Adani Power Ltd. & Adani Transmission Ltd Comments/Suggestions on Draft CERC (Terms and Conditions of tariff) Regulations, 2019

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Comments / Suggestions by

Adani Power Limited

Key Submissions

Regulatory Certainty

- Investment is undertaken by the Developer based on the investment risk perception considering the existing policy and regulatory framework at the given point in time.
- The National Electricity Policy lays emphasis on the need for regulatory certainty to generate investor's confidence.
- Objectives of the Tariff Policy also stipulates predictability in regulatory approaches across jurisdictions and minimise perceptions of regulatory risks.
- Investors have adjusted to the stringent revisions in operational norms. Any adverse changes in financial norms to be applied for future investments/projects to minimize risk perception.

Operational Norms

- Tariff Policy mandates uniform approach among Regulators and consequently uniform operational norms for Change in Relief for Sec.63 PPAs.
- Tariff regulations may therefore specify that these regulations shall apply to Sec. 63 PPAs as well, limited to operational norms
- Machines are designed considering norms prevailing at Bid time. Hence, adoption of stringent revised operational norms will result in under recovery and defeats the Restitution principle envisaged in Sec.63 PPAs.
- Hence operational norms applicable at Bid time only to be adopted for change in law.

Return on Investment

- Power Sector projects are capital intensive and require certainty of revenue stream.
- Lenders need comfort in terms of certainty of principal repayment and interest payment.
- Proposals of reduction in ROE for capital cost after cut-off date, reduction in equity after useful life etc. will send a bad signal and be detrimental for the investment sentiment in the country.
- Will increase risk perception, interest rates and the consumer tariff.

- **To maintain certainty in regulatory framework as stipulated in the NEP.**
- **Modifications / change in regulations to be adopted only for new projects / investments.**

Auxiliary Energy Consumption

- The Draft defines 'Auxiliary Energy Consumption' or 'AUX' in relation to a period in case of a generating station means the quantum of energy consumed by auxiliary equipment of the generating station, such as the equipment being used for the purpose of operating plant and machinery including switchyard of the generating station and the transformer losses **<u>within the generating station</u>**, expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station.

Comment

- The phrase "within the generating station" creates ambiguity in considering the auxiliary equipment such as pump-house, external coal handling plant (jetty and associated infrastructure etc.) in case of **imported coal** based power stations as a part of Auxiliary Energy Consumption.

Suggestions

- To allow Auxiliary Consumption for External Coal Handling Plant (jetty and associated infrastructure) for imported coal based generating plant/station
- Appropriately modify definition to cover auxiliary consumption by auxiliary equipment outside the generating station also being used for the purpose of power generation.

Change in Law

- Regulation 3 (10) – "'Change In Law' means occurrence of any of the following events:

  (d) change by any competent statutory authority in any condition or covenant of any consent or clearances or approval or licence available or obtained for the project; or"

Comment

– The Judgment of the Hon'ble Supreme Court in the Civil Appeal Nos. 5399-5400 of 2016 dated 11.04.2017 (the Energy Watchdog Case) held that even a letter issued by the Government Instrumentality has force of Law and can be considered as a Change in Law.

Suggestion

▪ The following bullet may be added in the definition of Change in Law:

  "Any direction/communication by Indian Governmental Instrumentality / any Competent authority which is enforceable on the generating company / licensee and results in financial impact".

Change in Law provisions / regulations to be in line with the Hon'ble Supreme Court Judgment in the Energy Watchdog case.

Equity base post useful life of asset

- The accumulated depreciation as on completion of useful life less cumulative repayment of loan is proposed for **reduction of the equity** in the draft regulations till the generating station continues to generate and supply electricity to the beneficiaries.

Comments

- Complete shift from the approach being followed for the last 15 years → alters the investment risk perception / increase in regulatory uncertainty.
- Scope for increase in the cost of debt → not in the interest of the consumers
- Contradicting Hon'ble Supreme Court decision in Appeal No. 256 of 2007 (referred at Clause 6.4.1 (e) of the Explanatory Memorandum).
- Such move will de-motivate prospective investors, create regulatory uncertainty and force developers to shut down the plant after the completion of useful life.
- Adverse impact on the Beneficiaries → have to resort to costlier power from alternate sources.

