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**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

NOTIFICATION

Dated, the 31st of December 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 a 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 if the generating company does not intend to meet such expenditure as part of its Corporate Social Responsibility.”

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) A new sub-clause 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 if, the generating company does not intend to meet such expenditure as part of its Corporate Social Responsibility.”

6. Amendment of Regulation 11 of Principal Regulations: The words “at the applicable frequency-linked UI rate” appearing in Regulation 11 of the Principal Regulations shall be substituted with the words “in accordance with the Central Electricity Regulatory Commission (Unscheduled Interchange and Related Matters) Regulations, 2009 as amended from time to time.”

7. 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 generating station, and 16.5% for the storage type generating stations including pumped storage hydro generating stations and run of river generating station with pondage and shall be grossed up as per clause (3) of this regulation:”

8. Amendment of Regulation 21 of the Principal Regulations:

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 to the beneficiaries of the generating station the 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., as per the form 15 of the Part-I of Appendix I to these regulations:

Provided further that the details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal and the weighted average GCV of the fuels as received shall also be provided separately, along with the bills of the respective month:

Provided further that copies 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 on monthly basis for a period of three months."

9. 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 Regulations 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 NHPC shall be entitled to recover the additional energy charges for the payment already made to State Water Resources Authority, Jammu as water usage charges as on the date of notification of these regulations along with interest at the prevailing State Bank of India base rate in six equal monthly installments:

Provided further 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 in accordance with the decision of the High Court."

10. Addition of Regulation 22A:

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 capacity charge. The capacity charge 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 be worked out provisionally 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 payable to a pumped storage hydro generating station for a calendar month shall be:

(AFC x NDM / NDY) (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

(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 20 paise per kWh, excluding free energy, if any, during the calendar month, on ex power plant basis.

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

$= 0.20 \times \{\text{Scheduled energy (ex-bus) for the month in kWh} - (\text{Design Energy for the month} + 75\% \text{ of the energy utilized in pumping the water from the lower elevation reservoir to the higher elevation reservoir of the month})\} \times (100 - \text{FEHS}) / 100.$

Where,

DEm = 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 changes payable by the beneficiaries shall be zero.

(5) The Generator shall maintain 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. For this purpose, outages of the unit(s)/station including planned outages and the forced outages up to the 15% in a year shall be construed as the valid reason for not pumping water from lower elevation reservoir to the higher elevation during off-peak period or not generating power using energy of pumped water or natural flow of water,

Provided further that the total capacity charges recovered during the year shall be adjusted on prorata basis in the following manner in the event of total machine outages in a year exceeds 15%:

$$(ACC)_{adj} = (ACC)_R \times (100 - ATO) / 85$$

Where,

$(ACC)_{adj}$ – Adjusted Annual capacity Charges

$(ACC)_R$ – Annual capacity Charges recovered

ATO - Total Outages in percentage for the year including forced and Planned outages

Provided further that the generating station shall be required to declare its machine availability daily on day ahead basis for all the time blocks of the day in line with the scheduling procedure of Grid Code."

11. 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:

“(iia) 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 assign or surrender their share of capacity in the generating station, in part or full, or the capacity may be reallocated by the Central Government, and in that event the owner or assignee of the capacity share shall 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.”

12. 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)”

13. 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, Charges and Expenses

(1) The following fees and charges shall be reimbursed directly by the beneficiaries in proportion of their allocation in the generating stations or by the transmission customers in proportion to their share in the inter-State transmission systems determined in accordance with Regulation 33 of the Central Electricity

Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 upto 30.6.2011 and thereafter, in accordance with the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time;

(a) Fees and charges paid by 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, as amended from time to time;

(b) Licence fees paid 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, 2008 and Central Electricity Regulatory Commission (Payment of Fees) Regulations 2012 or any subsequent amendment or 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 generating companies and inter-State transmission licensees (including deemed inter-State transmission licensee) shall be entitled to recover the fees and charges as mentioned in clause (1) of this regulation which have been paid till the notification of these regulations.
- (3) 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.”

sd/-
(Rajiv Bansal)
Secretary

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 May 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 22nd June 2011 as Ser No. 129.