

West Bengal Electricity Regulatory Commission

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STATEMENT OF REASONS

West Bengal Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2021 (DSM Regulations)

1.0 INTRODUCTION

Central Electricity Regulatory Commission (CERC) introduced the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulation, 2014 on 6th January 2014 (hereinafter referred as CERC DSM Regulations). The Deviation Settlement Mechanism (DSM) under the CERC DSM Regulations introduced several changes in the balancing market monitored by the erstwhile Unscheduled Interchange (UI) regime. The CERC gained considerable experience while implementing the DSM, which is reflected by the subsequent amendments, five in number, to the principal regulations. Post stabilisation of the regulatory framework introduced by the CERC DSM Regulations, the West Bengal Electricity Regulatory Commission (hereinafter referred as “Commission”) has decided to introduce DSM Regulations in the state.

Accordingly, the Commission, in exercise of the powers conferred by sub-sections (1) and (2) of section 181 read with section, 30, 32, 33, 34, 39, clause (h) of sub-section(1) of Section 86 of the Electricity Act, 2003 (36 of 2003), the Electricity [Removal of Difficulties] Third Order, 2005 and in compliance with the requirement for previous publication under section 181(3) of the Electricity Act, 2003, published the draft West Bengal Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2020 (hereinafter referred as “draft DSM Regulations”) on its website and invited suggestions/objections/comments vide public notice no. WBERC/Regulation-66/20-21/6116 dated 13th October, 2020 which was published in six nos of leading newspapers and website on 14.10.2020. The last date of submission of such suggestions /objections /comments was 6th November 2020, which was subsequently extended upto 23.11.2020 considering the prayers from stakeholders. After receiving suggestions /objections /comments the Commission is required to proceed for finalisation of the said regulations for publication.

2.0 OBJECTIVE

With the introduction of Deviation Settlement Mechanism through CERC DSM Regulations a lot of changes have taken place in the balancing market from the previous unscheduled interchange regime. In the CERC DSM Regulations basically the tendency of deviation from injection schedule or drawal schedule by the injector or drawal entity connected with the inter-State transmission system (ISTS) is being controlled through financial incentivizing or dis-incentivising of the said entities. The CERC DSM Regulations has introduced the concept of volume limitation in case of any deviation from the schedule of injection or schedule of drawal which was not present earlier in the UI regime. To make the concept of volume limit an effective tool in real time operation additional charges have been introduced for non-adherence to the volume limit based on the position of operating frequency. In addition, continuous deviation from schedule in same direction has been discouraged under the CERC

DSM Regulations by making it compulsory to bring change in sign after certain time block by the injector or drawal entity. This is popularly called as sign change provision. This is also a totally new concept which did not exist in the UI regime.

With the introduction of the above two new concepts of volume limitation and change in sign of deviation in inter-state power transaction, Commission feels that the balancing market in the intra state transmission system and within the state grid is also required to be reasonably realigned with the DSM regime of inter-state power transmission system. In parallel to this Availability Based Tariff comprises of capacity charges, energy charges and the financial incentive/disincentives introduced by DSM to promote grid discipline. Therefore, DSM related regulation is a complimentary instrument to any tariff regulations. Section 61(a) of the Act says that while specifying the terms and conditions for determination of tariff, the appropriate commission shall be guided by the principles and methodologies specified by the Central Commission for determination of tariff applicable to generating companies and transmission licensees. Thus, on a conjoint reading of Section 86 (1)(h) and Section 61(a) of the Act, it is clear that DSM is also required to be introduced in Intra-State Transmission System (InSTS) operation to maintain a reasonable consistency with the Inter-State Transmission System Operation. Thus, for introducing DSM in Intra-State Transmission System (InSTS) operation, Commission decides to come out with a regulation on DSM Intra-State Transmission System (InSTS) operation of West Bengal.

3.0 STAKEHOLDERS CONSULTATION PROCESS

After publication of draft DSM Regulations on website of the Commission and inviting suggestions/ objections /comments vide public notice No WBERC/Regulation-66/20-21/6116 vide dated 13th October, 2020 in Ajkal (Bengali), Bartaman (Bengali), Uttarbanga Sambad (Bengali), Sanmarg (Hindi), Telegraph (English), and Millenium Post (English) on 14.10.2020 suggestions/ objections /comments the last date of submission was further extended up to 23-11-2020 by the Commission vide notification no WBERC/Regulation-65 & 66/20-21/6193 dated 06-11-2020. Against such public notices, The Commission received suggestions/ objections /comments from the following Stakeholders:

Stakeholder	Document Reference No. of Stakeholder	Short name assigned to Stakeholder for discussion in this SOR
CESC Limited	VP(SO):543 dt 6.11.2020	CESC
Haldia Energy Limited	GM:OS:74 dt 6.11.2020	HEL
India Power Corporation Limited	RA/II/002/20-21/2095 dt 2095 dt 23-11-2020	IPCL
Philips Carbon Black Limited	PCBL/Durgapur/FY 2020-21/01 dt 06-11-2020	PCBL
State Load Despatch Centre, WBSETCL	SLDC/HOW/R-03/2020-21/666 dt 06-11-2020	SLDC
SRG Earth Resources (P) Limited	Dated 30-10-2020 dt 30-10-2020	SRG
West Bengal Power Development Corporation Limited	WBPDC/ WBERC-29/20/1232 dt 23-11-2020	WBPDC
West Bengal State Electricity Distribution Limited	REG/SERC/ 605 dated 6-11-2020	WBSEDCL

The Commission has analysed the suggestions/ objections /comments received from stakeholders and has accordingly reviewed the draft DSM Regulations with due modification, addition and deletion to come out with the finalised West Bengal Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2021 (hereinafter will be referred as 'finalised DSM Regulations'). The detailed analysis of the suggestions/ objections /comments from stakeholders is being provided in paragraph 4.0 of this Statement of Reasons. In addition to this Statement of Reason (hereinafter will referred as SOR), Explanatory Note on DSM Regulation Framework is annexed as Annexure-A to this SOR.

4.0 ANALYSIS OF STAKEHOLDERS COMMENTS

On Stakeholders whose names have been noted above have submitted numerous suggestions, which are detailed out from paragraph 4.1 to 4.57 below:

4.1 Preamble of the DSM Regulation

4.1.1 *The preamble of DSM Regulations is as follows:*

"In exercise of the powers conferred by sub-sections (1) and (2) of section 181 read with section, 30, 32, 33, 34 and 39 of the Electricity Act, 2003 (36 of 2003), the Electricity [Removal of Difficulties] Third Order, 2005 and all powers enabling on that behalf, the West Bengal Electricity Regulatory Commission (WBERC) hereby makes the following regulations."

4.1.2 Comments of CESC are as follows:

CESC has referred to the judgment of Hon'ble Supreme Court in (20007) 8 SCC 197 where it was held that imposition of deviation settlement charges is an essential part of functions of specifying Grid Code. Therefore, CESC has requested that a reference be drawn to Section 86 (1) (h) of the Act in the preamble.

4.1.3 Comments of HEL are as follows:

HEL has highlighted that the "State Commissions are empowered to specify State Grid Code under Section 86(1) (h) of the Act in consistence with the Grid Code specified under Section 79(1) (h). Hon'ble Supreme Court in (2007) 8 SCC 197 observed that imposition of unscheduled interchange (UI) charges is essential part of functions of the CERC under Sections 79(1)(h) and 28(2) of the Act read with Section 178(2)(g) of the Act. It can be deduced from the conjoint reading of the above-mentioned provisions that that regulations specifying commercial mechanism for Deviation Settlement at intra-state level requires to be consistent with the CERC DSM Regulations."

4.1.4 The Comments of SRG are as follows:

(a) According to SRG the preamble of the proposed DSM Regulations in the background of the corresponding regulations of CERC and Maharashtra Electricity Regulatory Commissions (MERC) seems to have missed section 86(1) (h) of Act, which is related to Grid Code. In this

regard SRG pointed out that, Hon'ble Supreme Court in Civil Appeal No 2104 of 2006 has mentioned in Paragraph 22.1 that, '.....The maintenance of Grid discipline envisaged under the Grid Code is regulated by the mechanism of ABT and UI charges'. SRG has highlighted that, in the preamble of MERC DSM Regulations clause (h) of sub-section (1) of Section 86 of the Act has been specified which is the section related to State Commission's power of framing State Grid Code. SRG has also pointed out that no model Regulation on DSM is available on the website of FOR and thus proposed to consider the Regulations of MERC as this is the only other state which has multiple distribution licensees in the same area of operation and thus resembles the basic features with West Bengal. CERC regulation cannot provide such resemblance.

- (b) SRG has also sought explanation on inclusion of Section 39 of the Act and the Electricity [Removal of Difficulties] Third Order, 2005 in the preamble of the DSM Regulations. SRG also requested Commission may kindly elaborate it through any order or explanatory memorandum or statement of objects and reasons in line with the procedure followed by CERC. This is essential not only for transparency but also to avoid future legal complexity.

Based on the above, SRG has requested Commission that the preamble of the proposed DSM Regulations should be as follows:

"In exercise of the powers conferred by sub-sections (1) and (2) of section 181 read with Section 32, Section 33, Section 34, Section 66, Clauses (b) and (h) of sub-section (1) of Section 86, and Section 181 of the Electricity Act, 2003 (36 of 2003) and all powers enabling on that behalf, the West Bengal Electricity Regulatory Commission (WBERC) hereby makes the following regulations."

4.1.5 Analysis and Decision:

- i) The Commission observes that, CERC in the preamble of their DSM Regulations has referred to section 178 of the Act only. Similarly, FOR (Forum of Regulators) in 2017 issued Model DSM Regulations referring to only section 181 in the preamble. The Commission is of the view that, clause (zp) of sub-section (2) of section 181 of the Electricity Act 2003, adequately covers the power of the State Commission to make DSM Regulations.
- ii) The referencing of Section 39 of the Act is required to ensure the issue of non-discriminatory open access under clause(d) of sub-section (2) of section 39 of the Act while framing the regulations on DSM.
- iii) Referencing of Electricity [Removal of Difficulties] Third Order, 2005 has been kept as it provides power to State Government to sell the free power and thereby, they are a player in the DSM by virtue of the said order.

Based on above decisions the preamble has been duly modified and incorporated in the finalised DSM Regulations.

4.2 Definition of "Actual Drawal"

- 4.2.1 The clause (iii) of Regulation 2.1 of draft DSM Regulations is as follows:

"Actual Drawal" in a Time Block means the amount of electricity drawn by a Buyer as measured by the Interface Meters;

4.2.2 The comments of CESC are as follows:

As Interface Meters would not always capture Actual Drawal, particularly in case of Open Access Consumers, the regulation may be reworded as below:

"Actual Drawal" in a Time Block means the amount of electricity drawn by a Buyer as measured by the Interface Meters, unless otherwise specified in these regulations;"

4.2.3 Analysis and Decision:

Actual drawal under open access mode is sometime measured by mathematical computations. For example, the actual drawal in open access mode by a partial open access consumer for a consumer shall be calculated by reducing the scheduled injection minus normative transmission and distribution losses. This means there is no role of measurement of actual drawal in consumer mode by meters. Accordingly, the suggestion of CESC is accepted and the regulation is accordingly modified and incorporated in the finalised DSM Regulations.

4.3 Definition of "Actual Injection"

4.3.1 The clause (iv) of Regulation 2.1 of draft DSM Regulations is as follows:

"Actual Injection" in a Time Block means the amount of electricity injected by a Seller as measured by the Interface Meters;

4.3.2 Submission of both CESC and HEL is thus:

As Interface Meters would not always capture Actual Injection, particularly in case of Open Access Customers, thus according to HEL the regulation may kindly be reworded as below:

" "Actual Injection" in a Time Block means the amount of electricity injected by a Seller as measured by the Interface Meters, unless otherwise specified in these regulations;"

4.3.3 Analysis and Decision:

Actual drawal under open access mode is sometime measured by mathematical computations. For example, for any sale of power by any generating station embedded in the distribution system of a Distribution Licensee to a person other than such Distribution Licensee, the injection schedule of such sale of power by the generator at the point of interface of Distribution System of Distribution licensee and InSTS will be the schedule of injection at generation bus bar reduced by normative distribution/wheeling loss at high voltage as mentioned in Open Access Regulation. Accordingly, the suggestion of CESC is being accepted and the regulation is accordingly modified in the finalised DSM Regulations.

4.4 Suggestion of definition for "Additional Charges for Deviation"

4.4.1 The comments of CESC and HEL for insertion of a definition as follows:

CESC and HEL has requested to insert a definition after 2.1 (iv) for bringing in clarity:

"Additional Charges for Deviation" means charges determined in terms of Regulation 3.3 of these Regulation;"

4.4.2 Analysis and Decision:

The suggestion of CESC and HEL has been accepted as it will enhance clarity and such proposed insertion has been done in the finalised DSM Regulations.

4.5 Definition of "Balancing and Settlement Code"

4.5.1 The clause (vii) of Regulation 2.1 of draft DSM Regulations is as follows:

"Balancing and Settlement Code" means West Bengal Electricity Regulatory Commission (Balancing and Settlement Code) Regulations, 2008 or any other regulation substituting the Balancing and Settlement Code Regulation 2008 in future under the order or the Commission;

4.5.2 The comments of CESC and HEL are as follows:

In their view the regulation making power has been vested in the Hon'ble Commission through the Electricity Act, 2003 ("Act") and regulation making power is a legislative process. According to CESC, such process cannot be done through promulgation of orders. Thus, they have requested that the definition may be updated as below:

" "Balancing and Settlement Code" means West Bengal Electricity Regulatory Commission (Balancing and Settlement Code) Regulations, 2008 or any other regulations substituting the Balancing and Settlement Code Regulation 2008 in future;"

4.5.3 Analysis and Decision:

The argument of CESC and HEL has merit. In general, no regulation can be substituted by any order except for some specific values of parameters which are notified by some other authority. Accordingly, the regulation has been modified in the finalised DSM Regulations by removing the reference of the order.

