

No.23/9/2015-R&R
Government of India
Ministry of Power

Shram Shakti Bhawan, New Delhi,
Dated, the 16th April, 2015

To,

The Chairperson,
Central Electricity Regulatory Commission,
Chanderlok Building,
Janpath, New Delhi

Subject: Direction to the Central Electricity Regulatory Commission under Section 107 of the Electricity Act, 2003 to review and determine energy charges for supply of electricity by a generating company to a distribution licensee under already concluded Power Purchase Agreements(PPA) and where the coal is being sourced from coal mines auctioned or allotted under Coal Mines (Special Provisions), Second Ordinance, 2014 and rules framed thereunder.

Sir,

The Ministry of Coal has issued the Order on the 26th December, 2014 in accordance with the provisions of rule 8(3) of the Coal Mines (Special Provisions), Rules 2014 and section 8(5) of the Coal Mines (Special Provisions), Second Ordinance, 2014, *which inter-alia* specified the methodology for allocation by auction and allotment of coal mines or blocks.

2. The said Order dated the 26th December, 2014 prescribes various conditions to ensure that the benefit of the coal mine auction or allotment is passed on to the consumers. It further provides that the Ministry of Power will make suitable provisions in this regard. In the matter of policy involving public interest, vide section 107 of the Electricity Act, 2003 ("the Act"), the Central Government is empowered to give such directions in writing by which the Central Electricity Regulatory Commission (CERC) shall be guided.

3. Now, in order to ensure that the benefits of coal block auction or allotment are passed on to the consumers, the Central Government, in exercise of the powers conferred under section 107 of the Act, hereby issues this direction to the Central Electricity Regulatory Commission to adopt the following procedure for downward revision of the tariff in already concluded Power Purchase Agreements for (PPAs) (i) generation capacity having cost plus Power Purchase Agreements under section 62 of Electricity Act, 2003, and (ii) generation capacity contracted through tariff bid based Power Purchase Agreements under Case-1/Design Build Finance Own and Operate (DBFOO) bids invited under section 63 of the Act and where the coal is being

sourced from coal mines auctioned or allotted under Coal Mines (Special Provisions) Second Ordinance, 2014:

3.1 The Central Electricity Regulatory Commission, shall review and determine the energy charges for cost plus Power Purchase Agreements under section 62 or that in tariff bid based Power Purchase Agreements under section 63, as the case may be, and shall review the components of the fuel price or energy charges including:

- a. Run of Mine(ROM) price of coal as per auction or allotment of coal mine;
- b. Transportation cost along with distance to the end use power plant (rail, road and other modes separately)
- c. Washery charges, if any;
- d. Crushing charges;
- e. Royalty/duties and levies etc.;
- f. Other charges.

3.2 The Central Electricity Regulatory Commission, while determining the components of energy charges, shall ensure the following:-

- (a) Run of Mine (RoM) price of coal as quoted for the said coal block during coal block auction on the basis of which the block has been awarded, or Run of Mine cost of the coal as per allotment, as the case may be, shall be allowed for the purpose of determining the fuel cost throughout the tenure of Power Purchase Agreement. In addition to this, the bidder will be eligible to recover an amount of Rs 100 per metric tonne, as per clause 3.10.2 of Standard Tender Document for Coal Block Auction /Allotment (for Power Sector). The Standard Tender Document also provides for escalation in Run of Mine price of coal and in the amount of Rs.100 per metric tonne, which will be factored in while determining the energy charges:

Provided that the quoted Additional Premium, if any, shall not be reckoned for the purpose of the determination of tariff of electricity as per corrigendum 3 to clause 3.10.2 issued on 31st January, 2015 of the Standard Tender Document (Power Sector) for coal block auction. The relevant extracts of Standard Tender Document (Power Sector) are enclosed for ready reference.

