

Comments on CERC Draft Tariff Regulations, 2019

- At the outset, we would like to place on record the commendable job being done by the Hon'ble Commission to bring out Tariff Regulations for the next control period in a progressive, clean and structured manner. We are sure that the consultative approach being followed by the Commission in finalizing the Tariff Regulations will go a long way in protecting the interest of all the stakeholders.
- Investment is undertaken by the Developer after evaluation the risk perception taking in to account the regulatory framework prevailing at the given point in time. The National Electricity Plan notified by the Government of India in terms of Section 3 of Electricity Act, 2003 as well as the Tariff Policy as amended from time to time mandate regulatory certainty. It is therefore a necessity to ensure that the Tariff Regulations, both financial and operational norms, are not altered frequently adversely affecting the investor sentiment.
- To some extent, the investors have adjusted to the changes brought in by the Commission to tighten the operational norms. Power Sector projects are capital intensive and investments are made only after ascertaining the revenue stream from the project over the useful life of the asset. Even lenders need comfort in terms of certainty in servicing the debt availed by the investor for the project.. In such a scenario, any proposal to revise financial norms that result in less return to the investor will send a wrong signal and would be detrimental for the investment sentiment in the Country. Such drastic changes will also increase risk perception and would ultimately lead to increase in interest rates and the consumer tariff.
- Secondly, though the Tariff Regulations are not applicable for Section 63 PPAs, there is a general tendency among various Regulators to utilize the operational norms specified under these Tariff Regulations to be adopted for PPAs based on Competitive Bidding for determining the compensation under Change in Law/ Force Majeure. For projects under Section 62, machines are designed considering norms prevailing while awarding EPC Contract. Similarly, for PPAs based on competitive bidding, machines are designed considering norms prevailing at the time of bid submission and tariff is quoted considering such norms. Therefore, revision of norms for projects already commissioned is resulting in under recovery and defeating the principle of restitution apart from deviating from the mandate of regulatory certainty.
- Therefore, it is not advisable to i) frequently change regulations especially the financial norms; ii) even if such changes are warranted, they need to be adopted for new projects/ investments only.

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1.	2- Scope and Extent of application	Similar Clause not present in CERC Tariff Regulations, 2014-19	Provided that any generating station for which agreement(s) have been executed for supply of electricity to the beneficiaries on or before 5.1.2011 and the financial closure for the said generating station has not been achieved by 31.3.2019, such projects	<u>Suggested modification:</u> Provided that any generating station for which agreement(s) have been executed for supply of electricity to the beneficiaries on or before 5.1.2011 and the financial closure for the said generating station has not been achieved by

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			shall not be eligible for determination of tariff unless fresh consent of the beneficiaries is obtained and furnished.	31.3.2019 31.3.2014, such projects shall not be eligible for determination of tariff unless fresh consent of the beneficiaries is obtained and furnished.
2.	3-Definitions	(3) 'Auxiliary Energy Consumption' or 'AUX' in relation to a period in case of a generating station means the quantum of energy consumed by auxiliary equipment of the generating station, such as the equipment being used for the purpose of operating plant and machinery including switchyard of the generating station and the transformer losses within the generating station, expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station:	(5) 'Auxiliary Energy Consumption' or 'AUX' in relation to a period in case of a generating station means the quantum of energy consumed by auxiliary equipment of the generating station, such as the equipment being used for the purpose of operating plant and machinery including switchyard of the generating station and the transformer losses <u>within the generating station</u> , expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station:	The phrase 'within the generating station' may be reviewed from the context covering certain auxiliary equipment such as Pump House, External Coal Handling Plant (jetty and associated infrastructure) in case of imported coal etc. which are being used for the purpose of operating the power plant but situated outside generating station
3.	3-Definitions	(5) "Bank Rate" means the base rate of interest as specified by the State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points;	(7) "Bank Rate" means one year marginal cost of lending rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points;	This working capital Interest rate remains equal for any company be it based on MCLR or Bank Rate by way of adjustment in the margin over MCLR/ Base Rate. In case of linking with MCLR spread over the same may be increased from 350 basis points to 375 basis points.
4.	3-Definitions	(9) 'Change in Law' (d) change by any competent statutory authority in any condition or covenant of any consent or clearances or	(10) 'Change in Law' (d) change by any competent statutory authority in any condition or covenant of any consent or clearances or	<u>The Judgment of the Hon'ble Supreme Court in the Civil Appeal Nos. 5399-5400 of 2016 dated 11.04.2017 (the Energy Watchdog Case) held that even a letter issued by the Government</u>

