

THE ASSOCIATED CHAMBERS OF COMMERCE AND INDUSTRY OF INDIA

D S RAWAT
Secretary General

ASSOCHAM/HYDROPOWER/2018
July 23, 2018

Dear Shri Pujari ji,

Draft Amendments to Tariff Policy
Hydropower perspective on CERC's Consultation Paper
on Terms and Conditions of Tariff Regulations (01-04-2019 to 31-03-2024)

39 (1.3)

Handwritten notes: 7/23, 6 hr

In context with CERC's Consultation paper on Draft Amendments to Tariff Policy for Hydropower, we would like to share our member's submissions with you.

Handwritten note: 1/1/18

While the tariff policy and CERC tariff regulations enlists that tariff for hydro projects continue to be determined under section 62 of Electricity Act, however, in practical, no DISCOM/procurers would like to sign long term PPAs under section 62, for the fear of getting into litigations for choosing Hydro generators through section 62. This would deplete the essence of section 62 of Electricity Act.

The other probable option to invite EoI /Tenders for exclusive procurement of Hydropower, would be hinderance for new Hydro projects as these will not be able to sign PPA to achieve financial closure to initiate construction. Reasons being that procurer will obviously prefer projects already commissioned or under construction, likely to be commissioned in couple of years, since risks associated with the commissioned /under commissioning hydro projects shall be minimal and these shall get committed supply within the desired time frame (1-2 years).

As such, CERC shall define the procurement of power from Hydro projects in such a way that new projects (around 30000 MW) will also see the light of the day, which is possible only if procurers/ DISCOMS call EoI/Tender separately for commissioned/to be commissioned and from NEW PROJECTS.

We hope our following submissions will merit your consideration.

Existing Provision	Modified Provision/ Regulatory Options	Justification/ Comments/Suggestions
<p>5.5 c</p> <p>Long term PPA is fixed for 60% or more of the saleable design energy, balance being allowed for merchant sale</p>	<p>Long term PPA is fixed for minimum 60% with a choice to developer to either go for increase or sell the balance energy on merchant basis</p>	<p>Just for the purpose of more clarity. The Discoms may restrict at 60%</p>
<p>5.9</p> <p>The real benefit.....</p>	<p>(Additional lines to be inserted)</p> <p>Transmission charges for injection and withdrawal shall be on MU/month basis instead of MW/month basis for hydro projects and some mechanism would be developed for the same.</p>	<p>The charges on MW/month are mainly for thermal power projects where PLF is high but for hydro it increases tariff substantially, as PLF is around 45-50%.</p>

DCRPT/Fin 7/8/18

EO/6 3-8-18

Handwritten notes: 59/4/2018, 1/18/18, 3-8-18

ASSOCHAM Corporate Office : 5, Sardar Patel Marg, Chanakyapuri, New Delhi-110021

Tel. : +91-11-46550555 (Hunting line) • Fax : +91-11-23017008 / 9 • E-mail : assocham@nic.in • Website : www.assochem.org

Follow us on :

STPL Comments/Suggestions on Proposed Amendments to Tariff Policy, 2016

Provision	Draft Policy	Comments/Suggestions	Rationale
1.0	<p>1.3 It is therefore essential to attract adequate investments in the power sector by providing appropriate return on investment as budgetary resources of the Central and State Governments are incapable of providing the requisite funds. It is equally necessary to ensure availability of electricity to different categories of consumers at reasonable rates for achieving the objectives of rapid economic development of the country and improvement in the living standards of the people</p>	<p>It is therefore essential to attract adequate investments in the power sector by providing appropriate policy and investment framework return on investment as budgetary resources of the Central and State Governments are incapable of providing the requisite funds. It is equally necessary to ensure availability of electricity to different categories of consumers at reasonable rates for achieving the objectives of rapid economic development of the country and improvement in the living standards of the people.</p>	<p>The sector has evolved from a pure play cost plus model to competitive bidding model wherein generation, transmission and distribution franchisees are bid out and awarded on lowest tariff basis. The Tariff Policy should provide for a robust investment framework which opens up the sector to more competition, private investments and addresses risk-reward equitability.</p>
2.0 Legal Position	<p>2.4 The Forum of Regulators has been constituted by the Central Government under the provisions of the Act which would, inter alia, to facilitate consistency in approach especially in the area of distribution across the country.</p>	<p>The Forum of Regulators has been constituted by the Central Government under the provisions of the Act which would, inter alia, to facilitate consistency in regulatory approach especially in the area of distribution across the country</p>	<p>It is suggested that the word "regulatory" be added to bring in clarity.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
4.0 (c) Objectives of the Policy	Promote transparency, consistency and predictability in regulatory approaches across jurisdictions and minimize perceptions of regulatory risks;	Promote transparency, consistency and predictability in regulatory approaches across jurisdictions and minimize perceptions of regulatory risks;	It is suggested that the words "perception of" be deleted and the objective of the tariff policy should be to minimize regulatory risks.
4.0 (g)Objectives of the Policy	Evolve a dynamic and robust electricity infrastructure for better consumer services;	Evolve a Facilitate development of a dynamic and robust electricity infrastructure for better consumer services;	It is suggested that the words "facilitate development of" be used in place of "evolve a", since policy objectives are to ensure, promote and facilitate decision and actions that lead to evolution of the sector.
5.0 General Approach to Tariff	5.1 Introducing competition in different segments of the electricity industry is one of the key features of the Electricity Act, 2003. Competition will lead to significant benefits to consumers through reduction in capital costs and also efficiency of operations. It will also facilitate the price to be determined competitively. The Central Government has already issued detailed guidelines for tariff based	Introducing competition in different segments of the electricity industry is one of the key features of the Electricity Act, 2003. Competition will lead to significant benefits to consumers through reduction in capital costs and also efficiency of operations. It will also facilitate the price to be determined competitively. The Central Government has already issued detailed guidelines for tariff based bidding process for procurement of electricity by distribution licensees and procurement of transmission services for transmission of electricity.	Government of India on 17th April 2006 has notified tariff based competitive-bidding guidelines for Transmission Service and Tariff Based Competitive Bidding is not limited to generation only.

