

Submission of Comments to the Ministry of Power On **CONSULTATION PAPER - ISSUES PERTAINING TO OPEN ACCESS**

Consumer Unity & Trust Society (CUTS¹) is a non-profit, non-government vigilant institution working in the area of economic regulations mainly in energy sector and financial sector, consumer protection, competition, trade, and investment. Further, its interventions in the sector include assessing effectiveness of policies and regulations, ensuring inclusive governance, increasing consumer awareness, building stakeholders' capacity and enhancing consumer participation in the process of formation of policies and regulations.

CUTS Institute for Regulation & Competition (CIRC²) is an independent not-for-profit think tank with a mandate to undertake policy research and advocacy in the field of regulation and competition. The Institute's activities are divided into three broad programme areas: Economic Regulation, Infrastructure Development & PPPs, and Competition Policy & Law.

Background

Ministry of Power has released consultation paper on Issues pertaining to Open Access on 24 August, 2017 inviting comments from interested stakeholders.

Accordingly, comments and recommendations from CUTS International and CIRC on the consultation paper are given below:

Broad Suggestion

The paper has proposed linking tariff of open access consumers, with the cost of power and category-wise cross-subsidy surcharges. The proposed suggestions in the paper are more ambiguous than the current open access regulations. It seems that these observations made on the paper are skewed more towards the issues of DISCOMs, rather than highlighting the issues faced by the open access consumers, thus proposing more stringent scheduling restrictions for open access consumers.

¹ <http://www.cuts-international.org/>

² <http://circ.in/>

Therefore, it is recommended that the process should be made less complex, viable, uniform and more inclusive as per international standards³. This could be done by undertaking Regulatory Impact Assessment (Cost & Benefit Analysis⁴) of the existing open access regulations which includes stakeholder consultations.

Specific Suggestion

a. Frequent switching by Open Access (OA) Consumers

This consultation paper seems to confine the open access market because of frequent switching by open access consumers. The paper primarily focuses on issues faced by DISCOMs due to open access such as loss of business, inability to plan power scheduling, stranded assets and other operational difficulties. For instance, thermal power plants operate at average Plant Load Factor (PLF) of less than 60%, comparatively lower than the expected 75%-80% PLF. This resulting compression may have a cascading effect on other areas of the sector such as renewables Power Purchase Agreement (PPA). This may result in OA consumers looking for better generation source for power availability at time of requirement. But, to conclude that there is frequent switching of OA consumers require more evidence in terms of related data on the OA consumers, volume of power schedule and drawl, time of the scheduling and grid availability at that time. Without any concrete data, it would be futile to state that frequent switching by OA consumers puts additional pressure on the grid. However, this should not be an excuse for confinement of open access market.

Therefore, it is recommended that the proposed restriction to schedule power at least prior to 24 hours should be applied only when switching between DISCOMs and the power market but there should be no restrictions on between competitive suppliers. However, it is the responsibility of State Load Despatch Centres (SLDCs) for scheduling of power and allocation of grid corridor to maintain grid stability and it should be left to them for better monitoring irrespective of any consumers including OA consumers.

b. Need to remove various types of Surcharges

It is evident that Open access consumers pay state discoms cross-subsidy charges and other additional charges other than regular charges to compensate them for getting out of their network. . In fact, several states such as Tamil Nadu in the South, Bihar in the east, Maharashtra in the west and Delhi and Uttar Pradesh have increased cross-subsidy

³ For instance, Connecticut Electricity Regulatory Commission found that the experience in the retail market had shown that customers were unlikely to game the market as had originally been feared. Furthermore, the restriction limited the freedom to move from product to product that exists in other retail markets. Therefore, the Commission rescinded the anti-gaming policy for standard service.

https://www.brookings.edu/wp-content/uploads/2017/04/open-access_ds_042017.pdf

⁴ <http://cuts-ccier.org/ria/>

surcharges (CSS) in range of 80%-600% for industries, creating a huge barrier for restriction on OA consumers for shifting their network which is against the principle of fair play in the market.

Further, the paper proposed differential Time of the Day (TOD) CSS to control uneven scheduling. Though it is favoured by Industrialist but scheduling of power demand will pose serious technical issues.

Therefore, it is recommended that to promote a seamless power market, CSS and other charges should be removed gradually in a phased manner.

c. Tariff Rationalisation

The paper proposes a progressive tariff design with prudent cost-effective structure but it failed to raise the issue of delays in tariff revision for various reasons such as delayed submission of tariff petition by DISCOMs to Commission. Further, delay in receiving approval for tariff revision, this has resulted in accumulated losses for the DISCOMs. However, some of the losses have been transferred to consumers and the rest was accumulated as Regulatory Assets (RA). Further, it was proposed in the paper that the surcharge for RA and should also be recovered through Open Access Consumers. This will severely dent the prospects of OA consumers and restrict the open market to a great extent.

Therefore, it is recommended that the paper should include in its proposal such provisions which ensure timely revision of tariff. Further, recommends that Regulators should link Regulatory Assets to the efficiency improvements of the DISCOMs and pass through existing RA slowly and steadily with a certain time frame, for instance 10% each year for 10 years.

In addition, it is also recommended that a system should be in place so that regulators can exercise their full autonomy as quasi-judicial institution without any political interference in their works. And for that matter, there should be a mechanism to appoint experts to the panel rather than retired bureaucrats or government's appointee to these institutions.

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