

Ref.: UPCL/CERC/15052020

Date: 15.05.2020

To

The Secretary
Central Electricity Regulatory Commission
3rd and 4th Floor, Chanderlok Building
36 Janpath, New Delhi -110001

Sub.: Comments on Draft CERC Terms and Conditions of Tariff (First Amendment)
Regulations, 2020.

Dear Sir

With reference to the comments invited by the Hon'ble Commission on the above mentioned Draft Regulations, we hereby submit our comments on the same with a request to kindly take the same on record.

Thanking You,

Yours Sincerely,

For **Udupi Power Corporation Limited**



Authorized Signatory

Encl: As mentioned above

Comments on draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2020

Sr. No.	Draft CERC Tariff (First Amendment) Regulations 2020	Proposed Amendments	Comments
1.	12.1. In the first proviso under Clause (2) of Regulation 30 of the Principal Regulations, the words "excluding additional capitalization due to Change in Law," shall be deleted and at the end of the said proviso, the words and expressions "or in the absence of actual loan portfolio of the generating station or the transmission system, the weighted average rate of interest of the generating company or the transmission licensee, as the case may be, as a whole, shall be considered;" shall be added.	To be deleted	First proviso under Clause (2) of Regulation 30 of the Principal Regulations was provided for differentiating additional capitalization due to Change in Law like Emission Control System from other additional capital schemes. It is submitted the distinction needs to be maintained as provided in principal Regulations. As submitted below RoE at 15.5% to be allowed for emission control systems installed pursuant to Change in Law.
2.	12.2. 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	12.2. 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 <u>shall be computed at the base rate of 15.5% for thermal generating station.</u>	Generating Companies are in advance stage of execution of the Emission Control Systems (ECS) and this retrospective modification in rate of return will adversely affect the financing of these ECS projects. ECS project is a standalone financial projects which will not be completely funded by debt by Banks/Financial Institutions If the developers are required infuse Equity then they would expect risk adjusted returns which would be in excess to the cost of debt, which in present Regulations is pegged at 15.5% for new projects. If the said rate is not granted developers may not be able to infuse the necessary equity or may

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	generating company as a whole shall be considered		not bring it at all which may cause delay/hamper the Emission Control System project. Having encouraged developers to invest in power projects by assuring RoE at 15.5% it may not be correct from regulatory perspective to provide lesser RoE to them for additional equity infusions which are mandatory to meet revised / new rules/guidelines of Gol.
3.	<p>15. Amendment of Regulation 34 of the Principal Regulations</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:</p> <p>“(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>(ii) Receivables equivalent to 45 days of supplementary capacity charge and supplementary energy charge for sale of electricity calculated on the normative annual plant availability factor;</p>	<p>15. Amendment of Regulation 34 of the Principal Regulations</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:</p> <p>“(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>(ii) Advance payment of limestone/reagent for 30 days</p> <p>(iii) Receivables equivalent to 45 days of supplementary capacity charge and supplementary energy charge for sale of electricity calculated on the normative annual plant availability factor;</p>	Advance payment for limestone / reagent for 30 days to be allowed on the same lines of regulation 34 a (ii).

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	<p>(iii) Operation and maintenance expenses in respect of emission control system for one month;</p> <p>(iv) Maintenance spares @ 20% of operation and maintenance expenses in respect of emission control system."</p>	<p>(iv) Operation and maintenance expenses in respect of emission control system for one month;</p> <p>(v) Maintenance spares @ 20% of operation and maintenance expenses in respect of emission control system</p>	
4.	<p>16.2. Sub Clause (7) Amendment of Regulation 35 of the principal regulation " Provided that income generated from sale of gypsum or other by-products shall be reduced from the operation & maintenance expenses."</p>	<p>16.2. Sub Clause (7) Amendment of Regulation 35 of the principal regulation " Provided that net income generated from sale of gypsum or other by-products after adjustment for the cost incurred in disposal of Gypsum shall be reduced from the operation & maintenance expenses."</p>	<p>Disposal cost of Gypsum along with transportation cost to be reimbursed. Sale of Gypsum (income) shall not be linked to the O&M expenses as large number of TPPs will be generating & disposing Gypsum. Further, the sale will be dependent on various factors such as purity, demand & proximity of the user etc. As all thermal stations will install FGD's, market for Gypsum sale may become thin & Gypsum disposal may become a big challenge.</p>
5.	<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 based thermal generating station shall be 2% of the admitted capital expenditure (excluding IDC & IEDC) as on the date of its</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 based thermal generating station shall be 2.5% of the admitted total capital expenditure including any undischarged liability, which</p>	<p>O&M cost should be linked to total admitted capital cost of ECS project including undischarged liability.</p> <p>For seawater based FGD system, O&M expenses at the rate of 2% of Admitted Capital Expenditure is too low and it is necessary to increase it to 2.5% since sea water is used in large quantities for Sulphur dilution from flue</p>