Provision	Draft Policy	Comments/Suggestions	Rationale
	bidding process for procurement of electricity by distribution licensees.		
5.0 General Approach to Tariff	5.3 The tariff of all new generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis. Intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs.	The tariff of all new generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis. Intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs within six months from notification of the Tariff Policy. All intra-state transmission projects above 220 kV should be suitably packaged above a threshold limit of Rs 100 crore and developed only through competitive bidding process.	The provision for introduction of competitive bidding in transmission was introduced through amendment dated 8 Jul 2011 to the Tariff Policy 2006, which provided " <i>tariff of the projects to be developed by CTU/STU after the period of five years of when the Regulatory Commission is satisfied that the situation is right to introduce such competition (as referred to in Clause 5.1) would also be determined on the basis of competitive bidding.</i> (iii) <i>the intra-state transmission projects by STUs will be exempted from competitive bidding route for further 2 years beyond 6.1.2011.</i> " The Tariff Policy was amended and notified on 28 Jan 2016 which provided for Intra-state transmission projects cost above a threshold limit to be awarded through competitive bidding. The threshold limits were to be decided by SERCs and to date, none of the SERCs have undertaken the task of determining the threshold limit and notifying the same.

Provision	Draft Policy	Comments/Suggestions	Rationale
			<p>Further, as part of the MYT Regulations, a STU must submit a business plan for the control period to the SERC for approval, before these transmission scheme can be undertaken for implementation by the STU. A scrutiny of the Business Plans filed by STUs and approved by the SERCs reveals that transmission schemes are proposed usually at 765 kV, 400 kV, 220 kV and 132 kV levels as individual S/s and transmission line projects, with bulk of the scheme at 132 kV levels. It is submitted that all intra-state transmission projects above 220 kV voltage level should be suitably package above Rs 100 Cr and developed only through competitive bidding route.</p>
5.2	<p>All future requirement of power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a company owned or controlled by the State Government <u>or Central Government</u> as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by</p>	<p>All future requirement of power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a company owned or controlled by the State Government or Central Government as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.</p>	<p>Level playing field should be provided to all the developers irrespective of whether they are govt. owned or private owned.</p> <p>This will help absorb excess capacities in the system and help reduce NPAs in power sector.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.</p>	<p>The earlier provisions of Tariff Policy keeping Central PSU under competitive bidding regime for power tie-ups shall be retained. In addition, the State owned Projects&/or any Joint Venture with Governments/ PSUs should also be kept under competitive bidding and tariff determination under section 62 should not be allowed.</p>	
5.3	<p>The tariff of all new generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis.</p>		<p>It is worth to recall action taken by NTPC for executing PPA to the tune of 47000 MW before expiry of deadline of 5th Jan 2011 as envisaged in National Tariff Policy 2005. This has resulted in over capacities tie-up by State utilities & complete dry up of Case 1 bidding for considerable period. Out of these Projects for which PPAs were entered in rush, almost 50% of project capacities are delayed due to various developmental challenges. Most of the plants which has come up in the recent past by NTPC/NLC are having high cost of generation (both Fixed and variable cost) in comparison to the Case-I bids. The Project cost for these projects are in the range of Rs 7-8 Cr/MW which would result into additional burden on the end Consumers.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
			<p>Because of such situation utilities are finding extremely difficult to finalize their future power requirement as they have already entered into long term PPAs with NTPC but at the same time delayed projects have added to their difficulties leading unavailability of sufficient power supply.</p> <p>In view of above, it is suggested that section 62 may be abolished and all power procurement should be strictly under section 63. Further, the PPAs which were entered and under section 62 but no financial closure is achieved shall be made null and void.</p>
5.4	<p>Provided that procurement of power from coal washery rejects based projects developed by Central/State PSUs, Joint Venture between Government Company and Company other than Government Company in which shareholding of company other than Government Company either directly or through any of its subsidiary company or associate company shall</p>	This provision needs to be removed.	This is of discriminatory nature against the private IPPs.

Provision	Draft Policy	Comments/Suggestions	Rationale
	not be more than 26% of the paid up share capital, can be done under Section 62 of the Act.		
5.5 (c) General Approach to Tariff	<p>Long term PPA is firmed up for 60% or more of the total saleable design energy, balance being allowed for merchant sale.</p> <p>Provided that distribution licensees can extend the duration of long term PPA beyond 35 years for a further period of 15 years at the existing terms and conditions subject to the approval of Appropriate Commission.</p>	<p>In addition to the clause, following may be considered.</p> <p>The transmission evacuation system associated for the hydro project ought to be developed under tariff based competitive bidding route.</p>	<p>It is suggested that the transmission evacuation system associated for the hydro project ought to be developed under tariff based competitive bidding route.</p> <p>Since the transmission system is dedicated to the hydro power project, the term of the TSA should be for the duration matching the PPA term and the extension.</p>
5.5 (d)	The time period for commissioning of all the units of the project shall be fixed at four years or a period specified in the Hydro policy , from the date of approval of the commissioning schedule by the Appropriate Commission.	The time period for commissioning of all the units of the project shall be fixed at four years or a period specified in the Hydro policy, from the date of approval of the commissioning schedule by the Appropriate Commission.	Restriction of four years should be removed as Tariff Regulations provides for timelines for completion of all projects. While approving tariff, commission takes the prudence of time overrun and cost overrun and allows pass through of costs for the delays not attributable to the developer. Moreover timeline for hydro projects shall vary significantly depending on the location, terrain ,geology etc.