- (b) As far as coal transportation, washery charges and crushing charges are concerned, the rates should not exceed the benchmark rates of Coal India Ltd., Railway freight rates, benchmarks determined, if any, by Central Electricity Regulatory Commission/State Electricity Regulatory Commission or by any other appropriate authority. Where there are multiple benchmarks available, the Central Electricity Regulatory Commission will be free to adopt the most appropriate benchmark;
- (c) Gross Calorific Value (GCV) as quoted in coal auction would in normal circumstances be used as reference Gross Calorific Value for the

purpose of determining the quantum of coal required for power generation. However, in the event of variation in actual value of Gross Calorific Value of mined coal, if any, such variation may be allowed based on joint sampling and testing of mined coal in accordance with the provisions of Power Purchase Agreement;

- (d) Further, for generation capacity already contracted through tariff bid based Power Purchase Agreements under Case-1/Design Build Finance, Own & Operate bids, the allocation of coal block under the provisions of the Coal Mines (Special Provisions), Ordinance 2014 shall be treated as "Change in Law" to enable the revision in tariff downwards in accordance with the provisions of Power Purchase Agreement; and
- (e) The revision of tariff undertaken by the Central Electricity Regulatory Commission as above shall not lead to higher energy charges and total tariff throughout the tenure of Power Purchase Agreement than that which would have been obtained as per terms and conditions of the existing Power Purchase Agreement.

4. The above directions shall be applicable for the power projects using coal from the auctioned or allotted coal mine in accordance with the provisions of the Coal Mines(Special Provisions) Second Ordinance, 2014 and rules framed thereunder.

5. This issues with the approval of Minister of State (Independent Charge) for Power, Coal & NRE.

Encl: As above

Yours faithfully,



(Gyanesh Bharti)
Director

Tele No. 2371 5250

Copy to:

1. All Joint Secretaries/Directors/Deputy Secretaries, Ministry of Power
2. PS to MOS(I/C) for Power, Coal & NRE
3. PPS to Secy.(P), PPS to SS(RNC), PPS to SS(DC), PPS to JS(RR)
4. Technical Director, NIC Ministry of Power with the request to upload this communication of MoP's website.

Date: January 31, 2015

Corrigendum No. 3 to Standard Tender Document(Schedule II Coal Mines)
(For power sector)

S. No.	Reference to Tender Document	As appearing in Original Tender Document	To be read as
1.	1.1.7 Bid	"Bid" shall mean the binding Technical Bid, the Initial Price Offer and the <u>Final Price Offer</u> submitted by the Bidders in accordance with the Tender Document.	"Bid" shall mean the binding Technical Bid, the Initial Price Offer, the <u>Final Price Offer and/or Additional Premium, as the case may be,</u> submitted by the Bidders in accordance with the Tender Document.
2.	1.1.16 Final Price Offer	"Final Price Offer" shall mean the price per tonne of coal extracted, required to be submitted as part of the Financial Bid on the electronic auction platform in accordance with <u>Clause 3.3.2(c).</u>	"Final Price Offer" shall mean the price per tonne of coal extracted, required to be submitted as part of the Financial Bid on the electronic auction platform in accordance with <u>Clause 3.3.2(c)(i), (ii) and (iii).</u>
3.	1.1.28 Preferred Bidder	"Preferred Bidder" shall have the meaning ascribed thereto in Clause 3.3.2(c).	"Preferred Bidder" shall have the meaning ascribed thereto in Clause 3.3.2(c)(ii) or Clause 3.3.2(c)(iv), as the case may be.3.3.2(c).
4.	1.1.35 Specified End Use Plant	"Specified End Use Plant" shall mean a plant of the Bidder or each of the JV Partners (in case the Bidder is a joint venture company) engaged in the Specified End Use.	"Specified End Use Plant" shall mean a plant of the Bidder or each of the JV Partners (in case the Bidder is a joint venture company), <u>in India</u> engaged in the Specified End Use.
5.	1.1.40 Tender Document	"Tender Document" shall mean this document including its Annexures including specifically the Agreement, the Mine Dossier, any addenda to this Tender Document and any other document issued pursuant hereto.	"Tender Document" shall mean this document including its Annexures including specifically the Agreement, the Mine Dossier, <u>notification No. 13016/9/2014-CA-III dated December 26, 2014 of Ministry of Coal,</u> any addenda to this Tender Document and any other document issued pursuant hereto
6.	3.3.1 (b) Description of the Tender Process	Financial Bid comprising of: (i) the Initial Price Offer; and (ii) <u>the Final Price Offer</u> . The Initial Price Offer is required to be submitted along with the Technical Bid. It is hereby clarified that the Financial Bid will comprise of two rounds. In the first round the Initial Price Offer of the Technically Qualified Bidders would be opened and ranked	Financial Bid comprising of: (i) the Initial Price Offer; <u>(ii) the Final Price Offer; and/or (iii) the Additional Premium, if applicable.</u> The Initial Price Offer is required to be submitted along with the Technical Bid. It is hereby clarified that the Financial Bid will comprise of two rounds. In the first round the Initial Price Offer of the

