ORAL HEARING ON THE PROPOSED DRAFT REGULATION ON TERMS & CONDITIONS OF TARIFF FOR THE TARIFF PERIOD 2014-19

PRESENTATION OF VIEWS ON BEHALF OF

NHDC LTD., NHDC PARISAR, SHYAMLA HILLS, BHOPAL

Draft Regulation 7

- **As per Clause 7(3), the existing Generating Station needs to file the application for the determination of tariff not later than 120 days from the date of Notification of these Regulation ………..**

- **As per Clause 7(5), the time limit for re-submission of deficient petition is provided as one month only.**

Submission:

- **Taking into Consideration the mammoth exercise of truing-up and the likely date of the finalization of Financial Accounts for FY 2013-14, the time limit for filing of Application may be enhanced atleast upto to 180 days from the date of Applicability of these Regulation i.e. w.e.f. 01-04-2014.**
- **The time limit for re-submission of deficient petition may also be enhanced to ‘two months’ from the proposed ‘one month’**

Draft Regulation 7 (7) and 7 (8)

- **In case of variation in actual capitalization and the Projected Capitalization is beyond the limit of ± 5%, these Draft Regulations provides the recovery or refund of AFC along-with the interest at different rates.**
- **The Generator has to refund to the Beneficiary, the excess recovered AFC @ 1.20 times the bank rate i.e. currently @ 16.20 % (1.2*(10+3.5) %).**
- **Whereas, in a vice-versa situation, the Beneficiary has to refund only @ 0.80 times the bank rate i.e. currently @ 10.80 % (0.8*(10+3.5) %).**

Submission:

- **Hon'ble CERC has though introduced this provision with a view to reduce the burden of carrying cost on the Consumer, but such kind of inequitable provisions will induce the apprehension, especially amongst the Generating Utility, in making the realistic Projections.**
- **The Generator will intend to keep the Projections on lower side, which will defeat the very purpose with which, such kind of Provisions were introduced in existing 2009 Regulation.**

Thus, such inequitable provision in the draft regulation may be dispensed with and the existing provision of 2009 Regulation be continued.

Draft Regulation 8 (3)

- **CERC has deviced a Formula of sharing of Financial Gains in a Ratio of 3:1, on account of Controllable Parameters.**

$$\textbf{Net Gain} = (ECR_N - ECR_A) \times \textbf{Scheduled Generation}$$

Submission:

- **In case of Hydro Generating Station, Auxiliary Energy Consumption is the only applicable Controllable Parameter.**
- **The Formula devised by CERC does not hold good on the Hydro Generating Station.**
- **The Net Gain to Hydro Generator shall be limited to the extent of saving in Auxiliary Energy Consumption as compared to Normative, which is invariably recoverable @ ECR applicable for "Energy Generated beyond Design Energy".**

Thus, the Formula for Hydro Generating Station may be devised as follows:

$$\textbf{Net Gain} = (AUX_N - AUX_A) \times ECR$$

Where ,

AUX_N = **Normative Auxiliary Energy Consumption**

AUX_A = **Actual Auxiliary Energy Consumption**

ECR = **Energy Charge Rate as per Regulation 31(7).**

Draft Regulation 8 (7), 8 (8) & 8 (9)

Submission:

- The ‘Clause 10’ as referred in Regulation 8(7) and 8(8) does not exist.

- The provisions stipulated in Clauses 8(7), 8(8) and 8(9) are not in Commensurate with the provisions stipulated in Regulation 7(7) and 7(8).

Draft Regulation 11 & 12

- These Regulation incorporate provisions for the IDC and IEDC to be admitted for tariff after Schedule COD after prudence check based on controllable and uncontrollable parameter as defined in Draft Regulation '2012.

Submission:

- Every Hydro Generating Projects has its own surprises, complexities & intricacies and there are varied reasons for delay even beyond the Controllable / Uncontrollable Factors, as defined at Regulation 12.

