

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

NOTIFICATION (DRAFT)

Dated, the 13th June 2012

No.-L- 7/145(160)/2012—CERC: In exercise of powers conferred under section 178 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, to amend Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009, as amended in 2009 (hereinafter referred to as “the principal regulations”), namely:

1. Short title and commencement:

(1) These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (Third Amendment) Regulations, 2012.

(2) These regulations shall come into effect from the date of their publication in the Official Gazette.

2. Amendment of Regulation 3 of the Principal Regulations

(1) A new clause shall be added after clause 31 of Regulation 3 of the Principal Regulation as under:-

"(31A) 'pumped storage hydro generating station' means the hydro station which generates power through energy stored in the form of water energy, pumped from a lower elevation reservoir to a higher elevation reservoir."

(2) In sub-clause (b) of clause (12), clause (41) and sub-clause (d) of clause (42) of Regulation 3, the words "including pumped storage hydro generation station" shall be inserted after the words "hydro generating stations."

3. Amendment of Regulation 7 of the Principal Regulations:

(1) Fourth Proviso to clause (2) of Regulation 7 of the Principal Regulations shall be substituted as under:

"Provided also that the Commission may issue guidelines for scrutiny and commissioning schedule of the hydro-electric projects in accordance with the tariff policy issued by the Central Government under section 3 of the Act from time to time."

(2) A new proviso shall be added after sixth proviso to clause (2) of Regulation 7 of Principal Regulations, namely:

"Provided also that the capital cost of the generating station shall include the cost for creating infrastructure for supply of power to the rural households located within a radius of five kilometers of the power station."

4. Amendment of Regulation 8 of Principal Regulations:

(1) Sub clause (iii) of Regulation 8 of the Principal Regulation shall be substituted as under:-

"(iii) Hydro generating stations including pumped storage hydro-electric generating station – 1.5%."

(2) A new sub-clause shall be added after sub-clause (c) of clause (iv) of Regulation 8 of Principal Regulations as under, namely:

"(d) Gas Insulated Sub-station (GIS) -3.5%"

5. Amendment of Regulation 9 of the Principal Regulations:

(1) In clause (2) of Regulation 9 of the Principal Regulations, the words "or projected to be incurred" shall be added after the words "the capital expenditure incurred".

(2) Two new sub-clauses shall be added after sub-clause (viii) of Regulation 9 of the Principal Regulations as under, namely:

"(ix) Expenditure on account of creation of infrastructure for supply of reliable power to rural households within a radius of five kilometers of the power station;

(x) any expenditure which is considered indispensable by the Commission for running the thermal generating station:

Provided that in case of coal-based and lignite-fired generating station, compensation allowance under clause (e) of Regulation 19 shall not be admissible."

6. Amendment of Regulation 15 of the Principal Regulations:

(1) Clause (2) of Regulation 15 of the Principal Regulations (without the provisos) shall be substituted as under, namely:

"(2) Return on Equity shall be computed on pre-tax basis at the base rate of 15.5% for thermal generating stations, transmission system and run of the river hydrogenating station with or without pondage, and 16.5% for the reservoir based hydrogenating stations including pumped storage schemes:"

7. Amendment of Regulation 21 of the Principal Regulations:

(1) The following provisos shall be added under Clause (6) of Regulation 21 of the Principal Regulations as under, namely:

"Provided that generating company shall provide details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, lignite, natural gas, RLNG, liquid fuel etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal with details of the variation in energy charges billed to the beneficiaries along with the bills of the respective month.

Provided further that a copy of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, lignite, natural gas, RLNG, liquid fuel etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company. The details should be available on its website for a period of a quarter on monthly basis."

(2) Existing clause (8) of Regulation 21 of the Principal Regulations shall be deleted.

(3) Existing clause (9) of Regulation 21 of the Principal Regulations shall be renumbered as clause (8).

8. Amendment of Regulation 22 of the Principal Regulations:

(1) The heading of Regulation 22 of the Principal Regulation shall be substituted as under:-

"Computation and Payment of Capacity charge and Energy Charge for Hydro Generating Stations other than Pumped Storage Hydro Generating Stations."

(2) A new clause shall be added after clause (7) of Regulation 22 of the Principal Regulation as under, namely:

"7a. In case of the hydro generating stations of NHPC Limited located in the State of Jammu and Kashmir, any expenditure incurred for payment of water usage charges to the State Water Resources Development Authority, Jammu under Jammu & Kashmir Water Resources (Regulations and Management) Act, 2010 shall be payable by the beneficiaries as additional energy charge in proportion of the supply of power from the generating stations on month to month basis:

Provided that the provisions of this clause shall be subject to the decision of the Hon'ble High Court of Jammu & Kashmir in OWP No.604/2011 and shall stand modified to the extent of inconsistency with the decision of the High Court."

9. Addition of new regulation

A new regulation shall be added after Regulation 22 of the Principal Regulation as under, namely:

"22A. Pumped Storage Hydro Generating Stations

(1) The fixed cost of a pumped storage hydro generating station shall be computed on annual basis, based on norms specified under these regulations, and recovered on monthly basis as net capacity charge after deducting 75 % of the revenue earned by the station from the generation and sale of power in excess of the design energy plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir in a month from the monthly fixed charges. The net capacity charge (inclusive of incentive) shall be payable by the beneficiaries in proportion to their respective allocation in the saleable capacity of the generating station, that is to say, in the capacity excluding the free power to the home State:

Provided that during the period between the date of commercial operation of the first unit of the generating station and the date of commercial operation of the generating station, the annual fixed cost shall provisionally be worked out based on the latest estimate of the completion cost for the generating station, for the purpose of determining the capacity charge payment during such period.

