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# Views of Tata Power on CERC Draft Tariff Regulations for Tariff Period 2019-24

1<sup>st</sup> February 2019

# Background of the CERC Consultation Paper



- CERC has on 14<sup>th</sup> Dec 2018, published the Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for the tariff period from 1.4.2019 to 31.3.2024 soliciting comments from all the stake holders including ISGS, ISTS, IPPs and JVs whose tariff is regulated by CERC T&C for 2019.

# Comments on Draft CERC Tariff regulations FY19-24



Matter	Proposed in Draft Regulations	Views/Observations
Definitions	3(7) 'Bank Rate' means the one year marginal cost of lending rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points;	It is noticed that SBI MCLR is usually less than SBI Base Rate by an average of 0.75%. Therefore, Developers who have Interest Costs linked to SBI Base Rate need to be given suitable dispensation.
Definitions	3(26) 'Force Majeure' for the purpose...(d) Delay in obtaining statutory approval for the project except where the delay is attributable to project developer;	2 more eventualities may be considered for inclusion in the above definition: (i) Any failure or delay by the Contractor of the project developer due to a FM event, (ii) Any direct or indirect cyberattack affecting the operation of the project developer. We have also proposed to extend the applicability of this term for Ad – Cap projects which currently is only linked to main Project.
Definitions	3(31) 'GCV as received' means the GCV of coal or lignite as measured at the unloading point of the thermal generating station through collection, preparation and testing of samples from ....: Provided that the measurement of coal or lignite shall be carried out through Third party sampling ....; Provided further that samples of coal or lignite shall be collected either manually or through hydraulic augur ....	<ul style="list-style-type: none"> <li>Condition of Third Party Sampling may be relaxed for a period of six months till 30.09.2019.</li> <li>additional capital costs pertaining to such new technology and additional O &amp; M costs required for operating such mechanism shall be approved</li> </ul>
Definitions	3(42) 'Landed Fuel Cost'; 3(78) 'Unloading point'	cost of sampling, preparation and testing including the cost of Third party sampling as envisaged in Proviso 1 of Regulation 3(31) allowed for built in Landed Fuel Cost by the generating companies

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COD	Treatment of mismatch in date of commercial operation:	<ul style="list-style-type: none"> <li>Scheduled COD of Transmission System should be considered for computing penalty value instead of COD of the Generating Company.</li> <li>delay at Transmission Licensee's – an uncontrollable factor for the Generation Company and additional costs due to such delay after offsetting the compensation received to be approved as pass through in the Capital Cost of the Generating Company</li> </ul>
Tariff Determination	Regulation 8(3) - In case of expansion of existing generating station, the tariff shall be determined for the expanded capacity in accordance with these regulations: Provided that the common infrastructure of existing generating station, shall be utilized for the expanded capacity and the benefit of new technology ...	<ul style="list-style-type: none"> <li>The Regulations should not be made mandatory to all expansion projects.</li> <li>It may not be practically feasible to extend technology to existing plants in all cases and sharing the benefits of new technology with older units may be taken up on a case to case basis</li> </ul>
Tariff Determination	9(3) In case of emission control system required to be installed in existing generating station as per revised emission standards, the application shall be made for determination of supplementary tariff (fixed charges or variable charge or both) based on the actual capital expenditure duly certified by the Auditor;	<ul style="list-style-type: none"> <li>ECS involve huge capex and its difficult to attain financial closure for such projects</li> <li>entire depreciable value (i.e 95% of the project cost) shall be recoverable over the residual life of the generating station.</li> <li>timeline for approving such supplementary tariff petition may be kept as 90 days considering the criticality of the matter</li> <li>Additional O&amp;M, AUX and Deemed Availability during installation</li> </ul>
Tariff Applicability	10 (4) In case of the existing projects, the generating company or the transmission licensee.....tariff approved by the Commission and applicable as on 31.3.2019 for the period starting from 1.4.2019 till approval of final tariff by the Commission ...	Clarity is needed on which norms shall be applicable for Variable Cost.