- As such, the provision made under these Regulation for limiting the IDC and IEDC based on various Controllable and Uncontrollable Factors shall not be conducive for the development of Hydro Sector.

  Thus, the Hydro Generating Projects may be kept beyond the ambit of these Regulations and the IDC & IEDC after Scheduled CoD, may be allowed on case to case basis after prudence checks by CERC.

Draft Regulation 17

- **A Separate Compensation Allowance on Rs. in Lakh/MW/Year basis shall be admissible in case of Thermal Generating Station to meet out the Capital Expenditure (including in the nature of minor assets).**

- **The Assets acquired through this separate Compensation allowance shall though be included in the FAR, but the AddCap on this account shall not be accounted for tariff purposes.**

Submission:

- **The Expenditure on some Capital Assets (including Assets of minor nature) is inevitable for the successful operation of the hydro generating station also, though they do not qualify for tariff.**

- **In order to meet out the Capital Expenditure in acquiring such assets including assets of minor nature, the hydro generating station may also be included in the ambit of this Regulation and a suitable Compensation Allowance be allowed on Rs. in Lakh/MW/Year after 10 years of CoD.**

Draft Regulation 25

CERC has devised the Formula for recovery of Income Tax on pro-rata basis on Return on Equity based on Profit Before Tax

$$\text{Income Tax to be recovered} = \frac{\text{Total Income Tax Paid x RoE approved by the Commission}}{\text{Profit Before Tax}}$$

Submission:

- **In Regulation 24(2), the Base Rate for RoE i.e. after Tax, has been proposed. Thus, for pro-rata Recovery of Income-Tax, the RoE and the Profit needs to be on a Common Platform.**
- **Thus in the devised Formula, the Profit After Tax (without Deferred Tax) needs to be incorporated instead of Profit Before Tax.**
- **Accordingly, the recovery of pro-rata Income Tax be allowed with following Formula in case the Profit After Tax (without Deferred Tax) for a particular year, is higher than the Return on Equity as approved by CERC.**

$$\text{Income Tax to be recovered} = \frac{\text{Total Income Tax Paid x RoE approved by the Commission}}{\text{Profit After Tax (without Deferred Tax)}}$$

Draft Regulation 26

The Regulation 26(5) provides that the Rate of Interest on Loan shall be the Weighted Average Rate of Interest calculated on the basis of actual loan portfolio after accounting for Interest Capitalized.

Submission:

- **The provision under Regulation 26(5) may be made more explicit by considering the time period for which each Loan has been serviced while working out the Weighted Average Rate of Interest on Loan.**

Draft Regulation 27

The Regulation 27(3) provides that:

- **Salvage Value of the Assets shall be considered as 10%.**
- **Any depreciation disallowed on account of lower availability of generating station shall not be allowed to be recovered at a later stage during the useful life and the extended life.**

Submission:

- **As Land held for Reservoir has no salvage value, 100% depreciation be allowed on this account.**
- **The hydro generating stations are subjected to uncertainties including hydrological as well as geological risks compelling lower availability below normative values during any particular year. A suitable provision covering this aspect may be incorporated and any depreciation, if disallowed, should be after prudence check of CERC.**

Draft Regulation 37(6)

The Norms of operation for hydro generating stations have been made more stringent in respect of Auxiliary Energy Consumption (AUX) especially for Surface Hydro Generating Stations with Static Excitation System and proposed to be reduced from 1% to 0.5%.

Submission:

- **As the quantum of auxiliary consumption is expected to increase with the age of the machinery. Thus, it would be prudent that the Auxiliary Consumption Norms for a Generating Station be linked with the age of Generating Station.**

Other Comments

- ❖ **The Regulation provides depreciation towards Cost of Land coming under submergence of Reservoir.**

- ❖ **The depreciation so allowed on this account, does not qualify to be deductible under Income Tax Rules.**

  Thus, the burden of tax on such depreciation, disallowed under Income Tax Rules, may allowed to be recovered additionally from the beneficiary.