

Empanelment of consultants for providing inputs for tariff determination by the Central Electricity Regulatory Commission

Terms of Reference (ToR)

1.0 Background:

1.1 The Central Electricity Regulatory Commission constituted under the erstwhile Electricity Regulatory Commissions Act, 1998 (short as “ERC Act”) was recognized as the Central Electricity Regulatory Commission (short as “CERC”) under the Electricity Act, 2003. The Electricity Act, 2003 has significantly enlarged the spectrum of responsibility of the Central Electricity Regulatory Commission. The Central Commission has been vested with the functions under the Electricity Act, 2003 (short as “the Act”) to regulate the tariff of the generating companies owned or controlled by Central Government, generating companies having a composite scheme for generation and sale of electricity in more than one State, to regulate inter-State transmission of electricity and determination of tariff for inter-State transmission in electricity among other functions. The Commission is at present determining tariff of about **60,000 MW** generation capacity and determining tariff of associated inter-state transmission elements of inter-state transmission system.

1.2 The Central Commission has issued Terms and Conditions of Tariff for the period 2009-14 under the Electricity Act, 2003 and determined the tariff of the various generation and transmission assets under these Regulations. The Commission introduced the provision of

truing up of the tariff which requires the Commission to undertake truing up for 2009-14 control period.

1.3 Stakeholders have filed petitions for the purpose of true up and tariff determination by combining units in case of the generating station and by combining one or more transmission elements in case of the transmission system.

1.4 The Central Commission has further issued Terms and Conditions of Tariff for the period 2014-19 on February 21, 2014 which is effective from April 1, 2014. In accordance with the Tariff Regulations, 2014, the Central Commission has received the petitions from the generating Companies and transmission licensees for the existing assets (which were commissioned prior to 1.4.2014) and the new assets whose commercial operation date occurs during tariff period 2014-19..

1.5 In accordance with clause 7(3) of Tariff Regulations, 2014, the tariff petitions of existing assets are required to be filed not later than 180 days from the date of notification of the Regulations. In order to do this, the petitioner has to first file true up petitions and the Commission has to freeze its capital cost on completion of tariff period 2009-14. In view of the overlapping of true up of tariff for 2009-14 period and tariff determination for 2014-19 period, some entities have preferred to file combined petitions as part of compliance of Tariff Regulations.

1.6 The Central Commission is required to determine the tariff of the aforesaid proposals expeditiously to enable distribution companies or beneficiaries to capture final tariff in their respective annual revenue requirement proposal. In view of the transition of tariff period and overlapping of true up of 2009-14 period and tariff determination of 2014-19 period, the Commission proposes to engage Corporate Consultants (not applicable to individual consultants) to assist the Commission by providing inputs in accordance with relevant regulations for the existing and new generation and transmission projects.

2.0 Objective:

2.1 To identify the issues involved in the tariff petitions, present the comments of stakeholders and provide inputs to the Commission in matters involving determination of tariff in accordance with provisions of the Tariff Regulations.

3.0 Scope of the work:

The scope of the assignment is as under:

3.1 To provide inputs for the following categories of petitions:

- (i) Annual true-up of the existing transmission elements or system or generating unit or stage of generating station for tariff period of 2009-14 including determination of tariff covered in each petition;
- (ii) Determination of tariff of the existing transmission element or system or generating unit or state or generating station for tariff period of 2014-19;

- (iii) Determination of tariff of new transmission elements or system covered in each individual petition for the tariff period of 2009-14 or 2014-19 as per respective Tariff Regulations#

The tariff petitions with combined tariff fixation of 2009-14 period and 2014-19 period will be treated as separate petitions for accounting purpose.

3.2 The consultant is required to do the following:

3.2.1 To examine the true up proposals for tariff determination for the control period 2009-14 and tariff proposals for the control period 2014-19 received by the Commission in accordance with the Terms and Conditions of Tariff Regulations, 2009 and Terms and Conditions of Tariff Regulations, 2014 after taking into account the submissions of the stakeholders, and provide inputs on the issues involved in the concerned petitions.