4.6 Definition of "Buyer"

4.6.1 The clause (viii) of Regulation 2.1 of draft DSM Regulations is as follows:

"Buyer" means a person, including Distribution Licensee or Open Access Consumer, purchasing electricity through a transaction scheduled in accordance with the regulations applicable for Short-Term Open Access, Medium-Term Open Access and Long-Term Open Access;

4.6.2 The comments of CESC is as follows:

CESSC has highlighted that as per the definitions provided in 2.1 (xxxiv) and 2.1 (xxxv), it appears that "Open Access Consumers" are a sub-set of "Open Access Customers". Therefore, in order to make this regulation applicable on all "Open Access" cases, CESC has requested that the regulation may be reworded as follows:

"Buyer" means a person, including Distribution Licensee or Open Access Customer,

purchasing electricity through a transaction scheduled in accordance with the regulations applicable for Short-Term Open Access, Medium-Term Open Access and Long-Term Open Access;”

4.6.3 Analysis and Decision:

Suggestion is accepted as it will reduce the possibility of excluding any buyer entity. Accordingly, regulation has been modified in the finalised DSM Regulations by replacing the phrase “Open Access Consumer” by the phrase “Open Access Customer”.

4.7 Definition of “CERC DSM Regulations”

4.7.1 The clause (xii) of Regulation 2.1 of draft DSM Regulations is as follows:

“CERC DSM Regulations” means the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended till date or any replacement of such Regulations in future

4.7.2 The comments of CESC and HEL is as follows:

CESSC and HEL have requested that the definition be reworded as below:

“ “CERC DSM Regulations” means the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2014 as amended till date or any replacement of such Regulations in future;”

4.7.3 Analysis and Decision:

The suggestion is accepted as the same is the accurate title of the CERC regulations and the definition has been updated accordingly.

4.8 Definition of “Distribution Licensee” and “Licensee”

4.8.1 As per the clause (xvi) and (xxviii) of Regulation 2.1 of Draft DSM Regulations the definitions of “Distribution Licensee” and “Licensee” are as follows:

“Distribution Licensee” means a Licensee as defined in these regulations and also those entities authorized by the Commission or the State Government, as the case may be, to operate and maintain a distribution system for supplying electricity to the consumers in its area of supply;

“Licensee” means a person who has been granted license by the Commission under section 14 of the Act for distribution and / or transmission of electricity and also includes deemed licensees under the purview of the Commission in pursuance of first to fifth proviso to section 14 of the Act or persons exempted under section 13 of the Act within the State or persons notified under 8th proviso of the Act for the purpose of generation and distribution of electricity in rural area;

4.8.2 The comments of CESC on those two definitions are as follows:

- a) The definition of Licensee includes Transmission Licensees as well. Therefore, cross-referencing of definition of “Distribution Licensee” with definition of “Licensee” may

become problematic. CESC has requested the Commission to reword the regulation as follows:

"Distribution Licensee" means a person exempted either under section 13, or under 8th proviso of section 14 of the Act , or a person who has been granted a licence by the Commission under section 14 of the Act including a deemed licensee under first , third, fourth and fifth proviso to the section 14 of the Act to distribute electricity within its area of supply;

- b) CESC has further suggested that a reference be drawn to the eighth proviso of section 14 of the Act as the same appears to have been inadvertently omitted in the draft. Thus, CESC has requested that the regulation be reworded as follows:

"Licensee" means a person who has been granted license by the Commission under section 14 of the Act for distribution, and / or transmission of electricity and also includes deemed licensees under the purview of the Commission in pursuance of first to fifth proviso to section 14 of the Act or persons exempted under section 13 of the Act within the State or persons notified under eighth proviso to section 14 of the Act for the purpose of generation and distribution of electricity in rural area

4.8.3 The comments of SRG on those two definitions are as follows:

- 1) The definitions of Licensee and Distribution Licensee in the draft of DSM Regulations do not cover the entities notified under 8th proviso of section 14 of the Act. These entities are also entitled to draw electricity from State Grid or may inject electricity into State Grid.

The logic that can be argued of not including the entities under the said 8th proviso of Act as they will be entity covered by exempted category under section 13 of the Act, SRG states that if any private company is being notified for generation and distribution of electricity under 8th proviso of section 14 of the Act then the same cannot be exempted under section 13 of the Act. This means that the 8th proviso of section 14 of the Act is independent of section 13 of the Act.

Moreover, referring to the definitions to existing Tariff Regulations would not be prudent. as the existing Tariff Regulations [namely West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulation, 2011] has not considered the entity under 8th proviso of section 14 of Act. The entities under section 13 of Act are included in the Tariff Regulations so that tariff of such entity can be determined by the West Bengal Electricity Regulatory Commission in the future if such conditionality is imposed by the Appropriate Government as a condition of exemption under section 13 of the Act.

SRG also states that the term Distribution Licensee or Licensee will generally influence the common people based on the understanding conceived from the definition under the Act. Thus, SRG has requested that the nomenclature in this proposed DSM Regulations may be changed and instead of Distribution Licensee the term "Distribution Entity" may be used. Similarly, in place of Licensee the term used as "Licensed Business Entity" or "LB Entity" or "Wire Business Entity" or "WB Entity" may be used.

- 2) In line with the above, SRG has suggested that the terminology and definitions for the word/phrase of "Licensee" and "Distribution Licensee" be updated as follows:

- a) The clause (xxviii) of regulation 2.1 of DSM Regulations be substituted as follows:

‘ “Licensee Business Entity” or “LB Entity” or “Wire Business Entity” or “WB Entity” or “Licensee” for the purpose of these DSM Regulations means a person who has been granted licence by the Commission under section 14 of the EA 2003 for distribution and / or transmission of electricity and also includes following entities:

- a) a deemed licensee under the purview of the Commission in pursuance to first to fifth proviso of section 14 of the EA 2003,
- b) Persons exempted under section 13 of the Act within the State, and
- c) Persons who has been notified by state government of the State for distribution of electricity under the eight proviso of section 14 of the Act ; ‘

b) The clause (xvi) of regulation 2.1 of DSM Regulations be substituted as follows:

‘ “Distribution Entity” or “Distribution Licensee” for the purpose of these DSM Regulations means a Licensee as specified in clause (xvi) of this regulation who has been authorized by the State Government or by the Commission or by any Statute to maintain and operate a distribution system to distribute electricity or supplying electricity to the consumers connected to the distribution system ; ‘

4.8.4 Analysis and Decision:

CESC’s and SRG’s submission regarding the content of the definition has merit. Accordingly of the definition of Licensee has been updated by including entities under 8th proviso of section 14 of the Act under the definition of Licensee. Further, the structure as proposed by SRG will aid clarity and elements from the same have been incorporated while drafting the finalised DSM Regulations. However, the new terminologies proposed by SRG is not considered.

4.9 Definition of “Deviation settlement accounts”

4.9.1 The clause (xvii) of Regulation 2.1 of draft DSM Regulations is as follows:

“Deviation Settlement Accounts” or “DSA” means the same as defined in Balancing and Settlement Code of the Commission

4.9.2 The comments of HEL and CESC are as follows, as provided against the stakeholders consultation on draft West Bengal Electricity Regulatory Commission (Balancing and Settlement Code) Regulations , 2020 :

HEL suggested the definition be worded as below:

“Deviation settlement accounts” or “DSA” means state level accounts for Deviation Settlement (DS) Charges as detailed out in regulation 4 of this Balancing & Settlement Code

4.9.3 Analysis and Decision:

The suggestion of HEL and CESC is accepted without referencing the particular regulation number of definition of Balancing and Settlement Code and accordingly regulation has been modified in the finalised DSM Regulations. Stating and referencing of regulation number is avoided here, so that if the regulation number is changed then it will not lead to any ambiguity pertaining to creation and changes of multiple regulation.

4.10 Definition of “Deviation Settlement Charges”

4.10.1 The clause (xx) of Regulation 2.1 of draft DSM Regulations is as follows:

"Deviation Settlement Charges" or "DS Charges" means charges that are payable or receivable, as the case may be, to/by the Seller or Buyer of electricity from the State Grid due to deviation from the schedule of injection or schedule of drawal, as the case may be, in terms of DSM Regulations;

4.10.2 The comments of HEL and CESC is as follows:

HEL and CESC has stated that it appears that Deviation Settlement Charges (DS Charges) have two components, namely "Charges for Deviation" for deviation from schedule and "Additional Charges for Deviation" for deviation beyond volume limit, frequency limit and sign change. Hence, to make this definition clearer, HEL and CESC has suggested that the definition may be reworded as below:

"Deviation Settlement Charges" or "DS Charges" means Charges for Deviation that are payable or receivable, as the case may be, to/by the Seller or Buyer of electricity from the State Grid due to deviation from the schedule of injection or schedule of drawal, as the case may be, and includes Additional Charges for Deviation in terms of DSM Regulations;"

4.10.3 Analysis and Decision:

The Suggestion has been accepted and accordingly the regulation has been modified by including Additional Charges for Deviation as an inclusive element of Deviation Charge in the finalised DSM Regulations.

4.11 Suggestion of definition for "Energy Storage System"

4.11.1 SRG has requested that the following definition be inserted in the regulations:

"Energy Storage System" or "ESS" means any system or device capable of storing electrical energy in any form using any technology and delivering it back in the form of electrical energy including of any form of pumped storage system.

4.11.2 Analysis and Decision:

SRG suggestion is acceptable this definition will cover large scale electrical storage systems instead of only pumped storage systems. The definition is found to be same as proposed in the report of Expert Committee of CERC (Rakesh Nath Committee) on IEGC in the month of January 2020. Accordingly, the proposed definition of "Energy Storage System" has been inserted after the definition of "Energy Charges" in the finalised DSM Regulations.

4.12 Definition of "Gaming"

4.12.1 The clause (xxiii) of Regulation 2.1 of draft DSM Regulations is as follows:

"Gaming" in relation to these Regulations, shall mean an intentional misdeclaration of declared capacity by any Seller or intentional misdeclaration of drawal schedule by any Buyer in order to make an undue commercial gain through Charge for Deviations

4.12.2 The comments of CESC and HEL are as follows:

There might be other means of amassing undue commercial gain apart from intentional mis-declaration of schedule. Hence, CESC and HEL has suggested that this regulation may be reworded as follows:

"Gaming" in relation to these Regulations, shall mean an intentional misdeclaration of declared capacity by any Seller or intentional misdeclaration of drawal schedule by any Buyer or any other means in order to make an undue commercial gain, inter alia, through DS Charges;"

4.12.3 The comments of SRG are as follows:

According to SRG, the definition of Gaming in clause (xxiii) of regulation 2.1 of the proposed DSM Regulations does not cover other means, beside intentional mis-declaration of declared capacity or drawal schedule, by which entities under DSM Mechanism can make undue commercial gain. SRG has also given the example of regulation 3.7.2 of the DSM Regulations and its equivalent regulation of CERC - regulation 13.7 of CERC Regulations on Ancillary Services (which is also a deviation). Thus, SRG has proposed that the clause (xxiii) of regulation 2.1 of DSM Regulations be reworded as follows:

"gaming" in relation to these Regulations, shall mean an intentional mis-declaration of declared capacity by any Seller or intentional mis-declaration of drawal schedule by any Buyer or any other mean in order to make an undue commercial gain.

4.12.4 Analysis and Decision:

The suggestion of CESC, HEL and SRG has merit as the proposed update will cover gaming through means other than mis-declaration. Accordingly, the regulation suggested by CESC has been incorporated in the finalised DSM Regulations.

4.13 Definition of "Open Access Regulations"

4.13.1 The clause (xxiii) of Regulation 2.1 of draft DSM Regulations is as follows:

"Open Access Regulations" means such regulations specified by the Commission which in short is called Open Access Regulations and which is/was in force with reference to the time of occurrence of any issue under consideration;

4.13.2 The comments of CESC are as follows:

CESC has requested that the definition be reworded as below to bring it in line with other regulations of the Commission:

' "Open Access Regulations" means the same as defined in Tariff Regulations;'

4.13.3 The comments of SRG are as follows:

According to SRG, the definition of "Open Access Regulations" shall lie between the definition of "Open Access Consumer" and "Open Access Source" if the arrangement of definitions is kept in alphabetical order. While finalizing the DSM Regulation Commission may rectified this positional arrangement of the definition.

4.13.4 Analysis and Decision:

The definition of Open Access Regulations in the Draft DSM Regulations was prepared considering that the DSM Regulations and the proposed new Open Access Regulations and shall be simultaneously published by amending the existing West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007. Moreover, the definition of Open

Access Regulation in existing Tariff Regulations of WBERC is not compatible with the preamble of the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007. Thus, CESC's suggestion is not acceptable. Since the amendment of West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007 with new set of regulations will take place later, the definition of Open Access Regulations in the draft DSM Regulations is being modified in the finalised DSM Regulations to appropriately capture the present and future requirements. The definition of Open Access Regulation is placed between "Open Access Consumer" and "Open Access Source".

