taken up and integrated by the distribution licensee of their area in the planning and development of distribution system.”

In the definition of the word “user”, the words “voltage 33 kV and above” shall be replaced by the words “voltage 33 kV or 132 kV and above, as the case may be”.

A new definition of “pooling station” shall be inserted at an appropriate place under clause 2.1 to read as under:

“pooling station” means the sub-station or switchyard which shall be constructed, owned, operated and maintained by the applicant(s) on their own cost for connecting generating stations generating non-firm power;”

(2) M/s NPCL submitted that a distribution licensee who is availing power through open access should get priority over all other open access consumers. Power System supported the views of M/s NPCL stating that the distribution licensee has highest priority under UPERC Open Access Regulations although for the purpose of connectivity, it hardly makes any difference.

The Commission opines that the draft Regulations clearly provides “connectivity” as an activity that takes place prior to “open access transaction”. The application for connectivity shall be considered as and

when it is submitted to the Nodal Agency. As such there is no issue of attaching any priority with the application of a distribution licensee.

(3) M/s a2z Powercom submitted that under the MNRE policy, biomass based plants should be allowed to draw-down power from the state/discom grid in case of plant outage or shut down or for maintenance.

The Commission opines that the remedies being sought by M/s a2z Powercom are actually a subject matter of power purchase agreement under UPERC (Captive and Non-Conventional Energy Generating Plants) Regulations, 2009 (CNCE Regulations, 2009) which has provisions for the supply of electricity to such plants under stated conditions.

(4) M/s NPCL submitted that the connection agreement would be the integral part of the procedure and a format should be provided in the procedure for the existing user(s) already connected to the state transmission network. NPCL also requested to clarify whether only one application for grant of connectivity should be made to the Nodal Agency in case distribution licensee has several points of connectivity.

The Commission opines that the clause(s) 5 and 15 provide, inter-alia, for laying down procedure for grant of connectivity and for treatment of existing connectivity respectively. The model connection agreement and all other necessary formats shall be detailed in the procedure and the issue of interconnections of distribution licensees at more than one point shall also be addressed therein.

(5) Clause 7.3 provides that the Nodal Agency shall make a 'connection offer', along with terms, conditions and modalities for execution of connectivity, to the applicant within 120 days from the date of receipt of application. M/s JAL stated that CERC prescribes 60 days time to process the application.

The Commission opines that grant of connectivity is a one-time activity for which the Nodal Agency shall carry out the necessary interconnection study as specified in the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and the UPEGC. It shall also coordinate and carry out necessary consultation with other agencies / users connected or to be connected with the intra-State transmission system for materializing the connectivity. Therefore, in

view of the enormity of work and coordination involved in the process, the existing provision of 120 days is reasonably necessary.

(6) Power System pointed out that the connectivity with the grid is identified in terms of “breaker number” and as such suggested that isolator might be replaced by breaker in proviso to clause 7.5.

The Commission agrees that in view of above, the word “isolator” shall be replaced by the word “breaker” in proviso to clause 7.5 for point of connectivity of solar photovoltaic, wind energy generating station and solar thermal generating station.

(7) Clause 7.8 provides that these regulations shall supersede any other regulation or order thereof issued / passed by the Commission with respect to grant of connectivity in respect of intra-State transmission system. UPSMCA stated that cogeneration tariff for sale of power to UPPCL has been determined in accordance with the CNCE Regulation 2009. UPSMCA, in the hearing, stated that co-generators are supplying power to distribution licensees under existing power purchase agreements and CNCE Regulations. As UPEGC, ABT and Open Access Regulations in addition to CNCE Regulations are already in force, the provisions of this draft Regulations should not be in contradiction with those provisions. It was further suggested that proposed Regulations should not affect existing co-generators and they should be exempted from the scope of proposed Connectivity Regulations. UPSMCA expressed apprehension that the said provisions of the draft Regulations may affect the basis of tariff determination.