Suggestion

- Not to disturb the existing RoE provisions.
- To adopt any changes in the regulations only for new projects / investments

Return on Equity

- Draft proposes **Return on equity** in respect of additional capitalization after cut-off date within or beyond the original scope at the **weighted average rate of interest** on actual loan portfolio

Comments

- Reduction in RoE may result in increase in the cost of debt → not in the interest of consumers.
- Will discourage generating companies from undertaking efficiency improvement measures → results in under-utilisation of capacity.
- No rationale given for treating capital expenditure and additional capital expenditure differently.
- Will have serious implication in the implementation of the revised environmental norms.

Suggestion

- To retain financial norms as per the Tariff Regulations, 2014-19.
- Power sector is already stressed, higher return to be considered to encourage investments.

Interest on Working Capital

- Coal stock for non pit-head generating stations is proposed to be reduced from existing 30 days to 20 days.
- Based on the actual position of coal stock at some of the NTPC stations.

Comments

- Cost of Coal Stock relates not only to physical stock lying in plant but also to the cost paid for coal in transit.
- Coal procurement requires advance payment → adds to working capital burden.
- Lead time of vessels for imported coal transport is much more than 20 days; much higher for other than Indonesia.

Suggestion

- Coal stock of 30 days should be continued in line with existing regulations.

O&M norms for 600 MW and above capacity

- Draft proposes O&M Expense norms for FY 2019-20 (Rs. 17.39 Lakhs/MW) lower than FY 2018-19 (Rs. 18.38 Lakhs/MW)

Comments

- O&M expense in FY 2019-20 is 5.39% lower than FY 2018-19 norm for 600 MW and above Units.
- Y-o-Y escalation for FY 2019-24 is ~ 3.2% , it is ~ 6.3% for FY 2014-19.
- O&M expenses for FY 2019-20 shall atleast reflect the inflation

  (Wt. Avg. inflation as per Exp. Memo. is 3.2% for last 5 years).
- O&M expenses would also remain higher due to the following:
  - Minimum wages being revised twice during the year and by 25% - 30% in many States.
  - Additional impact of GST on O&M contracts.
  - O&M increases with aging of plant
  - Drastic reduction in thermal PLFs due to RE generation requires higher O&M for preservation measures.
- Additional O&M expenses for imported coal based power plants towards FGD, jetty etc. (on the same lines of allowing additional Auxiliary Consumption).

Suggestion

- O&M norms for the FY 2019-20 should atleast be higher by the inflation rate over the norm for FY 2018-19..
- Y-o-Y escalation to consider higher O&M expenses resulting from the Change in Law stated above.
- To allow separately additional O&M expenses for imported coal based power plants towards FGD, jetty etc. (on the same lines of allowing additional Auxiliary Consumption).

Landed cost of primary fuel

- The Draft proposes the landed cost of primary fuel for any month shall include base price or input price of fuel corresponding to the grade and quality of fuel and inclusive of statutory charges as applicable, transportation cost by rail or road or any other means, and loading, unloading and handling charges.

Comment

- Coal washing charges also for generation of electricity → legitimate expense.

Suggestion

- Regulation to include all associated costs related to coal washing in landed cost of primary fuel.

Quarterly measurement of PAF

- Draft proposes quarterly measurement of PAF and separate capacity charge computation for peak and off-peak periods .
- Loss in recovery of Capacity Charge for Peak period shall **not be off-set** against the notional gain on account of over-achievement in Off-Peak period.

Comment

- The country operates on one nation one grid principle hence power flow is not confined to any particular region.
- Peak and Off-Peak periods across regions may not be same
- Concept of peak and off-peak period Region-wise is therefore not justified.
- Proposed regulation would give rise to inter-regional disputes.
- To prevent mis-declaration alternate measures may be specified.