Provision	Draft Policy	Comments/Suggestions	Rationale
5.5 (e)	Award of contracts for supply of equipment and construction of the project, either through a turnkey or through well-defined packages, are done on the basis of international competitive bidding.	Projects already awarded thru competitive bidding should be excluded from this requirement.	<p>Most of the private hydro power projects have been secured through a transparent process of bidding, where free power to home state was the criteria.</p> <p>Going forward balance power from these plants will be supplied to discoms after due capital cost appraisal by CEA/Commission therefore this restrictive clause can be removed.</p>
5.6 General Approach to Tariff	Notwithstanding anything contained in Para 5.5 above, where sites are allotted for development by the Centre/ State Government to Public Sector Undertakings or where the developers of hydroelectric projects of more than 100 MW design capacity for which sites have been awarded earlier by following a transparent process and on the basis of pre-determined set of criteria would have the option of getting the tariff determined by the Appropriate Commission for the power to be sold through long term PPA on the basis of cost plus under Section 62	<p>In addition to the clause, following may be considered.</p> <p>The associated transmission system for the whole river basin for evacuating power from individual hydro projects be conceived as one scheme and be developed through competitive bidding route.</p>	<p>It is suggested that the award of hydro projects to public sector companies or to private sector companies through bidding be done with the object of developing and tapping the hydro potential of the river basin as a whole.</p> <p>The associated transmission system for the whole river basin for evacuating power from individual hydro projects be conceived as one scheme and be developed through competitive bidding route. This would ensure that the hydro projects and the transmission system are developed in tandem and the transmission system is adequately utilised.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	of the Act.		
5.7 (i)	Any expenditure incurred or committed to be incurred by the project developer for getting the project site allotted (except free power as notified) would neither be included in the project cost, nor any such expenditure shall be passed through in tariff.	Any expenditure incurred or committed to be incurred by the project developer for getting the project site allotted (except free power as notified) would neither be included in the project cost, nor any and such expenditure shall be passed through in tariff.	This is a genuine expense for the project and should be allowed to be part of project cost as well as tariff.
5.7	In case of projects covered under Para 5.5 and 5.6, the Appropriate Commission shall determine tariff ensuring the following: (i)..... (ii)..... (iii)	New Sub-clause: (iv) The costs of building infrastructure such as roads and bridges shall be excluded from tariffs. These costs shall be borne by the state government where the projects are located.	The cost of enabling infrastructure for development of the area should be borne by the state, this would make the new hydro projects viable and tariff to be paid by the consumers shall be competitive.
5.8	The Appropriate Commission shall provide for suitable regulatory framework for incentivizing the developers of Hydro Electric Projects (HEPs) for using long-term financial instruments in order to reduce the	The Appropriate Commission shall provide for suitable regulatory framework for incentivizing the developers of Hydro Electric Projects (HEPs) for using long-term financial instruments in order to reduce the tariff burden in the initial years. Such as Interest subvention of 4% during construction	This will ensure revival of ailing hydro projects. Also, Hydro Power Procurement Obligation (HPPO/ HPO) shall be separately defined by MoP.

Provision	Draft Policy	Comments/Suggestions	Rationale
	tariff burden in the initial years.	period (max of 7 years) and 3 years post COD to all hydro projects shall be provided.	
5.11	Tariff policy lays down The following framework is laid down or performance based cost of service regulation in respect of aspects common to generation, transmission as well as distribution.	The provision may be modified as below: Tariff policy lays down The following framework is laid down for performance based cost of service regulation in respect of aspects common to generation, transmission as well as distribution.	Typo error may be corrected for right interpretation of provision.
5.11 a) Return on Investment	Balance needs to may be maintained between the interests of consumers and the need for investments while laying down rate of return. Return should attract investments at par with, if not in preference to, other sectors so that the electricity sector is able to create adequate capacity. The rate of return should be such that it allows generation of reasonable surplus for growth of the sector.	The earlier provision of tariff policy may be retained	The amendment is against the provision of Section 61 of the Electricity Act 2003 which clearly stipulates determination of terms & condition of tariffs taking into consideration safeguard of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner.
5.11 (c)	Notwithstanding the above, power	This clause should be removed.	This clause will bring more inefficiencies in the system. These

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>from those plants of a generating company, where either whose PPAs have expired or plants have completed their useful life, may be bundled with power from renewable generating plants to be set up through the process of bidding or for which the equipment for setting up such plant is procured through competitive bidding. In such cases, power from such plants can be reallocated to beneficiaries purchasing power from renewable energy generating plants on the principles to be decided by Appropriate Government. The Obligated Entities which finally buy such power shall account towards their renewable purchase obligation to the extent of power bought from renewable energy generating plants.</p>		<p>plants are depreciated with very low fixed cost, however the variable cost of these plants are very high and not conducive from environment point of view.</p> <p>Most of these plants would need sizeable investment for R&M to maintain operations and meet the new environmental norms.</p> <p>Therefore, this clause shall be removed.</p>
5.11 (f)	Operating Norms	It is suggested that Regulators should take into account the design parameters also while fixing the	For e.g. there are many plants with design Auxiliary Power Consumption is 7.5 – 8.0%. However, the tariff norms provide