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	operation, which shall be escalated annually at the rate of 3.5% during the tariff period ending on 31st March 2024: Provided that income generated from sale of gypsum or other by-products shall be reduced from the operation & maintenance expenses."	shall be escalated annually at the rate of 3.5% during the tariff period ending on 31st March 2024: Provided that income generated from sale of gypsum or other by-products shall be reduced from the operation & maintenance expenses."	gas and it involves additional expenditure in the form of higher water cess.
6.	17. Amendment of Title of Chapter 10 of the Principal Regulations 17.1. The Title of Chapter-10 shall be substituted as "COMPONENTS OF ENERGY CHARGE AND SUPPLEMENTARY CHARGE	17. Amendment of Title of Chapter 10 of the Principal Regulations 17.1. The Title of Chapter-10 shall be substituted as "COMPONENTS OF ENERGY CHARGE AND SUPPLEMENTARY ENERGY CHARGE	
7.	21. Amendment of Regulation 42 of the Principal Regulations 21.1. In the proviso under the formula under Clause (2) of Regulation 42 of the Principal Regulations, the words "or installation of emission control system, as the case may be" shall be inserted after the words "Renovation and Modernisation" First proviso to Regulation 42 A <i>Provided that in case of generating station or unit thereof under shutdown due to Renovation and Modernisation, the generating company shall be allowed to recover O&M expenses and interest on loan due to emission control system only.</i>	The following words may be added to the proviso under the formula under Clause (2) of Regulation 42 of the Principal Regulations after the words on "loan only": <i>"and under shutdown for installation of emission control system the generating company shall be allowed to recover capacity charges."</i>	Shutdown period for implementation should be considered as Reserve Shut down and Capacity Charges pertaining to that needs to be allowed. Allowing only O&M expenses and interest on loan during the time of shut down of unit due to installation of emission control system will make the Generating station default on loan principal payments and will cause hardship to the developer, for implementing the directive of GOI. Hence, Capacity Charge (Interest on Loan, Depreciation, ROE, Interest on Working Capital, O&M expenses, etc) as mentioned in Regulation 15 Capacity and Supplementary Capacity Charges may be allowed during the shutdown period.

