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Date: 15.05.2020

**To,  
The Secretary,  
Central Electricity Regulatory Commission  
Third floor, Chanderlok Building,  
36, Janpath  
New Delhi-110001**

**Subject: Submission of comments/suggestions/objections on the Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff)(First Amendment) Regulations, 2020.**

**Ref:- Public Notice no. L-1 /236/2018/CERC dated 01.04.2020**

Sir,

We write in reference to the Public Notice No. L-1 /236/2018/CERC, published on the Hon'ble CERC's Website enclosing Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2020.

By the said Public Notice Hon'ble Commission has invited comments / suggestions / objections from the stakeholders on the said draft amendment.

Accordingly, we hereby submitting our comments as Annex-1, for kind consideration of the Hon'ble Commission.

Thanking You,  
Yours sincerely,  
**For BSES Yamuna Power Ltd.**

Rajul Agarwal  
(Head- Regulatory Affairs)

Encl. As above

## Annex-1

### BYPL Comments on Draft of First Amendment of CERC's Tariff Regulation for FY 2019-24

Sr No.	Draft Regulation	Comments/Rationale
1.	<p><b>2. Amendment to Regulation 3 of the Principal Regulations</b></p> <p>“(5a) Auxiliary energy consumption for emission control system ' ' or 'AUXe' in relation to a period in case of coal or lignite based thermal generating station means the quantum of energy consumed by auxiliary equipment of the emission control system of the coal or lignite based thermal generating station;”</p>	<p>1. The normative Auxiliary energy consumption in the Tariff Regulations, 2019 are very liberal. It is also noted that the consumption in the auxiliaries of the generating station is a controllable parameters.</p> <p>2. The first casualty of the liberal Auxiliary energy consumption which is further sought to be increased on account of emission control system of thermal generating stations is the conservation measures needed to be adopted for its low consumption which ultimately results in sub-optimal operation of the generating station. It is our contention that the Hon'ble Commission may not go for such amendments and ask the generators to use the cushion already available in the existing norms on Auxiliary energy consumption. It is accordingly submitted that the Hon'ble Commission may not do anything through the regulatory policies which may ultimately result in sub-optimal operation of the coal or lignite based thermal generating stations.</p> <p>3. It is also added that the determination of supplementary tariff for the emission control system installed in the coal or lignite based thermal generating station will also not be necessary as the charges in this regard can be taken either in the main petition or in the true up exercise. This would unnecessary result in burdening the adjudicatory job of the Hon'ble Commission and also the Discoms who have to defend and file its views on the Petition.</p>
2.	<p><b>21. Amendment of Regulation 42 of the Principal Regulations</b></p> <p>“(5) The Plant Availability Factor for a Month ("PAFM") shall be computed in accordance with the following formula:  <math display="block">PAFM = (10000 \times DCi) / [Nx*ICx (100 - AUXn - AUXen)]\%</math></p>	<p>As per Regulation 42 of CERC Tariff Regulations 2019, Generators avail incentive if their PAF is more than NAPAF in terms of recovery of additional Capacity Charge. If the amendment proposed is included then the incentive will undue benefit already incentives Generators. The GENCOs are under an obligation under the PPA to cater to the demand of the beneficiaries/consumers. For performing their obligations GENCOs are already getting Return on Investments. As such there arises no need for them to incentives for performing their basic obligation. Giving an incentive on an obligation is inadmissible and incorrect model of providing incentives to a generating company. Incentives are linked to overachievement of targets that are set out by the Hon'ble Commission, to improve efficiency of a generating company. Accordingly, there cannot be a double incentive for</p>

		meeting the obligations as the same will put an additional tariff burden on the ultimate consumers.
3.	<p><b>9. Amendment of Regulation 21 of the Principal Regulations:</b></p> <p><b>9.2.</b> A new clause, namely, Clause (6) shall be added after Clause (5) of Regulation 21 of the Principal Regulations as under: “(6) For the purpose of Clauses (4) and (5) of this Regulation, IDC on actual loan and normative loan infused shall be considered.”</p>	Keeping the cost plus nature in mind, we would urge Hon’ble CERC to allow IDC on basis of actual loans.
4	<p><b>12. Amendment of Regulation 30 of the Principal Regulation</b></p> <p><b>12.2.</b> A new clause, namely, Clause (3) shall be added after Clause (2) of Regulation 30 of the Principal Regulations, as under: “(3) The return on equity in respect of additional capitalization due to emission control system shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or in the absence of actual loan portfolio of the generating station, the weighted average rate of interest of the generating company as a whole shall be considered;”</p>	<p>We appreciate Hon’ble CERC’s initiative of computing the ROE with weighted average rate of interest on additional capex , as this would help in rationalizing the increase in tariff on account of installation of emission control systems.</p> <p>The need for installation of Emission Control System (ECS) has risen out of change in law issued by MNRE on 7.12.2015 with regard to revision of emission norms of plants, which made it obligatory for generators to install emission control system by 7.12.2017. However the deadline was subsequently revised to Dec’2022.</p> <p>Considering the fact that during investment conceptualization stage of plants this investment wasn’t foreseen hence we are convinced by the commission’s view as stated in the explanatory memorandum that it’s reasonable to compensate the generating company for infusion of equity at the rate of borrowing from financial institutions. The relevant abstract has been reproduced below.</p> <p><i>“Regulation 30: Return on Equity 3.15 Servicing of additional capital expenditure is to compensate the generating station for the additional cost incurred to comply with revised emission standards. The Commission is of the view that it would be reasonable to allow equity infused by the generating company for installing emission control system at the cost of borrowing from financial institution. Explanatory Memorandum to Draft Regulations Page 8 The same principle is also applicable for additional capital expenditure required due to other Change in Law events. Accordingly, it is proposed to amend existing clause (2) and to add new clause (3) to Regulation 30”</i></p>
	<p><b>13. Amendment of Regulation 32 of the Principal Regulations</b></p> <p>13.1. A new clause, namely, Clause</p>	A sizable fund has been acquired on account of the Green Energy Cess which is levied on the purchase of coal, we would urge Hon’ble CERC to request the Union Government of India to utilize this fund and provide loans to generating companies

