

**Views of GRIDCO on 2<sup>nd</sup> Amendment to CERC Tariff Regulations, 2019**

<b>Reg.</b>	<b>Proposed Regulations</b>	<b>GRIDCO's Suggestions</b>
3(40)	<p><b>'Investment Approval'</b> means approval by the Board of the generating company or the transmission licensee or Cabinet Committee on Economic Affairs (CCEA) or any other competent authority conveying administrative sanction for the project including funding of the project and the timeline for the implementation of the project:</p> <p>Provided further that in respect of the integrated mines, funding and timeline for implementation shall be indicated separately and distinctly in the Investment Approval.</p>	<p><b>GRIDCO's View:</b></p> <p>Provided further that in respect of the integrated mines, funding and timeline for implementation, <b>commensurate with the mining plan</b> shall be indicated separately and distinctly in the Investment Approval.</p>
	<p><b>Justification:</b></p> <p>Any deviation from the Mining Plan will invite legal complicity in future.</p>	
3(73) (h)	<p><b>'Useful Life'</b> in relation to a unit of a generating station, integrated mines, transmission system and communication system from the date of commercial operation shall mean the following:</p> <p>(h) Integrated mine As per the Mining Plan</p>	<p><b>GRIDCO's View:</b></p> <p>Provided that if the Useful life of the integrated mines is greater than that of the Generating Station, proportionate fixed cost on account of such additional Useful Life of the Integrated Mines over and above the Useful Life of the Generating Station should not be loaded on the Beneficiary(ies) of the Generating Station.</p>
5(3)	<b>5. Date of Commercial Operation:</b>	<b>GRIDCO's View:</b>

<p>The date of commercial operation in case of an integrated mine, shall mean the earliest date amongst the following:</p> <p>a) First date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or</p> <p>b) First date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or</p> <p>c) Date of two years from the Date of Commencement of Production;</p> <p>Provided that in case the integrated mine is ready for commercial operation but is prevented from the declaration of date of commercial operation for reasons not attributable to the generating company, its suppliers or contractors, the Commission may approve another date of commercial operation, considering the reasons that prevented the declaration of the date of commercial operation.</p>	<p>The date of commercial operation in case of an integrated mine, shall mean:</p> <p>The first day of the month in any Accounting Year in which the quantity of Coal produced from the Mine equals 25% of Contracted Capacity, as certified by the Independent Engineer, shall be the “<b>Commercial Operation Date</b>” or “<b>COD</b>”.</p> <p>Provided that in the event COD does not occur prior to the Scheduled COD, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Mine Operator shall pay Damages to the Authority in a sum calculated at the rate of 0.5% (zero point five per cent) of the amount of Performance Security for delay of each day until COD is achieved.</p> <p>Provided that in case the integrated mine is ready for commercial operation but is prevented from the declaration of date of commercial operation for reasons not attributable to the generating company, its suppliers or contractors, the Commission may approve another date of commercial operation, considering the reasons that prevented the declaration of the date of commercial operation.</p>
<p><b>Justification:</b></p> <p>(1) The above proposed stipulation on ‘Date of Commercial Operation’ is based on the Draft Model Contract Agreement’ on 22.04.2015, whereas the draft Regulations relies on the conditions as per balance sheet of</p>	

