

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

File No. W.P. No. 5785/2018-CERC

Dated: 26th July, 2018

CLARIFICATION

The Hon'ble High Court of Delhi in order dated 18.7.2018 in Writ Petition(C) No. 5785/2018 (Tamil Nadu Generation and Distribution Corporation Limited Vs. Central Electricity Regulatory Commission and Another) has directed as under:-

“5. The principal challenge in the present petition relates to the retrospective change in the rates to be charged. There is no dispute that the Petitioner would be liable to pay the charges so fixed prospectively. The learned counsel appearing for the Petitioner states that the Petitioner would do so, however, there is a notification dated 1.6.2018 which exempts the Petitioner from making any such payment.

6. The said notification would be examined by CERC and they shall clarify whether the Petitioner is required to make the payment pursuant to the notification dated 8.12.2017, within a period of one week. If such a clarification is issued, then the Petitioner shall ensure that payments are made in accordance with the aforesaid notification for the period after 8.12.2017.”

2. On account of anomaly in WPI for Non-coking coal from January, 2012 to February, 2013, Office of Economic Advisor, Department of Industrial Policy and Promotion (DIPP), Govt. of India vide letter dated 5.12.2017 revised the WPI for Non-coking coal for the period January, 2012 to February, 2013 (Old Series). In the light of the said revision, the Commission revised the earlier Notifications regarding annual escalation rate for domestic coal for payment, as per the details given below:

Table-1

| Applicable Period | Notification No. & Date | Old Escalation rate | Notification No. & Date | Revised escalation rate |
|--------------------------|-------------------------------------|----------------------------|-------------------------------------|--------------------------------|
| 1.10.2012 to 31.3.2013 | No. Eco-2/2012-CERC dated 8.10.2012 | 65.47% | No. Eco-2/2012-CERC dated 8.12.2017 | 3.98% |
| 1.4.2013 to 30.9.2013 | No. Eco-1/2013-CERC dated 1.4.2013 | 0.00% | No. Eco-1/2013-CERC dated 8.12.2017 | 4.10% |
| 1.10.2013 to 31.3.2014 | No. Eco-2/2013-CERC dated 7.10.2013 | (-)28.22% | No. Eco-2/2013-CERC dated 8.12.2017 | 0.71% |
| 1.4.2014 to 30.9.2014 | No. Eco-1/2014-CERC dated 7.4.2014 | (-)13.50% | No. Eco-1/2014-CERC dated 8.12.2017 | 3.55% |

3. On availability of the new series of WPI for Non-coking coal (G7 to G14) from Office of Economic Advisor, DIPP, Govt. of India, the following escalation rates were issued vide Notification dated 1.6.2018:-

| Table-2: Annual Escalation Rates for Domestic Coal | | | |
|---|--|---|---|
| Notification | Annual Escalation Rates for Domestic Coal notified by CERC for the purpose of payment | | Annual Escalation Rates for Domestic Coal (based on the New Series of WPI for Non-coking Coal G7-G14) for Correcting the Payment Index (base energy charges) |
| | Escalation Rates based on WPI for Non-coking Coal G1-G17 | Escalation Rates based on WPI for Non-coking Coal G7-G14 | |
| (1) | (2) | (3) | (4) |
| Apr 2013 | 4.10% | - | 8.31% |
| Oct 2013 | 0.71% | - | 1.82% |
| Apr 2014 | 3.55% | - | 9.77% |
| Oct 2014 | 1.24% | - | 8.27% |
| Apr 2015 | 0.00% | - | 0.00% |
| Oct 2015 | 0.00% | - | 0.00% |
| Apr 2016 | 0.00% | - | 0.00% |
| Oct 2016 | 0.51% | - | 2.79% |
| Apr 2017 | - | 13.78%* | - |
| Oct 2017 | - | 0.00%* | - |

4. In column 2 of Table 2 above, the escalation rates notified vide Notifications dated 8.12.2017 have been shown against April, 2013, October, 2013 and April, 2014. The said escalation rates notified vide Notifications dated 8.12.2017 based on WPI for Non-coking coal (G1-G17) continue to be applicable for payment even after issue of Notification dated 1.6.2018. Further, with effect from April, 2017, the escalation rates based on new series of WPI for Non-coking coal (G7-G14) is applicable for payment (Column 3 of Table 2).

5. Based on the new Series, escalation rates applicable from April 2013 to March 2017 have been revised (Column 4 of Table 2) for the purpose of correcting the payment index only. However, as clarified in para 4, the escalation rates notified in Columns (2) & (3) of Table 2 continue to be applicable for payment for the period from April, 2013 to March, 2018.

6. It is clarified that on account of notification of the escalation rates vide Notification dated 1.6.2018, the escalation rates notified vide four Notifications dated 8.12.2017 continue to be applicable for payment purpose for the applicable periods.

7. This clarification is issued in compliance with the directions of the Hon'ble High Court of Delhi in order dated 18.7.2018 in W.P. (C) No. 5785/2018.

8. This issues with the approval of the Commission.

**Sd/-
(Sanoj Kumar Jha)
Secretary**