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Matter	Proposed in Draft Regulations	Views/Observations
In Principle Approval in Specific Circumstances	The generating company or the transmission licensee undertaking any additional capitalization on account of change in law events or force majeure conditions may file petition for in-principle approval for incurring such expenditure after prior notice to the beneficiaries or the long term customers, as the case may be, along with underlying assumptions, estimates and justification for such expenditure if the estimated expenditure exceeds 10% of the admitted capital cost of the project or Rs.100 Crore, whichever is lower.	<p>may require immediate investments during a Tariff period instead of beginning of a Tariff Period for matters which are necessary for efficient, safe and successful running including R &amp; M and could not be foreseen in the beginning of control period. In view of such situations, we, humbly submit that the provision may be extended for such <b>unforeseen events</b> so as to provide an avenue to the developers to approach the Hon'ble Commission.</p> <p>Such unforeseen events may include events like shortage of water, uncontrollable delays in coal/fuel transportation, water stagnation in mines restricting coal offtake etc.</p>
Components of Tariff/ Capital Cost	<p>14(2) The supplementary fixed cost for additional capitalization on account of implementation of revised emission standards in the existing generating station or new generating station, as the case may be, shall be determined by the Commission separately;</p> <p>18 (2) (b) Interest during construction and financing charges, on the loans</p>	IDC shall be approved even for normative Loan for Additional Capitalisation
Capital Cost: for PAT scheme	18 (2)(o) and 18 (3) (f) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.	Hence, any gains for sharing under Regulation 70 shall be arrived at by netting off the losses (including penalties) incurred by the generating company under PAT scheme

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Matter	Proposed in Draft Regulations	Views/Observations
Capital Cost: Controllable/ Uncontrollable factors	21 Controllable and Uncontrollable factors	<ul style="list-style-type: none"> <li>to consider instances of shortage of water for inclusion as an Uncontrollable event whether it be due to limited supply from Civic bodies or may be due to low rainfall or may be due to embargo/limitation on drawl of water from rivers</li> <li>delay at Transmission Licensee's – an uncontrollable factor for the Generation Company</li> </ul>
Additional Capitalization-Transmission	of Additional Capitalisation within the original scope and after the cut-off date, we wish to submit that in tariff regulation 2014-2019, the Hon'ble Commission had allowed additional capitalization under Regulation 14 (3) (ix)	<ul style="list-style-type: none"> <li>provision from existing Tariff Regulation 2014-19 may be retained to cover the additional expenditure on items such as polymer insulators, insulators cleaning infrastructure etc.</li> <li>change in course of a river causing damage to Transmission Towers. Additional Capitalisation due to such uncontrollable factors</li> </ul>
R & M	26 (4) After completion of the R&M, .....shall file a petition for determination of tariff. Expenditure incurred or projected to be incurred and admitted by the Commission after prudence check, <b><u>and after deducting the accumulated depreciation already recovered from the original project cost</u></b> , shall form the basis ...of tariff.	<ul style="list-style-type: none"> <li>equity invested by the developer would always continue to be 30% of the original project cost along with equity invested for subsequent additional capitalisation</li> </ul>
Special Allowance	27 (3) The special allowance admissible to the generating station shall be @ Rs 9.5 lakh per MW per year for the tariff period 2019-24.	<ul style="list-style-type: none"> <li>it's proposed to allow nominal escalation rate may be kept equivalent to escalation rate allowed for normative O &amp; M expenses</li> </ul>



