

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

No.L-7/145(160)/2008-CERC

Dated 21st June, 2011

NOTIFICATION

In exercise of powers conferred under section 178 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations to amend the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as “the Principal Regulations”), namely:

1. **Short title and commencement.-** (1) These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2011.

(2) These regulations shall come into force with effect from the date of its notification in the Official Gazette.

2. **Amendment of Regulation 5 of the Principal Regulations.-** Proviso to clause (3) of Regulation 5 of the Principal Regulations shall be substituted as under:

“Provided that where the tariff provisionally billed exceeds or falls short of the final tariff approved by the Commission under these regulations, the generating company or the transmission licensee, as the case may be, shall refund to or recover from the beneficiaries or the transmission customers, as the case may be, within six months along with simple interest at the following rates for the period from the date of provisional billing to the date of issue of the final tariff order of the Commission:

(i) SBI short-term Prime Lending Rate as on 01.04.2009 for the year 2009-10.

(ii) SBI Base Rate as on 01.07.2010 plus 350 basis points for the

year 2010-11.

(iii) Monthly average SBI Base Rate from 01.07.2010 to 31.3.2011 plus 350 basis points for the year 2011-12.

(iv) Monthly average SBI Base Rate during previous year plus 350 basis points for the year 2012-13 and 2013-14.

Provided that in cases where tariff has already been determined on the date of issue of this notification, the above provisions, to the extent of change in interest rate, shall be given effect to by the parties themselves and discrepancy, if any, shall be corrected at the time of truing up.”

3. Amendment of Regulation 6 of the Principal Regulations.- Clauses (4),(5) and (6) of Regulation 6 of the Principal Regulations shall be substituted as under:

“6. Truing up of Capital Expenditure and Tariff.-

(4) Where after the truing up, the tariff recovered exceeds the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, as the case may be, shall refund to the beneficiaries or the transmission customers, as the case may be, the excess amount so recovered along with simple interest at the rates specified in the proviso to this regulation.

(5) Where after the truing up, the tariff recovered is less than the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, as the case may be, shall recover from the beneficiaries or the transmission customers, as the case may be, the under-recovered amount along with simple interest at the rates specified in the proviso to this regulation.

(6) The amount under-recovered or over-recovered, along with simple interest at the rates specified in the proviso to this regulation, shall be recovered or refunded by the generating company or the transmission licensee, as the case may be, in six equal monthly installments starting within three months from

the date of the tariff order issued by the Commission after the truing up exercise.

Provided that the rate of interest, for clauses (4), (5) and (6) of this regulation, for calculation of simple interest shall be considered as under:

- (i) SBI short-term Prime Lending Rate as on 01.04.2009 for the year 2009-10.
- (ii) SBI Base Rate as on 01.07.2010 plus 350 basis points for the year 2010-11.
- (iii) Monthly average SBI Base Rate from 01.07.2010 to 31.3.2011 plus 350 basis points for the year 2011-12.
- (iv) Monthly average SBI Base Rate during previous year plus 350 basis points for the year 2012-13 & 2013-14.”

4. Amendment of Regulation 7 of the Principal Regulations.- The last proviso of Regulation 7 of the Principal Regulations shall be substituted as under:

“Provided also that in case of the existing projects, the capital cost admitted by the Commission prior to 1.4.2009 duly trued up by excluding un-discharged liability, if any, as on 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year of the tariff period 2009-14, as may be admitted by the Commission, shall form the basis for determination of tariff.”

5. Amendment of Regulation 9 of the Principal Regulations.- Three sub-clauses namely, (vi) , (vii) and (viii) shall be added after sub-clause (v) of clause (2) of Regulation 9 of the Principal Regulations as under:

“(vi) In case of gas/ liquid fuel based open/ combined cycle thermal generating stations, any expenditure which has become necessary on renovation of gas turbines after 15 year of operation from its COD and the expenditure necessary due to obsolescence or non-availability of spares for successful and efficient operation of the stations.

Provided that any expenditure included in the R&M on consumables and cost of components and spares which is generally covered in the O&M expenses during the major overhaul of gas turbine shall be suitably deducted after due prudence from the R&M expenditure to be allowed.

(vii) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receipt system arising due to non-materialisation of full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station.

(viii) Any undischarged liability towards final payment/withheld payment due to contractual exigencies for works executed within the cut-off date, after prudence check of the details of such deferred liability, total estimated cost of package, reason for such withholding of payment and release of such payments etc.”

6. Amendment of Regulation 15 of the Principal Regulations.- Clauses (3) and (4) of Regulation 15 of the Principal Regulations shall be substituted and a new Clause (5) shall be inserted as under, namely:

“(3) The rate of return on equity shall be computed by grossing up the base rate with the Minimum Alternate/Corporate Income Tax Rate for the year 2008-09, as per the Income Tax Act, 1961, as applicable to the concerned generating company or the transmission licensee, as the case may be.

(4) Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where “t” is the applicable tax rate in accordance with clause (3) of this regulation.

(5) The generating company or the transmission licensee, as the case may be, shall recover the shortfall or refund the excess Annual Fixed Charge on

account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax Rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission:

Provided further that Annual Fixed Charge with respect to the tax rate applicable to the generating company or the transmission licensee, as the case may be, in line with the provisions of the relevant Finance Acts of the respective year during the tariff period shall be trued up in accordance with Regulation 6 of these regulations.”

7. Amendment of Regulation 18 of the Principal Regulations.-

(1) Sub-clause (b) (ii) of clause (1) of Regulation 18 of the Principal Regulations shall be substituted as under, namely:

“(ii) Liquid fuel stock for ½ month corresponding to the normative annual plant availability factor, duly taking in to account mode of operation of the generating stations of gas fuel and liquid fuel and in case of use of more than one liquid fuel, cost of main liquid fuel.”

(2) Heading of Sub-clause (c) of Clause 1 of Regulation 18 of the Principal Regulations shall be substituted as under, namely:

“(c) In case of Hydro generating stations including pumped storage hydro-electric generating station and transmission system.”

(3) Clause (3) of Regulation 18 of the Principal Regulations shall be substituted as under, namely:

“(3) Rate of interest on working capital shall be on normative basis and shall be considered as follows:

(i) SBI short-term Prime Lending Rate as on 01.04.2009 or on 1st April of the year in which the generating station or a unit thereof or the transmission system, as the case may be, is declared under commercial operation, whichever is later, for the unit or station

whose date of commercial operation falls on or before 30.6.2010.

(ii) SBI Base Rate plus 350 basis points as on 1.7.2010 or as on 1st April of the year in which the generating station or a unit thereof or the transmission system, as the case may be, is declared under commercial operation, whichever is later, for the units or station whose date of commercial operation lies between the period 1.7.2010 to 31.3.2014:

Provided that in cases where tariff has already been determined on the date of issue of this notification, the above provisions shall be given effect to at the time of truing up.”

8. Amendments to the Regulation 32 of the Principal Regulations.- A proviso shall be added to clause (3) of Regulation 32 of the Principal Regulations, namely:

“Provided that the sharing of transmission charges shall be governed by the Central Electricity Regulatory Commission (Sharing of inter-state transmission charges and losses) Regulations, 2010 from the date of coming into effect of the said regulations.”

Sd/-
(Rajiv Bansal)
Secretary

Note: The Principal Regulations were published in the Gazette of India Extraordinary Part III Section 4 on 20th January 2009 as No. 10 and the first amendment to the Principal Regulations was published in the Gazette of India Extraordinary Part III Section 4 on 2nd May 2011 as No. 92.