Suggestion

- Computation of availability on annual basis to be retained as per the existing Regulations for FY 2014-19.
- If the proposal is intended to prevent mis-declaration, other mitigation measures to be adopted.

Declaration of day ahead availability

- Draft proposes that the generating company shall declare day ahead availability or any revision thereof in respect of generating station for each fuel source.

Comments

- Practically not possible to implement
- Domestic coal itself may be from different sources / mines.
- Domestic coal based plant cannot operate purely on imported coal.
- Such declaration of availability may only be possible for gas based stations and not for coal based stations.

Suggestions

- The requirement of declaration of day ahead availability for each fuel source may be dropped.

LPS and payment apportionment priority

- Draft suggests LPS at the rate of 1.25% per month as against 1.5% per month in the 2014-19 Regulations.

Comments

- As a deterrent for default in payments, LPS of 1.5% per month may be retained.
- Regulations to also specify the Priority of Apportionment of Payment on same lines of Section 63 PPAs.

Suggestion

- To retain LPS rate of 1.5% instead of 1.25%.
- To specify payment priority apportionment to avoid disputes.

Other important points

- **Regulation 52 (2)** - Adjustment in calorific value on account of storage loss at plant to be aligned with CEA proposal vide letter dated 17.10.2017 for margin of 105-120 kcal/kg for non-pit head and 85-100 for pit head stations.

- **Regulation 48** - Applicability of non-pit head stations Transit loss for imported coal – anomaly in Explanatory Memo. To be rectified as per Draft Regulations.

- **Regulation 3 (48)** - Security expenses in the O&M cost to include both physical and cyber security.

- **Regulation 35 (3)** - Norms applicable to D/C may be considered for HVDC bi-pole system.
- **Regulation 8(4)** - Regulations to clarify that O&M expenses for assets installed to meet revised emission standards shall be allowed.

Comments / Suggestions by

Adani Transmission (India) Limited

Norms for O&M Expenses for Bays has been reduced by 56%.

- **CERC Proposal:** Hon'ble Commission has reduced the Norms of O&M Expenses for bays by 56%. Simultaneously, Additional Normative O&M Expenses for transformers and communication system has been proposed by Hon'ble Commission.
- It is further mentioned that the Security Expenses, Capital Spares and Self insurance reserve shall be allowed separately after prudence check.
- **Comments** - The normative O&M expenses for sub-stations bay specified for FY 2019-20 is 56% lower than FY 2018-19. Additionally, y-o-y escalation for sub-station bay is ~3.1% in control period 2019-24 as compared to ~3.2% during 2014-19. While it is proposed to include O&M charges for Transformation capacity, it may be appreciated that the same is not sufficient to cover the reduction in O&M expenses of bays. In our case, the effect of reduced O&M expenses for bays is such that the overall O&M expenses are getting reduced by app. 20%, which is not sufficient to carry out the O&M and will hamper the O&M activities adversely.
- We would also request the Hon'ble Commission to provide separate O&M charges for Bus Reactor, Switchable Line Reactor and FSC, as the O&M expenses on these is substantial, whereas as per current regulations, transmission licensees don't get paid for O&M of Bus Reactor, Switchable Line Reactor and FSC.
- Further, request to clarify on proviso regarding Security Expenses, Capital spares and Self insurance.

Norms applicable for O&M Expenses for M-M HVDC should continue to be Talchar Kolar

Chapter 8, Regulation 35 (3)

- **<u>CERC Proposal:</u>** Hon'ble Commission has proposed following norms for HVDC Station:

Norms for HVDC stations	Existing Norm		Proposed Norm	
	2017-18	**2018-19**	**2019-20**	**2020-21**
Rihand-Dadri HVDC bipole scheme (Rs Lakh)	1,922	2,082	2,319	2,393
Talcher- Kolar HVDC bipole scheme (Rs Lakh)	1,493	1,617	2,564	2,646
Bhiwadi-Balia HVDC bipole scheme	1,955	2,119	1,761	1,817
Bishwanath-Agra HVDC bipole scheme	-	-	1,329	1,371

- It has been specified that for **new** HVDC bi-pole scheme, O&M expenses of similar HVDC bi-pole scheme shall be allowed on pro-rata basis..