	<p>Coal India Ltd., which are said to be similar to the that evolved by the Ministry of Coal in 2004 as per report of Working Group.</p> <p>(2) The statement given by the Working Group that the above practice as per Model Contract Agreement dated 22.04.2015, is not followed at present can not be taken as a valid reason nor the reasoning that NTPC Ltd. is not following the same.</p> <p>(3) The 2 conditions i.e. (b) &amp; (c), as stipulated in the Draft Regulations do not guarantee production of any quantum of Coal as on Commercial Operation Date, if either of the two conditions occur earlier to 1<sup>st</sup> condition.</p> <p>(4) The penalty mechanism as per Model Contract Agreement should be incorporated to ensure timely declaration of Commercial Operation Date, because delay in COD will deprive the Consumers of availing the benefit of optimum cost of Coal Captive Mines towards utilization for Generation of Electricity.</p> <p>(5) When the Model Contract Agreement dated 22.04.2015 for Coal Mining has been developed with reference to the Coal Blocks auctioned/allocated under the Coal Mines (Special Provisions) Act, 2015 and the draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2020 has been prepared basing on Coal Block allocation as per above Act, there is no justification to go back to the methodology developed during 2004 for declaration of COD on the reasoning that the methodology, developed during 2015, consequent upon notification of the Coal Mines (Special Provisions) Act, 2015 is not followed at present and just because NTPC Ltd. is following the methodology of Coal India Ltd.</p> <p>(6) It is submitted that there is no practical difficulty to follow the stipulation as per Model Contract Agreement for declaration of COD.</p>	
36A	<p><b>36A. Input Price of coal or Lignite:</b></p> <p>(1) Input price of coal or lignite from integrated mine shall be computed based on the following components:</p> <p>I) Run of Mine (ROM) Cost; and</p> <p>II) Additional charges:</p> <p>a. crushing charges;</p>	<p><b>GRIDCO's View:</b></p> <p>(i). No provision has been made in the Draft Regulations to address damages due to deviations in Mine Plan.</p> <p>(ii). As per Cl. No. 2.15.3 of Explanatory Memorandum, the formulae for computation of Input Price of Coal should be</p>

	<p>b. transportation charge within the mine up to the washery end or coal handling plant associated with the integrated mine, as the case may be;</p> <p>c. handling charges at mine end;</p> <p>d. washing charges; and</p> <p>e. transportation charges beyond the washery end or coal handling plant, as the case may be, and up to the Loading Point:</p> <p>Provided that one or more components of additional charges may be applicable on case to case basis, based on the scope and nature of the mining activities;</p> <p>Provided further that the input price of lignite shall be computed based on Run of Mine (ROM) Cost based on the technology such as bucket excavator-conveyor belt-spreader or its combination and handling charges, if any.</p> <p>(2) Statutory Charges, as applicable, shall be allowed.</p>	<p>defined.</p>
<p><b>36G</b></p>	<p><b>36G. Capital Structure, Return on Equity and Interest on Loan:</b></p> <p>(1) For an integrated mine, the debt-equity ratio as on the date of commercial operation and as on the date of achieving Peak Rated Capacity shall be considered in the manner as</p>	<p><b>GRIDCO's View:</b></p> <p>(1) For an integrated mine, the debt-equity ratio as on the date of commercial operation and as on the date of achieving Peak Rated Capacity shall be considered in the manner as specified under Clause (1)</p>