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		on the basis of ascending order for determination of the Qualified Bidders as provided in Clause 3.3.2(b) below. The Qualified Bidders shall be eligible to participate in the electronic auction and submit their <u>Final Price Offer</u> .	Technically Qualified Bidders would be opened and ranked on the basis of ascending order for determination of the Qualified Bidders as provided in Clause 3.3.2(b) below. The Qualified Bidders shall be eligible to participate in the electronic auction and submit their <u>Final Price Offer and/or the Additional Premium, if applicable</u> .
7.	3.3.2 (a) Technical Qualification	In the first stage, the Bidders would be required to submit: (i) the Bid Security; (ii) the Technical Bid in substantially the same format as specified in Annexure III along with a covering letter in substantially the same format as specified in Annexure IV; and (iii) the Financial Bid to the extent of specifying the Initial Price Offer, <u>which should be lower than the Ceiling Price</u> . The Ceiling Price for the Coal Mine is the CIL Notified Price. The Technical Bid	In the first stage, the Bidders would be required to submit: (i) the Bid Security; (ii) the Technical Bid in substantially the same format as specified in Annexure III along with a covering letter in substantially the same format as specified in Annexure IV; and (iii) the Financial Bid to the extent of specifying the Initial Price Offer, <u>which should be greater than or equal to INR 0 (Indian Rupees Zero) and lower than the Ceiling Price. The Ceiling Price for the Coal Mine is the CIL Notified Price (the "Initial Price Offer Ceiling")</u> . The Technical Bid
8.	3.3.2 (c)	<u>(c) Final Price Offer</u> <u>The Applicable Ceiling Price for electronic auction shall be the lowest Initial Price Offer received from the Technically Qualified Bidders. The Qualified Bidders shall be permitted to place their Final Price Offer on the electronic auction platform, which is lower than the Applicable Ceiling Price.</u> <u>The Qualified Bidder that submits the lowest Price Offer during the electronic auction process shall be declared as the "Preferred Bidder".</u> <u>In the event that the Qualified Bidder that submitted the lowest Initial Price Offer i.e. the Applicable Ceiling Price, becomes ineligible to participate in the electronic auction, the next lowest Initial Price Offer shall become the Applicable Ceiling Price.</u>	<u>(c) Final Price Offer and Additional Premium</u> <u>The Qualified Bidders shall be entitled to submit the Final Price Offer, subject to the following:</u> (i) <u>the Final Price Offer quoted by the Qualified Bidders should not be more than the lowest Initial Price Offer submitted by any of the Qualified Bidders (the "Final Price Offer Ceiling").</u> Provided that in the event that the Qualified Bidder which has submitted the lowest Initial Price Offer becomes ineligible to participate in the auction process then the Initial Price Offer which is subsequent in ascending ranking of the Initial Price Offers shall be considered to be the Final Price Offer Ceiling. (ii) <u>In the event that the Final Price Offer Ceiling is more than INR 0 (Indian Rupees Zero), and all the</u>

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		<p><u>In case the auction process is annulled due to non-submission of at least one Final Price Offer on the electronic auction platform, the Bid Security of the Qualified Bidder(s) who has submitted the lowest Initial Price Offer i.e. the Applicable Ceiling Price, shall be forfeited in accordance with Clause 6.1.6.</u></p>	<p><u>Qualified Bidders respectively submit a Final Price Offer which is more than INR 0 (Indian Rupees Zero), then the Qualified Bidder that submits the lowest Final Price Offer shall be declared as the "Preferred Bidder".</u></p> <p>(iii) <u>However, in the event that any Qualified Bidders submits a Final Price Offer which is equal to INR 0 (Indian Rupees Zero), then the selection of Preferred Bidder shall be made pursuant to Clause 3.3.2(c)(iv) below.</u></p> <p>(iv) <u>In the event that, (A) the Final Price Offer Ceiling is equal to INR 0 (Indian Rupees Zero) – in which case the Final Offer Price would not be required to be submitted; or (B) any Qualified Bidder has submitted a Final Price Offer which is equal to INR 0 (Indian Rupees Zero), then the Qualified Bidders shall be entitled to quote a per Tonne rate (the "Additional Premium") on the basis of which an amount would be payable in accordance with Clause 3.10.1 on the basis of coal extracted from the Coal Mine, in addition to all other payments required to be made. The Qualified Bidder which submits the highest Additional Premium shall be declared as the "Preferred Bidder".</u></p> <p>(v) <u>In the event that the auction process is annulled due to non-submission of at least one Final Price Offer or at least one offer of an Additional Premium, as the case may be, the Bid Security of the Qualified Bidder(s) who has submitted the lowest Initial Price Offer which formed the Final Price Offer Ceiling, shall be forfeited in accordance with Clause 6.1.6.</u></p>