3.2.2 The consultant shall have to carry out the work during different stages of the petitions namely pre-listing of the cases, post-listing and financial analysis for fixation of tariff as under:

(i) PRE-LISTING

- a) Scrutiny/Evaluation/Technical Validation of the various tariff proposals received from the transmission licensees including deemed transmission licensees and Generating companies from financial, technical, legal and economical point of view. The Consultant shall have to prepare input for Technical validation report in the format specified;

- b) Submission of the draft technical validation report for each petition which inter-alia includes the findings and inadequacies in the tariff proposals from financial, technical, and legal angle for determination of tariff. The technical validation should also contain the additional information to be obtained from the petitioner to work out the tariff;
- c) Analysis of the submission/comments/suggestions/objections of the stakeholders and additional rejoinder(s)/submission(s) received prior to the hearing. The Consultant shall have to provide the inputs (as per the format specified) on various issues of the tariff proposal for assisting the Commission along with supporting analysis and back up material;
- d) The consultant may also be called upon to attend any meeting if it is so desired by the Commission.

(ii) POST LISTING

- a) To provide inputs for the purpose of preparing record of proceedings;
- b) Analysis of submissions/comments/suggestions/objections of the stakeholders and additional submissions by the petitioner received during hearing as recorded in “Record of Proceedings” and after hearing;
- c) The Consultant shall carry out financial analysis for tariff by considering all relevant issues of legal, financial, and technical which *inter-alia* include the determination of capital cost, IDC, IEDC, cost of Initial Spares, depreciation, return on equity, interest on loan, interest on working capital and O&M cost etc.;
- d) The Consultant shall submit inputs addressing all relevant issues in the desired format and manner.

(iii) INPUT/ANALYSIS OF THE CASE

a) The consultant shall prepare inputs covering all the aspects of tariff components, approved financial and technical inputs in accordance with concerned Terms and Conditions of Tariff Regulations. The inputs shall be prepared by considering the aspects which includes the following:

- Approved technical, financial and legal inputs for each individual tariff petition and calculation of tariff for the Generating companies or transmission licensees, as the case may be ;
- The suggestions/comments/objections received from various stakeholders, written and oral submissions of the petitioner and respondents and previous decisions of the Commission and APTEL on various aspects;
- Terms and Conditions of Tariff for 2009-14 or 2014-19, as the case may be, and all relevant rules and regulations applicable thereto.

b) The Consultant shall have to provide all assistance, as required in timely manner.

3.3 The number of petitions anticipated to be handled by the consultant will be in the range of 75-100. However, this number is indicative and the same may undergo change, as per the requirements of the Commission.

3.4 The consultant shall quote **rate per petition** for completion of work related with the petition.

3.5 The consultant will function from the premises of CERC and will on no occasion remove the records/documents relating to the petitions from the assigned premises. An

undertaking to this effect will be provided by the consultant and any breach will be viewed most seriously.

4.0 Deliverables and duration of the Assignment:

4.1 Period of the Contract

The engagement of consultant shall be for a period of **one year**.

4.2 Time line for deliverables

4.2.1 The consultant shall complete each individual milestone in accordance with the following timeline :-:

Sr.	Activity	Schedule of completion
1.	Examination/Technical validation of the Petition and all the documents referred therein and submission of the draft report of technical validation including the list of inadequacies/data gaps in the petition along with additional information to be sought from the petitioner in the prescribed format.	Within 5 days for transmission tariff and 10 days for generation tariff from the date of handing over of the petition to the consultant
2.	Examination/analysis of the comments/suggestions/objections received from stakeholders, respondents in response to public notice and additional rejoinder. The consultant shall submit the issues in the prescribed format.	Within 7 days after receipt of all objections or suggestions or additional rejoinder.
3	Submission of inputs for preparing record of proceedings on the basis of the hearing	Within 1 day after the hearing is over.
4.	Submission of the inputs along with final tariff calculations for taking a final view on the petition.	Within 5 days after hearing where all final information is available on record. Within 5 days after submission of information by the parties.