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		approval or licence available or obtained for the project; or	approval or licence available or obtained for the <u>project</u> ; or	<p><u>Instrumentality has force of Law and can be considered as a Change in Law. Hence, following bullet may be added in the change in law:</u></p> <p><u>Suggested Modifications:</u></p> <p><u>“Any direction/communication by Indian Governmental Instrumentality / any Competent authority which is enforceable on the generating company/licensee and results in financial impact”.</u></p>
5.	3- Definitions	<p>(13) “Cut-off Date” means 31st March of the year closing after two years of the year of commercial operation of whole or part of the project, and in case the whole or part of the project is declared under commercial operation in the last quarter of a year, the cutoff date shall be 31st March of the year closing after three years of the year of commercial operation:</p> <p><u>Provided that the cut-off date may be extended by the Commission if it is proved on the basis of documentary evidence that the capitalisation could not be made within the cut-off date for reasons beyond the control of the</u></p>	(14) ‘ Cut-off Date ’ means the last day of the calendar month after three years from the date of commercial operation of the project;	The proviso for extension of Cut-Off Date should be retained considering the fact that the project developer may not be able to make certain capitalisation especially related to the revised Emission Control Norms / Environmental Norms within the cut-off date for reasons beyond its control.

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		<u>project developer;</u>		
6.	3-Definitions	‘De-capitalization’ for the purpose of the tariff under these regulations, means reduction in Gross Fixed Assets of the project corresponding to the removal/deletion of assets as admitted by the Commission;	‘De-capitalization’ for the purpose of the tariff under these regulations, means reduction in Gross Fixed Assets of the project as admitted by the Commission corresponding to inter-unit transfer of assets or the assets taken out from service;	In certain cases, asset is taken out of service to be refurbished and new asset is installed in place, the refurbished asset is kept in inventory as critical spare. In such cases, if such refurbishment is admitted and allowed by the Commission, the cost of refurbishment will become part of the GFA. The refurbished asset, even if kept in inventory and not really in service, will have to be considered for tariff determination purposes and cannot be considered as de-capitalized. This Regulation should, therefore, provide exception for such cases.
7.	3-Definitions	Similar Regulation not present in CERC Tariff Regulations, 2014-19	(26) ‘Force Majeure’ (d) Delay in obtaining statutory approval for the project except where the delay is attributable to project developer;	<u>Suggested modification:</u> (d) Delay in obtaining statutory approval / <u>approval from any Indian Governmental Instrumentality for the purpose of supply of power to the Beneficiaries</u> for the project except where the delay is attributable to project developer;
8.	3-Definitions	‘Implementation Agreement’ means the agreement, contract or memorandum of understanding, or any such covenant, entered into (i) between transmission licensee and generating station or (ii) between transmission licensee and developer of the associated transmission system for the execution of project in coordinated	‘Implementation Agreement’ means any agreement or any covenant entered into (i) between the transmission licensee and the generating company or (ii) between transmission licensee and developer of the interconnected transmission system for the execution of generation and transmission projects in a coordinated	The responsibilities and liabilities of Transmission Licensee or the generation Developers are defined in the respective TSA or PPA. Therefore, in case of any delay, the TL or the Generation Developer should be held liable as per the provisions of TSA and accordingly, LD should be imposed as per the provisions of TSA / PPA. The TL or the Generation Developer cannot be punished beyond what is specified in the TSA / PPA, as otherwise their