- **<u>Comments</u>** - The Hon'ble Commission has specified that for new HVDC bi-pole scheme, O&M expenses of similar HVDC bi-pole scheme shall be allowed on pro-rata basis. In this regards, we believe that new HVDC bi-pole scheme means new HVDC scheme achieving its commercial operation on or after 01.04.2019. HVDC Mundra-Mohindergarh system is not a new scheme and hence it is respectfully submitted to clarify that normative O&M expense of Talcher-Kolar HVDC scheme shall continue to be applicable to Mundra-Mohindergarh system to avoid confusion..

Incentive for HVDC transmission system proposed to be reduced by 1.50%

- **<u>CERC Proposal:</u>** It is proposed to reduce Incentive payment from 3.75% (96% to 99.75%) to 2.25% (97.5% to 99.75%).

- **<u>Comments</u>**– Hon'ble Commission has proposed to increase incentive threshold for HVDC from 96% to 97.5% (Reduction of 1.50%). It may be appreciated that HVDC system is not comparable with AC system for following reasons:
  - HVDC system is state of art technology which involves complex controls and logic function and cannot be compared with AC system.
  - In HVDC system, both terminal stations along with line is considered as a one element. Hence, should not be equivalent to AC system.

- Such reduction in incentive shall be viewed negatively by lenders as financial appraisal has been carried out considering income stream with allowable incentives upto 3.75%.

- Therefore, the incentive should be continued as provided in the existing regulations i.e. for availability beyond the performance norms of 96% for HVDC system.

Transmission charges (inclusive of incentive) should be calculated on Cumulative Annual Availability instead of Monthly Availability. – Reg. 56 (2)

- **<u>CERC Proposal:</u>** Level of recovery of transmission charges including incentive
  - Transmission Projects – Attainment of Availability on Monthly basis
- **<u>Comments</u>** -Since normative availability is prescribed on annual basis, there is no logic in specifying the recovery of transmission charges (including incentive) on standalone basis for each month.
- Proposed regulation will result in non-availability of funds for debt service and O&M for the months during which maintenance is carried out
- ISTS licensee may not be able to recover Incentive for all months of the year, despite cumulative annual availability greater than 99.75%, resulting in unavoidable distress to ISTS licensees.
- Therefore, recovery of transmission charges (including incentive) should be allowed based on cumulative availability..
- Further, same is also in contrary to provision of working out incentive, based on cumulative annual availability for generation projects applicable in terms of CERC Terms & Conditions of Tariff Regulations 2014-19.
- Hence, recovery formula of Monthly Transmission Charges including incentive to be modified to factor in Cumulative Annual Availability.

Other issues

- O&M for GIS substations should be same as AIS.
- Payment of transmission charges in case of mismatch in date of commercial operation
- Prudence check of capital expenditure in light of cost of similar projects based on historical data
- Implementation Agreement between parties
- Capital Cost and O&M expenses for unutilised bays.
- Additional RoE of 0.5% for early commissioning of the project proposed to be discontinued.
- Sharing of 50 % Non-Tariff Income other than investment of RoE
- RoW should also be included as uncontrollable in line with Land acquisition.
- Receivables for working capital proposed to be 45 days of annual fixed charges.
- Return on equity in respect of additional capitalization after cut off date within or beyond
- Interest/dividend income out of ROE for transmission business.
- O&M expenses for HVDC (Back to Back) BTB Stations should be removed
- Decapitalization of the Assets in case of refurbishment
- Application for determination of tariff is to be filed within 60 days of anticipated COD
- No Lower limit in percentage for the interim tariff has been specified.
- There is no escalation provided in the proposed regulations for the period 2019-24 for special allowance.
- Initial Spares shall be capitalised upto cut-off date.
- Additional capitalisation within the original scope and upto the cut-off date.
- Disallowance of depreciation on account of lower availability

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