<p>specified under Clause (1) of Regulation 18 of these regulations: Provided that for integrated mine in respect of lignite with Date of Commercial Operation prior to 1.4.2019, the debt-equity ratio already allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price.</p> <p>(2) For integrated mine, the debt-equity ratio for additional capital expenditure admitted by the Commission under these regulations shall be considered in the manner as specified under Clause (1) of this Regulation.</p> <p><u>(3) The return on equity shall be computed in rupee terms on the equity base arrived under Clause (1) of this Regulation at the base rate of 14%.</u></p> <p>(4) The base rate of return on equity as allowed by the Commission in this Regulation shall be grossed up with the effective tax rate computed in the manner specified under Regulation 31 of these regulations.</p> <p>(5) The interest on loan, including normative loan if any under Clause (1) of this Regulation, shall be arrived at by considering the weighted average rate of interest calculated on the basis of actual loan portfolio, in accordance with the Clauses (2) to (7) of</p>	<p>of Regulation 18 of these regulations: Provided that for integrated mine in respect of lignite with Date of Commercial Operation prior to 1.4.2019, the debt-equity ratio already allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price.</p> <p>(2) For integrated mine, the debt-equity ratio for additional capital expenditure admitted by the Commission under these regulations shall be considered in the manner as specified under Clause (1) of this Regulation.</p> <p>(3) The return on equity shall be computed in Rupee Terms on the equity base arrived under Clause (1) of this Regulation at the Base rate of <del>14%</del> <b>300 (Three Hundred) basis points above the average State Bank of India Marginal Cost of Funds based Lending Rate (MCLR) (one-year tenor) prevalent during the last available six months.</b></p> <p>(4) The base rate of return on equity as allowed by the Commission in this Regulation shall be grossed up with the effective tax rate computed in the manner specified under Regulation 31 of these regulations.</p>
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Regulation 32 of these regulations.	(5) The interest on loan, including normative loan if any under Clause (1) of this Regulation, shall be arrived at by considering the weighted average rate of interest calculated on the basis of actual loan portfolio, in accordance with the Clauses (2) to (7) of Regulation 32 of these regulations and shall never exceed Return on Equity.
<p><b><u>Justification:</u></b></p> <p>(1) As per the Coal Mines (Special Provisions) Act, 2015, the Coal Mines are allocated through Auction or through allotment Order to Govt. Companies for integrated Operations with Coal based Thermal Power Plants.</p> <p>(2) As per Clause No. 2.20.3 to 2.20.5 of Explanatory Memorandum to above Draft Regulations:</p> <p>(i) The specified end use Generating Station is the procurer of Coal/Lignite mined from Integrated Mines.</p> <p>(ii) As per provisions of Coal Mine (Special Provisions) Act, 2015 and Coal Mine Development and Production Agreement, any surplus Coal will be purchased by the Coal India Ltd.</p> <p>(iii) The Equity deployment during development period in case of an Integrated Coal Mine is lesser.</p> <p>(iv) The commencement of supply of Coal starts normally in 3 to 5 years. Therefore, the risk of non-off take of Coal from an integrated Coal Mine is minimal.</p> <p>(3) Further, the Rate of Return, worked out on data of Coal India Limited, to be applicable for Integrated Coal Mines is not justified, as the risk for Coal India Ltd. for non-off take of Coal from its Coal Mines is much higher, whereas in case of Integrated Mines, utilization of the Coal produced from such Mines by the Generating Station is not only assured, but the Surplus Coal, as produced from the Integrated Mines, is also to be purchased by the Coal India Ltd.</p>	

	<p>(4) The SBI MCLR as on 10.06.2020 is 7% and also the same is on a continuous decreasing trend. Considering the above, it is proposed that the Rate of Return on Equity for Integrated Coal Mines should be 300 (Three Hundred) basis points above the average State Bank of India Marginal Cost of Funds based Lending Rate (MCLR) (one-year tenor) prevalent during the last available six months.</p>	
<p><b>36H</b></p>	<p><b>36H. Depreciation:</b></p> <p>(1) Depreciation in respect of integrated mines shall be computed from the date of commercial operation by applying Straight Line Method.</p> <p>(2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission:</p> <p>Provided that,</p> <p>i) freehold land or assets purchased from grant shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;</p> <p>ii) where the allotment of freehold land is conditional and is required to be returned, the cost of such land shall be part of value base for the purpose of depreciation, subject to prudence check by the Commission; and</p> <p>iii) lease hold land shall be amortized over the lease period or remaining life of the mine, whichever is lower.</p> <p><b>(3) The salvage value of an asset shall</b></p>	<p><b>GRIDCO's View:</b></p> <p><b>36H. Depreciation:</b></p> <p>(1) Depreciation in respect of integrated mines shall be computed from the date of commercial operation by applying Straight Line Method.</p> <p>(2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission:</p> <p>Provided that,</p> <p>i) freehold land or assets purchased from grant shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;</p> <p>ii) where the allotment of freehold land is conditional and is required to be returned, the cost of such land shall be part of value base for the purpose of depreciation, subject to prudence check by the Commission; and</p> <p>iii) lease hold land shall be amortized over the lease period or remaining</p>