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8.	Clause 25 Amendments of Regulation 49 of the Principal Regulations / 25.2 / (e) (e) For Sea Water based Flue Gas Desulphurization (FGD) system: The reagent used is sea water, therefore there is no requirement for any normative formulae for consumption of reagent		For SW based FGD, Sea water is reagent and Large quantity of sea water is required for sulphur dilution from Flue gas. Hence, water Cess shall be considered under OPEX.																				
9.	<p>25.1. A new sub-clause, namely, sub-clause (bb) shall be inserted after sub-clause (b) of Clause (E) of Regulation 49 of the Principal Regulations as under: “(bb) Auxiliary Energy Consumption (AUXen) on account of emission control system of thermal generating stations:</p> <table border="1" data-bbox="297 810 822 1362"> <thead> <tr> <th data-bbox="297 810 562 922">Name of Technology</th> <th data-bbox="562 810 822 922">AUXen (as % of gross generation)</th> </tr> </thead> <tbody> <tr> <td colspan="2" data-bbox="297 922 822 994" style="text-align: center;">(1) For reduction of emission of sulphur dioxide:</td> </tr> <tr> <td data-bbox="297 994 562 1177">a) Wet Limestone based FGD system (without Gas to Gas heater)</td> <td data-bbox="562 994 822 1177">1.0%</td> </tr> <tr> <td data-bbox="297 1177 562 1289">b) Lime Spray Dryer or Semi dry FGD System</td> <td data-bbox="562 1177 822 1289">1.0%</td> </tr> <tr> <td data-bbox="297 1289 562 1362">c) Dry Sorbent Injection System</td> <td data-bbox="562 1289 822 1362">NIL</td> </tr> </tbody> </table>	Name of Technology	AUXen (as % of gross generation)	(1) For reduction of emission of sulphur dioxide:		a) Wet Limestone based FGD system (without Gas to Gas heater)	1.0%	b) Lime Spray Dryer or Semi dry FGD System	1.0%	c) Dry Sorbent Injection System	NIL	<p>25.1. A new sub-clause, namely, sub-clause (bb) shall be inserted after sub-clause (b) of Clause (E) of Regulation 49 of the Principal Regulations as under: “(bb) Auxiliary Energy Consumption (AUXen) on account of emission control system of thermal generating stations:</p> <table border="1" data-bbox="853 810 1400 1362"> <thead> <tr> <th data-bbox="853 810 1122 922">Name of Technology</th> <th data-bbox="1122 810 1400 922">AUXen (as % of gross generation)</th> </tr> </thead> <tbody> <tr> <td colspan="2" data-bbox="853 922 1400 994" style="text-align: center;">(1) For reduction of emission of sulphur dioxide:</td> </tr> <tr> <td data-bbox="853 994 1122 1177">a) Wet Limestone based FGD system (without Gas to Gas heater)</td> <td data-bbox="1122 994 1400 1177">1.5%</td> </tr> <tr> <td data-bbox="853 1177 1122 1289">b) Lime Spray Dryer or Semi dry FGD System</td> <td data-bbox="1122 1177 1400 1289">1.0%</td> </tr> <tr> <td data-bbox="853 1289 1122 1362">c) Dry Sorbent Injection System</td> <td data-bbox="1122 1289 1400 1362">NIL</td> </tr> </tbody> </table>	Name of Technology	AUXen (as % of gross generation)	(1) For reduction of emission of sulphur dioxide:		a) Wet Limestone based FGD system (without Gas to Gas heater)	1.5%	b) Lime Spray Dryer or Semi dry FGD System	1.0%	c) Dry Sorbent Injection System	NIL	Auxiliary Consumption prescribed as normative are very low. APC for SWFGD shall be evaluated on case to case basis. As per CEA recommendation, the APC for SWFGD is about 1.5% and the same may be considered in the proposed regulation. In addition, if CEA has made any specific recommendation on case to case basis, the same may be considered and incorporated in the regulations.
Name of Technology	AUXen (as % of gross generation)																						
(1) For reduction of emission of sulphur dioxide:																							
a) Wet Limestone based FGD system (without Gas to Gas heater)	1.0%																						
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	(using Sodium bicarbonate)		(using Sodium bicarbonate)		
	d) For CFBC Power plant (furnace injection)	NIL	d) For CFBC Power plant (furnace injection)	NIL	
	e) Sea Water based FGD system (without Gas to Gas heater)	0.7%	e) Sea Water based FGD system (without Gas to Gas heater)	1.5%	
	(2) For reduction of emission of oxide of nitrogen :		(2) For reduction of emission of oxide of nitrogen :		
	a) Selective Non-Catalytic Reduction system	NIL	a) Selective Non-Catalytic Reduction system	NIL	
	b) Selective Catalytic Reduction system	0.2%	b) Selective Catalytic Reduction system	0.2%	
	Provided that where the technology is installed with Gas to Gas heater, auxiliary energy consumption specified as above shall be increased by 0.3% of gross generation.		Provided that where the technology is installed with Gas to Gas heater, auxiliary energy consumption specified as above shall be increased by 0.3% of gross generation." Provided that in case the CEA has made any specific recommendation on case to case basis, the same may be considered by the Commission and incorporated in the regulations.		

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10.	<p>25.2 (F) Amendment of Regulation 49 of the principal regulation</p> <p>“(F) Norms for consumption of reagent: (1) The normative consumption of specific reagent for various technologies for reduction of emission of sulphur dioxide shall be as below:</p> <p>(a) For Wet Limestone based Flue Gas Desulphurisation (FGD) system: The specific limestone consumption (g/kWh) shall be worked out by following formula: [0.85 x K x SHR x S]/[CVPF x LP]</p> <p>(2) The normative consumption of specific reagent for various technologies for reduction of emission of oxide of nitrogen shall be as below:</p> <p>(b) For Selective Catalytic Reduction (SCR) System: The specific ammonia consumption of SCR system shall be 0.6 gm per kWh at 100% purity of ammonia.”</p>	<p>25.2. A new clause, namely Clause (F) shall be added after Clause (E) of Regulation 49 of the Principal Regulations as under:</p> <p>25.2 (F) (1) (b) For Lime Spray Dryer or Semi-dry Flue Gas Desulphurisation (FGD) system: The specific lime consumption shall be worked out based on minimum purity of lime (PL) as at 80% or more by applying formula [0.80x6 /PL(%)] gm/kWh;</p>	<p>Clause 25.2 (F) (b) - Emission values in mg/Nm³ considered for calculation at actual condition or 6% O₂, dry condition can be added.</p> <p>Limestone purity consideration shall be 81% and more.</p>
11.	<p>Amendment of Principal Regulations Proviso to Regulation 24 (1)</p> <p>Provided that in case of any replacement of the assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative</p>	<p>Modification proposed in Principal Regulations</p> <p>Proviso to Regulation 24 (1)</p> <p>Provided that in case of any replacement of the assets, the additional capitalization shall be worked out after deduction of the</p>	<p>Additional Capitalisation pertaining to replacement of existing asset is undertaken by Generators are necessary for efficient and sustainable operations of plant. But the decapitalization of value of existing asset as provided in existing principal Regulations disincentivizes the Generators to invest in upkeep of the plant, as decapitalization of existing asset</p>