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		manner;	manner, laying down the project implementation schedule and mechanism for monitoring the progress of the projects;	liability will become endless and it will become impossible to get these projects financed. It may also be appreciated that there may be a substantial difference between the Capex of TL or the Generation developer and one cannot compensate other by any stretch of imagination. It may also be appreciated that it was the decision of the beneficiaries through the planning agencies, to split the contract between Generation Developer and TL. Therefore, the benefits of such splitting of contracts are accruing to the beneficiaries in the form of lower tariff and therefore, in case of delay of any of the assets, the tariff for other assets should be borne by the beneficiaries, through the pool account.
9.	3-Definitions	(31) ‘Indian Governmental Instrumentality’ means the Government of India, Governments of State (where the project is located) and any ministry or department or board or agency or other regulatory or quasi judicial authority controlled by Government of India or Government of State, where the project is located.	(35) ‘Indian Governmental Instrumentality’ means the Government of India, Governments of State (where the project is located) and any ministry or department or board or agency controlled by Government of India or Government of State where the project is located, or quasi-judicial authority constituted under the relevant statutes in India;	In line with the definition of the ‘Statutory charges’ which includes State Legislatures of all States irrespective of plant location, it is submitted that the definition of ‘Indian Governmental Instrumentality’ should include State Govt. or other departments/agencies/boards of States other than where the project is located so that any taxes/duties/levies introduced / collected by such other states which impact the developer would also be covered under the Scope of Change in Law.
10.	3-Definitions	Similar Regulation not present in CERC Tariff Regulations, 2014-19	(42) ‘Landed Fuel Cost’ means the total cost of coal (including biomass in case of co-firing), lignite or the gas delivered	In view of the MOEF Notification No. Q-15017/40/2007-CPW dated 26.08.2015 which stipulates that the ash content of the coal used in

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			at the unloading point of the generating station and shall include the base price or input price, transportation cost (overseas or inland or both) and handling cost and applicable statutory charges;	thermal power plants located 500 Kms from the pithead shall not exceed 34% on quarterly average, it is submitted that the Landed Fuel Cost should also include the <u>Coal washery charges</u> also.
11.	3 - Definitions	(42) "Operation and Maintenance Expenses" or 'O&M expenses' means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, repairs, maintenance spares, consumables, insurance and overheads but excludes fuel expenses and water charges;	(48) 'Operation and Maintenance Expenses' or 'O&M expenses' means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares, consumables, insurance and overheads and fuel other than used for generation of electricity, water charges and security expenses;	<u>Suggested modification:</u> (48) 'Operation and Maintenance Expenses' or 'O&M expenses' means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares, consumables, insurance and , overheads and fuel other than used for generation of electricity, water charges, <u>environmental protection charges</u> , <u>and</u> security expenses <u>(including cyber security)</u> ;
12.	3 - Definitions	(46) 'Project' means a generating station or a transmission system including communication system, as the case may be, and in case of a hydro generating station includes all components of generating facility such as dam, intake water conductor system, power generating station and generating units of the scheme, as apportioned to power generation and	(52) 'Project' means: i) in case of thermal generating station, all components of the thermal generating station and includes integrated coal mine, biomass pellet handling system, pollution control system, effluent treatment plan, as may be required;	In case of a hydro generating station, the dam is considered as a part of the project. Similarly, in case of a thermal generating station/plant, the following modification in the definition of the 'Project' is suggested modification: (52) 'Project' means: i) in case of thermal generating station, all components of the thermal generating station and includes integrated coal mine, biomass pellet