Provision	Draft Policy	Comments/Suggestions	Rationale
		operating norms in the Tariff Regulations	for only 5.75%, which is not justified.
5.11 (j) Composite Scheme	<p>Sub-section (b) of Section 79(1) of the Act provides that Central Commission shall regulate the tariff of generating company, if such generating company enters into or other wise have a composite scheme for generation and sale of electricity in more than one State.</p> <p>Explanation: The composite scheme as specified under section 79(1) of the Act shall mean a scheme by a generating company for generation and sale of electricity in more than one State, having signed long-term or medium-term PPA prior to the date of commercial operation of the project (the COD of the last unit of the project will be deemed to be the date of commercial operation of the project) for sale of at least 10% of the capacity</p>	<p>The condition of execution of PPA prior to COD of the Project to qualify for the scheme to be composite scheme may be deleted. The provision may be modified as below:</p> <p>Explanation: The composite scheme as specified under section 79(1) of the Act shall mean a scheme by a generating company for generation and sale of electricity in more than one State, having signed long-term or medium-term PPA prior to the date of commercial operation of the project (the COD of the last unit of the project will be deemed to be the date of commercial operation of the project) for sale of power at least 10% of the capacity of the project to a distribution licensee outside the State in which such project is located.</p>	<p>The provision needs to be to review in view of Hon'ble Supreme Court judgment dated 11.04.2017 in the matter of Adani power this judgment which has been pronounced after the notification of the Revised Tariff Policy, 2016.</p> <p>The Hon'ble Supreme Court has held that the moment generation and sale takes place in more than one State, the Central Commission becomes the Appropriate Commission.</p> <p>Imposition of condition of signing long-term or medium-term PPA prior to the date of commercial operation of the project for the scheme to become a composite scheme is not in consonance with the interpretation of the Act given by the Hon'ble Supreme Court.</p> <p>If the PPA is signed after the COD of a project with the distribution licensees of States other than the State in which the project is located then according to the existing provision of tariff policy, the Central Commission shall not have jurisdiction. This would further mean that none of the Commissions will have jurisdiction on such project. There are</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	of the project to a distribution licensee outside the State in which such project is located.		<p>few existing projects which have achieved COD and have PPA with the distribution licensee of the State in which the project are located. If these projects now tie up for balance power through long or medium term PPA with another State then according to the prevailing policy condition, none of the Commissions will have jurisdiction over the project, a situation which possibly cannot be the intent of the tariff policy.</p> <p>The contradiction between the provisions under the Electricity Act & Tariff Policy needs to be resolved.</p>
5.12	For realizing the goal of making available electricity to consumers at reasonable and competitive prices, it is necessary that such duties are kept at reasonable level.		The draft Policy does not define what Reasonable level is.
6.1	However, some of the competitively bid projects as per the guidelines dated 19th January, 2005 have experienced difficulties in getting the required quantity of coal from Coal India Limited (CIL). In case of reduced	However, some of the competitively bid projects as per the guidelines dated 19th January, 2005 have experienced difficulties in getting the required quantity of coal from Coal India Limited (CIL). In case of reduced quantity of domestic coal supplied by CIL, vis-à-vis the assured quantity or quantity	The referred advisory issued by MoP was applicable only till 31.03.2017. However, power generating companies shall continue to receive coal at the level of 75% of ACQ till coal supply by CIL is improved, which is directed by MOC vide letter dated 22nd May 2017. Generating companies are still suffering from shortfall in coal supply. In addition, as per policy of Fuel

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>quantity of domestic coal supplied by CIL, vis-à-vis the assured quantity or quantity indicated in Letter of Assurance/FSA the cost of imported/market based e-auction coal procured for making up the shortfall, shall be considered for being made a pass through by Appropriate Commission on a case to case basis, as per advisory issued by Ministry of Power vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013.</p>	<p>indicated in Letter of Assurance/FSA the cost of imported/market based e-auction coal procured for making up the shortfall, shall be considered for being made a pass through by Appropriate Commission on a case to case basis, as per advisory issued by Ministry of Power vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013.</p> <p>In case of Coal pass through claims are challenged at higher courts, during the pendency, at least 90% of the claim from the date of occurrence need to be released to avoid projects becoming NPA, which shall be subject to true-up based on final outcome of the judgement.</p> <p>It is further clarified that where the provisional payment is not granted, generators shall be given carrying cost @rate of cost of funding from the date of occurrence.</p>	<p>Supply Agreements signed with the Coal Companies, from 2016-17 onwards, they may supply short quantities up to 75% without attracting any penalty. Therefore, the pass through of alternate coal cost shall be permitted till the shortfall in linkage coal continues.</p> <p>The coal pass through orders of respective commissions have been challenged by discoms in higher courts/APTEL.</p> <p>Payments against these orders are now being pending for more than 2-4 years for many generators.</p> <p>There is a need to ensure that regulatory orders are honored and payment are released immediately by the discoms.</p> <p>Even when the case is admitted/ order is challenged in higher courts, at least 90% of the claim amount must be paid immediately.</p> <p>Based on the order of higher court/APTEL, higher or lower claims can be settled with carrying cost.</p>
6.2 (3)	In case of coal based generating	In case of coal based generating stations, the cost of	MoEFCCC has mandated the new emission norms, in

