

APP Comments on Draft Procedure for Approval and Facilitating Import/Export (Cross Border) of Electricity

Clause no. as per Draft Procedure	Provision as per the Draft Procedure	APP comments, along with modifications/additions as suggested	Rational for suggestions / Clarifications sought
New	New Clause to be added	<p>1 General...</p> <p>1.6 Provided however that any approvals or consents granted under the previous Conduct of Business Rules for Designated Authority shall continue to be applicable and shall be deemed to have been granted under the current rules.</p>	<p>Past approvals under previous CBR of DA may be excluded from the scope of the current CBR and may be deemed to be approved under the current rules.</p>
1.4	<p>Accordingly, the Designated Authority (Procedure for IECBE), 2019 for facilitating the process of approval, and for import/export (cross border) of Electricity, has been formulated.</p>	<p>Accordingly, the Designated Authority (Procedure for IECBE), 2019 for facilitating the process of approval, and for import/export (cross border) of Electricity, has been formulated.</p>	
2 (iv)	<p>‘Approval’ means approval for participating in Import / Export (Cross Border) of Electricity with Indian Entity or with entity of neighbouring country and shall not mean availability of cross border transmission for scheduling of power</p>	<p>Approval' means approval for participating in Import / Export (Cross Border) of Electricity with Indian Entity or with Entity of neighbouring country and shall not mean availability of cross border transmission for scheduling of power</p>	<p>Entity is a defined term.</p>

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3	Objectives of the Procedure	It is suggested that the objective shall specifically mention about grant of deemed approval to projects where the export/import is already in place from a date which is earlier than notification of "Guidelines for Import/Export (Cross Border) of Electricity-2018" by Ministry of Power.	While, the objectives briefly mention about facilitation of grant of approval to eligible entities to participate in Import/Export (Cross Border) of electricity, it does not clarify whether the existing entities like traders/buyers engaged in Cross Border import of electricity would also require a grant under these regulations.
4.1.2	Indian side of JTT-T shall comprise of Nodal Officer of DA as team leader and members from CTU and POSOCO.	It is submitted that such committees shall also include members on behalf of category of developers setting up a dedicated transmission line.	This is required to safeguard the interest of dedicated transmission line developers and to enable them to have a platform where their constraints can be addressed too.
New clause to be added after 4.1.2	New Clause to be added	<p>New clause to be added after 4.1.2</p> <p>Provided that in case a power purchase agreement or any other definitive agreement has been executed between an Indian Entity and the Entity of the neighbouring country, the related JTT for the development of the said cross border transmission link shall have a representative of the Indian Entity as a member.</p>	To ensure that the interests of the Indian entity who has executed the PPA / Long term agreements is protected, it may be included as a part of the related JTT.

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4.2.1	Based on the decision in JSC/JWG or proposals received by the Designated Authority seeking approval for import/export (cross border) of electricity, the Designated Authority may request JTT-T to examine the requirement of new cross border links.	This clause envisages the initiation of planning process for entities seeking approval for import/export (cross border) of electricity only and does not mention about existing Cross Border transactions. Clarity is needed whether such entities like Traders and Buyers are also required or shall provide details to DA for carrying out a sound planning process.	
4.2.3	Except for the, no other entity such as prospective seller,and development of a cross-border transmission link	Clarification required on the opening sentence.	The opening sentence appears to be incomplete.
4.2.3	Except for the, no other entity such as prospective seller, and development of a cross-border transmission link	<p>New Provision to be added :</p> <p>“Provided that an Indian Entity having a confirmed power purchase agreement or any other definitive agreement for minimum 15 years or any other binding agreement, whether currently or in future through its own efforts, shall be eligible to approach the Designated Authority for planning and development of a cross-border transmission link.”</p>	In cases where the Indian entity has executed or executes a PPA or any other long term agreement through its own efforts, such Indian entity must be allowed to approach the DA for initiating the process for planning & development of the cross border transmission link. This would result in faster project implementation.