4.14 Definition of "Open Access Source"

4.14.1 The clause (xxvi) of Regulation 2.1 of draft DSM Regulations is as follows:

"Open Access Source" means a generating station or any person holding appropriate license for supply of electricity from which/ whom the power can be sourced/procured by an Open Access Customer directly or through an electricity trader;

4.14.2 The comments of CESC are as follows:

As Power Exchange has evolved as an important source for Open Access, CESC has suggested that the definition may be reworded as below:

"Open Access Source" means a generating station, Power Exchanges or any person holding appropriate licence for supply of electricity from which/ whom the power can be sourced/procured by an Open Access Customer directly or through an electricity trader;"

4.14.3 Analysis and Decision:

The suggestion has been accepted as power exchange also facilitate in sourcing of power supply. Thus, the said definition of Open Access Source has been modified accordingly in the finalised DSM Regulations.

4.15 Definition of "Scheduled Generation"

4.15.1 The clause (xli) of Regulation 2.1 of draft DSM Regulations is as follows:

"Scheduled Generation" at any time or for a Time Block or any period means schedule of generation or injection in MW or MWh ex-bus given by the concerned Load Despatch Centre;

4.15.2 The comments of CESC and HEL are as follows:

CESC and HEL has pointed out that as the regulation refers to both Generation and Injection, it may be reworded as below:

' "Scheduled Generation or injection" at any time or for a Time Block or any period means schedule of generation or injection in MW or MWh ex-bus given by the concerned Load Despatch Centre;'

4.15.3 Analysis and Decision:

In case of Distribution Licensee / Distribution Entity may require injecting its surplus power in the InSTS for sale to outside its area of supply, thus it is better to have a separate definition of the terminology "Scheduled Injection". This Scheduled Injection will cover the schedule of injection by both the licensee and generator. Accordingly, the definition of

Scheduled Generation has been modified and a definition of Scheduled Injection has been inserted in the finalised DSM Regulations.

4.16 Definition of "Startup Power"

4.16.1 The clause (xlvii) of Regulation 2.1 of draft DSM Regulations is as follows:

"Startup Power" means the power required by any generating station or Captive Generating Plant for black startup or cold startup of the generating station within the State;

4.16.2 The comments of CESC are as follows:

In order to achieve alignment with other regulations of the Commission, CESC has requested that the definition be reworded as follows:

" "Startup Power" means the same as defined in the Open Access Regulations;"

4.16.3 Analysis and Decision:

In the existing West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007, the spelling of "Startup Power" is 'Start-up Power'. The word "Startup Power" has not been use in this DSM Regulations. Thus, Commission has decided to delete the definition of "Startup Power".

4.17 Suggestion of definition for "State Government"

4.17.1 The comments of SRG for insertion of a definition as follows:

"State Government" means Government of West Bengal.

4.17.2 Analysis and Decision:

The suggestion of SRG has been accepted as in the finalised DSM Regulations often the term State Government has been used.

4.18 Suggestion for-Definition of "Peak Demand" under regulation 2.1

4.18.1 The comments of WBSEDCL are as follows:

WBSEDCL have stated that for determination of X, Peak Demand potential should be considered, not the peak system met. Thus, it is requested to insert the definition of "Peak demand" as Peak Demand means the highest demand of the Buyer/DISCOM including load shedding or/and network restrictions

4.18.2 Analysis and Decision:

The definition of peak demand has been already given under regulation 3.3.1 (a). Relying on demand potential may be disputable as it is a mere projection. Whereas reliance on last year data provides actual data for consideration which cannot raise any dispute. Thus, as suggested the definition of peak demand as suggested by WBSEDCL could not be accepted for the purpose of determination of X.

4.19 Regulation No 2.2(i) of DSM Regulations

4.19.1 The clause 2.2(i) of Regulation 2.1 of draft DSM Regulations is as follows:

DSM Regulations are primarily meant for grid discipline by monitoring and controlling the deviations done by Seller or Buyer from the schedule of injection or schedule of drawal respectively, the procedure for which is detailed out in the State Grid Code.

4.19.2 The comments of CESC and HEL are as follows:

Since "Deviation" is a defined term, thus CESC and HEL has requested that the regulation may be reworded as below:

DSM Regulations are primarily meant for grid discipline by monitoring and controlling the Deviation, the procedure for which is detailed out in the State Grid Code.

4.19.3 Analysis and Decision:

Above suggestion cannot be accepted, as this suggestion if accepted will dilute the role of seller and buyer in deviation from the schedule. However, the word "deviation" in the said regulations is replaced by the word "Deviation" as it is a defined term.

4.20 Regulation No 2.2(iii) of DSM Regulations

4.20.1 The clause 2.2(iii) of Regulation 2.1 of draft DSM Regulations is as follows:

Revision of schedule for any Time Block shall be governed by the West Bengal Electricity Regulatory Commission (State Electricity Grid Code) Regulations 2007 as amended from time to time.

4.20.2 The comments of CESC and HEL are as follows:

Since "State Grid Code" is a defined term, it is suggested that the regulation may be reworded as:

"Revision of schedule for any Time Block shall be governed by the State Grid Code.

4.20.3 Analysis and Decision:

Above suggestion is accepted. However, it is noted that the matter has adequately covered under clause (ii), hence clause (iii) is deleted.

4.21 Regulation No 2.3 of Draft DSM Regulations

4.21.1 The Regulation 2.3 of draft DSM Regulations is as follows:

"Throughout DSM Regulations some spot frequencies, as provided in Schedule-III have been used in general nomenclature. The relevant values of these spot frequencies are provided in Schedule -III. Further, with respect to regulation 3.3.10 of DSM Regulations which addresses sign change requirement after a certain number of Time Blocks, the term N_{sc} has been used to represent such number of Time Blocks. The values of such N_{sc} and CERC_LIMIT used in regulation 3.3.10 of DSM Regulations have been also provided in Schedule-III. Any changes in the values of aforementioned terms, under the CERC DSM Regulations will be reflected in these regulations by inter-alia modifying

Schedule-III in DSM Regulations through an order issued under Regulation 5.8 by the Commission.”

4.21.2 The comments of CESC are as follows:

It has been mentioned in this regulation that necessary changes will be incorporated in Schedule-III of these regulations through an order, to align DSM Regulations with CERC DSM Regulations. According to CESC, modifications to regulations can only be made through the process of previous publication. Thus, CESC has suggested that necessary changes may be incorporated.

4.21.3 Analysis and Decision:

Schedule III specifies the value of different spot frequencies. It is based on the values stipulated in the CERC DSM Regulations. Therefore, any change in such values by CERC would perforce require changes to be made in the values specified in Schedule III by WBERC. To facilitate such changes from time to time, there is an enabling provision provided in Reg. 5.8 of the DSM Regulations which allows the WBERC to modify the values of Schedule III by issuing an order. Reg. 5.8 embodies the executive or regulatory powers of the Commission. Therefore, any action taken under Reg. 5.8 does not need to necessarily follow the full course of process that is generally followed for amending the regulations, especially so in the context of Sch. III which requires mechanical modification of values following changes infrequency values by CERC. Moreover, for the convenience of a large number of stakeholders the value of spot frequencies are kept within the DSM Regulations under Schedule III so that the requirement of handling multiple regulations could be minimised.

4.22 Regulations 3.1.2 (i) DSM applicability on Generating Station embedded in any distribution system of Draft DSM Regulations

4.22.1 The sub-regulation (i) of 3.1.2 of draft DSM Regulations is as follows:

“Any generating station connected with the distribution network of any Distribution Licensee including any generating stations owned by the Distribution Licensee are to be considered as embedded generating stations of the distribution system of the Distribution Licensee. The embedded generating stations shall be considered under DSM only for such amount of scheduled energy for which it utilizes the InSTS for delivery of that power to the beneficiary or buyer. as detailed out in clause (iv) of this regulation. The deviation against such scheduled energy only shall be considered for DS Charges and Additional Charges for Deviation as applicable under DSM Regulations. However, any sale of power by any embedded generating station in a distribution system of a distribution licensee to any person other than the distribution licensee himself and who is located within the same distribution licensee system is subject to the provisions as per regulation 3.6.4 of DSM”

4.22.2 The comment of WBSEDCL is as follows:

WBSEDCL stated that embedded generating stations owned by Distribution Licensee and generation fully utilised by Distribution Licensee should be kept out of the purview of DSM

to avoid further investment for infrastructure to operate under DSM. Further capacity of such embedded generation is very small in case if WBSEDCL and run of the river (MUST run). Thus, WBSEDCL requested to modify the clause as following:

“Any generating station owned and fully utilised by the Distribution Licensee and connected with the distribution network of that Distribution Licensee or InSTS are to be considered as embedded generating stations of that Distribution Licensee. Such embedded generation of distribution licensee shall be considered under the purview of DSM of such distribution licensee. However, any sale of power by any generating station in a distribution system of a distribution licensee or InSTS to any person other than the distribution licensee himself and who is located within the same distribution licensee system is subject to the provisions as per regulation 3.6.4 of DSM”

4.22.3 Analysis and Decision:

Any generator embedded, irrespective of ownership issue, shall be considered for DSM only when it's supplied energy is utilising the InSTS. Thus, if any generator is connected to a distribution system and selling its power without using the InSTS, then deviation for such generator has to be accounted by the Distribution Licensee as he is being affected and as a result the burden of such deviation will have to be borne by the consumer. To eliminate such possibility, any generator connected to the distribution system and not owned by the distribution licensee has to be considered as embedded generator in order to make it accountable also for deviation. As Deviation has to be measured for each point of injection and drawal separately in order to keep balance between total injection and total drawal in the InSTS, thus the generator owned by a distribution licensee but connected to the InSTS has to be dealt separately. If such generator connected to InSTS and owned by distribution licensee is to be considered compositely with the distribution licensee, then a generating company may ask for composite consideration for all of its generating stations. This is a fundamental departure from the whole scheme of DSM as envisaged under CERC DSM Regulations. Moreover, the ABT mechanism is also designed under the concept of accountability of each generating station separately to enhance the efficiency of the generating station. Thus, changes pertaining to embedded generating station limited to ownership of distribution licensee cannot be considered.

4.23 Regulation No 3.1.2(ii) of Draft DSM Regulations

4.23.1 The proviso of sub-regulation (ii) of Regulation 3.1.2 of draft DSM Regulations is as follows:

“Provided that in case of low demand if any surplus availability/generation from the allotted installed capacity to the Distribution Licensee is meant for sale to any person using In STS then the same shall be considered as a separate sale through separate scheduling at the generation bus bar and such sale/transaction will be subject to DSM.”

4.23.2 In their comments CESC has mentioned that deviation settlement for sale of surplus electricity obtained from embedded generating station owned by the distribution licensee will be addressed through Deviation Settlement of the concerned distribution licensee. Therefore, according to CESC the regulation may kindly be reworded as below:

“Provided that in case of low demand if any surplus availability/generation from the allotted installed capacity to the Distribution Licensee is meant for sale to any person using In STS then the same shall be considered as a separate sale through separate scheduling at the generation bus bar and such sale/transaction will be subject to DSM in case generating station is not owned by the Distribution Licensee.”

4.23.3 Analysis and Decision:

CESC's suggestion has been noted. Accordingly certain modification is being incorporated to aid clarity.

4.24 Regulation No 3.1.2(iii) of Draft DSM Regulations

4.24.1 The sub-regulation (iii) of Regulation 3.1.2 and of draft DSM Regulations is as follows:

“For any sale of power by any generating station embedded in the distribution system of a Distribution Licensee to a person other than such Distribution Licensee, the injection schedule of such sale of power by the generator at the point of interface of Distribution System of Distribution licensee and InSTS will be the schedule of injection at generation bus bar reduced by normative distribution/wheeling loss at high voltage as mentioned in Open Access Regulation.”

4.24.2 The comments of CESC are as follows:

As per prevailing practice, export of energy is grossed up by appropriate loss level as allowed and approved through orders of the Commission. Hence, the regulation may kindly be reworded as below:

“For any sale of power by any generating station embedded in the distribution system of a Distribution Licensee to a person other than such Distribution Licensee, the injection schedule of such sale of power by the generator at the point of interface of Distribution System of Distribution licensee and In STS will be the schedule of injection at generation bus bar reduced by applicable losses as allowed by the Commission.”

4.24.3 Analysis and Decision:

The scheduling is done in advance, thus during scheduling it is required to consider the normative distribution/wheeling loss at applicable voltage levels as mentioned in Open Access Regulation.

4.25 Regulation No 3.1.2(iv) of Draft DSM Regulations

4.25.1 The sub-regulation (iv) of Regulation 3.1.2 and of draft DSM Regulations is as follows:

“The generating station embedded in distribution system of Distribution Licensee and supplying power to that licensee or to any other licensee in the state or to any other person using the InSTS shall provide its generation schedule/declared capacity to SLDC for the purpose of certification of availability or for deviation measurement, as the case may be. Any deviation of such embedded generator from such generation schedule will be adjusted within the overall deviation of Distribution Licensee , except for any portion of the installed

capacity/ power sold to any person other than that Distribution Licensee with whose distribution system the embedded generator is connected. ”

4.25.2 The comments of CESC are as follows:

For generating stations owned by distribution licensees and embedded in the distribution network of such distribution licensee, supplying entire power to such distribution licensee in terms of Minutes of Meeting / Memorandum of Understanding; the deviation is to be settled by the concerned distribution licensee in terms of the draft DSM Regulations. This regulation may accordingly be reworded to make it unambiguous.

4.25.3 Analysis and Decision:

The question of ambiguity in relation to deviation settlement is being addressed in the modified regulations under the finalised DSM Regulations. For clarity of understanding an illustration has been inserted after the clause.

4.26 Renewable Related Issues

4.26.1 The clause(i) of regulation 3.1.3 of draft DSM Regulations is as follows:

“Notwithstanding anything to the contrary contained in DSM Regulations, in case of generation of electricity from cogeneration and generation from renewable energy sources, ABT and DSM shall be applicable to the extent as specified in the regulations of the Commission on co-generation and generation of electricity from renewable sources of energy read with any other specific provisions for them as mentioned in DSM Regulations.”