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>stations, the cost of project will also include reasonable cost of setting up coal washeries, coal beneficiation system and dry ash handling & disposal system.</p>	<p>project will also include reasonable cost of setting up coal washeries, coal beneficiation system, dry ash handling & disposal system, emission control systems to meet the compliance norms or any other system as mandated by the Government of India.</p>	<p>compliance of the same, new control systems have to be installed. MoP vide its letter no. 23/22/2018-R&R dated 30.05.2018 has decided that these norms are of nature of Change in Law and additional cost on account of the same need to be made pass through. Further, MoP directed Central Commission to implement this decision.</p> <p>In view of the above, the clause shall be modified to include such costs of installing emission control systems to be made pass-through.</p>
6.2 (4)	<p>After the award of bids, if there is any change in domestic duties, levies, charges, surcharges, cess and taxes imposed by Central Government, State Governments/ Union Territories or by any Government instrumentality leading to corresponding changes in the cost, the same may be treated as “Change in Law” and may unless provided otherwise in the PPA, be allowed as pass through. The Appropriate Commission shall lay</p>	<p>After the award of bids, if there is any change in domestic duties, levies, charges, surcharges, cess and taxes imposed by Central Government, State Governments/ Union Territories or by any Government instrumentality leading to corresponding changes in the cost, the same may be treated as “Change in Law” and may unless provided otherwise in the PPA, be allowed as pass through. The Appropriate Commission shall lay down the principle and procedure for the same on the basis of which reimbursement of such costs towards change in law shall be made forthwith from</p>	<p>As projects are already under financial stress and on the verge of becoming NPA, any delay in recoveries shall aggravate and accelerate the bankruptcy affecting the banks including public sector banks.</p> <p>Owing to the procedural delays in Commission/ APTEL. It is suggested that for Change in Law claims, Commission shall lay down the procedure in terms of the PPA provisions and affected party shall be made payment upfront.</p> <p>For any dispute in the above, Commission may admit the case and allow for carrying costs @rate of cost of funding for the</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>down the principle and procedure for the same.</p> <p>Provided further that Appropriate Commission shall also allow and establish mechanism for reimbursement of carrying cost for the period from date of occurrence of change in law and till the approval of Change in law by the Commission.</p> <p>Provided further that in case of dispute in implementation of above procedure, principles the same may be referred to the Appropriate Commission.</p> <p>Provided further that in case of any excess payment made, the same shall be reimbursed at the rate of carrying cost.</p>	<p>the date of such change in law event to the affected party pending actual determination by the Appropriate Commission.</p> <p>Provided further that Appropriate Commission shall also allow and establish mechanism for reimbursement of carrying cost for the period from date of occurrence of change in law and till the approval of Change in law by the Commission.</p> <p>It is further clarified that Appropriate Commission shall also allow reimbursement of carrying cost @rate of cost of debt from date of occurrence of change in law and till the date of actual reimbursement of approved cost by the concerned party.</p> <p>Provided further that in case of dispute in implementation of above procedure, the same may be referred to the Appropriate Commission.</p> <p>Provided further that in case of any excess payment made by the DISCOMS the same shall be adjusted</p>	<p>period from date of occurrence of change in law, till the date of actual reimbursement of approved cost by the concerned party.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
		from the future payments due from the generator.	
6.4	<p>Ministry of Power has already issued ‘Long term growth trajectory of RPOs’ for non-solar as well as solar sources, uniformly for all States/UTs, initially for three years from 2016-17 to 2018-19. Further Trajectory for the period till year 2022 and also further beyond that, if required, shall be notified by the Ministry of Power in consultation with MNRE from time to time. All SERCs will adopt the RPO trajectory issued by Central Government.</p>	<p>Ministry of Power has already issued ‘Long term growth trajectory of RPOs’ for non-solar as well as solar sources, uniformly for all States/UTs, initially for three years from 2016-17 to 2018-19. Further Trajectory for the period till year 2022 has been notified by the Ministry of Power in consultation with MNRE. All SERCs will adopt the RPO trajectory issued by Central Government.</p>	<p>The Long-term RPO Trajectory has already been notified by Ministry of Power vide its letter dated 14th June,2016.</p> <p>It is also suggested that The Govt. should also encourage Natural Gas based power plants as they are environment friendly. The same should be in line with the RPOs.</p>
6.4 (i) Second proviso	<p>Provided further that in case the obligated entity is an industry with captive generation, the consumption from captive generation from waste heat gases as a byproduct of the industrial process shall also be deducted from total consumption;</p>	<p>Provided further that in case the obligated entity is an industry with captive generation, the consumption from captive generation from waste heat gases or waste heat as a byproduct of the industrial process shall also be deducted from total consumption;</p>	<p>Many industries generate Waste Heat during the process and such waste heat is used for generation of power, the waste heat otherwise will increase the Green House Gas emissions (GHG). Hence Waste Heat should also be also be included along with Waste Heat Gases.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
6.4 (i) Third proviso	Provided further that in case of consumption from cogeneration from sources other than renewable sources, the same shall not be excluded from applicability of RPOs to arrive at base consumption for of RPO requirement and compliance.	Provided further that in case of consumption from cogeneration from sources other than renewable sources, the same shall also be excluded from applicability of RPOs to arrive at base consumption for of RPO requirement and compliance.	<p>Section 86 of Electricity Act 2003 requires State Commission to Promote Cogeneration mode power plants irrespective of the fuel being used since a Cogeneration power plant itself ensures a much increased energy efficiency vis-à-vis a conventional power plant.</p> <p>Also a power plant on Cogen mode ensures lower emission of greenhouses gases (CO2 in particular) contributing to Kyoto Targets.</p> <p>As per section 86 of Act 2003, Generation of electricity from renewable sources itself include Cogeneration from renewable sources also. So the intent of the Act was never to mention Cogeneration from renewable power separately. Since the word Cogeneration is mentioned separately per section 86 of the Act 2003, it envisages power generated irrespective of fuel being used.</p>
6.4 (i) Fourth proviso	Provided further that the electricity generated and consumed from the waste heat in gas based power plant, shall not be deducted to arrive at base consumption.	Provided further that the electricity generated and consumed from the waste heat in gas based power plant, shall also be deducted to arrive at base consumption.	Many combined cycle and co-generation plants use the waste heat of gas turbines to further generate energy, otherwise the waste heat from gas turbine will increase the GHG emissions. Hence same principle as applicable to generation from waste heat gases is applicable to generation from gas based

