

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
AMENDMENT IN PSERC MYT REGULATIONS, 2022
Explanatory Memorandum

In exercise of the power conferred on it by section 181 (2) read with section 61 and 62 of the Electricity Act 2003 (36 of 2003) and all other powers enabling the Commission in this behalf, the Punjab State Electricity Regulatory Commission finalized the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2022” (PSERC MYT Regulations 2022)

1. Para 5.3 of National Tariff Policy as revised by Ministry of Power Government of India vide resolution No.39 dated 28.01.2016 specifies that:

“5.3 The tariff of all new generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis.

*Further, **intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs.**”*

2. OSD Power Reforms, Department of Power, Government of Punjab vide letter No.1/18/2011-EB(PR)/28 dated 16.01.2018 intimated that the matter has been reviewed by the State Government and in order to have a wider pool of bidders, it has been decided to execute the intra-State Transmission Projects of PSTCL through competitive bidding process beyond a threshold limit of **“Minimum Rs.50 Crore”**.

3. The Commission vide Notification No. PSERC/Secy/132 dated 05.11.2018 notified as under:

“In accordance with para 5.3 of National Tariff Policy, the Punjab State Electricity Regulatory Commission hereby decides that intra-state transmission projects costing more than Rs. 50 Crore shall be developed by State Govt./STU through tariff based competitive bidding”

4. Section 61 & 62 of the Act provide for tariff regulation and determination of tariff of generation, transmission, wheeling and retail sale of electricity by the Appropriate Commission. Section 63 of the Act provides that:

“Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

5. Government of India, Ministry of Power in its guidelines dated 15.03.2021 recommended adoption of TBCB for intra state transmission projects in the large interest of consumers. Relevant clause 6 of MoP, Gol guidelines are as follows:

- (i) Lower Tariff compared to Cost Plus: With large number of bidders participating in development of a transmission project, discovered tariff for a transmission project can be lower than cost-plus tariff by about 30-40%
- (ii) Less burden on government finances: it will attract private investments for development of projects, and scarce government fund can be spared for other priority sectors
- (iii) Risk sharing: It encourage risk sharing with private sector. Innovative Technology: It encourages use of advanced technology for improving cost and efficiency.

6. Government of India, Ministry of Power has also framed and issued guidelines under the above provisions of section 63 of the Act for encouraging competition in development of Transmission Projects vide notification dated 10.08.2021 **(Tariff based Competitive-bidding Guidelines for Transmission Service)**.

7. The Hon'ble Supreme Court of India vide Judgment dated 23.11.2022 in Civil Appeal No. 1933 of 2022 has directed the State Regulatory Commissions as under:

*“131. We direct all State Regulatory Commissions to frame Regulations under Section 181 of the Act on the terms and conditions for determination of tariff **within three months from the date of this judgment**. While framing these guidelines on determination of tariff, the Appropriate Commission shall be guided by the principles prescribed in Section 61, which also includes the NEP and NTP. Where the Appropriate Commission(s) has already framed regulations, they shall be amended to include provisions on the criteria for choosing the modalities to determine the tariff, in case they have not been already included. The Commissions while being guided by the principles contained in Section 61 shall*

effectuate a balance that would create a sustainable model of electricity regulation in the States. The Regulatory Commission shall curate to the specific needs of the State while framing these regulations. Further, the regulations framed must be in consonance with the objective of the Electricity Act 2003, which is to enhance the investment of private stakeholders in the electricity regulatory sector so as to create a sustainable and effective system of tariff determination that is cost efficient so that such benefits percolate to the end consumers.”

8. The Commission has already notified the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2022” (PSERC MYT Regulations 2022) under Section 181 (2) read with Section 61 and 62 of the Electricity Act 2003. However, with regards to incorporation of provisions regarding Tariff Based Competitive Bidding (TBCB) for intra-state transmission projects the Commission had issued separate notification dated 05.11.2018

9. Thus, in view of the directions given by the Hon’ble Supreme Court the Commission intends to amend the provisions of MYT Regulations, 2022 to incorporate the above notification regarding Tariff Based Competitive Bidding (TBCB) for intra-state transmission projects. Accordingly, the draft Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) (1st Amendment) Regulations, 2022 are enclosed as Annexure-A. The comments/suggestions/objections from all the stakeholders may be solicited under Sub-section (3) of Section 181 of the Electricity Act, 2003 read with Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 on the draft Regulations.