4.26.2 The comments of CESC are as follows:

CESC has submitted that in the prevailing West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity) Regulations, 2013, as well as the proposed draft Renewable Regulations, sources such as wind, solar etc. have been classified as “Must Run” and such sources are not subjected to any deviation settlement mechanism. This proposition will create significant technical and regulatory challenges as mentioned in their submission. CESC is of the view that such sources be subjected to deviation settlement mechanism to ensure grid safety and thus in terms of section 86 (1) (h), the DSM Regulations should be consistent with CERC DSM Regulations which provide deviation settlement mechanism for such sources.

Further, CESC submits that in terms of section 86 (1) (e), cogeneration and generation of electricity from renewable sources needs to be promoted by the Hon’ble Commission through specifying purchase obligations from such sources and specifying regulatory framework for allowing connectivity for such sources. According to CESC **“Any additional promotional measure for such sources is beyond the purview of the statutes.”** (emphasis supplied)

CESC has also highlighted that Forum of Regulators has already formulated Model Regulations for intra-state Forecasting, Deviation Settlement for Solar and Wind in 2015.

CESC has further mentioned that with increasing penetration of variable generation sources connected to grid through power electronics, inertia of the grid is constantly getting lowered. Low inertia grids are susceptible to disturbances and collapse. Under such

a situation, it is imperative to ensure proper forecasting of generation from such sources and putting in place appropriate DS Charges is the only mechanism to ensure proper forecasting. Hence, CESC has submitted that Commission should make deviation settlement mechanism applicable for all cogeneration and renewable sources, irrespective of the nature of technology.

They have further requested that conventional generation sources need to be adequately compensated for frequent start-up, shut-down, flexible generation and low load operations that are performed by them to accommodate a large quantum of renewable energy. Additionally, introduction of ancillary services may kindly be considered from grid safety/ reliability point of view at the intra-state level. They also requested that the Hon'ble Commission may kindly introduce adequate compensatory mechanism.

4.26.3 Comments of HEL are as follows:

Considering the fact that the renewable generation sources are highly variable in nature, it is important to ensure that they adhere to proper forecasting and deviation settlement mechanism. Otherwise due to loss of inertia, the grid is likely to become increasingly vulnerable. Hence, they have submitted that all the entities including the renewable and cogeneration sources should be brought under DSM mechanism. They've requested further that the Commission may introduce suitable mechanism for compensation of conventional sources for flexible generation and ancillary services to ensure grid stability and optimum utilization of generation capacities." The same thing has been repeated in HEL's comment against regulation no. 3.3.3.

4.26.4 The comments of SRG are as follows:

- 1) According to SRG the proposed DSM Regulations are to be framed under Section 86 (1)(h) of the Act which states that the State Commission shall specify State Grid Code consistent with the Grid Code framed by CERC. Thus, Commission should frame DSM Regulations for intra-state transmission system maintaining consistency with grid code framed by CERC.

SRG has highlighted that on comparing with CERC DSM Regulations, some of the provisions pertaining to Solar and Wind are missing in the draft DSM Regulations such as follows:

- a) proviso (v) and proviso (vii) of regulation 5 of CERC DSM Regulations, and
- b) proviso (ii) of clause (b) of sub-section (2) of section 7 of the CERC DSM Regulations.

SRG suggested that the above provisions of CERC DSM Regulations may also be incorporated appropriately in the finalised DSM Regulations to maintain consistency with CERC DSM Regulations in pursuance to clause (h) of sub-section (1) of section 86 of the Act. (In the above reference it seems that SRG has wrongly referred to regulation 5 instead of regulation 5(1) of CERC DSM Regulations).

- 2) SRG also seeks to bring into notice clause (i) of regulation 3.1.3 of DSM Regulations which mentions that DSM shall be **applicable to the extent as specified in the**

regulations of the Commission on cogeneration and generation of electricity from renewable sources of energy read with any other specific provisions for them as mentioned in DSM Regulations.

Referring to regulations 3.1.3(i), regulations 5.11.1 and 5.11.2 of the DSM Regulations SRG has enquired about the extent of applicability of two conditions described under regulation 8.1 and regulation 8.2 of West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2013. The condition of those two regulations are as follows :

- i) No mismatch/ Unscheduled Interchange charges will be payable by renewable power generators and/ or co-generator except bio-mass power plant, cogeneration plants and Municipal Solid Waste (MSW) plants of 10 MW and above ;
- ii) Unscheduled / mismatch charges for deviation shall be applicable on the bio-mass power plants, cogeneration plants and Municipal Solid Waste (MSW) plants with capacity of 10MW and above

SRG also seeks to understand whether DSM will be applicable on the renewable sources and bio-mass power plant, cogeneration plants and Municipal Solid Waste (MSW) plants of capacity less than 10 MW. According to SRG, upon a simple reading of regulations the DSM , it can be inferred that the regulations will be not applicable for those plants as UI mechanism has been removed **and there is no direction that henceforth DSM will replace the UI mechanism and will become automatically applicable.**

SRG thus requested for clarity on those issues either by making amendment of the West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2013 (in short will be called as 'RE_COG Regulations') or by modifying the regulation 3.1.3(i) of DSM Regulations.

- 3) Considering the necessity of keeping the consistency between CERC DSM Regulations and proposed DSM Regulations to satisfy the need of clause (h) of sub-section (1) of section 86 of Electricity Act 2003 SRG has requested that any of the following two measures may be taken by the Commission :
 - a) As suggested in sub-paragraph (1) of this paragraph the concept of the provisions related to solar and wind energy of CERC DSM Regulations be appropriately incorporated in the DSM Regulations.
 - b) Amend the regulation 8.1 and 8.2 of RE_COG Regulations in such a manner so that the DSM Regulations and its charges shall become applicable to all the renewable sources and/or cogeneration sources.

SRG has requested that the Commission adopt alternative (b) and amend the RE_COG Regulations accordingly. SRG also argued for removal of special dispensation for Renewable Sources for the following reasons:

- As per the Act, the promotion of Renewable and/or cogeneration Energy sources is to be done in three specific ways such as purchase of electricity from Renewable and/or cogeneration Energy sources for meeting certain percentage of its requirement, taking suitable measures for providing connectivity with the grid and taking suitable measures for facilitating in selling electricity from such sources. **Promoting Renewable and/or cogeneration Energy sources by any other means which have not been considered by the legislator at all may not be in the spirit of the Act. Any contrary decision may hamper the balance as conceived in the legislative intent.**
- As the Act has conceived the promotion of both Renewable sources as well as cogeneration sources in the same manner, the discriminatory treatment among the Renewable and Cogeneration source in regulation 8 of the RE_COG Regulations, on the basis of the type of generation and installed capacity is against the spirit of the Act. This is more relevant as under DSM regulations all generating stations irrespective of its installed capacity has been put under DSM mechanisms. Thus, according to SRG **Hon'ble Commission should amend RE_COG Regulations so that DSM become applicable on all Renewable and Cogeneration sources for sake of appropriate grid discipline.**
- Excessive promotional measures for renewable and cogeneration sources that go beyond the measures mentioned under section 86 of the Electricity Act 2003 may create imbalance in energy mix resulting into costly overall retail tariff.

4.26.5 Analysis and Decision:

- i) Commission noted the points raised by SRG corresponding to clause (v) and clause (vii) to proviso of regulation 5 (1) of CERC DSM Regulations, and clause (ii) to proviso of clause (b) of sub-section (2) of section 7 of the CERC DSM Regulations. Thus, in these DSM Regulations enabling provision has been made under clause 3.1.3(i) so that Commission can take necessary steps through notifications time to time on renewable and cogeneration sources in relation to DSM so that if require necessary intervention can done for system operation.
- ii) As Unscheduled Interchange mechanism has been discontinued, the regulation 5.11 of the finalised DSM Regulations has been accordingly drafted to repeal the UI related provision in RE & Cogen Regulation.
- iii) The issue of compensatory mechanism for frequent start-up, shut-down, flexible generation and low load operations by conventional generator to accommodate large

quantum of renewable energy, raised by CESC, is not related to DSM Regulations. Similarly, the issue raised by HEL about flexible generation and ancillary services by conventional sources to ensure grid stability and optimum utilization of generation capacities is not related to DSM Regulations. Thus, Commission has not dealt with those matters in this SOR.

4.27 Infirm Power

4.27.1 The clause(ii) of regulation 3.1.3 of draft DSM Regulations is as follows:

“The infirm power prior to COD, as defined in the Tariff Regulations, of a generating station is also required to be scheduled for dispatching to the beneficiaries to whom such power is to be supplied through any PPA or any arrangement where such power is to be absorbed by the Distribution Licensee. In the absence of a PPA or an arrangement for supply of infirm power, the generating station will not be allowed to inject the power in the InSTS, or distribution system in case of embedded generating stations as covered in DSM Regulations.”

The clause(iv) of regulation 3.2.2 of Draft DSM Regulations is as follows:

“The infirm power injected into the grid by a generating unit of a generating station during testing, prior to COD of the unit shall be paid by the beneficiary at a fixed rate as contained in Schedule III, depending on the main fuel used for such injection., for a period specified in the Tariff Regulation, as amended from time to time or the extended time allowed by the Commission through any order.”

4.27.2 The comments of CESC and HEL are as follows:

CESC and HEL are in the of view that clause(ii) of regulation 3.1.3 appears to prohibit injection of infirm power by generation projects without PPA / agreement and hence may create problems in commissioning of such projects. Therefore, CESC has requested that the regulation may be reworded to allow generation projects without PPA / agreement to inject infirm power in the grid.

Regarding clause(iv) of regulation 3.2.2, CESC has requested that the clause be modified to specify payment of charges towards injection of infirm power when the generating station does not have a PPA.

4.27.3 Analysis and Decision:

The above suggestion of injecting infirm power in the State Grid without despatching such power to beneficiaries under PPA or arrangement cannot be accepted in view of the overall volume limit specified for the State under CERC DSM Regulations. Detail explanation provided in the Explanatory Note on DSM Regulations 2021 Framework placed at Annexure-A to this Statement Of Reasons.

4.28 Regulation 3.1.5 of DSM Regulations:

4.28.1 The Regulation 3.1.5 of draft DSM Regulations is as follows:

"In addition to entities covered in regulations 3.1.1, 3.1.2 and 3.1.4 of DSM Regulations above, Open Access Consumers who have been permitted Open Access subject to application of West Bengal Electricity Regulatory Commission (Phasing For Open Access in Distribution / Sale of Electricity) Regulations, 2006 or any subsequent amendment, shall also be under the purview of DSM subject to the specific conditions as laid down in regulation 3.6 of DSM Regulations."

4.28.2 The comments of CESC are as follows:

CESC has suggested that "Open Access Consumer" being a sub-set of "Open Access Customers" and "Open Access Consumers", the heading and main body of the regulation the phrase "Open Access Consumers" may be replaced by the phrase "Open Access Customers".

4.28.3 Analysis and Decision:

CESC's suggestion is accepted.

4.29 Regulation 3.1.6 of DSM Regulations

4.29.1 The clause (i) of Regulation 3.1.6 of draft DSM Regulations is as follows:

"If any capacity from a generating station embedded in the distribution system of a Distribution Licensee and not owned by the licensee, is allotted through any PPA to Open Access Customers embedded within the same distribution system, then in such case the impact of deviation from the injection schedule of the generator and the drawal schedule of such Open Access Customer and its financial implication on Distribution Licensee is to be taken care of in the Open Access Agreement by the Distribution Licensee. The DSM arrangement is to be specifically mentioned in the Open Access Agreement and in this aspect the Distribution Licensee shall ensure that on account of such deviation no losses shall be passed to its own consumer."

4.29.2 The comments of PCBL are as follows:

PCBL has requested for incorporation of a suitable methodology for DSM settlement in cases where an embedded generating source is connected to state transmission system through a dedicated 132 KV transmission line and the same 132 KV line is also used for drawing power in consumer mode from the Distribution Licensee, as per requirement.

4.29.3 Analysis and Decision:

PCBL's suggestion is noted and appropriate regulation has been incorporated as regulation 3.2.1.2 of these regulations.

4.30 Regulation No. 3.1.7 - Fulfilment of Technical Requirements:

4.30.1 The regulation of draft DSM Regulation is as follows:

"Notwithstanding anything to the contrary contained in DSM Regulations or in any other Regulations issued by the Commission, any entity shall come under the purview of DSM

only after installation of ABT compliant interface meters and real-time data display facility with SLDC and /or ALDC as the case may be.”

4.30.2 The comment of WBSEDCL are as follows:

WBSEDCL stated that Real-time dynamic data display & Voice communication is essential for real time monitoring purpose of SLDC/ALDC. AMR is for DSM accounting purpose. Thus, this clause may be modified as below:

“Notwithstanding anything to the contrary contained in DSM Regulations or in any other Regulations issued by the Commission, any entity shall come under the purview of DSM only after installation of ABT compliant interface meters and real-time dynamic data display & voice communication & AMR facility with SLDC and /or ALDC as the case may be.”

4.30.3 Analysis and Decision:

The suggestion of WBSEDCL has been accepted to enhance clarity.

4.31 Pumped Storage Project Related Issues

4.31.1 The Regulation 3.2.1 of draft DSM Regulations is as follows:

“Accounting of deviation in case of pumped storage hydroelectric generating stations, except used for balancing purpose, both in generating and pumping mode shall be independently for each mode of operation and not on net basis. SLDC shall prepare the Deviation Settlement Accounts.”