Provision	Draft Policy	Comments/Suggestions	Rationale
			combined cycle / co-generation plant also.
6.4 (iii) and (iv)	The existing policy specifies promotion of REC. However, it is proposed to remove these REC promotion related clauses.	The current sub clause 6.4 (ii) and (iv) to be retained.	<p>Promotion of REC to be continued so as to attract REC based projects which can further help in achieving Government target of renewable power.</p> <p>Many consumers (open access / captive consumer) have operational difficulties in consuming Renewable power to meet their RPO. Only way they can meet obligation is by purchasing REC.</p>
7.1 Transmission pricing	While all future inter-state transmission projects shall, ordinarily, be developed through competitive bidding process, the Central Government may give exemption from competitive bidding for (a) specific category of projects of strategic importance, technical upgradation etc. or (b) works required to be done to cater to an urgent situation on a case to case basis.	While all future inter-state transmission projects shall, ordinarily, be developed through competitive bidding process, the Central Government may give exemption from competitive bidding for (a) specific category of projects of strategic importance, technical upgradation etc. or (b) works required to be done to cater to an urgent situation on a case to case basis.	<p>After introduction of competition in transmission sector, the country witnessed many changes in terms of growth, technology, faster execution time and lower tariff ultimately benefiting end user/consumer.</p> <p>Gol has notified more than 40 projects under TBCB route which have been won by both private as well as public sector companies. 58 Projects were awarded on Regulated Tariff Mechanism, and analysis of these projects shows that adoption of competitive bidding would have resulted in discovery of transmission tariffs which are 30-40% lower than cost plus tariffs to the benefit of the end consumers.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
			<p>It is submitted that private entities have demonstrated their capability in executing transmission projects under all conditions and have earned their right to be considered on par with central PSU. With this background, the provision be modified and exemption from competitive bidding be limited to projects of strategic importance.</p>
<p>Clause 8.0 - Distribution</p>	<p>(i) Continuity and reliability of supply – the consumer is entitled to have reliable supply of electricity on a 24x7 basis provided he is not in default, and has not been charged with any offence under the Electricity Act warranting disconnection.</p> <p>The State Regulatory Commission will devise a specific trajectory so that it shall be mandatory for the Distribution Company to show to the respective Commission that they have tied up long term/ medium term PPAs</p>	<p>24 x 7 Power supply provision is a welcome step however it is suggested that appropriate proviso regarding staggered supply to agriculture consumers for specific hours which are adequate for agriculture may be added to the proviso of continuous and reliable power supply on 24 x 7 basis.</p> <p>The proposed may not be needed. It may be sufficient to state that in case of persistent failure to maintain uninterrupted supply of electricity conforming to standards regarding quality of electricity to the consumers, the distribution license of the distribution company is liable to be suspended as per provisions of the Act.</p>	<p>This would be more practical and pragmatic approach.</p> <p>There is already a provision under Section 24 of the Electricity Act stipulating the conditions under which the distribution license can be suspended. Thus, stipulating a condition of tying up long term/medium term PPA to meet annual average power requirement for suspension of license which is different from the condition stipulated under Section 24 of the Act will not be correct.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>to meet the annual average power requirement in their area of supply, failing which their license shall be liable to be suspended. 24 hours supply of adequate and uninterrupted power may be ensured to all categories of consumers by March, 2019 or earlier 2021-22 or earlier depending upon the situation prevailing in the State.</p>		
8 (ii)	<p>The quality of supply shall be as per standards prescribed by the Central Electricity Authority.</p>	<p>The quality of supply shall be as per standards prescribed by the Central Electricity Authority within x months of notification of this Tariff Policy. CEA shall monitor the actual parameters against the standards and make periodic revisions in the SOP.</p>	<p>It is suggested that a timeline should be defined for CEA to issue these SoP, so that they can be adopted by the State Commissions in a time manner. There should also be periodic revision and monitoring of the standards laid down.</p>
8.1 (4)	<p>The tariff shall be a two part tariff with the capital costs being reflected in the fixed charges linked to capacity and the energy charges reflecting the average purchase price of power with administrative margins. Licensees may</p>	<p>It is suggested to roll back proposed amendment</p>	<p>Implementation of proposed amendment would have negative impact on the Open Access Consumers. The fixed charges corresponding to capital cost would be extremely high which would make open access practically unviable unless an Open Access consumer opt for complete disconnection from the Distribution Company.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>have the flexibility of charging lower tariffs than approved by the State Commission if competitive conditions require so without having a claim on additional revenue requirement on this account in accordance with Section 62 of the Act.</p>		
8.2.1 (1)	<p>All power purchase costs to provide 24 hour supply need to be considered legitimate unless it is established that the merit order principle has been violated or power has been purchased at unreasonable rates.</p>	<p>Following may be added in the Proviso <i>“Provided that the merit order will be subject to grid security.”</i></p>	<p>Apart from following merit order principles all power procurement shall be made without compromising grid security.</p>
8.3	<p>.... In terms of the Section 61(g) of the Act, the Appropriate Commission shall be guided by the objective that the tariff progressively reflects the efficient and prudent cost of supply of electricity.</p> <p>2. In a time frame of three years</p>	<p>It is suggested that “progressively” may not be deleted.</p> <p>It is understood that some Distribution Licensees have also initiated procurement action for smart meters as per the existing specifications. The objective of meter reading and disconnection of defaulting consumers from remote can also be</p>	<p>The deletion will not be consistent with the provision of Section 61 (g) which is reproduced as below:</p> <p><i>“(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission;”</i></p> <p>According to Section 55 of the Electricity Act, 2003 the correct</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	<p>Electricity Supply shall shift from a post paid basis to pre-paid basis with the meters being designed to automatically cut off supply when the amount credited is exhausted. Accordingly the meters will be Smart Meter in a pre-paid mode for bigger consumers and simple prepaid meter for smaller consumers.</p> <p>3. Third proviso to the sub-section (2) of the Section 42 of the Electricity Act 2003 inter-alia provides that cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission. Towards this end, the Appropriate Commission would ensure that cross-subsidies are reduced and the tariff for all consumer categories are brought within $\pm 20\%$ of the average cost of supply effective from 1st April 2019 or earlier</p>	<p>achieved by smart meters. Further, the problem of theft by direct hooking of supply will not be obviated by use of pre-paid meters.</p> <p>Change in policy regarding meters within two years of Revised Tariff Policy 2016 will require modifications in the specifications of smart meters to make them work in pre-paid mode. Manufacturers will also have to take action to make necessary change in design of the meters. A view will have to be taken on procurement of smart meters as per the existing specifications where substantial progress has been made.</p> <p>It is suggested that in the referred proviso "Average Cost of supply" to be replaced by "Actual Cost of Supply".</p>	<p>meters to be installed by the licensee have to be in accordance with the regulations made by the Central Electricity Authority. Under clause (c) of sub-section (2) of Section 177, the Authority has to specify regulations for installation and operation of meters. CEA has already specified standards for smart meters. It is stated that in accordance with the earlier mandate for smart meters, a number of companies have gone ahead with setting up manufacturing of smart meters according to the standards specified by CEA. The specification of meters for the proposed smart cities is also for the smart meters as per the existing specifications.</p> <p>APTEL in judgment dated 26.05.2006 in Appeal No. 4 of 2005 has held that "cost of supply" used in Section 61(g) of the Act means actual cost of supply and not average cost of supply and directed the State Commission to gradually move from the principles of average cost of supply to actual cost of supply. Hon'ble Supreme Court in the Appeal filed against this judgment has upheld the findings of APTEL. Hon'ble Supreme Court has held as under:</p> <p><i>"We have considered the perspective adopted by the learned Appellate Tribunal in seeking an answer to the issue of cost of supply/cross subsidies that had arisen for decision by it. The</i></p>