The Commission opines that under section 7 of the Act, a generating company may establish, operate and maintain a generating station without obtaining a licence if it complies with the technical standards relating to connectivity with the grid as specified by Central Electricity Authority. Accordingly, the proposed Regulations aims at enforcement of provisions of, among others, Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which specifies the minimum technical and design criteria to be complied with by existing users connected to or by an applicant seeking connectivity to the intra-State transmission system, to maintain uniformity and quality across the system. The objective is to ensure safe operation, integrity and reliability of the

grid. Therefore, clause 7.8 provides that the proposed Regulations shall have overriding effect with regard to connectivity with intra-State transmission system of STU or any other transmission licensee. Also, clause 27(1) of CNCE Regulations, 2009 stipulates that NCE generating plants (including sub-station and dedicated transmission line connected therewith) shall comply with technical standards for connectivity with the grid as specified by Central Electricity Authority. Similar provision has also been made in model power purchase agreement attached with CNCE Regulations, 2009. Therefore, a generating company (including co-generating plant) is under statutory obligation to establish, operate and maintain a generating station in accordance with the technical standard for connectivity to the grid. Further, the overriding effect of said clause has nothing to do with tariff determination for sale of power to distribution licensees from co-generating plants as perceived by UPSMCA. Therefore, no change in existing provision is required.

(8) Clause 8.4 provides that in the event of withdrawal of grant of connectivity under clause 8.2, the Nodal Agency shall not be required to consider any further application from the same applicant within next 12 months from the date of withdrawal of grant of connectivity unless new application is substantially different from the original application. M/s JAL submitted that although there is provision for extension of time in accepting the offer under clauses 8.2 and 8.3 if the reasons cited are accepted, still the sanctity of 12 months is debatable and therefore requested for reducing the same.

As already brought out in para 4(5) above, in view of the enormity of work and coordination involved in interconnection study, the Commission opines that subsequent to withdrawal of connectivity of an applicant, processing of a fresh application of the same applicant within a short period of time is not desirable. The applicant must be careful while applying for connectivity so that such a situation does not arise at all. Further, for the sake of clarity under clause 8.4 the words “next twelve months” shall be replaced by the words “twelve (12) months”.

(9) Clause 8.5 provides that in case of modification to existing or proposed point of connectivity due to any non-material change such as re-allocation of bays etc. by either of the parties of the connection agreement, if mutually agreed,

an amendment to the connection agreement shall be executed between such parties subject to prior approval of the Nodal Agency. UPSMCA submitted that in case of modification to existing point of connectivity due to any non-material change such as re-allocation of bays, change of interconnection point etc, the annual maintenance charges payable by the generating company would also change depending on the change in the line length etc. It was therefore submitted that the annual maintenance charges payable by the generating company in such cases should also be re- determined.

The Commission opines that the proposed regulations provides for fixing the point of connectivity formalised through a connection agreement. The connection agreement is meant for setting out the terms relating to such connectivity with the intra-State transmission system and has nothing to do with line length or annual maintenance charges for dedicated line as perceived by UPSMCA.

(10) Clause 9 deals with payment of charges and costs in regard to inter-connection facilities. M/s NPCL requested clarification whether the charges and costs refer to one time connectivity charges to be charged by STU from the applicant before enabling the connectivity. NPCL further submitted that since distribution licensees and open access consumers are already paying the transmission charges for usage of the state transmission network which inter alia includes the cost of maintaining the inter connection facilities too. It was suggested that there should not be any separate charges as proposed in the draft Regulations.

The Commission has considered the views of M/s NPCL and opines that the said clause applies to “interconnection facilities” installed in the sub-station / switchyard of the STU or any other transmission licensee.

Clause 9 shall be replaced as under:

“9. Construction, Operation and Maintenance of Inter-connection Facilities:

9.1 The STU / any other transmission licensee may be required by the applicant or intra-State transmission licensee, as the case may be, to construct, operate and maintain interconnection facilities at the point of connectivity as below:

(a) The applicant or intra-State transmission licensee, as the case may be, shall pay cost of construction of interconnection facilities on such terms and conditions as may be specified by the STU / any other transmission licensee.

(b) STU / any other transmission licensee shall be responsible for operation and maintenance of interconnection facilities and the ownership of such interconnection facilities shall be deemed to have been transferred by the applicant or intra-State transmission licensee, as the case may be, to the STU / any other transmission licensee. The operation and maintenance cost of such facilities shall be included in the transmission charges of STU / any other transmission licensee.