4.31.2 The comments of SRG are as follows:

According to SRG, giving any special dispensation from DS charge accounting of deviation for pumped storage project has a number of demerits. Under the DSM Regulations all buyers and sellers will act towards balancing the system only, hence the term “balancing” should be defined for use in the regulation under discussion. SRG has also enquired as to how the Commission plans to ascertain if the deviation from schedule done by the pumped storage hydroelectric generating stations is for the purpose of balancing. SRG has also pointed out that the CERC DSM Regulations has not provided such type of dispensation to pumped storage hydroelectric generating stations. According to SRG, Maharashtra also has pumped storage hydroelectric generating stations, but the MERC DSM Regulations also does not have such type of provisions. After raising these issues SRG has suggested that special dispensation for balancing purpose shall not be provided to pumped storage project from DSM charges in order to keep parity with other generators and also to keep consistency with CERC DSM Regulations. Based on these arguments, SRG has proposed that the last paragraph of regulation 3.2.1 of proposed DSM Regulations may be substitute as follows:

“Accounting of deviation in case of pumped storage hydroelectric generating stations both in generating and pumping mode shall be independently for each mode of operation and not on net basis. SLDC shall prepare the Deviation Settlement Accounts.”

4.31.3 The comment of WBSEDCL are as follows:

WBSEDCL suggested to omit the portion “.....Accounting of deviation in case of pumped storage hydroelectric generating stations, except used for balancing purpose, any Energy Storage System both in generating and storage/pumping mode of operation shall be done independently for each mode of operation and not on net basis. SLDC shall prepare the Deviation Settlement Accounts” as it is not required due to their suggestions made for regulation 3.1.2 (i).

4.31.4 Analysis and Decision:

Commission finds merits in submission on the issues of balancing raise by SRG. In this finalised DSM Regulations a new definition of Energy Storage System (ESS) has been incorporated which includes pumped storage plant also as ESS and accordingly the said provision of regulation 3.2.1 has been modified by replacing phrase “pumped storage hydroelectric generating stations” with “Energy Storage System”. This change has been done keeping in mind enabling condition for emerging scenario. The issue of balancing has been addressed more specifically in the finalised DSM Regulations by incorporating the scenario for simultaneous generation and energy storage operation by ESS as well as for frequency control operation by ESS as per SLDC’s instruction. Moreover, such last paragraph of regulation 3.2.1 is placed as regulation 3.2.1.1 of these regulations.

As the proposal of WBSEDCL against clause no 3.1.2(i) has not been accepted and for the reasons already discussed with respect to the comments of SRG, the suggestion of WBSEDCL could not be accepted for the omission of the said regulation.

4.32 Regulation 3.2.2 (i) of DSM Regulations.

4.32.1 The Regulation 3.2.2(i) of draft DSM Regulations is as follows:

“the Charges for Deviation of generating stations when actual injection is higher or lower than the scheduled generation, shall not exceed the Cap Rate specified in Schedule-III of these Regulations. The Commission may change such Cap rate from time to time in line with CERC DSM Regulations through an order under regulation 5.10 of DSM Regulations.”

4.32.2 The comments of CESC are as follows:

CESC is of the view that since it is not possible to alter regulations through orders, thus the regulation may kindly be reworded as follows:

“(i) the rates for charges for Deviation of generating stations when actual injection is higher or lower than the scheduled generation, shall not exceed the applicable Cap Rate specified in Schedule-III of these Regulations. The Commission may change such Cap rate from time to time in line with CERC DSM Regulations.”

4.32.3 Analysis and Decision:

Schedule III specifies the value of different parameters. It is based on the values stipulated in the CERC DSM Regulations. Therefore, any change in such values by CERC would perforce require changes to be made in the values specified in Schedule III by WBERC. To facilitate such changes from time to time, there is an enabling provision provided in Regulation 5.10

of the DSM Regulations which allows the WBERC to modify the values of Schedule III by issuing a practice direction. Regulation 5.10 embodies the executive or regulatory powers of the Commission. Therefore, any action taken under Regulation 5.10 does not need to necessarily follow the full course of process that is generally followed for amending the regulations, especially so in the context of Schedule III which requires a simple modification of values following changes Cap rate values by CERC. Moreover, for the sake of convenience of a large number of stakeholders, the Cap rate values are kept within the DSM Regulations under Schedule III so that the requirement of handling multiple regulations could be minimised.

Thus, CESC's suggestion is not acceptable.

4.33 Issue of Relaxation in Volume Limit for Small Distribution Licensees:

IPCL has requested for relaxation in volume limit for small distribution licensees against the regulation no 3.2.2 (ii) and 3.3.6 of the draft DSM Regulations as follows:

4.33.1 Regulation 3.2.2(ii) of Draft DSM Regulations:

(a) The regulation 3.2.2(ii) of draft DSM Regulations are as follows:

"The Charges for Deviation for under drawal by the Buyer in a Time Block in excess of 5% of the drawal schedule or [X] MW, whichever is less, shall be zero, where the ceiling of [X] MW shall be determined as per the methodology specified under regulation 3.3.1 of DSM Regulations."

(b) Submission of IPCL is as follows:

IPCL has requested that this regulation be aligned with CERC (Deviation Settlement Mechanism and related matters) (3rd Amendment) regulation dated 6th May 2016. The relevant clause is placed below –

"The charges for the deviation for under-drawals by the buyer in a time block in excess of 12% of the schedule or 150 MW, whichever is less, shall be zero.

Provided that in case schedule of a buyer in a time block is less than or equal to 400 MW, the charges for the deviation for the under-drawal in excess of 48 MW shall be zero. "

IPCL is of the view that the under drawal limit is very stringent for a DISCOM having a low number of consumers / system demand. Moreover, IPCL intends to minimise the real time losses arising out of unforeseen under drawal situations.

4.33.2 Regulation 3.3.6 of draft DSM Regulations:

(a) The Regulation 3.3.6 of draft DSM Regulations is as follows:

"The Additional Charges for Deviation for over drawal or under-injection of electricity for each Time Block in excess of the Volume Limit specified in regulation 3.3.1 and regulation 3.3.3 of DSM Regulations when grid frequency is" FL or above" shall be as

specified by the Commission in Schedule - I as a percentage of the Charges for Deviation corresponding to average grid frequency of the Time Block with due consideration to the behaviour of the Buyers and Sellers towards grid discipline."

(b) Submission of IPCL is as follows:

IPCL's has proposed that this regulation be aligned with the 3rd Amendment of CERC Deviation Settlement Mechanism and related matters regulation dated 5th May, 2016. The relevant clause is placed below:

" Provided that when the schedule is less than or equal to 400 MW, 12% of schedule will be considered as 48 MW"

IPCL is of the view that the over drawal limit specified in the draft DSM regulation and countering the inadvertent deviation from schedule is extremely difficult to maintain for DISCOMs, especially for those having more than 80% of Industrial / HT consumers in order to.

4.33.3 Analysis and Decision:

The question of simply aligning with CERC DSM Regulations does not arise for the reasons noted in paragraph 4.35.3.

IPCL has not referred to any particular clause of the CERC DSM Regulations while suggesting alignment with the CERC clauses. It has been inferred that IPCL is referring to clauses in Annexure-II of CERC DSM Regulations. Such clauses are related to a condition for under drawal / over injection as per CERC DSM Regulations while the regulation 3.3.6 under consideration deals with the diametrically opposite condition of over drawal /under injection. Thus, question of alignment with CERC DSM Regulations does not arise on this issue.

To manage the deviation of the State within State Volume Limit, the deviation has to be maintained within 5% or X MW as discussed in the relevant provision. Explanatory Note on DSM Regulations 2021 Framework, specially para 5 and 6, placed at Annexure-A of this Statement of Reasons may be referred to for further clarity on this issue. However, the proposal of IPCL for special dispensation under both the regulations 3.2.2(ii) and 3.3.6 of draft DSM Regulations in case of schedule being less than or equal to 400 MW for a DISCOM who has limited number of consumers is required to be analysed with respect to its performance under the UI mechanism. In the existing UI mechanism also, deviation is allowed upto 5% of the schedule for any instant time block but is limited to 1% of the schedule while averaging over the day. Under the existing UI mechanism small distribution licensees have not been given any special dispensation in case of the limit of 5% deviation. Till date IPCL has never come out with any application to Commission mentioning its problem either for over or under injection/ drawal. In this finalised DSM Regulations also, the deviation is allowed upto 5% of the scheduled amount or a cap limit without any averaging over the day for the time being. Even if at a later stage any restriction is imposed by regulation 3.3.9 on average deviation over the day then also it is expected to be a liberal value of about 2.5% or a close figure corresponding to the present stipulations of 1% in the existing UI mechanism as explained in sub-paragraph(b) and (d) of Explanatory Note on DSM Regulations 2021 Framework. IPCL suggestion of relaxation in volume limit for under drawal has not been established by them using any data. Thus, IPCL's request for

relaxation is not justified. Moreover, due to the imposition of State Volume Limit, further relaxation as requested by IPCL cannot be accommodated especially in the background as discussed above.

4.34 Regulation 3.2.2 (iii) of DSM Regulations.

4.34.1 The regulation 3.2.2(iii) of draft DSM Regulations is as follows:

“the charges for Deviation of over-injection by the Seller in a Time Block in excess of 5% of its schedule or 30 MW, whichever is lesser shall be zero. The only exception to this shall be in case of injection of infirm power which shall be governed as per regulation (iv) of DSM Regulations.”

4.34.2 The comments of CESC is as follows:

CESC has suggested that the referencing of regulation no (iv) be updated as regulation 3.2.2 (iv).

4.34.3 Analysis and Decision:

The CESC's observation is found to be proper and is accepted.

4.35 Regulations on Volume Limit

4.35.1 The regulation 3.3.1(a) of draft DSM Regulations is as follows:

“The Volume Limit (X MW) for Buyer(s) including Distribution Licensee(s) shall be determined as under:

(a) Minimum of the following:

(i) 5% of the drawal schedule OR

(ii) $(\text{Peak Demand of Buyer} \div \sum \text{NCPD}) \times \text{State Volume Limit}$

Where: NCPD (Non-Coincident Peak Demand) = the sum of Peak Demand of Buyer(s) including Distribution Licensee(s).”

4.35.2 CESC's consolidated comments on regulation 3.3.1(a), 3.3.9 , 3.3.10 and three Schedules:

Volume limits issued referred to by CESC is covered in regulations 3.3.1, 3.3.9 and 3.3.10 read together with Schedule I, Schedule II and Schedule III for the purpose of determining Additional Charges for Deviation. CESC has submitted that the volume limits are stringent at 5% as compared to CERC DSM Regulations which set the volume limit at 12%. Sign Change tolerance volume is set at 20 MW in CERC DSM Regulations while the draft DSM Regulations have set the same at a lower level. CERC also pointed out that the CERC has set the limit considering the grid as an integrated one and thus the limits may be made consistent with the CERC DSM Regulations following section 86 (1) (h) of the Act. In this context CESC has made submissions against each of the clause related to this issue. According to CESC, the State grid cannot be managed in an isolated manner. CESC refers to Section 79 (1) (h) of the Electricity Act, 2003 under which the Central Commission has the power to specify the grid code and Section 86 (1) (h) of the Electricity Act, 2003 under which the State Commission has to specify the grid code consistent with the grid code specified by the Central Commission. CESC also refers the judgment of (2007) 8 SCC 197 according to which DSM Regulations specified by the Hon'ble Commission need to be

consistent with the CERC DSM Regulations. On the basis of such arguments, CESC has requested that the limits of deviation settlement should be made consistent with the limits set by CERC and the overall CERC DSM Regulations following section 86 (1) (h) of the Act. According to CESC, the same will provide greater operational flexibility, ease of implementation, transparency and consistency in commercial mechanism.

4.35.3 Analysis and Decision:

The question of consistency with CERC DSM Regulations does not arise as the boundary conditions of framing Intra-state DSM Regulations and Inter-state DSM Regulations are different. Inter-state DSM does not operate under any overall volume limit at the national level, whereas the intra-state DSM has to operate with a restriction of State Volume Limit as imposed through the CERC DSM Regulations. To satisfy such restriction of State Volume Limit of maximum 150 MW, the finalised DSM Regulations have been designed at volume limits of 5%. For further clarity on this issue the Explanatory Note on DSM Regulation 2021 Framework may be referred to, especially para 5 and 6, placed at Annexure-A of this SOR. In this context, it may be noted that the term 'consistent with' in sec. 86(1)(h) cannot be construed to mean following of the provisions of CERC Regulations word for word. If such were the intent and import of sec. 86(1)(h), then the legislature would have provided that State Commissions should simply adopt and follow Grid Code of CERC. Instead, the real purport and import of section 86(1)(h) is that there be uniformity/harmony in regulatory approach and philosophy of Regulatory Commissions at Central and State levels while framing the grid code for their respective states. Autonomy of State Commissions is well-recognized under the Act, and in line with that spirit, the state Commission are free to make necessary modifications and calibrations in their respective State Grid Codes as long as the overall regulatory approach is in sync with the Grid Code of CERC.

4.36 Regulation 3.3.1 (b) of DSM Regulations.

4.36.1 The Regulation 3.3.1(b) of draft DSM Regulations is as follows:

"Volume Limit (X) for the Buyer (including any Distribution Licensee) determined as per the above formula shall be rounded off to nearest integer value subject to condition that for Buyer (including any Distribution Licensee) with Peak Demand upto 10 MW, a fixed volume limit (X) of 1 MW shall apply and for a Buyer with Peak Demand exceeding 10 MW but below 20 MW, a fixed volume limit (X) of 2 MW shall apply."