Provision	Draft Policy	Comments/Suggestions	Rationale
			<p><i>provisions of the Act and the National Tariff Policy requires determination of tariff to reflect efficient cost of supply based upon factors which would encourage competition, promote efficiency, economical use of resources, good performance and optimum investments. Though the practice adopted by many State Commissions and utilities is to consider the average cost of supply it can hardly be doubted that actual costs of supply for each category of consumer would be a more accurate basis for determination of the extent of cross-subsidies that are prevailing so as to reduce the same keeping in mind the provisions of the Act and also the requirement of fairness to each category of consumers. In fact, we will not be wrong in saying that in many a State the departure from average cost of supply to voltage cost has not only commenced but has reached a fairly advanced stage. Moreover, the determination of voltage cost of supply will not run counter to the legislative intent to continue cross subsidies. Such subsidies, consistent with executive policy, can always be reflected in the tariff except that determination of cost of supply on voltage basis would provide a more accurate barometer for identification of the extent of cross subsidies, continuance of which but reduction of the quantum thereof is the avowed legislative policy, at least for the present. Viewed from the aforesaid</i></p>

Provision	Draft Policy	Comments/Suggestions	Rationale
			<p><i>perspective, we do not find any basic infirmity with the directions issued by the Appellate Tribunal requiring the Commission to gradually move away from the principle of average cost of supply to a determination of voltage cost of supply.”</i></p> <p>In view of above, a clear mandate has to be given in the proposed amendment about the intent of the policy to restrict the cross subsidy to +/- 20% of “average cost of supply” or “actual cost of supply” for each category of consumer.</p>
8.3 A	<p>9). In order to reflect the actual share of fixed cost in the revenue requirement of Distribution licensees, there is need to enhance recovery through fixed charges. The fixed charge shall be so set that it leads to recovery of at least 50% of the fixed costs in case of Domestic and Agriculture categories and at least 75%recovery of fixed costs in case of other categories progressively over next three years. The SERCs and JERCs shall lay down a</p>	<p>It is suggested that the tariff policy instead of giving the percentage figures may broadly specify the intent of bringing fixed cost part of retail supply tariff closer to reflect the fixed costs of the licensee.</p>	<p>The proposed amendment will result in increase in tariff of the consumers who have low load factor, e.g., commercial establishments and shops which do not operate round the clock, single shift industries, consumers whose requirement in different months of the year varies substantially.</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
	roadmap to achieve the same.		
8.5	Cross-subsidy surcharge and additional surcharge for open-access.	It is proposed to remove Cross-subsidy surcharge.	Open access has not been successful since many years. One of the key reasons was high cross subsidy surcharge. In order to promote Open Access implementation, cross subsidy surcharge must be removed.
8.5.4	The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments and network assets, if any , has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges.	The earlier provisions of tariff policy shall be retained. Alternatively, additional surcharges may include network asset charges if fixed cost related to network is not recovered through Wheeling charges.	Duplication of network charges will be a double burden on the Open Access consumers and hence needs to be addressed appropriately.
8.5.8	In order to avoid frequent changeover	It may be clarified whether the intent under said	The wording of proviso may be suitably modified in order to