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		in case of thermal generating stations does not include mining if it is a pit head project and dedicated captive coal mine;		handling system, pollution control system, effluent treatment plan, <u>integrated/associated coal handling system required for the plant</u> as may be required;
13.	3- Definitions	Similar Regulation not present in CERC Tariff Regulations, 2014-19	(78) 'Unloading point' means the point within the premises of the coal or lignite based thermal generating station where the coal or lignite is unloaded from the <u>rake</u> or truck or any other mode of transport;	There is reference of 'wagons' in the definition of GCV whereas reference of 'rake' in the definition of Unloading Point. It is requested to maintain consistency across all definitions and consider either wagons or rake at all relevant places in the Regulations.
14.	Regulation 5	4. Date of Commercial Operation:	5. Date of Commercial Operation	It is proposed to add the following provision as regards to Liability to pay fixed charges in case of delay of associated transmission system and consideration of deemed COD. <u>Suggested additon:</u> "In case the generating station is ready for commercial operation but the interconnected transmission system of transmission licensee as per the agreed project implementation schedule is not ready for commercial operation, then the generating station should be granted deemed COD and liability to pay the capacity charge till the time interconnected transmission system is ready should lie on the transmission licensee. "
15.	5(2) – Date of Commercial Operation	(3) (ii) in case a transmission system or an element thereof is prevented from regular service for reasons not attributable to the transmission	(2) In case the transmission system or element thereof executed by a transmission licensee is ready for commercial operation but the interconnected generating station or	Regulation 5(2) deals with the situations where the transmission system of licensee is ready but interconnected generating stations or transmission system of other licensee is not ready. There may be cases where the transmission system of a

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		licensee or its supplier or its contractors but is on account of the delay in commissioning of the concerned generating station or in commissioning of the upstream or downstream transmission system, the transmission licensee shall approach the Commission through an appropriate application for approval of the date of commercial operation of such transmission system or an element thereof.	<p>the transmission system of other transmission licensee as per the agreed project implementation schedule is not ready for commercial operation, the transmission licensee may file petition before the Commission for approval of the date of commercial operation of such transmission system or element thereof:</p> <p>Provided further that the transmission licensee seeking the approval of the date of commercial operation of the transmission system under this clause shall be required to submit the following documents along with the petition</p> <p>(a) Energisation certificate issued by the Regional Electrical Inspector under Central Electricity Authority;</p> <p>(b) Trial operation certificate issued by the concerned RLDC for charging element with or without electrical load;</p> <p>(c) Implementation Agreement, if any, executed by the parties;</p> <p>(d) Minutes of the coordination meetings or related correspondences regarding the monitoring of the progress of the generating station and transmission systems;</p>	licensee is terminating at a location where the down stream system is only distribution system of a distribution licensee and the same is not ready. Regulation 5(2) should be modified to incorporate such situation as well.

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			<p>(e) Notice issued by the transmission licensee as per the first proviso under this clause and the response;</p> <p>(f) Certificate of the CEO or MD of the company regarding the completion of the transmission system including associated communication system in all respects.</p>	
16.	Regulation 6 - Treatment of mismatch in date of commercial operation		<p>6 (1) (a) Where the generating station has not achieved the commercial operation as on the date of commercial operation of the associated transmission system (which is not before the SCOD of the generating station) and the Commission has approved the date of commercial operation of such transmission system in terms of Regulation 5(2) of these regulations, the generating company shall be liable to pay the transmission charges of the associated transmission system in accordance with clause (5) of Regulation 14 of these regulations to the transmission licensee till the generating station or unit thereof achieves commercial operation;</p> <p>6 (1) (b) Where the associated transmission system has not achieved the commercial operation as on the</p>	<p>The obligations of all the parties are well defined in TSAs / PPAs and all commercial decisions should be in line with the provisions of TSA. Moreover, one party cannot be made to suffer on account of inefficiency of other party, on whose action the first party does not have any control. In the past, there have been decisions wherein the defaulting parties have been asked to make payments beyond the provisions of TSAs, which is against the set doctrines of legal process.</p> <p>The delay in commissioning of the project can also be on account of uncontrollable force majeure parameters, which are beyond the control of the licensee. In such a case of delay due to FM, the other party needs to be paid their dues. Therefore, the proposed Regulation 6 is not good in law and should be removed. In all such cases, the payment to party who has completed its obligations, should be made from pool account.</p> <p>Further, There may be cases where the</p>