4.36.2 The comments of WBSEDCL are as follows:

WBSEDCL stated that after implementation of Real Time Market (RTM), minimum real time imbalance management of 0.1 MW can be possible through market participation by the buyer including distribution utility and seller including generators. Thus, it is requested to modify the regulation as following:

"Volume Limit (X) for the Buyer (including any Distribution Licensee) determined as per the above formula shall be rounded off to nearest two decimal value subject to condition that it shall not be below 0.1 MW, which is minimum bid volume at RTM exchange platform for a single time block.

WBSEDCL also proposed a new clause for volume limit (y), similarly to (x), for the seller (including generators) as following:

"Volume Limit (Y) for the Seller (including generating station) shall be 5% of its schedule or 30 MW, whichever is lesser rounded off to nearest two decimal value subject to condition that it shall not be below 0.1 MW, which is the minimum bid volume at RTM exchange platform for a single time block."

4.36.3 Analysis and Decision:

The suggestion of volume limit to be rounded off to two digits is accepted principally as it has merit. But the suggestion of removing the applicable fixed volume limit for the small buyer upto 20 MW peak demand from the draft regulation could not be accepted as WBSEDCL could not put forward any reasons. As small buyers need flexibility in their operation thus the provision of fixed volume limit for buyer upto 20 MW peak demand will continue.

Also, the suggestion of WBSEDCL pertaining to volume limit for seller is not required to be inserted separately, as in the Draft Regulations volume limit of seller are inserted appropriately in regulations 3.3.3 and regulation 3.2.2(iii). Thus, no separate treatment is required. Thus, no new clause is required

4.37 Regulation 3.3.1(c) of DSM Regulations.

4.37.1 The regulation 3.3.1(c) of draft DSM Regulations is as follows:

"For a new Buyer for whom record of past years is not available, the contract demand of the Buyer will be considered for determination of the Volume Limit (X) if such Buyer is an Open Access Consumer. If such new Buyer is a Distribution Licensee, then the maximum drawal projected by the licensee for first year in the business roll down plan submitted will be considered for determination of the Volume Limit."

4.37.2 The comments of CESC are as follows:

CESC has suggested that the regulation may be reworded as below to include cases of Open Access Customers, not being open access consumers:

"For a new Buyer for whom record of past years is not available, the contract demand or allowed Open Access capacity of the Buyer will be considered for determination of the Volume Limit (X) if such Buyer is an Open Access Consumer. If such new Buyer is a Distribution Licensee, then the maximum drawal projected by the licensee for first year in the business roll down plan submitted will be considered for determination of the Volume Limit."

4.37.3 Analysis and Decision:

CESC's suggestion is rational as open access capacity allowed to an Open Access Consumer is the maximum possible drawal in Open Access mode. Thus, volume limit is to be determined on the basis of the Open Access capacity allowed and accordingly DSM Regulations have been finalised. However, the suggestion on the term Open Access Customer replacing the term Open Access Consumer is not acceptable as the definition of Open Access Customer already includes Distribution Licensee and carrying out the

suggested change in the first sentence of the regulation will make it inconsistent with the second sentence of the regulation, creating implementation issues. Thus, the terminology Open Access Consumer has been retained in the regulations.

4.38 Regulation 3.3.3 of Draft Regulations.

4.38.1 The Regulation 3.3.3 of draft DSM Regulations is as follows:

"When frequency is "FL Hz or above" and "below Fu Hz", the under- injection or over-injection of electricity by Seller during a time-block shall not exceed 5% of the scheduled injection or 30 MW, whichever is lower.

Provided that:

(a) no under injection of electricity by a Seller shall be permissible when grid frequency is below "FL Hz" and no over injection of electricity by a Seller shall be permissible when grid frequency is "Fu Hz or above";

(b) any infirm injection of power by a generating station prior to COD of a unit during testing and commissioning activities shall be exempted from the volume limit as specified in regulation 3.3.3 of DSM Regulations"

4.38.2 The comments of WBPDCCL are as follows:

WBPDCCL has argued that as per ERLDC's instructions, machine should run in RGMO and as per setting if machine is in RGMO and the frequency is less or more than 50 Hz, then per unit maximum load change will be +/- 10.5 MW (5%). For BKTPP, it would result in a load variation of around 52.5 MW for five units. But as per draft regulation of WBERC, deviation charge will be zero for over injection of more than 5% or 30 MW whichever is less (even though frequency is less than 50 Hz) and additional deviation charge will be imposed for volume limit. This rule is in total violation of ERLDC's instructions as well as detrimental to WBPDCCL's sustainability. WBPDCCL has also argued that coal quality variation is beyond the control of the generator. According to them, even when the schedule is constant, a thermal generating station faces challenges in maintaining the actual generation within 5% of the schedule due to variation in coal quality as coal from multiple sources is being fed into the boiler.

4.38.3 The comments of HEL are as follows:

HEL has raised the concern of coal quality variation, load fluctuation with sudden change in ambient condition and other operational challenges like mill choking or feeder blockage during monsoon towards their performances leading to deviation. Therefore, accordingly 5% limit for deviation is difficult to maintain by them.

4.38.4 Analysis and Decision:

It is the responsibility of the generator to ensure coal quality through their commercial agreements. Moreover, all the new generating stations have been designed as per this type of coal quality. Hence, relaxation in DS Charges cannot be extended to generator on account of variation in coal quality. Issues of other operational challenges are always considered during the designing of the power stations and accordingly measures are taken.

So, this stance of WBPDC and HEL has no merit. It is pertinent to note that the whole DSM mechanism is meant for stable operation of the grid at 50 Hz with permitted deviation within the range of 0.20 Hz, while RGMO response is a primary response from Generating units meant for assisting in maintaining grid stability in the event of a sudden frequency change. Such response is transient in nature, lasting for only a few minutes. Further, the direction of change in Generation for both DSM and RGMO response are similar i.e. for frequency going higher, generation will decrease and for frequency going lower, generation will increase. Hence there should not be any conflict. ERLDC's instruction is to run the units under RGMO but this does not mean that the generating station will not generate units as per the Scheduled generation. Hence, the argument of WBPDC and HEL cannot be accepted.

4.39 Regulation 3.3.9 of DSM Regulations.

4.39.1 The Regulation 3.3.9 of draft DSM Regulations are as follows:

"The total deviation from schedule in energy terms during a day shall not be in excess of:

- a) 2.5% of the total schedule for the Buyers, and
- b) 1 % for the Sellers.

In case of violation of these stipulations, Additional Charges of 20% of the Daily Base DSM Charges (payable or receivable whatsoever) shall be applicable as payable Additional Charges. Such Additional Charges shall be applicable from the date to be notified separately by the Commission."

4.39.2 The comments of CESC and HEL are as follows:

CESC submits that the volume limits of 2.5% for Buyers as compared to volume limit of 3% in CERC DSM Regulations is very stringent. The limit may be made consistent with the CERC DSM Regulations following section 86 (1) (h) of the Act. Both CESC and HEL are of opinion that as during over frequency there is a requirement of under injection in the grid and during low frequency, thus, more generation is required in the grid and according to CESC, a daily volume cap limit will impose unnecessary restrictions. CESC and HEL has requested Commission to review the same.

4.39.3 The comments of WBPDC are as follows:

WBPDC's submission is that volume limits and additional charges for generators may be waived. A generator's performance is being evaluated on block to block basis and if the system frequency continues to remain at high or low levels for a major part of the day and if the generators are supporting the system, then they should not be penalized.

4.39.4 The comments of IPCL are as follows:

IPCL submission is to reconsider the clause of daily deviation limit under review as suggested by Hon'ble CERC in its 5th amendment of Deviation Settlement Mechanism and related matters dated 28th May, 2019.

4.39.5 The comments of PCBL are as follows:

PCBL has requested the Commission to delete this provision and align the regulation in accordance with the CERC DSM Regulations. It states that the regulation in its present form

will be detrimental to those Generators/Seller who support the grid during low frequency conditions. PCBL is of the view that the applicability of additional charges of 20% of the daily base DSM will be extremely harsh for the Generators if they deviate more than 1% from their schedule. PCBL also refers to CERC's suo-moto order vide 4/SM/2020 dated 27.03.2020 recognizing the operational constraints and also submits that CERC has deleted such proviso from DSM 5th amendment Regulations. In support of their stand PCBL elaborates that where generators over-inject the power to help the grid when frequency is at lower end of the frequency band, this Regulation shall restrict the Generators from over-injecting power in case of lower frequency and therefore this proviso is counterproductive. PCBL also states that in case of an eventuality like the forced outage of a generating unit or emergency outage of any equipment, it is most likely that the generators will violate this new proviso. It is further submitted that there are many instances where the generating stations may deviate from the schedule on account of grid failures, congestion in the transmission system or any other external issues. In light of such uncontrollable factors, there unreasonable financial hardships will be imposed on the generating company.

4.39.6 Analysis and Decision:

The suggestion of the stakeholders has been noted by the Commission. However, the Commission intends to retain the regulation as an enabling condition so that whenever necessary it can be made operative for a period with certain volume limitation over the day, as will be decided by the Commission. The reasons for continuing with such enabling provisions are detailed out in sub-paragraph (d) and (b) of paragraph 5 of the Explanatory Note on DSM Regulations 2021 Framework as annexed under Annexure-A. However, the said regulation has been modified to a certain extent such that during a forced outage, the generators get due relief.

4.40 Regulation 3.3.10 of DSM Regulations.

4.40.1 The regulation 3.3.10 of draft DSM Regulations are as follows:

"In the event of sustained deviation by any entity from its schedule in one direction (positive or negative) for NSC number of time blocks, the Seller or Buyer entity shall correct its position, by changing the sign of its deviation from schedule or by remaining in the range of +/-B MW with reference to its schedule, latest by (NSC + 1)th time block. The range +/- B MW is a subset of Volume Limit as under regulation 3.3.1 and regulation 3.3.2 of DSM Regulations, where B is determined as per following table:

S No.	Schedule	Value of B
1.	> 1000 MW	CERC_LIMIT
2.	<1000 MW but >500 MW	CERC_LIMIT - 10 MW
3.	<500 MW but >20 MW	CERC_LIMIT - 15 MW
4.	<20 MW but > 10 MW	CERC_LIMIT - 18 MW

Where value of CERC_LIMIT is as per Schedule – III.

To illustrate, if a state entity has positive deviation from schedule, say from 07.30 hours to 9.00 hours, sign of its deviation from schedule shall have to be changed in the 7th Time Block, i.e., 9.00 hours to 9.15 hours from positive to negative or shall remain within the range of B as specified above.

Value of B shall be considered nil in case it become negative if calculated as per the table above."

4.40.2 The comments of CESC are as follows:

CESC has submitted that while Sign Change tolerance volume is set at 20 MW in CERC DSM Regulations, the draft DSM Regulations have set the same at a lower level. CESC has requested that the limits may be made consistent with the CERC DSM Regulations following section 86 (1) (h) of the Act.

The illustration below the table may kindly be reworded as below to make it consistent with the regulation:

"To illustrate, if a state entity has positive deviation from schedule, say for NSC time blocks, sign of its deviation from schedule shall have to be changed in the (NSC + 1)th Time Block, from positive to negative or shall remain within the range of B as specified above."

4.40.3 The comments of WBPDCCL are as follows:

WBPDCCL has requested the Commission to adopt the CERC DSM Regulation limit.

4.40.4 The comments of IPCL are as follows:

IPCL has requested that this regulation be aligned with CERC regulation as reduction from the CERC Limit would make the DISCOMs less flexible to face the real time unforeseen scenarios. The reasons provided for the same are various operational constraint and contingencies to subsume various inadvertent deviations arises in real time operation as well as for DISCOMs having low system demand present range for meeting sign change is difficult.

4.40.5 The comments of PCBL are as follows:

PCBL has requested the Commission to align the norms for "Sign Change Violation" and tolerance band of ± 20 MW with reference to schedule in accordance with the CERC DSM Regulations in order to facilitate operational flexibility to the grid connected entities. In this regard PCBL also refers to the suo moto order 4/SM/2020 dated 27.03.2020 of CERC, where the operational constraints and has decided to allow a tolerance band of ± 20 MW with reference.

4.40.6 The comments of HEL are as follows:

HEL stated that when the generator has been supporting the system, while system frequency is sustained low or sustained high, this stipulation will compel to forcibly modulate the generation after predetermined number of blocks against the requirement of the grid. There might be occasions based on frequency regime when the generator, by not strictly adhering to sign change, is helping the grid. Therefore, HEL requested, in accordance to CERC DSM Regulations following section 86 (1) (h) of the Act, sustain deviation clause may only apply if deviation (B) is more than 20 MW on a sustained basis, in line with the CERC DSM Regulations.

4.40.7 Analysis and Decision:

Commission could not accommodate the most of the stakeholder's' suggestions for the compulsion arising from State Volume Limit as applicable under CERC DSM Regulations. It is found suitable to incorporate limits for schedule quantum less than 10 MW. Also, suggestion as advised by CESC pertaining to modification of illustration has been incorporated suitably. Furthermore, in this regard the detail is provided in paragraph 11 of the Explanatory Note on DSM Regulations 2021 Framework as annexed under Annexure-A.

4.41 Regulation 3.3.12(e) of DSM Regulations.

4.41.1 The regulation 3.3.12(e) of draft DSM Regulations is as follows:

“Payment of Additional Charges as per regulation 3.3.11 of DSM Regulations for failure to adhere to sign change requirement as specified in regulation 3.3.5 of DSM Regulations shall not be applicable to the following entities
.....”

e) Forced outage of a generating stations in case of collective transactions on power exchanges”

4.41.2 The comments of CESC and HEL are as follows:

CESSC and HEL has sought a waiver of additional charges on distribution licensees for failure to adhere to sign changes during forced outage of their embedded generating stations / InSTS connected generating stations.