	<p>be considered as 5% of the capital cost of the asset:</p> <p>Provided that the salvage value shall be:</p> <ul style="list-style-type: none"> <li>i) zero for IT equipment and software;</li> <li>ii) zero or as agreed by the generating company with the State Government for land; and</li> <li>iii) as specified by the Ministry of Corporate Affairs for specialized mining equipment.</li> </ul> <p>(4) The depreciation of integrated mine shall be arrived at annually by applying depreciation rates or on the basis of expected useful life specified in Appendix 1 of these regulations: Provided that specialized mining equipment shall be depreciated as per the useful life and depreciation rate as specified by the Ministry of Corporate Affairs.</p>	<p>life of the mine, whichever is lower.</p> <p>(3) The salvage value of an asset shall be considered as <u>5</u> 10% of the capital cost of the asset:</p> <p>Provided that the salvage value shall be:</p> <ul style="list-style-type: none"> <li>i) zero for IT equipment and software;</li> <li>ii) zero or as agreed by the generating company with the State Government for land; and</li> <li>iii) as specified by the Ministry of Corporate Affairs for specialized mining equipment.</li> </ul> <p>(4) The depreciation of integrated mine shall be arrived at annually by applying depreciation rates or on the basis of expected useful life specified in Appendix 1 of these regulations: Provided that specialized mining equipment shall be depreciated as per the useful life and depreciation rate as specified by the Ministry of Corporate Affairs.</p>
	<p><b><u>Justification:</u></b></p> <p>The Salvage Value is to be considered as 10% in line with Appendix-I of CERC (Terms and Conditions of Tariff) Regulations, 2019, also reflected in above Draft Regulations.</p>	
<p>36I</p>	<p><b>36I. Operation and Maintenance Expenses:</b></p> <p>(1) The Operation and Maintenance</p>	<p><b>GRIDCO's View:</b></p> <p>It is submitted that the Data/ Calculation, on the basis of which 2%</p>

<p>expenses of integrated mine for the tariff period ending on 31<sup>st</sup> March 2024 shall be 2%, escalated at the rate of 3.5% per annum, of the average capital expenditure up to the end of each year of the tariff period as admitted by the Commission towards mining, crushing, transportation, handling and washing subject to true up:</p> <p>Provided that where mining, crushing, transportation, handling or washing are undertaken by the generating company by engaging Mine Developer and Operator, or an agency other than Mine Developer and Operator, any capital expenditure incurred by Mine Developer and Operator or such agency shall not be included for working out the Operation and Maintenance Expenses.</p> <p>(2) Where the mine development and operation are undertaken by the generating company by engaging Mine Developer and Operator, the mining charge of such Mine Developer and Operator shall not be included in Operation and Maintenance Expenses;</p> <p>(3) Where the generating company has engaged agency(ies) other than Mine Developer and Operator, annual charges of such agency(ies) shall also</p>	<p>O&amp;M Expenses along with the escalation rate of 3.5% per annum pertaining to Integrated Coal Mines has been arrived may be exhibited so as to justify the given percentage towards O&amp;M expenses in the above Draft Regulations.</p>
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	<p>be considered as part of Operation and Maintenance Expenses, subject to prudence check by the Commission, provided that such annual charges have been discovered through a transparent competitive bidding process.</p>	
<p>36M</p>	<p><b>36M. Recovery of Input Charges:</b> The input charges of coal or lignite shall be recovered as under:</p> <p>Input Charges = [Input Price x Quantity of coal or lignite supplied] + Statutory charges, as applicable.</p> <p>Provided that where energy charge rate based on input price of coal from integrated mine exceeds by 20% of energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month, prior consent of the beneficiary(ies) shall be required;</p> <p><u>Provided further that where such consent of beneficiaries are not available, input price of coal from such integrated mine shall be so fixed that energy charge rate based on input price of coal from integrated mine does not exceed by more than 20% the energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal;</u></p> <p><u>Provided also that energy charge rate based on input price of coal does</u></p>	<p><b>GRIDCO's View:</b></p> <p><b>36M. Recovery of Input Charges:</b> The input charges of coal or lignite shall be recovered as under:</p> <p>Input Charges = [Input Price x Quantity of coal or lignite supplied] + Statutory charges, as applicable.</p> <p>Provided that where energy charge rate based on input price of coal from integrated mine <b>shall not</b> exceeds by <del>20%</del> of <b>the</b> energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month, prior consent of the beneficiary(ies) shall be required;</p> <p><b><u>N.B.:</u></b> <b><u>The inadvertent typographical error of 'shall not' in the Views of GRIDCO may be read as 'shall'.</u></b></p> <p>Provided further that where such consent of beneficiaries are not available, input price of coal from such integrated mine shall be so fixed that energy charge rate based on input price of coal from integrated mine</p>