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	<p>depreciation of the assets replaced on account of de- capitalization.</p> <p>Regulation 25 (2)</p> <p>(2) In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulative depreciation, subject to prudence check on the following grounds:</p> <p>Regulation 26 (2)</p> <p>(2) In case of de-capitalisation of assets of a generating company or the transmission licensee, as the case may be, the original cost of such asset as on the date of decapitalisation shall be deducted from the value of gross fixed asset and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de-capitalisation takes place with corresponding adjustments in cumulative depreciation and cumulative repayment</p>	<p>scrap value replaced asset from the approved capital cost of the project.</p> <p>Regulation 25 (2)</p> <p>(2) In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after deduction of the scrap value replaced asset from the approved capital cost of the project, subject to prudence check on the following grounds:</p> <p>Regulation 26 (2)</p> <p>(2) In case of de-capitalisation of assets of a generating company or the transmission licensee, as the case may be, the scrap value replaced asset as on the date of decapitalisation shall be deducted from the value of approved capital cost, duly taking into consideration the year in which it was capitalised.</p>	<p>from the value of new asset leads to under-recovery of capacity charges, viz., Interest on loan, Depreciation (provided for repayment of loan), return on equity for the investment made by Generators, etc.</p> <p>Hence, it is proposed that clause related to decapitalization of asset may be modified to consider de-capitalisation only to the extent of the scrap value of any asset.</p>

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	<p>of loan, duly taking into consideration the year in which it was capitalised.</p> <p>29 – Additional Capitalisation on account of Revised Emission Standards</p>	<p><u>Proposed New regulations</u></p> <p>29 (5) In case of de-capitalisation of assets of existing Emission Control system for implementation of Revised Emission standards, the scrap value of replaced asset as on the date of decapitalisation shall be deducted from the approved capital cost, duly taking into consideration the year in which it was capitalised.</p>	
12.	<p>30 – Return on Equity</p> <p>Existing provision in principal Regulations:</p> <p>(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system and run-of-river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations including pumped storage hydro generating stations and run-of-river generating station with pondage:</p> <p>Provided that return on equity in respect of additional capitalization after cut-off date beyond the original scope excluding additional capitalization due to Change in Law, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system;</p>		<p>It is submitted that the capital expenditure on account of any change in Law are inevitable/mandatory, for existing generators /transmission licensees, any proposal to reduce the rate of RoE is regressive and such investment cannot be denied the legitimate RoE at par with the prevalent norm.</p> <p>It is pertinent to keep in mind that additional capitalization beyond CoD requires to be funded through Equity only, as the lenders will be reluctant to fund such additional capitalization. Since such additional capitalization shall be funded from owner's fund i.e. equity, therefore, Hon'ble CERC should allow such additional Capitalization considering funding through equity and allow RoE on such additional capitalization.</p> <p>Hence, there is a strong case for Return on Equity for any additional capitalization after the</p>

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	<p>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>cut-off date within or beyond the original scope being computed at the regulated rate of 15.5% specified in the Regulations and not at the weighted average rate of interest on the actual loan portfolio because, any additional capitalization due change in law is admitted/approved only if it is reasonable and after prudence check by the Commission.</p> <p>In the present scenario where the stressed assets in the power sector are on the rise, mechanisms are in place to protect the interest of the lenders however, there is no mechanism available which protects the equity base of the project developer. This makes the risk associated with the equity capital very high. Therefore, the return available on any equity investment should also be commensurate with such risk perception and hence the rate for RoE for any additional capitalization after the cut-off date within or beyond the original scope should be retained at 15.5%. Additionally, Additional Capitalization due to any change in law is not in control of the generators / licensees and is enforced upon the generators / licensees by way of change in law by Government instrumentalities.</p> <p>In view of the additional capitalization required to be incurred by the generators / licensees to meet the change in law requirement, a reduced</p>