4.41.3 The comments of WBSEDCL are as follows:

WBSEDCL stated that Generators/Sellers are allowed to manage the real time imbalance due to forced outage through RTM participation. Therefore, it is requested to omit 3.3.12 (e).

4.41.4 Analysis and Decision:

The suggestion of CESC and HEL cannot be accepted as the position/role of collective transaction and embedded generator are not identical. Under collective transaction, a number of sources of injection are bundled and the deviation will be the summated amount of those sources who are independent and are not under the supervision of SLDC or ALDC. Moreover, as the transaction is collective and the schedule is collective, the independent deviation by each of the generator cannot be ascertained at SLDC' end and also cannot be accounted for. But embedded generating stations are under the monitoring and supervision of ALDC/SLDC of the distribution licensee for whom the schedule for each of the embedded generating stations can be monitored and the deviation accounted for. Thus, for smooth operation of the system, the sign change provisions for embedded generating stations will continue to be applicable.

Also, the suggestion of WBSEDCL is not acceptable as the generator will also require time through RTM to manage the situation. Moreover, CERC DSM Regulations still hold the same clauses with which the State DSM Regulations shall have consistency in order to have same treatment to all generators under DSM regime as far as possible.

4.42 Regulation 3.6.3 of DSM Regulations.

4.42.1 The Regulation 3.6.3 of draft DSM Regulations is as follows:

"Any deviation of Full Open Access Consumer from its drawal schedule is subject to the Deviation Charges and Additional Charges for deviation with reference to their schedule and actual drawal under the open access. The DS rate for DS Charges and Additional Charges for deviation shall be the same as specified under regulations 3.2 and 3.3 of DSM Regulations. In case of outage of the open access source of the Full Open Access Consumer, the drawal schedule will be revised with the Standby/Backup Power, if any, within the time limit specified in the State Grid Code. The charges for Standby/Backup Power shall be specified by the Commission through Tariff order or separate order in line with the Tariff Policy."

4.42.2 The comments of CESC are as follows:

The Regulation may kindly be rephrased as below:

"Any deviation of Full Open Access Consumer from its drawal schedule is subject to the Deviation Charges and Additional Charges for deviation with reference to their schedule and actual drawal under the open access. The DS rate for DS Charges and Additional Charges for deviation shall be the same as specified under regulations 3.2 and 3.3 of DSM Regulations. In case of outage of the open access source of the Full Open Access Consumer, the drawal schedule will be revised with the Standby/Backup Power, if any, within the time limit specified in the State Grid Code. The charges for Standby/Backup Power shall be in terms of the regulations and provisions of the Act."

4.42.3 Analysis and Decision:

The CESC suggestion has been accepted as the tariff determination for standby/backup power will be primarily dependent on the Act and tariff regulations framed under such Act.

4.43 Regulation 3.6.4 of DSM Regulations.

4.43.1 The regulation 3.6.4 of draft DSM Regulations is as follows:

"Notwithstanding anything to the contrary contained elsewhere in any Regulations of the Commission, for the Open Access Customer where the generator as well as the Open Access Customer are within the distribution system of the same distribution licensee, then the ALDC of the distribution licensee shall prepare the deviation settlement account on monthly basis for the embedded generator and the open access consumer considering the same principle of Deviation charge and Additional Deviation charges specified in DSM Regulations against the implemented schedule under the open access mode for accounting the deviation, the embedded generating station and the Open Access Customer shall be treated as separate entity and any amount payable / receivable by each of them shall separately be paid to or received from the distribution licensee. Payment security for such Open Access Customer for deviation settlement shall be separately specified in the Open Access Agreement in line with DSM Regulations. Moreover, for this purpose all such Open Access Customers shall submit their schedule of drawal in open access mode as well as in consumer mode in case of partial open access consumer for all 96 time-blocks to the ALDC of the concerned distribution licensee."

4.43.2 The comments of CESC are as follows:

CESC has stated that necessary data flow for essential inputs for billing (final implemented schedule, final schedule, DS Charges and Additional Charges for Deviation) takes place from SLDC to concerned distribution licensee in cases where open access source and open access consumers are not located within a single distribution licensee's network.

4.43.3 Analysis and Decision:

The CESC's submission has been noted and accordingly a provision has been made under regulation 4.3 of these DSM Regulations. Also, respective minor modification has been made under regulation 3.6.4, where Open Access Consumer can revise their schedule for both open access mode and consumer mode.

4.44 Regulation 3.6.5(a) of DSM Regulations.

4.44.1 The Regulation 3.6.5(a) of draft DSM Regulations is as follows:

"For a Partial Open Access Consumer having composite drawal involving both open access mode and consumer modes, the consumption in consumer mode at any instant will always be the total drawal at that instant reduced by the scheduled drawal in open access mode at the same instant and any over-drawal in excess to the drawal schedule of open access mode is to be considered as drawal in consumer mode as per Tariff Regulations. "

4.44.2 The comments of CESC are as follows:

CESC is of opinion that though for Full Open Access Consumer, discipline in scheduling is ensured by making DS Charges and Additional Charges for Deviation applicable on them, CESC is apprehensive that the requirement of strict adherence to scheduling discipline may be circumvented by such open access consumer by keeping an insignificant demand with the connected licensee and thus exploiting the opportunity of avoiding DS Charges and Additional Charges for Deviation by settling the unit at Tariff rate. CESC is of the view that it is important to ensure that no impact for exercise of right to open access by a consumer brings burden to embedded consumers for impact of deviation charges. Therefore, drawal in consumer mode, which is determined as difference between actual meter reading and final implemented open access drawal schedule, should be valued at higher of DS Charges including Additional Charges for Deviation or Tariff. This regulation may accordingly be reworded.

4.44.3 Analysis and Decision:

CESC's apprehension has merit. In general, partial open access consumer's rights of over drawl in consumer mode cannot be restricted unless it is also being restricted for normal consumers. At the same time, by virtue of taking open access also brings concomitant responsibility to such Partial Open Access Consumer to ensure that due to its over drawal the cost of deviation will not be passed on to the embedded consumers including to himself in consumer mode. This situation is likely to occur in the Time Block (specially at peak demand hours) when DS Charges (including additional charges) is higher than the consumer tariff of that consumer. Moreover, at the time of any restriction imposed on the consumer in drawal of power in consumer mode by the distribution licensee along with other consumers due to shortage in supply side in such scenario the partial open access

consumer may draw the power and claimed it for drawal under open access mode through by deviating from schedule which cannot be denied unless restriction is imposed by the SLDC/ALDC along with other open access customer. In reverse situation when restriction is imposed on excess drawal in open access mode beyond the schedule then consumer may claim the excess drawal under consumer mode which cannot be denied unless all same type of consumers are placed under restriction. In fact in real time operation any excess drawl at any instant beyond the composite schedule of open access mode and consumer cannot be attributed precisely against consumer mode or open access mode. To combat all such issues such excess drawal over and above the composite schedule of drawal in consumer mode and open access mode the suggestion of CESC seems to be rational as it will protect the interest of the larger section of the consumer. In addition to protect the interest of the partial open access consumer and to enhance the clarity regarding revision of schedule, in regulation 3.6.4 now a specific provision has been added where such consumer can revise their schedule for open access mode and consumer mode so that such consumer is not being affected due to overdrawal for want of scope of revision of schedule due to deficiency in clarity of revision of scheduling in consumer mode for partial open access consumer. By this way while in one hand the partial open access consumer is given a chance to reduce the possibility of deviation through revision of consumer schedule, at the same time the apprehension of CESC that the requirement of strict adherence to scheduling discipline may be avoided by those open access consumer in full open access mode by keeping an insignificant demand with the connected licensee in consumer mode, has been minimised by charging the excess drawl over the composite schedule of open access mode and consumer mode at the consumer tariff or DS charge whichever is higher. Thus, the Commission decides to accept the suggestion of CESC and accordingly regulation has been made in the finalised Draft DSM Regulations in line with discussed above.

4.45 Regulation 3.6.5(b) of DSM Regulations.

4.45.1 The Regulation 3.6.5(b) of draft DSM Regulations is as follows:

“Such applicable rate for above mentioned excess drawal in consumer mode will also include all types of applicable additional charges as per Tariff Regulations for the excess demand over the sanctioned contract demand. Any over drawal at drawal point with respect to drawal schedule in open access mode by a Full Open Access Consumer will be considered as power supplied by the distribution licensee to the Open Access Consumer as a Backup or Standby Power supply, as applicable, at a rate applicable to him, or the DS rate prevailing at the time of over-drawal (along-with applicable Additional Charges for Deviation), whichever is higher.

4.45.2 The comments of CESC are as follows:

According to CESC the basis provided in the draft DSM Regulations for valuation of overdrawal for Full Open Access Consumers is appropriate and needs to be made applicable for Partial Open Access Consumers as mentioned above in Sl. No, 35.

4.45.3 Analysis and Decision:

CESC's view is noted and views of Commission have already been provided under paragraph 4.44.3.

4.46 Regulation 3.6.5(c) of DSM Regulations

4.46.1 The Regulation 3.6.5(c) of draft DSM Regulations is as follows:

“However, no charge will be payable to such open access consumer for any under drawal in open access mode and that balance energy on account of such under drawal shall be utilized by the concerned distribution licensee.”

4.46.2 The comments of CESC are as follows:

The basis provided in the draft regulations for valuation of under drawal for Open Access Consumers is appropriate to discourage gaming and needs to be made applicable for both Partial and Full Open Access Consumers.

4.46.3 Analysis and Decision:

The said regulation is already applicable for both Partial and Full Open Access Consumers.

4.47 Regulation 3.7.1 of DSM Regulation

4.47.1 The Regulation 3.7.1 of draft DSM Regulations is as follows:

“While submitting the initial injection schedule or revised injection schedule of own embedded generating stations of a distribution licensee to the SLDC, the ALDC shall follow the principles of merit order dispatch with regard to the embedded generating station and the firm allocation of capacity or power provided by the other suppliers (henceforth called as firm supplier) to the licensee, in accordance with the State Grid Code. While scheduling such injection schedule for an embedded generator having single-part tariff, the single part tariff itself will be considered as Energy Charge in absence of separate Energy Charges till two-part tariff is introduced. On receiving the injection schedule of the embedded generating stations of the licensee, the SLDC shall check those schedules to ensure merit order dispatch principle is abided and shall make appropriate modifications, if required, while releasing the injection schedule of the embedded generating stations in pursuance of the State Grid Code.”

4.47.2 The comments of WBSEDCL are as follows:

WBSEDCL submitted that pertaining to modifications suggested under 3.1.2(i) leads to deletion of this clause, as it is not required and also covered by Grid Code.

4.47.3 Analysis and Decision:

As the suggestion of WBSEDCL against the clause 3.1.2(i) has not been accepted thus the suggestion of WBSEDCL against clause 3.7.1 could not be accepted.

4.48 Regulation 3.7.2 of DSM Regulation

4.48.1 The Regulation 3.7.2 of draft DSM Regulations is as follows:

In case of sudden rise in demand of the Distribution Licensee, it shall be allowed to generate over the schedule immediately from its own embedded generating stations to the extent the demand has increased, till supply is available from the embedded generating stations of the licensee and the firm suppliers to the licensee through revision of the injection schedule of the embedded generating stations and the firm suppliers of the licensee and drawal schedule of the licensee by SLDC as per principles as laid down in regulation 3.7.1 of DSM Regulations and the State Grid Code. Violation of the principles of merit order despatch shall be considered as gaming.

- 4.48.2 The comments of WBSEDCL are as follows:
WBSEDCL submitted that pertaining to modifications suggested under 3.1.2(i) leads to deletion of this clause, as it is not required and also covered by Grid Code.

- 4.48.3 Analysis and Decision:

As the suggestion of WBSEDCL against the clause 3.1.2(i) has not been accepted thus the suggestion of WBSEDCL against clause 3.7.2 could not be accepted.

4.49 Regulation 3.8

- 4.49.1 The Regulation 3.8, "Managing of Power Shortage", of draft DSM Regulations is as follows:
"In case of shortage of power, the shortage sharing procedure for exchange of power amongst entities shall be as per the provision mutually agreed by the entities in PPA."

- 4.49.2 The comments of WBSEDCL are as follows:
WBSEDCL stated that as this clause is not connected to DSM, thus this may be omitted.

- 4.49.3 Analysis and Decision:
The submission for omission of managing power shortage from WBSEDCL's has been being accepted.

4.50 Heading of Chapter-4 of DSM Regulations

- 4.50.1 The heading of Chapter-4 of draft DSM Regulations is as follows:

"DS CHARGE DISBURSEMENT PROCEDURE"

- 4.50.2 The comments of CESC are as follows:

As "DS Charges" is a defined term, thus CESC requests to reword the heading as below:

"DS CHARGES DISBURSEMENT PROCEDURE"

- 4.50.3 The comments of HEL are as follows:

HEL has stated that Deviation Settlement Charges and DS Charges are defined terms in the draft DSM Regulations. Hence, it is prayed that Chapter 4 heading may kindly be rephrased as State Level Accounts for Deviation Settlement Charges (DS Charges).

- 4.50.4 Analysis and Decision:

The suggestions are accepted as and accordingly the modification of heading of Chapter-4 has been done in finalised DSM Regulations.

4.51 Regulation related to Metering

4.51.1 The regulation 5.1 of draft DSM Regulations is as follows:

“For proper implementation of DSM Regulations, the metering shall be according to the metering related provisions of Open Access Regulations and the State Grid Code.”