not lead to higher energy charge rate 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.

does not exceed ~~by more than 20%~~ the energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal;

Provided also that energy charge rate based on input price of coal does not lead to higher energy charge rate 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.

**Justification:**

- (1) The draft Regulations has not addressed the Situation/Condition under which the Principal Regulation has envisaged for allowing 20% higher energy charges than that of the base energy charge. As per Sub-Regulation (3) of Regulation 43 of Principal Regulations stipulates for part or full use of alternative source of fuel supply other than as agreed by the Generating Company and beneficiaries in their Power Purchase Agreement on account of shortage of fuel or optimization of economic operation through blending. As per 2<sup>nd</sup> Proviso to the above sub Regulation *“Provided also that where the energy charge rate based on weighted average price of fuel upon use of alternative source of fuel supply exceeds 30% of base energy charge rate as approved by the Commission for that year or exceeds 20% of energy charge rate for the previous month, whichever is lower shall be considered and in that event, prior consultation with beneficiary shall be made at least three days in advance.”*
- (2) Neither the above Regulations nor the Explanatory Memorandum/Report of Working Group has spelt out on use of alternative source of Coal Supply in case of Generating Station, having Integrated Coal Mines.
- (3) As per Clause 1.1.4 of Report of the Working Group:  
*“Most of the generating stations are presently sourcing coal from Coal India Ltd. The energy charge for using such coal is worked out by considering notified price of coal. The pricing formula of the coal*

*supplied by the Coal India Ltd is not on individual mine basis but on total Company cost basis and is not specifically targeted towards minimizing generation cost. However, the purpose behind mines allotted to generating companies is to optimally generate power and thus such mines are not to be treated as commercial mines.”*

(4) As per Clause 1.5.6 of Report of the Working Group:

*“In case of allocation of coal mine through auction method, methodology specified by the Ministry of Coal, vide order dated 26th December, 2014 provides that the transfer price (input price) would be considered based on the bid price along with escalation. Relevant portion is extracted below:*

*“4. For fixing the ceiling price for coal mines/blocks to be auctioned for generation capacity having cost plus PPAs or for generation capacity having tariff bid based PPAs (Case-1)/generation capacity to be contracted through cost plus PPAs or through tariff bid based PPAs (Case-1) in future:*

*a .....*

*.....*

*e. To ensure that, the benefit of coal is passed on to the consumers, the following conditions has been prescribed: I. For generation capacity having cost plus PPAs or generation capacity to be contracted through cost plus PPAs in future-For the purpose of determining the fuel cost for cost plus PPAs, the Appropriate Commission will allow bid price of coal along with subsequent escalation as provided in coal block bid document as being equivalent to the Run of Mine (ROM) cost of coal together with other allowable and levies, provided that it shall not lead to higher energy charges throughout the tenure of PPA than that which would have been obtained as per the terms and conditions of the existing PPA.*

*...”*

(5) As per Clause 1.5.7 of Report of the Working Group:

*“In case of allotment method, the discovered price is not available. Standard Coal Mine Development and Production Agreement (“CMDPA”) issued by the Ministry of Coal, Government of India addresses the taxes and duties etc. Thus, in case of the allotment method where the bid price of coal is not available, the price of coal to be used*

	<p><i>for generation of electricity needs to be addressed by the Appropriate Commission for the purpose of tariff determination for generation of specified end use generating station project.”</i></p> <p>(6) The whole intent of allocation of Coal Mines through auction/allotment is to reduce the cost of energy to consumers through reduction of input cost of Coal, which is not intended for commercial purpose like that of Coal India Limited.</p> <p>(7) Therefore, there should be a binding Regulation, envisaging that the Energy Charge rate based on input price of coal from integrated mine shall not exceed the energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month.</p> <p>(8) Instead, the condition as per Draft Regulations would relax the concerned Generators from their responsibility of efficient, optimum and cost-effective measures towards reduction of cost of Coal, leading to burdening the Consumers with higher Electricity Tariff.</p> <p>(9) Further, allocation of Coal Mines through auction is completely different from that through allocation by allotment. Whereas, the Input Price for auctioned Coal Mines is based on Bid Price, for allotted Coal Mines, no Bid Price is available and the Input Price is determined by the Appropriate Commission. Therefore, same condition should not be prescribed for the Coal Mines, auctioned and Coal Mines, allotted to Government Companies.</p>	
360	<p><b>360. Adjustment on account of shortfall in GCV (GCV Adjustment):</b></p> <p>(1) In case the weighted average GCV of Coal extracted in a year is higher than the declared GCV of coal, no GCV adjustment shall be done.</p> <p>(2) In case the weighted average GCV of coal extracted in a year is lower than the declared GCV of coal, the GCV adjustment in that year shall be worked out as under:</p> <p>(a) Where the integrated mine is</p>	<p><b>GRIDCO’s View:</b></p> <p>Following Proviso to be incorporated:</p> <p><b>“Provided that the Generating Company will be liable to bear the Cost of Lower GCV compared to that in the Mining Plan, if the same is not approved by the Competent Authority in the Ministry of Coal”</b></p>

allocated through auction under Coal Mines (Special Provisions) Act, 2015:

$$\text{GCV Adjustment} = (\text{Quoted Price of coal}) \times [(\text{Declared GCV of coal} - \text{Weighted Average GCV of coal extracted in the year}) / (\text{Declared GCV of coal})]$$

Where,

i) Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal Block or Mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement:

Provided that additional premium, if any, quoted by the generating company in auction, shall not be considered; and

ii) Declared GCV of coal shall be the GCV of coal as specified or quoted in the auction.

(b) Where the integrated mine is allocated through allotment order under Coal Mines (Special Provisions) Act, 2015:

$$\text{GCV Adjustment} = [(\text{Annual Extraction Cost/ATQ}) + (\text{mining charge})] \times [(\text{Declared GCV of coal} - \text{Weighted Average GCV of coal extracted in the year}) / (\text{Declared GCV of coal})]$$

	<p>Where,</p> <p>i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation (36F) of these regulations;</p> <p>ii) mining charge is the charge per tonne of coal paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable; and</p> <p>iii) Declared GCV of coal shall be the average GCV as per the Mining plan or as approved by the Coal Controller.</p>	
<p><b><u>Justification:</u></b></p> <p>The above provision is in accordance with Cl. No. 2.27 of Explanatory Memorandum to above Draft Regulations.</p>		
<p><b>36P</b></p>	<p><b>36P. Adjustment on account of Non-tariff income (NTI Adjustment):</b></p> <p>Adjustment on account of non-tariff income (NTI Adjustment) for any year, such as income from sale of washery rejects in case of coal mine and profit, if any, from supply of coal to the Coal India Limited or merchant sale of coal as allowed under the Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:</p> <p>NTI Adjustment = (All Non-tariff income during the year)/(Actual quantity of coal or lignite extracted</p>	<p><b>GRIDCO's View:</b></p> <p><b>36P. Adjustment on account of Non-tariff income (NTI Adjustment):</b></p> <p>Adjustment on account of non-tariff income (NTI Adjustment) for any year, such as income from sale of <b>scraps</b>, washery rejects, <b>if and also applicable, Income from rent of land or buildings, Income from advertisements etc.</b> in case of coal mine and profit, if any, from supply of coal to the Coal India Limited or merchant sale of coal as allowed</p>