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9.	3.3.2 (g) (ii) Payments by the Successful Bidder:	pay a fixed amount for the Successful Bidder is a Prior Allottee, then, the compensation payable to such successful bidder shall be set off or adjusted against the Fixed Amount payable by such Successful Bidder.	pay a fixed amount for the Successful Bidder is a Prior Allottee, then, the compensation payable to such successful bidder shall be set off or adjusted against the Fixed Amount payable by such Successful Bidder. <u>The Fixed Amount is required to be deposited by the Successful Bidder with the Nominated Authority in accordance with the relevant provisions of the Ordinance and the Rules. The Fixed Amount based on the available information and the assessment made by the competent authority has already been uploaded as a part of the Tender Document. Any upward revision in the Fixed Amount on a subsequent date by the Government or the Nominated Authority consequent upon any process or on the orders of any competent court of law, shall also be payable by the Successful Bidder.</u>																								
10.	3.6.6 Site visits and information	In the event a Bidder wishes to examine the documents pertaining to land, on January 7, 2015 shall not be considered.	In the event a Bidder wishes to examine the documents pertaining to land, on January 7, 2015 shall not be considered. <u>It is clarified that the Nominated Authority shall have no responsibility for any non-availability of documents pertaining to land or the contents of the documents pertaining to land. Irrespective of the availability/non-availability or contents of documents related to land, the Bidders are required to have satisfied themselves on all matters related to the Coal Mine, before submitting a Bid.</u>																								
11.	3.8.1 Schedule of the Tender Process	<table border="1"> <thead> <tr> <th>S. No.</th> <th>Event Description</th> <th colspan="2">Estimated Date</th> </tr> </thead> <tbody> <tr> <td>7.</td> <td>Bid Due Date.</td> <td>T_0 ± <u>37</u></td> <td><u>Saturday,</u> <u>January</u> <u>31, 2015</u></td> </tr> <tr> <td>8.</td> <td>Opening of the</td> <td>T_0</td> <td><u>Sunday,</u></td> </tr> </tbody> </table>	S. No.	Event Description	Estimated Date		7.	Bid Due Date.	T_0 ± <u>37</u>	<u>Saturday,</u> <u>January</u> <u>31, 2015</u>	8.	Opening of the	T_0	<u>Sunday,</u>	<table border="1"> <thead> <tr> <th>S. No.</th> <th>Event Description</th> <th colspan="2">Estimated Date</th> </tr> </thead> <tbody> <tr> <td>7.</td> <td>Bid Due Date.</td> <td>T_0 ± <u>40</u></td> <td><u>Tuesday,</u> <u>February</u> <u>3, 2015</u></td> </tr> <tr> <td>8.</td> <td>Opening of the</td> <td>T_0</td> <td><u>1400</u></td> </tr> </tbody> </table>	S. No.	Event Description	Estimated Date		7.	Bid Due Date.	T_0 ± <u>40</u>	<u>Tuesday,</u> <u>February</u> <u>3, 2015</u>	8.	Opening of the	T_0	<u>1400</u>
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			Technical Bid(s).	± <u>38</u>	<u>February 01, 2015</u>		Technical Bid(s).	± <u>40</u>	<u>hours on Tuesday, February 3, 2015</u>
		9.	Start date for examination of the Technical Bid(s).	<u>T₀</u> ± <u>39</u>	<u>Monday, February 2, 2015</u>	9.	Start date for examination of the Technical Bid(s).	<u>T₀</u> ± <u>40</u>	<u>Tuesday, February 3, 2015</u>
12.	3.10.1 Periodic Payments by the Successful Bidder	In addition to the payments specified in Clause 3.3.2(g), the Successful Bidder shall be required to make monthly payments with respect to the coal extracted from the Coal Mine on the basis of <u>INR 100/Tonne</u> . Provided however that, in the event a Successful Bidder is undertaking sale of power on a merchant basis, subject to a maximum 15% of generation capacity of Specified End Use Plant, <u>then the aforementioned amount of INR 100/Tonne shall stand revised</u> to INR [●]/Tonne for the quantum of coal utilised for generation of such power sold on merchant basis. Such payments are required to be made within 20 calendar days of expiry of each month with respect to coal extracted from the Coal Mine in the previous calendar month.				In addition to the payments specified in Clause 3.3.2(g), the Successful Bidder shall be required to make monthly payments with respect to the coal extracted from the Coal Mine on the basis of <u>INR 100/Tonne (the "Fixed Rate") plus the Additional Premium, if applicable</u> . Provided however that, in the event a Successful Bidder is undertaking sale of power on a merchant basis, subject to a maximum 15% of generation capacity of Specified End Use Plant, <u>then the Fixed Rate shall stand revised</u> to INR [●]/Tonne for the quantum of coal utilised for generation of such power sold on merchant basis. Such payments are required to be made within 20 calendar days of expiry of each month with respect to coal extracted from the Coal Mine in the previous calendar month. <u>It is clarified that Additional Premium is not payable on the quantum of coal utilised for generation of such power sold on merchant basis.</u>			
13.	3.10.2 Periodic Payments by the Successful Bidder	However the aggregate of (i) the <u>Price Offer</u> pursuant to which the Successful Bidder has received the Vesting Order; and (ii) <u>the aforementioned amount of INR 100/Tonne, will be used</u> for computation of energy charge for the purposes of determination of tariff for electricity.				However the aggregate of (i) the <u>Final Price Offer</u> pursuant to which the Successful Bidder has received the Vesting Order; and (ii) <u>the aforementioned Fixed Rate, will be the input</u> for computation of energy charge for the purposes of determination of tariff for electricity. <u>It is clarified that in the event that an ascending forward auction is conducted in accordance with Clause</u>			