9.2 The cost other than that referred to in clause 9.1(a) shall be borne by the STU / any other transmission licensee.

Note: In case of plant generating non-firm power, the cost / expenses incurred for accommodating the proposed connectivity and other matters connected therewith shall be recovered as per Schedule to these regulations.”

Definition of “inter-connection facilities” shall also be modified as under:

“inter-connection facilities” at point of connectivity in respect of generating station other than those generate non-firm power means equipments, control, protection & metering devices and all other appurtenants required at feeder bay of concerned sub-station / switchyard of the State Transmission Utility / any other transmission licensee.

(11) Clause 10 deals with construction, operation and maintenance of dedicated line in case of generating stations other than those generating non-firm power. The following points were raised by the stakeholders in this regard:

- Power System submitted that the dedicated transmission line might be constructed by any generating station as per section-2(16) of the Electricity Act, 2003. It was also proposed to incorporate that if need be, the renewal energy source based generating station might also be allowed or required to construct a dedicated transmission line.

- M/s NPCL submitted that, in case a distribution licensee sets up its own power plant, it should be allowed to construct its own dedicated lines for its connectivity to the transmission system irrespective of the voltage levels and such lines would be maintained by the distribution licensee till the point of connectivity with STU and no charges should be paid to STU in this regard. NPCL further submitted that, notwithstanding this, such lines could be taken into account for transmission planning.
- UPSMCA submitted that co-generating plants generally do not have the necessary infrastructure and manpower to attend to regular maintenance / breakdown of the transmission lines. Moreover, expenditure involved in engaging regular maintenance staff and spares would not be commercially viable. Therefore the maintenance of such lines which have been constructed by the applicant or transmission utility should be entrusted to transmission utility against payment of annual maintenance charges as provided in CNCE Regulation 2009. UPSMCA, in the hearing, stated that as per power purchase agreement, maintenance / operation of dedicated line was being carried out by STU against payment of 1.5% of transmission evacuation cost as annual maintenance charges with 5% annual escalation because co-generators are not being able to maintain / operate dedicated transmission line. It was suggested that this provision should be retained in the proposed Regulations. It is further suggested that model DEA would be finalized under the proposed Regulations so that disputes between parties could be avoided.

The Commission observes that under sub-section (1) of section 10 of the Act, it is the duty of a generating company to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith. The intent of the Act is that the responsibility of dedicated transmission lines lies with the generating company. Therefore, generating company is under statutory obligation to construct, operate and maintain such lines and applies to co-generation plants also.

Further, clause 35(2) read with clause 36(1) under CNCE Regulations, 2009 stipulates that a generating company shall be responsible for construction and maintenance of the dedicated transmission lines on its own or through any other agency. However, said clause 36(1) states that

STU / licensee shall carry out maintenance of the dedicated transmission line, if so desired by the generating company, on mutually agreed charges.

The Commission opines that the generating company is solely responsible for maintenance of dedicated transmission lines on its own or through any other agency engaged for that purpose. Any agency (STU / licensee or any other person), if engaged, shall maintain such lines on such terms and conditions as mutually agreed under the agreement. The Commission shall act only as a facilitator and shall assume no role to adjudicate upon the disputes between the licensees and generating companies if arises out of such mutual agreements between them.

In light of above submissions and for the sake of clarity, the sentence under clause 10.1 i.e. “Such construction shall be undertaken under supervision of the State Transmission Utility / any other transmission licensee by paying them one-time supervision charges as determined by the Commission from time to time” shall be replaced as under:

“The expenditure incurred towards construction, operation and maintenance of such dedicated transmission line shall be borne by the applicant. The construction shall be undertaken under supervision of the State Transmission Utility / any other transmission licensee on payment of supervision charges approved by the Commission.”

Further clause 10.2 shall be replaced as under:

“In cases where construction of such dedicated transmission line is undertaken by the State Transmission Utility / any other transmission licensee at the option of the applicant, such applicant shall sign a Dedicated Evacuation Agreement (DEA) on terms and conditions as mutually agreed:”

Similarly under provisos to clause 10.2, the words “estimated amount” shall be replaced by the word “cost” in the first proviso and the second proviso shall be deleted.