- 4.2.2 The time line for deliverables is to be strictly adhered to. For any delay, except where extension is allowed, 1% penalty per day will be levied for value of work executed after the due date of completion, subject to a ceiling of 10% of contracted amount. The individual task should be completed in phased manner and overlapping of one or more tariff proposals shall not be a constraint to adhere to the timeline.
- 4.3 The Consultant should deploy adequate and appropriate number of professionals/manpower to work at CERC on a daily basis to ensure the deliverables commensurate with the timeline and requirements. The Consultant will remain present in all public hearings related to the petitions assigned to him.

5.0 Qualification Criteria

- 5.1 The Consultant should have completed at least **10** assignments in the last **5** years in tariff determination in respect of thermal, hydro generation and transmission projects or experience of similar number of assignments over the last 5 years involving analysis of tariff order/regulations related to thermal, hydro generation and transmission tariff, **two** of which should be for generation or transmission projects in power sector.
- 5.2 The consultant should have personnel with professional qualification and having professional experience of Finance, Engineering(Mechanical/Electrical), Economics and Law along with relevant experience of tariff determination. The team should consist of atleast one graduate in Engineering, one graduate in Law and one CA/ICAI(Cost)/CFA.

5.3 The consultant and professionals deployed should have knowledge of relevant Acts, Policies, Regulations as well as operational & commercial aspects of thermal generating stations, hydro generating stations and transmission system. Each member of the team should be a full time employee of the consultant. No member of the team should be changed except with the prior approval of the Secretary, CERC.

5.4 The consultant should have in-depth knowledge of CERC tariff regulations, tariff orders issued by the Commission and APTEL, and practices followed by other SERC/JERCs.

6.0 Mode of payment

6.1 Payment for the work for anticipated petitions as per Schedule of work:

The consultant shall submit a status report on completion of all the deliverables (as per clause 4) for each petition assigned to him on the first day of each month. On approval of status report by the competent authority, the consultant shall be made payment on monthly basis as per the accepted rate in respect of petitions completed subject to withholding of 10% payment of completed work.

7. Conflict of Interest

The consultant is required to enclose an undertaking/affidavit (as at **Annexure-III**) that they are not handling any assignment that would be in conflict with this assignment or place the Central Electricity Regulatory Commission in a position of not being able to carry out this assignment objectively and impartially. The consultant is also required to disclose through an undertaking about the details of current assignments with their other clients or current

obligations that may place them in a position of not being able to carry out this assignment objectively and impartially. The format of undertaking/affidavit is at **Annexure – III**. The Commission’s decision in these matters will be final and binding on all parties.

8 Confidentiality of data and documents:

8.1 The Consultant shall maintain confidentiality of information and enter into a “Confidentiality and Non Disclosure” agreement. The Consultant shall provide undertaking on behalf of their employees along with undertaking of team leader to ensure the confidentiality of information as required by CERC.

8.2 The consultant shall not utilize or publish or disclose or part with to a third party, any part of data or statistics or proceedings or information collected for the purpose of this assignment or during the course of the assignment from the Commission, without permission of the Secretary of the Commission.

9 Termination of contract:

The performance of the consultant shall be evaluated on the basis of deliverables. If the performance of the consultant is not satisfactory in terms of the quality and timeline of the work, the contract may be terminated as per clause 7 of the Contract Agreement enclosed at **Annexure IV**. The decision of CERC shall be final in this regard.

10. Technical Evaluation:

- a. The format of application is at Annexure-I and Annexure-II.