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4.2.4	<p>The proposal of the ANC shall contain the following minimum information:</p> <p>...</p> <p>c) Preferred voltage level, type and configuration of conductor</p>	<p>Following additional information may also be sought:</p> <ol style="list-style-type: none"> 1. Details of Generating Companies and planned Transmission Links up to 220 kV 2. Load Flow studies & proposed route. 3. Any Feasibility / Pre-Feasibility report prepared in the last 2 years with respect to the said cross border transmission link 	<p>Such information would result into better planning and decision making and avoid delays and issues with respect to insufficient power evacuation infrastructure.</p>
4.2.9	<p>The Designated Authority/CEA will take up the planned system of cross border link(s) as well as associated strengthening required for transmission system in India, for discussion in the respective Regional Standing Committee on Transmission (RSCT)</p>	<p>Considering the scope of activities, it would be pertinent to allow the existing and the new entities (generators/buyers/traders) to be members of such RSCT to ensure stakeholder consultation and smooth processing of the committees.</p>	
4.2.10	<p>After discussion of the cross- border transmission plan in JSC / JWG ... shall be included in the feasibility study report</p>	<p>After discussion of the cross-border transmission plan in JSC / JWG ... shall be included in the feasibility study report</p> <p>Provided that the JSC / JWG may choose to adopt a Feasibility Report already prepared in the last 3 years with respect to the cross border transmission link.</p>	<p>In the interest of saving time, in case a recent Feasibility Report is already available, the JSC / JWG may use the same to enable faster project implementation while also saving resources.</p>

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4.4	Commissioning of Cross Border Transmission Link	<p>While the section focuses on Commissioning of Cross Border Transmission link, it does not envisage any communication/involvement for the developers/ entities which have sought approval for such transactions. We understand the developer/ generating company/trader who intends to export and Traders/Buyers who intend to import shall always be updated and kept in loop about the commissioning process which would also ensure readiness and planning by such entities/developers/beneficiaries.</p> <p>Also, for situations of delayed commissioning of assets of respective countries, adequate provisions should be incorporated to compensate for the losses of the non-defaulting party(ies) due to delay caused by the defaulting parties in neighboring countries. The terms and conditions of such compensation should be, to the extent possible, clarified upfront to enable the settlement of such issues as and when they arise.</p>	
4.4.3	CTU and NLDC shall ensure that necessary protection system, data and voice communication system etc. has been	CTU and NLDC shall ensure that necessary protection system, data and voice communication system etc. has been	

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	commissioned before energization	commissioned before energization at either ends of the transmission line.	
4.4.5	Before flow of electricity on the transmission line, system operators of both the countries shall confirm the availability of interface meters to System Operator of respective country.	Before flow of electricity on the transmission line, system operators of both the countries shall confirm the availability of interface meters to System Operator of respective country. The System Operators of the countries shall ensure similar meter specifications.	To ensure consistency
5.1.1	For discharging the function... Broad functions of JOC would inter-alia include: (i) Providing power system model for joint operational studies	For discharging the function... Broad functions of JOC would inter-alia include: (i) Providing power system model for joint operational studies and Transient Stability Studies	To enable better planning.
5.4.1	Provision of protection and relay settings... to take care of any contingencies.	Provision of protection and relay settings... to take care of any contingencies, based on transient / dynamic stability studies.	To enable better planning.
5.6.1	A well-defined protocol... through the respective System Operators.	A well-defined protocol...through the respective System Operators. The System Operators shall also share the load forecasting and weather forecasting reports.	To enable better planning.

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5.9	Outage planning	While the section focuses on Outage Planning and stipulates involvement of system operators, it is equally important to keep the beneficiaries updated and involve them in outage planning process which would also ensure readiness and planning by beneficiaries.	
6.2	Approval of the Designated Authority will however not be necessary where the import/export is taking place under the Inter Government Agreement signed by India and neighbouring country for specific project(s).	While this clause mentions about deemed approval of specific project(s) by DA where the import/ export is taking place under the Inter Government Agreement signed by India, it is submitted that such deemed approval should also be granted to projects where the export/import is already in place from a date which is earlier than notification of "Guidelines for Import/Export (Cross Border) of Electricity-2018" by Ministry of Power.	
6.4 (iii)	(iii) In case of coal based generation plants, the Applicant shall submit a declaration that the electricity for export will be generated utilizing imported coal or spot e-auction coal or coal obtained from commercial mining.	The requirement/format is missing from the Annex-II. Suitable format as per applicability may please be provided for uniformity.	
6.4 (iv)	(iv) The Applicant shall submit a copy of Power Purchase Agreement (PPA)/or of Letter of Intent (LOI) from entity of neighbouring country, for export of such	Since PPA/LoI may not be available during the proposal stage, MoU/Letter or suitable in-principle acceptance from the Authority of Neighbouring Country should hold good	In some countries, LoA is issued only after having all the clearances in place. The DA approval would be one such clearance for receiving LoA.