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			<p>date of commercial operation of the concerned generating station or unit thereof, the transmission licensee shall make alternate arrangement for the evacuation from the generating station at its own cost, failing which, the transmission licensee shall be liable to pay the transmission charges to the generating company at the rate of the applicable transmission charges of the region as determined in accordance with the Sharing Regulations as well as the capacity charges that would have been recovered by the generating station had the associated transmission system achieved commercial operation, till the transmission system achieves the commercial operation.</p> <p>Provided that despite making alternative arrangement of evacuation, if the associated transmission system does not achieve the date of commercial operation within the six months of date of commercial operation of the generating station, the transmission licensee shall be liable to pay to the generating company the applicable transmission charges of the region as determined in accordance</p>	<p>transmission system of a licensee is terminating at a location where the downstream system is only distribution system of a distribution licensee and the same is not ready. Regulation should be modified to incorporate such situation as well.</p>

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			with the Sharing Regulations in addition to the above.	
17.	Regulation 6 - Treatment of mismatch in date of commercial operation	Similar Regulation not present in CERC Tariff Regulations, 2014-19	<p>6 (1) (b) Where the associated transmission system has not achieved the commercial operation as on the date of commercial operation of the concerned generating station or unit thereof, the transmission licensee shall make alternate arrangement for the evacuation from the generating station at its own cost, failing which, the transmission licensee shall be liable to pay the transmission charges to the generating company at the rate of the applicable transmission charges of the region as determined in accordance with the Sharing Regulations till the transmission system achieves the commercial operation.</p> <p>Provided that despite making alternative arrangement of evacuation, if the associated transmission system does not achieve the date of commercial operation within the six months of date of commercial operation of the generating station, the transmission licensee shall be liable to</p>	<p>Suggested modification:</p> <p>6 (1) (b) Where the associated transmission system has not achieved the commercial operation for reasons other than Force Majeure, as on the date of commercial operation of the concerned generating station or unit thereof, the transmission licensee shall make alternate arrangement for the evacuation from the generating station at its own cost, failing which, the transmission licensee shall be liable to pay the transmission charges to the generating company at the rate of the applicable transmission charges of the region as determined in accordance with the Sharing Regulations <u>as well as the capacity charges that would have been recovered by the generating station had the associated transmission system achieved commercial operation</u>, till the transmission system achieves the commercial operation.</p> <p>Provided that despite making alternative arrangement of evacuation, if the associated transmission system does not achieve the date of commercial operation, for reasons other than Force Majeure, within the six months of date of</p>

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			pay to the generating company the applicable transmission charges of the region as determined in accordance with the Sharing Regulations in addition to the above.	<p>commercial operation of the generating station, the transmission licensee shall be liable to pay to the generating company the applicable transmission charges of the region as determined in accordance with the Sharing Regulations in addition to the above.</p> <p><u>Provided further that the payment to the generating company for loss of Capacity Charges shall be made from the pool account.</u></p> <p>In the event of the associated transmission system not achieving commercial operation as on the date of commercial operation of the concerned generating station/unit thereof, the generating station is prevented from supplying power to the Beneficiaries for reasons not attributable to it and would also result in the loss of fixed charges (including RoE, interest cost and other consequential expenditure) that it would have recovered from the Beneficiaries on supply of power. Therefore, till such time that an alternate evacuation system is made operational for evacuation of power from the concerned generation station or the associated system achieves CoD, the capacity charges should be paid by the Transmission Licensee to the generator. This is in line with the orders of the Commission in various cases.</p>