(2) The capacity charge (inclusive of incentive) payable to a pumped storage hydro generating station for a calendar month shall be:

$((AFC \times NDM / NDY) - 0.75 \times ECC_m)$ (in Rupees), if actual Generation during the month is $\geq 75\%$ of the Pumping Energy consumed by the station during the month

and

$((AFC \times NDM / NDY) \times (\text{Actual Generation during the month during peak hours} / 75\% \text{ of the Pumping Energy consumed by the station during the month}))$ (in Rupees)), if actual Generation during the month is $< 75\%$ of the Pumping Energy consumed by the station during the month.

Where,

AFC = Annual fixed cost specified for the year, in Rupees.

NDM = Number of days in the month

NDY = Number of days in the year

ECC_m = Energy charge Credits for the sale of power in excess of the Design energy plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir, of the month in Rupees as per sub-clause 4 and 5.

(3) The energy charge shall be payable by every beneficiary for the total energy scheduled to be supplied to the beneficiary in excess of the design energy plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir, at a flat rate equal to the average energy charge rate of 80 paise per kWh, excluding free energy, if any, during the calendar month, on ex power plant basis. The revenue earned as energy charges during the month by the generating station from the beneficiaries shall be termed as Energy charge Credits (ECC_m) for the sale of power in excess of the design energy plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir of the month.

(4) Energy charge payable to the generating company for a month shall be:

$$= 0.80 \times \{ \text{Scheduled energy (ex-bus) for the month in kWh} - (\text{Design Energy for the month} + 75\% \text{ of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir of the month}) \} \times (100 - \text{FEHS}) / 100.$$

Where,

DE_m = Design energy for the month specified for the hydro generating station, In MWh, subject to the provision in clause (6) below.

FEHS = Free energy for home State, in per cent, as defined in regulation 32, if any.

Provided further that in case the Scheduled energy in a month is less than the Design Energy for the month plus 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir of the month, then the energy charges payable by the beneficiaries and ECC_m shall be zero.

(5) The Generator shall be maintaining the record of daily inflows of natural water into the upper elevation reservoir and the reservoir levels of upper elevation reservoir and lower elevation reservoir on hourly basis. The generator shall be required to maximize the peak hour supplies with the available water including the natural flow of water. In case it is established that generator is deliberately or otherwise without any valid reason, is not pumping water from lower elevation reservoir to the higher elevation during off-peak period or not generating power to its potential or wasting natural flow of water, the capacity charges of the day shall not be payable by the beneficiary on an order of the Commission in this regard on an application made to it by any of the beneficiary.

10. Amendment of Regulation 27 of the Principal Regulations

(1) A new clause shall be added after clause (ii) of Regulation 27 of the Principal Regulations as under, namely:

“(iii) In case of Pumped storage hydro generating stations, the quantum of electricity required for pumping water from down-stream reservoir to up-stream reservoir shall be arranged by the beneficiaries duly taking into account the transmission and distribution losses etc. up to the bus bar of the generating station. In return beneficiaries will be entitled to equivalent energy of 75% of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir from the generating station during peak hours and the generating station shall be under obligation to supply such quantum of electricity during peak hours.

Provided that in the event of the beneficiaries failing to supply the desired level of energy during off-peak hours, there will be pro-rata reduction in their energy entitlement from the station during peak hours.

Provided further that the beneficiaries may sell their share of capacity in the generating station, in part or full, whereupon the owner of the capacity share will be responsible for arranging the equivalent energy to the generating station in off-peak hours, and be entitled to corresponding energy during peak hours in the same way as the original beneficiary was entitled.”

(2) The existing sub-clauses (iii) and (iv) of clause (1) of Regulation 27 shall be renumbered as sub-clauses (iv) and (v) respectively.

11. Amendment of Regulation 32 of the Principal Regulations

In the proviso to Note 3 under Regulation 32 of the Principal Regulations, the following shall be deleted:

“(not being a State controlled or owned company)”

12. Addition of New Regulation to the Principal Regulations

A new regulation shall be added after Regulation 42 of the Principal Regulations as under, namely:

“42A. Reimbursement of Fees and Expenses

(1) The following fees shall be reimbursed directly by the beneficiaries or the transmission customers in proportion of their allocation in the generating stations or inter-State transmission systems:

(a) Fees and charges charged to the generating companies and inter-State transmission licensees (including deemed inter-State transmission licensee) under Central Electricity Regulatory Commission (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 and as may be amended from time to time;

(b) Licence fees payable by the inter-State transmission licensees (including the deemed inter-State transmission licensee) in terms of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012 or any subsequent re-enactment thereof;

(c) Licence fees paid by NHPC Ltd to the State Water Resources Development Authority, Jammu in accordance with the provisions of Jammu & Kashmir Water Resources (Regulations and Management) Act, 2010;

(2) The Commission may, in its discretion and for the reasons to be recorded in writing and after hearing the affected parties, allow reimbursement of any fee or expenses as may be considered necessary.”

(Rajiv Bansal)
Secretary

Note: Note: The Principal Regulations were published in the Gazette of India Extraordinary Part III Section 4 on 20th January 2009 as No.10. The first amendment to the Principal Regulations was published in the Gazette of India Extraordinary Part III Section 4 on 2nd ay 2011 as No. 92 and the second amendment to the Principal Regulations was published in the Gazette of India Extraordinary Part III Section 4 on .