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	power,.....	for the purpose of Application.	Therefore it is proposed that MoU/Letter or suitable in-principle acceptance from the ANC should hold good at the proposal stage.
6.5 (iv)&(v)	<p>(iv) Applicant should furnish PPA/LOI with the entity of neighboring country for trade in Indian Power Exchange(s).</p> <p>(v) The applicant should also have consent of respective government</p>	<p>(iv) Applicant should furnish PPA/LOI with the entity of neighboring country for trade in Indian Power Exchange(s).</p> <p>(v) The applicant should also have consent of respective government except in cases where the PPA/LOI is with a Central/State Government entity.</p>	In case of PPA/LOI with a Central/State Government entity, mandatory separate consent from respective government may be exempted.
6.6 (ii)	After receipt of application, the proposal shall...and Exports may be permitted in case of generation capacity (as available) being in excess of the demand.	After receipt of application, the proposal shall... and Exports may be permitted in case of generation capacity (as available) being in excess of the demand.	<p>The said provision is restrictive for Indian electricity exports. Demand/supply of electricity is a function of time (ever changing and subject to seasonal variations) and power is sourced from different sources. Therefore, trying to determine surplus/deficit of electricity demand leads to subjective discretion.</p> <p>The Indian entity would also be subject to penalty under its already executed PPA with the neighbouring country in case exports are curtailed under the said provision. Hence the provision may be deleted. Moreover, export of electricity would be a huge avenue for</p>

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			<p>foreign currency inflow to India and hence should be allowed freely.</p> <p>However in case of Distribution licensee exporting power, it must be ensured that it first meets its universal supply obligations to all consumers within its license area.</p>
6.6 (viii) & (ix)	<p>(viii) The Designated Authority will send the proposal for concurrence of Govt. of India (GoI), within 60 days from the date of receipt of the final application complete in all respects.</p> <p>(ix) The approval or otherwise of DA shall be communicated to the applicant within 15 days from the final communication received from GoI.</p>	<p>(viii) The Designated Authority will send the proposal for concurrence of Govt. of India (GoI), within 60 days 30 days from the date of receipt of the final application complete in all respects.</p> <p>(ix) The approval or otherwise of DA shall be communicated to the applicant within 15 days 7 days from the final communication received from GoI. Further such approval or otherwise will be indicated within no more than 105 days from the date of receipt of the final application. In case of failure to intimate approval or otherwise within a period of 105 days, it shall be considered as deemed approval.</p>	<p>Timelines may be kept shorter to avoid delays.</p> <p>Further, specific timelines for grant of approval will help in better activity management, especially for PPA proposals in pipeline/discussions.</p>
6.7.4	The Regulations framed by Central Electricity Regulatory Commission (CERC) of India shall be binding on all	The Regulations framed by Central Electricity Regulatory Commission	This provision may be deleted. Entities of neighbouring countries may not submit to CERC Regulations. Moreover, this provision

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	the Participating entities.	(CERC) of India shall be binding on all the Participating entities.	would not apply in case of dedicated transmission line.
7.1.3	New Clause to be added	New clause to be added as under: 7.1.4 Provided that dedicated transmission systems shall function in accordance with the established protocols of the neighbouring country to whose grid it is connected.	The dedicated transmission system would not be connected to the Indian grid and would function as per the protocols and requirements of the neighbouring country to whose grid it is connected.
8.3.1	The Indian trading licensees may apply to DA giving details of intended transaction through Indian Grid such as details of selling & buying entities, copy of tripartite PPA/PSA, quantum & duration.....	While the section envisages for a Tripartite PPA/PSA, we submit that there is a possibility that a Trading Licensee may not sign a tripartite PPA/PSA and in turn may sign separate PPA and PSA with seller and buyer of electricity. Hence, we propose to either remove the term "tripartite" or it may be modified to include for tripartite as well as bilateral PPAs.	
Annex-I, Clause 8(a)	Nature of transaction (directly/through Government /through a Government Company /through a licensed trader of the neighboring country).	Nature of transaction (directly from Generator /through Government /through a Government Company /through a licensed trader of the neighboring country).	“from Generator” added for more clarity.
New clause	New clause to be added	At an appropriate place in the document, it may be stipulated in the procedure that entity from neighboring country may trade power in	This is required because otherwise, the entity may start trading power in power exchange during favorable time (import when prices are

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		power exchange subject to availability of transmission access and honoring existing import/export contracts with India.	low and export when prices are high) by surrendering/dishonoring the existing contracts with Indian utilities. It may also impact the overall prices in the market due to which Indian entities may be deprived of power exchange benefits.