In view of above, new clauses 10.3 and 10.4 shall be inserted under clause 10 to read as under:

“10.3 In cases where maintenance of such dedicated transmission line is undertaken by the State Transmission Utility / any other transmission licensee at the option of the applicant, such applicant shall sign an Annual Maintenance Contract on terms and conditions as mutually agreed:

Provided that the applicant shall make payment of the annual maintenance charges for meeting expenses towards maintenance of the dedicated transmission line to the State Transmission Utility / any other transmission licensee.”

“10.4 In cases where construction or maintenance of such dedicated transmission line is undertaken by any other agency (State Transmission Utility / any other transmission licensee) at the option of the applicant, the Commission shall assume no role to adjudicate upon the disputes between such licensee and applicant or refer such dispute for arbitration.”

Further, the heading “Construction of Dedicated Evacuation Line” under clause 10 shall be replaced by the heading “Construction, Operation and Maintenance of Dedicated Transmission Lines”. Similarly, the word “evacuation” under clause(s) 10.1 and 10.2 shall be replaced by the word “transmission”.

Under definition of the word “applicant”, the reference to “distribution licensee” shall be modified as under:

“a distribution licensee seeking connectivity for new / modified / augmented substation or generating station and/or electric line at voltage 33 kV and above; or”

(12) Power System stated that clause 11 deals with metering only. The completion of communication facilities at applicant's end and at the end of SLDC were essentially required before connecting the plant with the grid and as such suggested that 'communication' should also be included in the Regulations. Power System, in the hearing, submitted that unless audio and visual communication was established it would be difficult for SLDC to discharge its functions.

Considering the above submissions, the Commission agrees that at the end of clause 7.7, the words “and in particular, but not limited to, the technical requirements for connectivity to the Grid i.e. voice and data

communication facilities, system recording instruments, responsibilities for safety, cyber security, reactive power compensation and other statutory provisions” shall be added.

(13) Power System submitted that synchronization and commissioning of applicants plants with the grid should be subject to clearance from STU and operation of breaker (on synchronization and commissioning or operation) with the permission of SLDC and further suggested to modify proviso to relevant clause accordingly.

The Commission opines that role of STU / any other transmission licensee as perceived by Power System is procedural in nature and therefore shall be included in the procedure as laid down under these Regulations. However, for the sake of clarity, after the words “other concerned persons” and before the words “at least sixty (60) days” under clause 12.1, the words “(including transmission licensee)” shall be added.

(14) Clause 14.1 deals with, inter-alia, startup power drawn and infirm power supplied by a generating station on energisation of its point of contact with the grid. The following points were raised by the stakeholders in this regard:

- Power System submitted that before startup and infirm power exchange takes place, there should exist a prior agreement between known entities who would be supplying or receiving such power so that on the basis of such arrangement STU or a transmission licensee can make arrangement, among other things, for metering and communication. On confirmation of existence of such an agreement and arrangements from STU or a transmission licensee, SLDC could permit and schedule such power(s). Power System, in the hearing, also submitted that generating company must know from where it gets startup power. UI could be a means for the startup power but there must be schedules for the same. It was suggested that existing provision of Generation Tariff Regulations might be extended to the other generating stations. In view of the said prerequisites, Power System requested to modify clause 14.1 accordingly.
- UPSMCA, in the hearing, submitted that as per ABT order, there is a provision that a grid connected generator having capacity not less than 3 MW and does not has PPA or any contract for supply of power might inject power into

the grid for sale at UI rates and therefore suggested that the clause should be modified accordingly.

- M/s a2z Powercom submitted that in the case of drawdown of start-up power by non-conventional energy based generation plants of less than 5 MW capacities, the drawdown of such infirm power during start-up and commissioning may be charged at the tariff rates as specified by the Commission for such plants.

The Act provides that SLDC shall be the apex body to ensure integrated operation of the power system in a State and shall, besides other pre-requisites in discharge of its function, be responsible for optimum scheduling and despatch of electricity within a State in accordance with the contracts entered into with the licensees or the generating companies operating in the State under sub-section (2) of section 32 of the Act.