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			<u>3.3.2 (c)(iv), only the aforementioned Fixed Rate of INR 100/Tonne, will be the input for computation of energy charge for the purposes of determination of tariff for electricity and the Additional Premium shall not be reckoned for the purposes of determination of tariff for electricity.</u>
14.	3.10.3 Periodic Payments by the Successful Bidder	The <u>amounts specified in Clause 3.10.1 and 3.10.2</u> shall be subject to an escalation on the basis of a Reference Index, with the prevailing Reference Index on the date on which the Vesting Order has been issued being considered as the base. The last published Reference Index shall be used for computing the escalation. Provided however that in the event a Successful Bidder is undertaking sale of power on a merchant basis, <u>and the aforementioned amount of INR 100/Tonne is revised</u> , then such revised amount shall be subject to a yearly escalation on the basis of Wholesale Price Index, with the prevailing	<u>The Final Price Offer or the Fixed Rate and the Additional Premium, as the case may be</u> , shall be subject to an escalation on the basis of a Reference Index, with the prevailing Reference Index on the date on which the Vesting Order has been issued being considered as the base. The last published Reference Index shall be used for computing the escalation. Provided however that in the event a Successful Bidder is undertaking sale of power on a merchant basis, <u>and the Fixed Rate of INR 100/Tonne is revised</u> , then such revised amount shall be subject to a yearly escalation on the basis of Wholesale Price Index, with the prevailing
15.	5.2.1 Joint Venture Company as the Bidder	In the event, a Bidder is a joint venture company, which has become eligible for participating in the auction process on account of its JV Partners meeting all the Eligibility Conditions, then during the auction process <u>and at any time thereafter (if such joint venture company becomes the Successful Bidder)</u> : (a) no change in shareholding (directly or indirectly) of the joint venture Clause 4.1.2(d)); (b) in the event that one of the JV Partner becomes ineligible or ceases to operate the Specified End Use Plant or ceases to be a JV Partner, then: (i) the joint venture company may based on information provided in the Technical Bid; and (ii) coal extracted in excess of the limit	In the event, a Bidder is a joint venture company, which has become eligible for participating in the auction process on account of its JV Partners meeting all the Eligibility Conditions, then during the auction process: (a) no change in shareholding (directly or indirectly) of the joint venture Clause 4.1.2(d)); (b) in the event that one of the JV Partner becomes ineligible or ceases to operate the Specified End Use Plant or ceases to be a JV Partner, then: (i) the joint venture company may based on information provided in the Technical Bid; and (ii) coal extracted in excess of the limit specified in sub-clause (i) above shall be required to be supplied to CIL at the Final Price Offer based