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			<p>rate of RoE will have an adverse impact on the financial position of the generators / licensee and also have a cascading impact on the cost of debt on account of increased risk perception by lenders. This will ultimately result in the increase in tariff for the Beneficiaries.</p> <p>In view of the above, it is requested that the RoE for additional capitalisation towards meeting revised emission norms should be retained at 15.5% as proposed in the principal regulations and the Clause (3) proposed in principal regulation 30 should be deleted.</p>
13.	<p><u>Principal Regulations 39 - Transit and Handling Losses</u></p> <p><i>Provided further that in case of imported coal, the transit and handling losses applicable for pit-head station shall apply.</i></p>	<p><u>Principal Regulations 39 - Transit and Handling Losses</u></p> <p>Provided further that in case of imported coal, the transit and handling losses applicable for pit-head station shall apply for plants which do not have Railway transportation to transport coal from the port to the plant.</p>	<p>Coal handling system in coastal based power plants differs from project to project. Hence, the Commission should have powers to distinguish the project specific features and accordingly determine the transit losses.</p>
14.		<p><u>Proviso to be added Regulation 24 (1), 25(1) and 26(1) of Principal Regulations.</u></p> <p><i>“(h). Efficient and/or Sustainable Operations for the power plant.”</i></p>	<p>Under the existing Regulations, the Commission do not have power to approve any additional capitalisation even if it is prudent and necessary for operation of power plant. The proposed Regulations gives the power to the Commission that in case the Commission find it prudent, they can approve the additional capitalisation</p>

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			<p>pertaining to "Efficient and/or Sustainable operation of plant or asset.</p> <p>Present Principal Regulations does not cover most essential reason of undertaking Additional capitalisation by generators/licensee, viz., efficient and sustainable operations of plant or asset. Intent of Cost plus regulations is to determine tariff based on prudent cost incurred by Generators or Licensees, excluding the most essential reason of Additional Capitalisation, the generators are forced to bear the cost of Additional Capitalisation from there assured Return of Equity, which is not the intent of the Cost Plus Regulations.</p>
15.	<p><u>Proviso to Regulation 38 of Principal Regulation</u> <i>Provided further that landed fuel cost of primary fuel shall be worked out based on the actual bill paid by the generating company including any adjustment on account of quantity and quality;</i></p>	<p><u>Proviso to Regulation 38 of Principal Regulation</u> <i>Provided further that landed fuel cost of primary fuel shall be worked out based on the actually billed to the generating company including any adjustment on account of quantity and quality;</i></p>	<p>Regulatory Accounting is on "Accrual basis" and existing provision provides for accounting on "Cash Basis". Hence, this amendment is proposed to remove this anomaly.</p>
16.	<p><u>Regulation 19(1) of Principal Regulations</u></p>	<p><u>Proviso to Regulation 19(1) to be added</u></p> <p><u>In case of resolution of stranded asset covered under these Regulations, the Commission shall continue to determine the tariff based on Capital Cost, the debt and equity as approved by the Commission as on Date of Commercial Operation of the generation project shall be maintained at the same level throughout the life of the</u></p>	<p>To provide Regulatory certainty.</p>

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		<p><u>PPA, except for normative repayment of loan and addition/reduction in debt and equity pertaining to Additional Capitalisation/ decapitalisation in accordance with provision of these Regulations.</u></p>	
17.	<p>Principal Regulation 59 – Late Payment Surcharge 59. Late payment surcharge: In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long term customers as the case may be, beyond a period of 45 days from the date of presentation of bills, a late payment surcharge at the rate of 1.50% per month shall be levied by the generating company or the transmission licensee, as the case may be.</p>	<p>The existing clause under regulation 59 may be numbered (1) and a new clause (2) may be added as follows:</p> <p>(2) The payment appropriation priority of receivables shall be as follows:</p> <p>i. Any amount received shall be first adjusted against Outstanding Late Payment Surcharge.</p> <p>ii. Balance Amount if any shall be adjusted against Past Arrears if any.</p> <p>iii. Balance Amount if any shall be adjusted against Current Months Dues.</p>	<ul style="list-style-type: none"> • Lot of emphasis is given by MOP to inculcate payment discipline among the Discoms. The MoP has already issued orders with regard to recovery of LPS and establishment of Payment Security Mechanism as specified in the PPA. There is potential scope in the computation of LPS unless the payment priority is specified in the regulations. • It is also necessary to consider a graded LPS rate and progressively increasing penal rates based on ageing of receivables should be specified, for bringing more discipline in the payment pattern of Discoms. This concept is already adopted by various State Commissions for penalizing the defaulting consumers and benefit of this graded LPS rate is being availed by Discoms and same benefit need to be passed through to the generating companies also.