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				<p>Clause (b) of the Regulation need to be reworded to include the situation where the generating station could not achieve CoD due to lack of availability of associated transmission line(s) and also where the generating station has been delayed due to lack of startup power.</p> <p>The regulation may be modified to clearly address that for the cases where generating station has achieved COD and the complete end to end transmission system for which Open Access has been granted to such generating station has not achieved COD as on date of COD of generating station, the transmission licensee shall made the alternate arrangement for evacuation and supply of the entire Open Access quantum from the generating station, failing which, the transmission licensee shall be liable to pay the applicable transmission charges (PoC Charges) to the generating station corresponding to the quantum of Open Access granted to such generating station.</p>
18.	Regulation 8. - Tariff determination	6 (1) (ii) in case of commercial operation of the generating station or transmission system including communication system on or after 1.4.2014, the generating company or transmission licensee shall file a consolidated petition combining all the units of the generating station or file appropriate petition for transmission	(ii) In case of commercial operation of units of generating station or elements of the transmission system on or after 1.4.2019, the generating company or the transmission licensee shall file a consolidated petition, in accordance with the provisions of Procedure Regulations, combining all the units of the generating station or all elements	May be retained as Six months as it was in Tariff Regulations 14-19

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		elements of the transmission system which are likely to be commissioned during next six months from the date of application:	of the transmission system which are anticipated to achieve the date of commercial operation during the next <u>two months</u> from the date of application;	
19.	Regulation 8 - Tariff Determination	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(4) Assets installed for implementation of the revised emission standards shall form part of the existing generation project and tariff thereof shall be determined separately on submission of the completion certificate by the Board of the generating company.	Suggested modification: (4) Assets installed for implementation of the revised emission standards shall form part of the existing generation project and tariff <u>(including various components such as O&M expenses, Depreciation, Interest expenses, RoE, Interest on working capital, additional auxiliary consumption etc.)</u> thereof shall be determined separately on submission of the completion certificate by the Board of the generating company.
20.	Regulation 8 - Tariff Determination	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(6) Tariff of generating station using coal washery rejects developed by Central or State PSUs or Joint Venture between a Government Company and Company other than the Government Company shall be determined in accordance with these regulations: Provided that in case of Joint Venture between a Government Company and a Company other than Government Company, the shareholding of the company other than Government Company either directly or through any of its subsidiary company or associate	Suggested modification in the Proviso: Provided that in case of Joint Venture between a Government Company and a Company other than Government Company, the shareholding of the company other than Government Company either directly or through any of its subsidiary company or associate company shall not exceed 26% of the paid up share capital <u>as per Tariff Policy 2016. In case of any change in the share holding pattern, it shall be considered accordingly.</u> Provided further that the variable component of the tariff of such generating station or unit thereof shall be determined based <u>taking into account</u> on

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			<p>company shall not exceed 26% of the paid up share capital;</p> <p>Provided further that the variable component of the tariff of such generating station or unit thereof shall be determined based on the fixed cost and the variable cost of the coal washery project;</p>	the fixed cost and the variable cost of the coal washery project;
21.	Regulation 8 - Tariff Determination	(6) (3) Where an existing transmission project has been granted licence under section 14 of the Act read with Regulation 6(c) of the Central Electricity Regulatory Commission (Terms and Conditions of grant of Transmission Licence for inter-State Transmission of electricity and related matters) Regulations, 2009, the tariff of such project shall be applicable from the date of grant of transmission licence or from the date as indicated in the transmission licence, as the case may be. In such cases, the applicant shall file petition as per Annexure-I, clearly demarcating the assets which form the part of regulated business of generation and transmission, the value of such assets, source of funding etc. duly certified by an auditor.	(8) If an existing transmission project is granted licence under section 14 of the Act read with Regulation 6(c) of the Central Electricity Regulatory Commission (Terms and Conditions of grant of Transmission Licence for inter-State Transmission of electricity and related matters) Regulations, 2009, as amended from time to time, the tariff of such project shall be applicable from the date of grant of transmission licence or from the date as indicated in the transmission licence, as the case may be. <u>In such cases, the applicant shall file petition as per Annexure-I (Part III), clearly demarcating the assets which form part of the business of generation and transmission, the value of such assets, source of funding, etc. after adjusting the cumulative depreciation and loan repayment, duly</u>	Segregation of capital cost of common facilities should be based on the installed capacity for generation and Transmission Line Length / No. of bays for Transmission.