Considering the above submissions, the Commission agrees that provisos to clause 14.1 shall be inserted at appropriate place as under:

“Provided that interchange of infirm and start up power through the grid shall be subject to prior contract between the generating station and distribution licensee(s):”

“Provided further that exiting generating stations shall also ensure that requirement of start up power is also agreed to with distribution licensee if such agreement does not already exist.”

Further, the sentences “The tariff of this infirm power charged at UI rates.” under clause 14.1 shall be deleted as not required.

(15) Clause 14.2 provides, inter-alia, that grant of connectivity shall not entitle an applicant to inject power in to the State grid unless open access is obtained in accordance with the regulations specified by the Appropriate Commission. The following points were raised by the stakeholders in this regard:

- Power System urged to incorporate similar provision for drawl of power from the grid.
- UPSMCA submitted, in the hearing, that since existing co-generators are supplying power to distribution licensees at the interconnection point of grid and

therefore they are not required to avail open access. The clause relates to distribution licensees and it should not be applied to co-generators covered under CNCE Regulations.

Considering the above submissions, the Commission agrees that clause 14.2 shall be replaced as under:

“The grant of connectivity shall not entitle an applicant / any other person to undertake interchange of power through the grid (except for purposes mentioned in clause 14.1 hereinabove) unless open access has been obtained in accordance with the regulations specified by the Appropriate Commission.”

(16) Note to clause 14 provides that a person can not apply for open access without applying for connectivity. The application for open access shall be processed only after grant of connectivity. Power System suggested that it might be reworded to say that a person can apply for open access and connectivity at the same time but the application for open access shall be entertained by STU or SLDC only after clearance (prior to the date of synchronization or commissioning) from STU is submitted by the applicant to the effect that in case of applicant, all technical requirements including that in respect to meter and communication has been met.

Considering the above submissions, the Commission agrees that Note to clause 14 shall be replaced as under:

“A person can apply for open access after application for connectivity has been received by the Nodal Agency. However, separate application(s) for connectivity and for open access may be submitted simultaneously to save time. The application for open access shall be entertained only after grant of connectivity under clause 7.3.

(17) Clause 15.2 provides inter-alia that all existing users of intra-state transmission system shall enter into a connection agreement with the State Transmission Utility. The following points were raised by the stakeholders in this regard:

- UPSMCA submitted that the terms and conditions of transmission evacuation system are already detailed in the CNCE Regulation, 2009 and therefore co-generator who are supplying power under CNCE Regulation, 2009

may be exempted from entering into connection agreement. UPSMCA submitted, in the hearing, that co-generators are not using intra-State transmission system at all and therefore transmission / open access is not involved with co-generating plants. UPSMCA suggested that since transmission evacuation, energy accounting and billing are part of PPA and therefore, existing co-generator should be exempted for entering in to connection agreement. However, model connection agreement might be considered for approval to facilitate easy finalization of the agreement for upcoming plants and in the hearing, UPSMCA submitted that connection agreement should be simple.

- Power System submitted that UPEGC under clause 4.9 provides that all users in coordination with STU shall provide the data and communication facilities at their respective ends and SLDC as specified in the connection agreement and the site responsibilities have also been laid down. ABT order dated 24/25.09.2007 provides that metering and communication shall be the responsibility of the STU. Power System, in the hearing, submitted that connection agreement should ascertain compliance of the provisions of UPEGC and ABT order in that regard.
- NPCL submitted, in the hearing, that they were in agreement with the provision of draft Regulations and views of Power System and further suggested that connection agreement framed by CERC be adopted with modification in view of intra-State transmission system.

As already discussed in para 4(7) above, the proposed Regulations aims at enforcement of provisions of, among others, Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which specifies the minimum technical and design criteria to be complied with by existing users or by an applicant seeking connectivity to the intra-State transmission system, to maintain uniformity and quality across the system. The objective is to ensure safe operation, integrity and reliability of the grid. Accordingly, the Commission made UPEGC wherein clause 4.5.1 says that,

“All Users connected to or seeking connection to the Intra-State Transmission System (STS) shall enter into a connection agreement with the STU/Transmission Licensee. However, in respect of existing

connections a relaxation of one year is allowed so that present arrangement may continue in the interim.....”.