<p>(5a) shall be inserted after Clause (5) of Regulation 32 of the Principal Regulations as under:</p> <p>“(5a) The rate of interest on loan for emission control system shall be the weighted average rate of interest of actual loan portfolio of the emission control system or in the absence of actual loan portfolio, the weighted average rate of interest of the generating company as a whole shall be considered.”</p>	<p>from this fund at a low interest rate for installation of ECS.</p> <p>This would help drastically rationalize the potential tariff shock which is anticipated in the foreseeable future.</p>
<p><b>14. Amendment of Regulation 33 of the Principal Regulations</b></p> <p>14.1. A new clause, namely, Clause (9) shall be added after Clause (8) of Regulation 33 of the Principal Regulations as under:</p> <p>“(9) The depreciation of the emission control system shall be computed from its date of operation for the balance useful life or extended life of the generating station, as the case may be.”</p>	<p>Coal fired plants totalling to about 26 GW of installed capacity had been identified for closure between 2022-27 by CEA in its national electricity plan issued in Jan’18 on account of completion of useful life, however they are still going ahead with installation of emission control systems (ECS) as their useful life is marginally over shooting the 2022 deadline for installation of ECS.</p> <p>In view of this we are concerned that if entire cost of ECS installation is to be recovered within the useful life of these plants, it would create a tariff shock for Discoms &amp; their end consumers.</p> <p>Hence we propose that salvage value of supplementary AFC of these plants be kept at 50%, these plants may still choose to operate with another set of beneficiaries in line with provision of CERC tariff regulation 2019. The relevant clause has been reproduced below.</p> <p><i>“17. Special Provisions for Tariff for Thermal Generating Station which have Completed 25 Years of Operation from Date of Commercial Operation:</i></p> <p><i>(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, including provisions for target availability and incentive, where in addition to the energy charge, capacity charges determined under these regulations shall also be recovered based on scheduled generation.</i></p> <p><i>(2) The beneficiary shall 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.”</i></p>

		<p>OR</p> <p>An alternate approach can be that depreciation may be spread over a 12 year period or balance useful life of the plant whichever is higher as plants are mostly likely to operate beyond their useful life either with their existing beneficiaries or new beneficiaries after completing 25 years of operation as per clause 17 of CERC's tariff regulation 2019 which has been reproduced above.</p> <p>This would help proportionally distribute the burden of this additional capital investment amongst the existing &amp; new beneficiaries of a plant.</p>
	<p><b>15. Amendment of Regulation 34 of the Principal Regulations</b></p> <p>15.1. A new clause, namely, Clause (aa) shall be inserted after Clause (a) of Regulation 34 of the Principal Regulations as under: “(aa) For emission control system of coal or lignite based thermal generating stations:</p> <p>(i) Cost of limestone or reagent towards stock for 20 days corresponding to the normative annual plant availability factor;</p>	<p>Considering the fact that national average PLF of thermal plants is about 60%, we would urge Hon'ble CERC that while computing the cost of limestone component of IWC PLF of 60% should be considered instead of 85%.</p>
	<p><b>16. Amendment of Regulation 35 of the Principal Regulations</b></p> <p>16.1. At the end of the first sentence of first proviso under sub-Clause (6) of Clause (1) of Regulation 35 of the Principal Regulations, the words “and considering the norms of specific water consumption notified by the Ministry of Environment, Forest and Climate Change” shall be added.</p> <p>16.2. Sub-Clause(7) of Clause (1) of Regulation 35 of the Principal Regulations along with its proviso shall be substituted as under: “(7) The operation and maintenance expenses on account of emission control system in coal or lignite</p>	<p>We urge Hon'ble CERC to provide a normative quantum of gypsum generation and its normative price of sale. CERC may consider these normative values while calculating the O&amp;M cost while issuing the tariff order. This normative cost of gypsum sale may be subjected to true-up.</p>

	<p>based thermal generating station shall be 2% of the admitted capital expenditure (excluding IDC &amp; IEDC) as on the date of its operation, which shall be escalated annually at the rate of 3.5% during the tariff period ending on 31st March 2024:</p> <p>Provided that income generated from sale of gypsum or other by-products shall be reduced from the operation &amp; maintenance expenses.”</p>	