

No. 23/43/2018-R&R  
Government of India  
Ministry of Power  
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Shram Shakti Bhawan, New Delhi,  
Dated, the 27<sup>th</sup> August, 2018

To

The Chairperson,  
Central Electricity Regulatory Commission,  
Chanderlok Building, Janpath,  
New Delhi

Subject: Direction to the Central Electricity Regulatory Commission under section 107 of the Electricity Act, 2003 for allowing pass-through of any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, after the award of bids, under "Change in Law" unless otherwise provided in the PPA.

Sir,

Para 6.2 (4) of Tariff Policy 2016 provides that after the award of bids, if there is any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, the same may be treated as "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through subject to approval of Appropriate Commission.

2. It has been brought to the notice of this Ministry that Generating Companies are facing difficulties in getting pass-through of changes in cost due to any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality under "Change in Law" by Appropriate Commission. The difficulty is mainly because of considerable time being consumed in the approval process resulting into severe cash flow problems to the Generating Companies. This has also resulted in stress in the Power Sector.

3. Now, in order to address the above issue and ensure sustainability of the electricity market in the larger public interest, the Central Government, in exercise of the powers conferred under section 107 of the Act, hereby issues this direction to the Central Electricity Regulatory Commission:

- a) Any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, may be treated as "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through.

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- b) Central Commission will only determine the per unit impact of such change in domestic duties, levies, cess and taxes, which will be passed on.
- c) A draft Order for determination of per unit impact under change in law shall be circulated by Central Commission to all the States/Beneficiary on 14<sup>th</sup> Day of filing of petition. Any objection/ representation shall be submitted by them within 21 days of filing of petition.
- d) The order for pass through giving the calculation for per unit impact will be issued within 30 days of filing of petition.
- e) The impact of such Change in law shall be effective from the date of change in law.
- f) Where CERC has already passed an order to allow pass through of changes in domestic duties, levies, cess and taxes in any case under Change-in-law, this will apply to all cases ipso facto and no additional petition would need to be filed in this regard.

4. This issues with the approval of Minister of State (Independent Charge) for Power and New and Renewable Energy, Government of India.

Yours faithfully,



(D. Chattopadhyay)  
Under Secretary to the Govt. of India  
Tel: 2373 0265

Copy to:

1. All Joint Secretaries/Directors/Deputy Secretaries, Ministry of Power
2. PS to MOS(I/C) for Power & NRE
3. PPS to Secy(P), PPS to AS(SNS), PPS to CE(R&R), PS to Director (R&R)
4. Technical Director, NIC, Ministry of Power with the request to upload this communication on MoP's website.