- b. The Consultant is required to submit two (2) copies of bids for technical offer (each of which will be treated as original) and one copy of Financial offer, **duly sealed in separate envelopes** along with soft copy.
- c. The bids of the eligible bidders as per Clause 5 will be scrutinized by Consultancy Evaluation Committee (CEC) and shortlisted bidders will be called for interaction with the CEC. The technical performance of the shortlisted candidates shall be evaluated based on the following criteria:

Technical Parameters	Weights
Consultants relevant experience for the assignment	30%
Quality/approach/methodology	30%
The qualifications and experience of the key staff proposed	40%
Total	100%

- d. The minimum qualifying marks in the Technical Evaluation shall be **70%** of the total score. Only those bidders, who qualify technically, would be considered for Financial Evaluation.

11 Financial Evaluation:

- 11.1 The technically qualified bidders would be ranked as L1, L2, L3 and so on based on the financial quotes (from lowest to the highest). The bidder quoting the lowest fee would be declared as L1. The bidders placed at rank L2, L3, and so on will be asked to match the rate quoted by the lowest bidder.

- 11.2 Subject to performance and output, the bidder at L1 will be assigned additional 10% of the total number of petitions earmarked by the Commission to the other bidders.
- 11.3 The Commission proposes to empanel a maximum of four consultants. The approximate number of petitions to be assigned to each corporate consultant is likely to be in the range of 75 - 100 nos.
- 11.4 The consultant shall abide by the contract as per Annexure-**IV** and Confidentiality and non disclosure agreement as per **Annexure-V**.

DETAILED PROPOSAL FOR STUDY

(TECHNICAL)

Note: Two (2) copies of the proposal shall be submitted to Secretary, CERC.

I. GENERAL INFORMATION:

01. Title of the Proposed Assignment :

02. Name and address of the Organization/ Institution :

03. Name & Designation of the Key Person :

04. Contact address of the Key Person :

4.1 Address :

4.2 e-mail :

4.2 Telephone :

4.3 Fax :

4.4 Mobile No. :

05. Net-worth/Turnover of the Organization/ Institution (To be supported by Annual Statement of Accounts of 2014-15) :

II. TECHNICAL SPECIFICATIONS:

1. Brief review of the experience in the relevant field (National and International).
2. Detailed Approach & Methodology for undertaking the assignment.
3. Facilities available for the proposed work in the applicant's organization/institution
4. Previous experience of the proposer in this or related field
5. Name and Designation of each Member of the Proposed Team (also indicate the man-hour committed for each member of the team)
6. Biographical sketch of the Study Team to be given separately (for every team member)
 - (i) Name
 - (ii) Designation
 - (iii) Date of Birth
 - (iv) Education and Experience
 - (a) Academic Qualifications

Degree	University	Field(s)/Specialisation	Year
A	B	C	D

(b) Experience :

(1) Total Relevant Experience for the proposed assignment: Years

(2) Detailed Experience :

Institution	Topic of work done	Period
E	F	G

(v) Field of major interest

(vi) Additional information (if any)

**DETAILED PROPOSAL FOR ASSIGNMENT
(FINANCIAL)**

I. GENERAL INFORMATION:

1. Title of the Proposed Assignment :

2. Name and address of the Organization/ :
Institution

3. Name & Designation of the Team Leader :

4. Contact address of the Team Leader :
(e-mail/fax/telephone)

5. Certificate of authorization in case of Institutes/other organizations (Format enclosed at **Appendix-‘A’**).

II. Fee Proposed per petition (amount should be exclusive of service taxes):

(Rupees _____)

Signature of the Principal Investigator/
Head of the Study Team

Signature of the Principal Investigator/
Head of the Study Team

/ Appendix-‘A’ /

CERTIFICATE

The undersigned agree to abide by the conditions of the grants and certify that available facilities for proposed work shall be extended to the investigator/study team.

Signature of Executive Authority
Organisation

Signature of the Principal Investigator/of the
Head of the Study Team

Name and Designation
Date

Name and Designation
Date

Signature of Co-investigator
Name and Designation
Date

Official stamp of
Organization/Institution