Provision	Draft Policy	Comments/Suggestions	Rationale
	of customers between supply from Open access and that from the incumbent distribution licensee, such customers must schedule power on open access for at least eight consecutive hours from conventional sources and four consecutive hours from renewable sources.	proviso is that the open access consumer has to schedule power for at least eight consecutive hours from conventional sources and four consecutive hours from renewable sources i.e. total 12 hours or at least eight consecutive hours when power is scheduled from conventional sources and at least four consecutive hours when power is scheduled from renewable source	remove ambiguity in interpretation of proviso.
	Others	<p>Following issues have not been dealt in the draft policy:</p> <ul style="list-style-type: none"> • Since RPO excludes consumption from Hydro power, Hydro Power Procurement Obligation (HPPO/ HPO) should be prescribed separately by MoP • Cost of meeting the new Emission norms specified by MoEFCCC. For projects whose tariff has been determined through competitive bidding, installation of FGD should be allowed as a change in law esp. consequent to the MoP letter dated 30th May,2018 • Determination of Tariff under Cross-border trade of electricity arrangement should be 	

Provision	Draft Policy	Comments/Suggestions	Rationale
		<p>prescribed in Tariff Regulations to be issued by CERC.</p> <ul style="list-style-type: none"> • Cost of storage facilities, if the same can be added to the tariff for renewable generating stations • Expenditure towards CSR, local area development should be allowed to be built up in the tariff. • Under Transmission, the issue of Open Access charges (LTA PoC charges) be linked to actual, monthly PLF of the Hydro Project needs to be captured. Ad per current policies, the LTA or Hydro is charged on a Rs./ MW/ Month basis which has much larger impact on overall Transmission charges for Hydro projects, given its low PLF on an annual basis. This puts it into a disadvantaged position compared to other Projects with much higher PLF. Considering this, such charges were waived for solar and wind projects. The least that should be done for Hydropower is to link it to a month-wise PLF so that the actual landed cost is established. 	

Provision	Draft Policy	Comments/Suggestions	Rationale
		<p>There is no mention of cross border projects, especially since the cross border guidelines are already notified and such guidelines do speak of tariff estimation. The Tariff policy needs to recognize such Projects and the tariff setting mechanism for such Projects, in line with what is already notified in the CBTE guidelines.</p>	
	<p>Others</p> <p>Renewable sources of energy generation</p>	<p>New Addition</p> <p>(8) In order to ensure Solar, onshore and offshore wind potential is developed efficiently and economically, the transmission system for these zones shall be planned and developed competitively and ahead of requirement to avoid a situation of renewable projects in these zones getting delayed, stranded or stressed on account of inadequate/ delayed transmission evacuation system.</p> <p>The competitive bidding framework for developing transmission for RE evacuation should provide for strong incentive and penalty mechanism. The framework should ensure development of</p>	<p>Gol has set ambitious target of achieving 175 GW of RE by 2022 and ensuring 24X7 supply of adequate and reliable power to all by 2019 and has launched various targeted programs like SAUBHAGYA, UDAY, URJA etc to meet this objective. Many of the proposed amendments to the Tariff Policy are aimed at driving towards these objectives. Access to clean and low-cost energy from renewable sources is a key for the Govt to meet these targets and its INDCs commitments and emerge as the clean energy capital of the world.</p> <p>The Onshore wind and solar development program has been a success and has seen immense interest from the developers, with every bid called by SECI, being over-subscribed multiple times. Recently, NIWE has invited Expression of Interest for</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
		<p>transmission systems with progressive reduction in time for completion aligned with the completion schedules of renewable sources of energy.</p>	<p>development of the first 1000 MW offshore wind farm off the coast of Gujarat and received 35 expressions of interest from domestic as well as international players. This goes to show that there is keen interest from the developers in offshore and they see India as the next growth story.</p> <p>Adequate transmission capacity is a must to achieving the targets set by GoI and the Clause 7.1 of the Tariff Policy very rightly states that the objective is to "ensure optimal development of the transmission network ahead of the generation". To ensure that the onshore and offshore RE potential is developed efficiently and economically, it is necessary to have adequate and sufficient transmission network ready for evacuating this power. It is imperative to have a robust transmission planning framework in place for early identification and award of specific schemes for evacuation and system augmentation specially for RE grid integration.</p> <p>It is suggested that transmission system for identified solar and wind zones including off shore wind zones be planned and developed competitively and ahead of requirement to avoid a situation of these assets getting delayed, stranded or stressed</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
			<p>on account of inadequate/ delayed transmission evacuation system.</p> <p>The framework for developing transmission for RE evacuation should provide for strong incentive and penalty mechanism and promote development of transmission systems with progressive reduction in time for completion to align the completion schedules of transmission system with that of the renewable generating stations.</p>
	Others	<p>Revised NCDP provides assurance of only 75% of the ACQ for all post 2009 category plants.</p> <p>The same should be increased to 100% of the ACQ level.</p>	<p>Restriction of coal supply levels to 75% of the ACQ creates severe operational challenges for power plants.</p> <p>75% of ACQ is adequate to operate only at 57% PLF (90%*85%*75%) against the requirement of 85% availability under PPAs.</p> <p>Today even after paying for e-auction coal, the supplies are delayed by ~2-3 months due to railway / road transportation constraints.</p> <p>Therefore plants are not in a position to recover full fixed charges under PPA due to non-availability of coal even after</p>

Provision	Draft Policy	Comments/Suggestions	Rationale
			making full advance payments.