4.51.2 The comments of CESC are as follows:

CESC suggested that the regulation may kindly be reworded as below to include reference to CEA Meter Regulations:

“For proper implementation of DSM Regulations, the metering shall be accordance with the CEA Meter Regulations and the metering related provisions of Open Access Regulations and the State Grid Code. “

4.51.3 Analysis and Decision:

The existing West Bengal Electricity Regulatory Commission (State Electricity Grid Code) Regulations, 2007 and West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007 do not contain any reference to CEA Meter Regulations. Since this DSM Regulations will be in force with collateral existence of the above two regulations thus it would be more suitable to incorporate a reference to the CEA Meter Regulations in regulation 5.1 of the finalised DSM Regulations. Accordingly, the regulation under discussion has been modified in the finalised DSM Regulations.

4.52 Regulation Related to Power to Amend

4.52.1 The regulation 5.8.2 of draft DSM Regulations is as follows:

“The Commission may, at any time, either suo-moto or upon receipt of representation from interested parties, modify the Schedules through a general or special order issued under Regulation 5.8.”

4.52.2 The comments of CESC are as follows:

CESC states that since it is not possible to alter regulations through orders as submitted earlier (Sl. No. 5, Sl. No. 25) in this document, this regulation may kindly be reworded appropriately.

4.52.3 Analysis and Decision:

The said regulation is in the nature of an enabling provision meant to facilitate modification of schedule III only through a general or special order. Schedule III specifies the value of different parameters. It is based on the values stipulated in the CERC DSM Regulations. Therefore, any change in such values by CERC would perforce require changes to be made in the values specified in Schedule III by WBERC. To facilitate such changes from time to time, there is an enabling provision provided in Regulation 5.8 of the DSM Regulations which allows the WBERC to modify the values of Schedule III by issuing an order. Regulation 5.8 embodies the executive or regulatory powers of the Commission. Therefore, any action taken under Reg. 5.8 does not need to necessarily follow the full course of process that is generally followed for amending the regulations, especially so in the context of Schedule III which requires mechanical modification of values following changes infrequency values by CERC.

4.53 Regulation on Repeal and Savings

4.53.1 The regulation 5.11.1 of draft DSM Regulations is as follows:

“Upon coming into effect of these Regulations, all such provisions contained in the West Bengal Electricity Regulations (Terms and Conditions of Tariff) Regulations, 2011 and the West Bengal Electricity Regulatory Commission (State Electricity Grid Code) Regulations, 2007 that relate to Unscheduled Interchanges (UI) mechanism and grid operation issues, including UI charges, shall stand repealed.”

4.53.2 The comments of SRG are as follows:

In the proposed DSM Regulations, the repealing of UI mechanism through proposed regulation 5.11 will not be able to serve the purpose. In different regulations of Commission other than in DSM Regulations there are UI related different aspect which is not apart of UI mechanism but may be resultant.

For example in West Bengal Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2011 the clause (v) of regulation 2.6.10 and the regulation 2.8.6.1 has used net UI receivables (Amount receivables against UI over the year-Amount Payable over the year) in the respective formula of above each regulation. In absence of UI charges how those formula will be handled has to be specified clearly in the West Bengal Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2011. Thus there is need of amendment of the West Bengal Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2011. In fact it will be better if the UI related all clause of the said tariff regulations can be easily amended as no major amendment is required and amendment will provide better clarity.

With the same objective other two regulations namely State Grid Code of West Bengal, West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007 and West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2013 are also to be amended so that UI related issues can be appropriately replaced with DSM terminology or DSM related formula.

4.53.3 Analysis and Decision:

The Comments of SRG has as merit as the determination of values of UI related charges from clause (v) of regulation 2.6.10 and regulation 2.8.6.1 of the Tariff Regulations will not be available going forward for dealing with ARR determination process under Annual Performance Review (APR); Once the DS Mechanism is in place only receivables or payables will be available for DS Charges. Similarly, the net receivable or net payable from UI head has also to be determined as per regulation 5.17 of the Tariff Regulations in APR of the concerned year. Accordingly due modifications are incorporated in the DSM Regulations.

4.54 Schedule-I & Schedule-II

4.54.1 Comments of SLDC, SETCL:

On the part A of the Table-I and Table-II corresponding to Schedule -I and Schedule- II of the draft DSM Regulations respectively for the condition of "When 5% of Schedule is less

than or equal to 10 MW for entity", SLDC is of the view that the no. of slabs may be reduced from 5 to 3. SLDC, WBSETCL proposes 3 slabs (5% to 8% or 0.8%, to 12% and above 12%.

4.54.2 Comments of PCBL:

PCBL is of the view that renewable energy sources and cogeneration energy sources are variable in nature and scheduling with 5% accuracy will be extremely challenging and as such the proposed additional charges for deviation beyond 5% from schedules will be very stringent for a small capacity plants in addition to penalty due to sign change violations. PCBL has requested that the regulation be aligned with CERC DSM regulations 2014 and its amendments wherein the penalty starts from 12% of the schedule and above.

4.54.3 Comments of WBPDC:

With reference to Table II WBPDC is of opinion that if this rule is applied to the generating station then generating station will be penalized in the following ways:

Illustration: Suppose DC is revised due to poor coal quality or any technical trouble or due to Unit tripping, then the revised Schedule will be effected from 7th or 8th block and penalty imposed to a coal based generating station will be in the following ways:

Penalty for Sign change violation

Penalty for under injection (above 30 MW or 40 MW or 50 MW)

DC will be reduced to AG for the blocks when AG < 95% of SG if frequency < 50 Hz - This is not present in CERC regulation.

WBPDC has requested that the additional charges payable should be subjected to the prescribed ceiling of cap rate for generators so that penal charges are not manifold.

4.54.4 Comments of WBSEDCL:

WBSEDCL stated that they observed from the draft table that the big distribution utilities (having schedule of around 3000 MW) are getting maximum flexibility of 0.67% only over its schedule whereas the small distribution utilities having schedule 500 MW & less than 200 MW are getting maximum flexibility up to 4% & 20% over its schedule respectively. Moreover, in real time 10/20 MW data discrepancy between meter value & SCADA value is very usual case of big utilities. So, there will be an irrational treatment among the discoms & may have severe financial implication on big distribution utilities. WBSEDCL also stated that their proposed method is feasible as from prevailing Real Time Market (RTM) minimum real time imbalance management of 0.1 MW / time block can be possible by the buyer including distribution utility.

For maintenance of rationality same treatment should be considered for Sellers/Generators also. Because the basic intent of this regulation is to restrict interstate deviation volume. So, small Seller/ Generator should not be given privilege as far as grid security is concerned.

Therefore, WBSEDCL requested to modify the table as below:

SI No	Deviation Level	Additional Charges Payable
(i)	For over drawal of electricity by any Buyer in excess of X upto 5% of X in a Time Block.	Equivalent to 20% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(ii)	For over drawal of electricity by any Buyer in excess of X upto 8% of X in a Time Block.	Equivalent to 30% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(iii)	For over drawal of electricity by any Buyer in excess of 8% upto 15% in a Time Block.	Equivalent to 40% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(iv)	For over drawal of electricity by any Buyer in excess of 15% upto 20% of X in a Time Block.	Equivalent to 50% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(v)	For over drawal of electricity by any Buyer in excess of 20% of X in a Time Block.	Equivalent to 100% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(vi)	For under injection of electricity by any Seller including generating station in excess of Y and upto 5% of Y in a Time Block	Equivalent to 20% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(vii)	For under injection of electricity by any Seller including generating station in excess of 5% and upto 8% of Y in a Time Block.	Equivalent to 30% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(viii)	For under injection of electricity by any Seller including generating station in excess of 8% and upto 15% of Y in a Time Block	Equivalent to 40% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(ix)	For under injection of electricity by any Seller including generating station in excess of 15% and upto 20% of Y in a Time Block.	Equivalent to 50% of the Charge for Deviation corresponding to average grid frequency of the Time Block.
(x)	For under injection of electricity by any Seller including generating station in excess of 20% of Y in a Time Block	Equivalent to 100% of the Charge for Deviation corresponding to average grid frequency of the Time Block.

4.54.5 Analysis and Decision:

SLDC has not mentioned any reasons for their suggestions. Thus, SLDC's suggestion cannot be accepted in absence of any justification. PCBL's request for changing the volume limit of 5% to 12% in line with CERC DSM Regulations cannot be accommodated for the reasons already explained in paragraph 4.35.3 of this SOR and paragraph 5(c) of Explanatory Note on DSM Regulation Framework in Annexure-A to this SOR. WBPDC's views are noted. The reduction of availability in case of actual generation being less than 95% of scheduled generation has been done away by proposed repealing of the regulation 6.7.8 of West Bengal Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2011. Con-joint reading of regulation 3.2.2(i) and Schedule-1 and Schedule-2 clearly shows that additional charge is only a part of the Cap rate and cannot exceed cap rate under any circumstances.

Simultaneously, WBSEDCL emphasized that smaller buyer and generator shall not be given higher relaxation, which is already taken care in the proposed draft DSM Regulations. In comparison it is found that in the Schedule I and Schedule II Draft DSM Regulations special

relaxation has been considered for schedule upto 10 MW whereas in CERC DSM Regulations it is 150 MW. Similarly, for volume limit, relaxation has been considered below schedule of 20 MW in draft DSM Regulation; whereas in CERC DSM Regulations it is considered as 400 MW. Thus, it should be duly noted that smaller entities are already put under strict vigilance. Similarly, bigger entities also require to be under the same vigilance. In order to make the intra-state system operation within State Volume Limit under Inter-state transmission system operation no further relaxation is possible. Thus, WBSEDCL's suggestion cannot be accepted.

4.55 Schedule III

4.55.1 The Paragraph A(i) of Schedule III of draft DSM Regulations is as follows:

F_1 = Permissible lowest limit of deviation band = 49.85 Hz

4.55.2 Comments of CESC are thus:

CESSC has requested that F_1 may be made FL to make it consistent with the regulations.

4.55.3 Analysis and Decision:

CESSC's suggestion has been accepted to rectify the typographical error.

4.56 Additional Clause recommended for incorporation:

4.56.1 Suggestion by WBSEDCL for additional clause incorporation:

WBSEDCL stated that as per prevailing Scheduling & Despatch code any schedule is revisable at 7th or 8th time block. So, outage of any generating unit causes uncontrollable over drawl interstate level, which attracts additional DSM charge & huge cash out flow from state. At least 4-time block is required by generator/seller to manage such imbalance through participation in RTM. During this overdrawal period it may happen that some generator is under back down condition & withdraw of which is required 7 or 8 time blocks. Under this situation SLDC can suo moto promptly withdraw the back down providing ancillary schedule to manage the such real time imbalance. Generation availability from Pump storage depends on the water level of the reservoir & requirement of pumping power depends on water level. Due to above feature, Pump storage should be kept out of the purview of state ancillary service since requirement of power for state ancillary service due to sudden outage of generating unit/surplus power availability due to load crash may not be managed using pump storage in real time.

Therefore, it is requested to kindly add a new regulation as follows:

In view of maintaining Grid discipline at interstate level, avoiding physical regulatory measure by RLDC due to unintentional state over drawl & curbing cash out flow from the State due to additional DSM charge for the following reasons, SLDC may be empowered for operating the state ancillary service in accordance with CERC Ancillary operation Regulations 2015 keeping pump storage out of purview of state ancillary service:

- Overdrawl of state above stipulated volume limit during sudden outage of generating unit upto RTM clearing time i.e., for 4 time block (the time during which seller/generator can procure power from RTM)

- Uncontrolled under drawl during Norwesteror cyclone ate frequency FU10 & above

4.56.2 Analysis and Decision:

The proposed introduction of Ancillary Service is not related to DSM Regulations and thus is not being considered under this DSM Regulations.

4.57 Additional Submission Related to Regulation 6.7.8 of West Bengal Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2011

4.57.1 The regulation 6.7.8 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 is as follows:

“When there is no demonstration but at frequency below 50Hz, if there is failure to inject by the generating station at least to the level of 95% of the schedule of injection for any 15 minutes time block, the actual availability as well as notional availability will be reduced to the actual injection for the concerned 15 minutes time block in order to determine the amount for recovery as capacity charge and that failure shall not be treated as a mis-declaration

Provided that if during that block the generation is under back down condition as per direction of SLDC, then the actual availability/notional availability will be reduced by the extent equal to the difference of revised schedule due to back down and the actual injection.”

4.57.2 Comments of CESC and WBPDC

Both CESC and WBPDC have requested the Commission to repeal this regulation on availability reduction if under injection is more than 5% at frequency below 50 Hz in a block. For justification of their submission the say that the DSM regulations already provides for incentives and penalty based on prevailing frequency and this further provision of availability reduction amount to multiple punitive actions for a single offence. Both CESC and WBPDC pointed out that in CERC DSM Regulations, there is no such provision of DC reduction. Thus, both CESC and WBPDC have requested that the Regulation be repealed in view of the proposed amendments to the DSM Regulations.

4.57.3 Analysis and Decision:

As the generator is already penalised by Additional Charges in excess of Charges for deviation beyond the permissible limit, this non-recovering clause of capacity charges will become a double penalty. Thus, this suggestion may be accepted. Accordingly, repealing of the regulation 6.7.8 of the Tariff Regulations has been incorporated in regulation 5.11.1 of the finalised DSM Regulations.

Sd/-
(PULAK KUMAR TEWARI)

Sd/-
(DURGADAS GOSWAMI)

Sd/-
(SUTIRTHA BHATTACHARYA)

DATED: 25.11.2021