# Comments on Draft CERC Tariff regulations FY19-24



Matter	Proposed in Draft Regulations	Views/Observations
Special Provision	<p>28 (1) In respect of a thermal generating station that has completed 25 years of operation from the date of commercial operation, the generating company and the beneficiary may agree on an arrangement where the total cost inclusive of the fixed cost and the variable cost for the generating station as determined under these regulations, shall be payable on scheduled generation instead of the pre-existing arrangement of separate payment of fixed cost based on availability and energy charge based on schedule.</p> <p>28 (2) The beneficiary will have the first right of refusal and upon its refusal to enter into an arrangement as above the generating company shall be free to sell the electricity generated from such station in a manner as it deems fit.</p>	<ul style="list-style-type: none"> <li>giving right to either party to decide for the extension for subsequent period on mutual agreement basis.</li> <li>the option of continuing with existing two part tariff framework may also be provided/included.</li> <li>any beneficiary shall be allowed to exit before the PPA term only upon paying the then net present value of Annual Fixed Charges payable by them to the Generating companies for the balance life of the PPA</li> </ul>
RoE	<p>30 (2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system</p>	<p>post tax RoE for Thermal Generating assets and Transmission assets shall be kept to atleast 15.5% so as to ensure an IRR of around 14.5% for the useful life of the project.</p>
Interest on Loan	<p>Applicable Interest Rate for Normative Debt</p>	<p>rate of such normative debts may be considered a little less than Bank Rate instead of linking it to last available weighted average rate of interest of last available loan or the one applicable for the generating company as a whole</p>
Refinancing	<p>Regulation 71. Sharing of saving in interest due to re-financing: If re-financing of loan by the generating company or the transmission licensee, as the case may be, .... in the ratio of 50:50.</p>	<ul style="list-style-type: none"> <li>The sharing ratio may be retained at 60:40</li> <li>that the applicable Interest rate shall never be reset during the term of any tariff period after COD except for market changes</li> </ul>
Depreciation	<p>33 (3) The salvage value of the asset shall be considered as 5% and depreciation shall be allowed up to maximum of 95% of the capital cost of the asset:</p>	<p>To introduce appropriate clauses to ensure complete recovery of complete depreciable value by the generator through tariff during the useful life of the project</p>

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Matter	Proposed in Draft Regulations	Views/Observations
Depreciation	33 (8) In case of de-capitalization of assets in respect of generating station or unit thereof or transmission system or element thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the decapitalized asset during its useful services.	<ul style="list-style-type: none"> <li>in events of damaged assets, allow the generating companies to recover atleast the depreciable value of such damaged assets over the life of the project</li> </ul>
Interest on Working Capital	34. Interest on Working Capital: (1) The working capital shall cover: (v) Receivables equivalent to 45 days of capacity charges and energy charges	<ul style="list-style-type: none"> <li>Coal Stock shall be kept as 30 days</li> <li>Receivable equivalent to 60 days</li> <li>applicable Late payment surcharge even more stringent</li> </ul>
O & M Expenses	35. Operation and Maintenance Expenses	<ul style="list-style-type: none"> <li>Compensation Allowance with certain escalation in the Allowance for each year of the Control Period. As an alternative, concept of Non-DPR schemes may be incorporated as followed by Hon'ble MERC</li> <li>When compared to Licensees having huge volume of assets, O&amp;M norms for licensees need having limited number of projects shall be higher as such licensees are not in a position to draw the benefit of economies of scale.</li> <li>GST recovery as pass through. CPI weightage to be increased considering Salary Exp.</li> </ul>
Computation and Payment of Capacity Charge	<p>51 (3) Normative Plant Availability Factor for "Peak" and "Off-Peak" periods shall be equivalent to the NQPAF specified in Regulation 59 (A) .....</p> <p>51 (5) ...Provided that if the cumulative peak period PAF achieved ...</p> <p>51 (6) Availability definition</p>	<ul style="list-style-type: none"> <li>to decide a consultation process among the RLDCs for peak and off peak period for the month; procedure shall include steps for requesting for change in Annual Plant Maintenance Schedule due to reasons beyond Generating Station's control;</li> <li>option of relaxing the norms for the gencos for exceptional events where it faces a stretched forced outage in the same quarter having a scheduled annual maintenance.</li> <li>generating companies to recover generation linked incentive against their respective supplies to their respective Beneficiaries.</li> <li>Declared Availability may be linked to Contracted Capacity instead of Installed capacity.</li> </ul>