	<p>during the year)</p>	<p>under the Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:</p> <p>NTI Adjustment = (All Non-tariff income during the year)/(Actual quantity of coal or lignite extracted during the year)</p>
<p><b><u>Justification:</u></b> As per Explanatory Memorandum &amp; Form-15 (Part-IV) of Annexure-I to the above Draft Regulations.</p>		
<p>36Q</p>	<p><b>36Q. Credit Adjustment Note:-</b></p> <p>(1) The credit arising on account of OB Adjustment, GCV Adjustment and NTI Adjustment shall be dealt through Credit Adjustment Note for any year.</p> <p>(2) The Credit Adjustment Note shall be issued in favour of the specified end use plants on account of OB Adjustment, GCV Adjustment or NTI Adjustment, as the case may be, for that year as under:-</p> <p>(i) OB Adjustment for the year X Quantity of coal or lignite supplied in that year;</p> <p>(ii) GCV Adjustment for the year X Quantity of coal or lignite supplied in that year; and</p> <p>(iii) NTI Adjustment in the year X Quantity of coal or lignite supplied in that year.</p> <p>(3) The amount in Credit Adjustment Note shall be adjusted against the</p>	<p><b>GRIDCO's View:</b></p> <p><b>36Q. Credit Adjustment Note:-</b></p> <p>(1) The credit arising on account of OB Adjustment, GCV Adjustment and NTI Adjustment shall be dealt through Credit Adjustment Note for any year.</p> <p>(2) The Credit Adjustment Note shall be issued in favour of the specified end use plants on account of OB Adjustment, GCV Adjustment or NTI Adjustment, as the case may be, for that year as under:-</p> <p>(i) OB Adjustment for the year X Quantity of coal or lignite supplied in that year;</p> <p>(ii) GCV Adjustment for the year X Quantity of coal or lignite supplied in that year; and</p> <p>(iii) NTI Adjustment in the year X Quantity of coal or lignite supplied</p>

	<p>charges of coal or lignite supplied after the date of issue of Credit Adjustment Note. The integrated mine shall prepare an annual reconciliation statement of such adjustment and furnish the same to all the end use plants and also publish the same on its website.</p>	<p>in that year. (3) The amount in Credit Adjustment Note shall be adjusted against the charges of coal or lignite supplied after the date of issue of Credit Adjustment Note. The integrated mine shall prepare an annual reconciliation statement of such adjustment and furnish the same to all the end use plants and also publish the same on its website <b>along with providing the same to Beneficiaries by the end user Generating Station.</b></p>
<p><b><u>Justification:</u></b> The Beneficiary(ies) as payers have every right to be provided with details of such adjustment.</p>		
<p>36R</p>	<p><b>36R. Quality Measurement:</b> The quality of coal or lignite supplied from the integrated mines shall be measured at the Loading Point through third party sampling as per the guidelines and procedure specified by the Ministry of Coal and records of such measurement of quality shall be made available to the beneficiaries on demand.</p>	<p><b>GRIDCO's View:</b> <b>36R. Quality Measurement:</b> The quality of coal or lignite supplied from the integrated mines shall be measured at the Loading Point through third party sampling as per the guidelines and procedure specified by the Ministry of Coal and records of such measurement of quality shall be made available to the beneficiaries on demand <b>and shall also be published in the website.</b></p>
<p><b><u>Justification:</u></b> To maintain transparency in Public Domain.</p>		
<p>59(2)</p>	<p><b>59. Late payment surcharge:</b> <b>(1)</b> In case the payment of any bill for</p>	<p><b>GRIDCO's View:</b></p>

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.