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			<u>certified by the Auditor.</u>	
22.	Regulation 9 – Application for Determination of Tariff	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(1)..... Provided also that where interim tariff of the generating station or unit thereof and the transmission system or element thereof including communication system has been determined based on Management Certificate, the generating company or the transmission company shall submit the Auditor certificate <u>not later than 60 days from date of granting interim tariff.</u>	<u>Suggested modification:</u> Provided also that where interim tariff of the generating station or unit thereof and the transmission system or element thereof including communication system has been determined based on Management Certificate, the generating company or the transmission company shall submit the Auditor certificate not later than 60 days from date of granting interim tariff <u>within 60 days after achieving COD of the generating station / transmission system/element.</u>
23.	Regulation 9 – Application for Determination of Tariff	7 (3) In case of an existing generating station or transmission system including communication system or element thereof, the application shall be made not later than 180 days from the date of notification of these regulations based on admitted capital cost including any additional capital expenditure already admitted up to 31.3.2014 (either based on actual or projected additional capital expenditure) and estimated additional capital expenditure for the respective years of the tariff period 2014-15 to 2018-19.	(2) In case of an existing generating station or unit thereof, or transmission system or element thereof, the application shall be made by the generating company or the transmission licensee, as the case may be, within a period of 180 days from the date of notification of these regulations, based on admitted capital cost including additional capital expenditure already admitted and incurred up to 31.3.2019 (either based on actual or projected additional capital expenditure)	<u>Suggested modification:</u> (2) In case of an existing generating station or unit thereof, or transmission system or element thereof, the application shall be made by the generating company or the transmission licensee, as the case may be, within a period of 180 days from the date of notification of these regulations <u>or 180 days from the date of approval of the Multi-Year Tariff for FY 2014-15 to FY 2018-19, whichever is later</u> , based on admitted capital cost including additional capital expenditure already admitted and incurred up to 31.3.2019 <u>/ projected to be incurred</u> (either based on actual or projected additional capital expenditure)
24.	Regulation 9 –	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(3) In case of emission control system	It is suggested that the generating company may be permitted to file application Six months before

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	Application for Determination of Tariff		required to be installed in existing generating station as per revised emission standards, the application shall be made for determination of supplementary tariff (fixed charges or variable charge or both) based on the actual capital expenditure duly certified by the Auditor;	the expected commissioning of the emission control systems so that interim supplementary tariff may be approved which may be trued up on submission of the auditor's certificate. This will facilitate servicing of debt raised for the additional capitalization and avoid piling up of arrears.
25.	Regulation 9 - Application for determination of tariff	(2) The transmission licensee may make an application for determination of tariff for new transmission system including communication system or element thereof as the case may be in accordance with the Procedure Regulations, in respect of the transmission system or elements thereof anticipated to be commissioned within 180 days from the date of filing of the petition.	(1) The generating company or the transmission licensee may make an application for determination of tariff for new generating station or unit thereof or the transmission system or element thereof in accordance with the Procedure Regulations within 60 days of the anticipated date of commercial operation:	<p>The Hon'ble Commission has proposed that application for determination of tariff is to be filed within 60 days of anticipated COD instead of 180 days now. However, a period of 180 days has been provided in Regulation 9(2) for existing generating station or transmission system.</p> <p>We appreciate the concern of Hon'ble Commission regarding determination of tariff to be available as on date of COD and interim tariff to be as close to final tariff as possible. However, all the licensees should not be penalized due to non-achievement of few licensees. Therefore, we request Hon'ble Commission to propose same time period of 180 days for filing of application for determination of tariff for new and existing generating stations or transmission system.</p>
26.	Regulation 10 - Determination	Regulation 8 (13) The amount under-recovered or over-recovered, along with <u>simple interest</u> at the rate equal to	(7) The difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5)	Compounding Interest may be provided since banks are charging Interest on compounding basis only.