It is worthwhile to note that clause 27(1) of CNCE Regulations, 2009 also specifies obligations of NCE generating plants to establish, operate and maintain generating station, sub-station and dedicated transmission lines connected therewith in accordance with the technical standard for connectivity with the grid as specified by the Central Electricity Authority and UPEGC. Similarly, as per model power purchase agreement provided with CNCE Regulations, 2009 generating station shall ensure compliance of all relevant provisions specified by the Commission in different regulations regulating the functioning of State Transmission Utility, other transmission licensee and State Load Despatch Centre.

Clause 15.2 of draft Regulations is in line with UPEGC. Therefore, existing users are under statutory obligation to comply with the technical standard for connectivity to the grid through connection agreement. As such no change in the draft is contemplated.

Further, the scope of the draft Regulations is limited to Connectivity to intra-State Transmission System of STU / any other transmission licensee only. It has nothing to do with open access and energy accounting which are adequately addressed in separate UPERC (Terms and Conditions for Open Access) Regulations, 2004 and UPERC (Procedure, terms and conditions for payment of fee and charges to SLDC and other related provisions) Regulations, 2004 read with the UPEGC, ABT orders.

(18) Clause 16 provides that, inter-alia, a person shall not relinquish or transfer his rights and obligations specified in the connection agreement without prior approval of the Commission. Such user who relinquishes the connection before 12 years of the connectivity would be liable to pay compensation for the period falling short of 12 years. UPSMCA submitted that an applicant is required to pay the transmission line and associated infrastructure charges as proposed under clause 9.2. Also, the applicant is either required to maintain the transmission evacuation system or pay annual maintenance charges to transmission utility as the case may be. Therefore the applicant should not be again penalized to compensate for relinquishing the connection before 12 years of connectivity.

Considering the above submissions, the Commission agrees that clause 16 shall be replaced as under:

“A person shall relinquish or transfer his rights and obligations as specified in the connection agreement unless it applies to the Nodal Agency at least six months prior to such relinquish or transfer.”

(19) Power System submitted that the distribution system under clause 2(2.1) (a) to the Schedule to the Regulations, should include voltage 33 KV and above.

Considering the above submissions, the Commission agrees that under clause 2.1(a) to the Schedule the words **“for 33 kV works”** shall be replaced by the words **“for 33 kV and above works”**.

5. Besides the modifications deliberated and decided upon in paragraph 4 above, the Commission considers it appropriate to effect following changes in the Draft Regulations:

(1) Following proviso shall be inserted at appropriate place in clause 2.1(b):

“Provided further that an application for connectivity is not required to be made by any intra-State transmission licensee (other than the State Transmission Utility), since transmission system planning is carried out in a co-ordinated manner by the State Transmission Utility and the Central Electricity Authority.”

Accordingly, Note to clause 2.1(b) and second proviso to clause 6.1 shall be deleted as it is not required.

(2) Definition of “captive user” in clause 2.1 (d) shall be modified as under:

“captive user” means the person or member, within the meaning of section 2(8) of the Act, who has constructed a captive generating plant primarily for his own use;

(3) In the definition of “connection agreement”, the word “STU” shall be replaced by the words **“State Transmission Utility”**.

(4) In the definition of “open access consumer”, the words “embedded in the intra-State transmission system,” shall be deleted.

(5) Under clause 2.2, the words **“or the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007”** shall

be inserted at both places after the words “the Act” and before the words “or the State Grid Code”.

(6) Under clause 4, the words “grant of connectivity in accordance with the provisions of these regulations” shall be replaced by the words **“grant of connectivity to intra-State transmission system in accordance with the procedure and under the provisions of these regulations”**.

(7) Words “in accordance with the procedures” shall be deleted under clause(s) 6.1 and 7.1.

(8) Following proviso shall be inserted at appropriate place in clause 6.1:

“Provided further that technical details of the generating station, as referred to in clause (a) of sub-section (3) of section 10 of the Act, shall be submitted to the Commission.”