(2) The charges payable by a beneficiary or long term customer shall be first adjusted towards late payment surcharge on the outstanding charges and thereafter, towards monthly charges levied by the generating company or the transmission licensee, as the case may be, starting from the longest overdue bill.

**59. Late payment surcharge:**

(1) 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.

(2) The charges payable by a beneficiary or long term customer shall be first adjusted towards ~~late payment surcharge on the outstanding charges and thereafter,~~ **towards** monthly charges levied by the generating company or the transmission licensee, as the case may be, ~~starting from the longest overdue bill~~ **then arrear outstanding charges and thereafter, towards late payment surcharge on the outstanding charges.**

**Justification:**

(1) As per sub-clause (i) of Clause No. 152 of Odisha Electricity Regulatory Commission Distribution (Conditions of Supply) Code, 2019,

*“The amount paid by the consumer shall be first adjusted towards electricity duty provided that in case of part payment by the consumer, the proportionate share of the duty from the total collection shall be adjusted first. Out of the balance, adjustments shall be made in the following order of priority:*

*(a) Current electricity charges,*

	<p>(b) Current miscellaneous charges,  (c) Arrear electricity charges,  (d) Arrear miscellaneous charges,  (e) Delayed payment surcharge.”</p> <p>(2) It is submitted that as per OERC Distribution (Conditions of Supply) Code, 2019, the first priority of adjustment is against current electricity charges, whereas, the last is Delayed Payment Surcharge. But, in the above amendment draft Amendment Regulations, the first priority in adjustment is Delayed Payment Surcharge, whereas the last is monthly charges.</p> <p>(3) In view of the above, the draft Amendment Regulations in terms of priority of adjustment contradicts to that as per OERC Distribution (Conditions of Supply) Code, 2019.</p> <p>(4) Therefore, if the payment towards Delayed Payment Surcharge is not recovered from the consumers on first priority basis, it is not practicable and feasible to insist upon the Distribution Licensee to pay the delayed payment surcharge to Generators on first priority basis.</p> <p>(5) Hence, the priority of adjustment towards payment of charges by the Beneficiary(ies) or the Long Term Customers to the Generating Company or Transmission Licensee, as the case may be, should be in line with the Distribution (Conditions of Supply) Code, 2019.</p>
<p><b><u>Additional issues to be taken care of through these Amendments:</u></b></p>	
1	<p><b>Damages for Shortfall</b> should be incorporated in the above Amendment Regulations in line with Cl.21.5.1 (Damages for shortfall) of ‘Draft Model Contract Agreement for Coal Mining’ issued by Ministry of Coal, Govt. of India, vide Notification dated 22.04.2015.</p>
2	<p><b>Mine Developer &amp; Operator (MDO):</b>  Definition need to be incorporated.</p>
3	<p><b>Schedule COD (SCOD):</b>  Definition need to be incorporated.</p>
4	<p><b>Regulation 6.2 (Treatment of mismatch in date of commercial operation of Integrated Mines and Generating Unit):</b></p> <p>It is submitted to the Hon’ble Commission to address the following issues:</p> <p>(i) Treatment of mismatch between COD of Generating Plant &amp; Captive Coal Mines.</p> <p>(ii) Whether the Generating Plant can avail coal from other sources in</p>

absence of COD of allocated mines.

- (iii) If the Generating Station would avail Coal from other sources, whether the pricing of such coal will be carried out, basing on the cost as per Investment Approval or Input Price of the Coal for the Integrated Mines.
- (iv) When the COD of Captive Mines is declared on the basis of production of Coal of 25% of Contracted Capacity, how the shortage of such Coal can be met for normative generation.
- (v) If the Coal can be arranged from some other source to meet the normative generation, how the pricing of such Coal can be carried out?