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Matter	Proposed in Draft Regulations	Views/Observations
Norms of Operation	<ul style="list-style-type: none"> <li>59 (E) Provided that for thermal generating stations with induced draft cooling towers and where tube type coal mill is used, the norms shall be further increased by 0.5% and 0.8% respectively:</li> <li>59 (c ) Gross Station Heat Rate</li> <li>61 Incentive for Transmission Availability beyond 99.75%</li> </ul>	<ul style="list-style-type: none"> <li>It is requested that Additional Aux of 1.5% for SOx and 0.5% for NOx may kindly be specified.</li> <li>1% margin in SHR may be provided for projects installing such as SOx and NOx systems by considering a factor of 1.06 instead of 1.05 in the above stated formula.</li> <li>The maintenance measures to keep availability high are, therefore, causing the O&amp;M Cost to be more than the norms. Therefore it is proposed that incentive for availability may not be limited to 99.75% and should be allowed upto 100%.</li> </ul>
Sharing of Benefits	<p>70 (2) The financial gains.... shall be shared in the ratio of 50:50 between the generating stations and beneficiaries. <math>Net\ Gain = (ECRN - ECRA) \times Scheduled\ Generation</math></p> <p>72. Sharing of Non-Tariff Income: The non-tariff income in case of generating station and transmission system on account of following shall be shared in the ratio of 50:50 with the beneficiaries and the long term customer on annual basis:</p>	<ul style="list-style-type: none"> <li>to kindly retain the existing profit sharing ratio of 60:40 in favor of developers to meet at least expenses involved in the process of achieving operational benefits from such operational gains.</li> <li>Without prejudice to the above, we request Hon'ble Commission to kindly exclude the proceeds under "Income from sale of scrap" from the list of sources of Non- Tariff Income for sharing with beneficiaries. This proposal is in view of the fact that even after repayment of long term loan of around 70% of the project cost, generating company is allowed to recover only 20% (now it would be 25% as per the current proposal) of the Project Cost against its 30% equity investment and thus, the generating company is never able to recover the equity invested completely</li> </ul>
Adjustment in GCV	Regulation 52(2)	<ul style="list-style-type: none"> <li>to kindly adopt the same norms as suggested by CEA for Pit head and Non-Pit head stations at 100 kCal/kg and 120 kCal/kg respectively</li> </ul>
Norms for SHR	Regulation 59 (C) (b)	<ul style="list-style-type: none"> <li>recommendation from CEA may be accepted as it is</li> </ul>

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Consent for High Energy Cost	52 (3) Proviso 1 and Proviso 2 Provided further that the weighted average price of use of alternative source of fuel shall not exceed 30% of base price of fuel computed as per clause (7) of this Regulation.	<ul style="list-style-type: none"> <li>Options for Alternate Source: E-auction coal (depending on opportunity), Special E-forward auction (depending on opportunity), coal washeries and even on imported coal in certain instances to meet the requirements of its beneficiaries.</li> <li>In view of coal procurement through auction process, generators may not initiate a price consultation process.</li> <li>On the other hand, in case beneficiary do not provide their consent to the generators for procuring coal from such alternative sources, the Generators shall be considered deemed available for such period and shall be allowed to recover annual fixed charges for such effected period.</li> </ul>
Other Proposal – GST Change in Law		<ul style="list-style-type: none"> <li>GST may be considered as a Change in Law event</li> </ul>
Other Proposal – Compliance to Existing Law		<ul style="list-style-type: none"> <li>Hon'ble CERC may take cognizance of MOEF office memorandum no. 22-65/2017-IA.III dated 01.05.2018 (regarding Corporate Environment Responsibility in addition to the cost envisaged for implementation of EIA/EMP) and J-15011/01/2018-IA.I(T) dated 19.11.2018 (regarding standardization of Conditions to be stipulated in the Environmental Clearance of Thermal Power Projects) and consider them as Change in Law for compliance for existing power plants</li> </ul>

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