(9) Under proviso to clause 6.2, the word “interchanged” shall be replaced by the word **“injected”** and the words “and a distribution licensee” shall be replaced by the words **“or for the quantum of power to be drawn up to 10 MW by a distribution licensee”**.

(10) After the words “the State Grid Code” and at the end of clause 7.1, the words **“the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, as amended from time to time, in addition to mutually agreed requirements”** shall be added.

(11) After the words “materializing the connectivity” and at the end of paragraph 1 of clause 7.2, the sentence **“The Nodal Agency shall determine, but not limited to, point of connectivity, required inter-connection facilities and the necessity of any modifications required in the existing intra-State transmission system, if any, as a consequence of grant of connectivity.”** shall be added.

(12) Following proviso shall be inserted at appropriate place in clause 7.2:

“Provided also that an intra-State transmission licensee (other than the State Transmission Utility) shall sign a connection agreement with the State Transmission Utility, as provided for in clause 8 hereof:”

Accordingly, third proviso to clause 6.1 shall be deleted as it is not required.

(13) Under last proviso to clause 7.2, the word “, however,” shall be replaced by the word **“also”**.

(14) Under clause 7.8, the words “regulation or order” shall be replaced by the words **“regulation or code or order”**.

(15) Under paragraph 1 of clause 8.1, the words “or pooling station” shall be deleted and the words “transmission licensee” shall be replaced by the words **“any other transmission licensee”**.

(16) Following proviso shall be inserted at appropriate place in clause 8.1:

“Provided further that the Nodal Agency shall prepare and submit within sixty (60) days of issue of these regulations the model connection agreement(s) for approval of the Commission.”

(17) Under first proviso to clause 8.3, the words “under clause 8.3” shall be deleted.

(18) Clause 8.6 shall be inserted as under:

“The decision of the Nodal Agency under clause 8.1 to clause 8.5 shall be final and binding.”

(19) Word “development” in Note to clause 10 and under clause 2 (including heading) of the Schedule shall be replaced by the word **“construction”**. Similarly, the word “develop’ shall be replaced by the word **“construct”** under clause 2.1 of the Schedule.

(20) Word “ABT” under clause 11 shall be replaced by the words **“Availability Based Tariff”**.

(21) Proviso to clause 12.1 shall be deleted and the same shall be included in the procedure as laid down under these regulations.

(22) Words “during full load testing” under clause 14.1 shall be replaced by the words **“during testing including full load testing”**.

(23) At the end of clause 18, the words **“unless provided otherwise”** shall be added.

(24) Under clause 20 the words **“by general or special order”** shall be added after the words “The Commission”.

(25) Clause 22 shall be inserted as under:

“These Regulations are made in English and translated into Hindi. In case of dispute, the English version shall prevail”.

(26) Under clause 2.1 (a) to the Schedule, the words “where generating station is selling power” shall be replaced by the words **“of supply of electricity from a generating station”**.

(27) Under clause(s) 2.1 and 2.2 to the Schedule, the words “transmission licensee” shall be replaced by the words **“any other transmission licensee”**.

(28) Word “(NEDA)” under clause 2.3 of the Schedule shall be deleted.

(29) Under clause 2.4 of the Schedule, the words “estimated amount” shall be replaced by the word **“cost”** under the first proviso and the second proviso shall be deleted.

(30) After the words “the State Transmission Utility” and before the words “to ensure smoother operations” under clause 3 of the Schedule, the words **“within sixty (60) days of issue of these regulations”** shall be added.

6. Based on above decisions, the proposed draft Regulations shall be corrected. Any correction or modification incidental to above decisions shall also be carried out including minor corrections in language. The final “Uttar Pradesh Electricity Regulatory Commission (Grant of Connectivity to intra-State Transmission System) Regulations, 2010”, so made, shall on approval of the Commission come in to force from the date of its publication in the official gazette. The Secretary to the Commission shall get these Regulations notified in the official gazette with Hindi Translation. Pending Gazette Notification, the Regulations so approved by the Commission shall be made public by posting it on the website of the Commission and through public notice in the newspapers.

7. The matter is disposed of.

(Rajesh Awasthi)
Chairman

Lucknow; Dated: 30th August, 2010