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	tion of Tariff	the bank rate as on 1st April of the respective year, shall be recovered or refunded by the generating company or the transmission licensee, as the case may be, in six equal monthly instalments starting within three months from the date of the tariff order issued by the Commission.	above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with <u>simple interest</u> at the rate equal to the bank rate prevailing as on 1st April of the respective year of the tariff period, in six equal monthly instalments.	
27.	Regulation 10 – Determination of Tariff	7 (5) If the petition is inadequate in any respect as required under Annexure-I of these regulations, the application shall be returned to the generating company or transmission licensee as the case may be, for resubmission of the petition within one month after rectifying the deficiencies as may be pointed out by the staff of the Commission.	(2) If the petition is inadequate in any respect as required under Annexure-I of these regulations, <u>the application shall be returned to the generating company or transmission licensee, as the case may be, for resubmission of the petition within one month after rectifying the deficiencies</u> as may be pointed out by the staff of the Commission.	<u>Suggested modification:</u> (2) If the petition is inadequate in any respect as required under Annexure-I of these regulations, <u>the application shall be returned then data gaps will be sent for rectification to the generating company or transmission licensee, and the response to be submitted within 30 days from the date of data gaps raised as the case may be, for resubmission of the petition within one month after rectifying the deficiencies</u> as may be pointed out by the staff of the Commission.
28.	Regulation 10 – Determination of Tariff	10 (8) Where the capital cost considered in tariff by the Commission on the basis of projected additional capital expenditure exceeds the actual additional capital expenditure incurred on year to year basis by more than 10%, the generating company or the transmission licensee shall refund to the beneficiaries or the long term transmission customers as the case may	(8) Where the capital cost considered in tariff by the Commission on the basis of projected additional capital expenditure exceeds the actual additional capital expenditure incurred on year to year basis by more than 10%, the generating company or the transmission licensee shall refund to the beneficiaries or the long term transmission customers as the case may be, the tariff recovered	(8) Where the capital cost considered in tariff by the Commission on the basis of projected additional capital expenditure exceeds the actual additional capital expenditure incurred on year to year basis by more than 10%, the generating company or the transmission licensee shall refund to the beneficiaries or the long term transmission customers as the case may be, the tariff recovered corresponding to the additional capital expenditure not incurred, as approved by the

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		be, the tariff recovered corresponding to the additional capital expenditure not incurred, as approved by the Commission, along with interest at 1.20 times of the bank rate as prevalent on 1st April of the respective year.	corresponding to the additional capital expenditure not incurred, as approved by the Commission, <u>along with interest at 1.20 times of the</u> bank rate as prevalent on 1st April of the respective year.	Commission, <u>with compounding interest at the rate equal to the</u> bank rate as prevalent on 1st April of the respective year.
29.	Regulation 10 – Determination of Tariff	The Commission may grant tariff upto 90% of the annual fixed charges claimed in respect of the transmission system or element thereof based on the management certificate regarding the capital cost for the purpose of inclusion in the POC charges in accordance with the CERC (Sharing of Inter State Transmission charges and losses), Regulation, 2010 as amended from time to time.	(3) If the information furnished in the petition is in accordance with these regulations and is adequate for carrying out prudence check of the claims made, the Commission may consider to grant interim tariff in case of new projects.	We request Hon'ble Commission to please specify the limit in percentage for the interim tariff as was specified in the existing regulation.
30.	Regulation 13 – Truing Up of tariff for the period 2019-24	8 (13) The amount under-recovered or over-recovered, along with simple interest at the rate equal to the bank rate as on 1st April of the respective year, shall be recovered or refunded by the generating company or the transmission licensee, as the case may be, in six equal monthly instalments starting within three months from the date of the tariff order issued by the Commission.	(4) After truing up, if the tariff already recovered exceeds or falls short of the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple interest at the rate equal to the bank rate as on 1st April of the	<u>Suggested modification:</u> (4) After truing up, if the tariff already recovered exceeds or falls short of the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple <u>compounding</u> interest at the rate equal to the bank rate as on 1st April of the respective

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			respective years of the tariff period in six equal monthly instalments.	years of the tariff period in six equal monthly instalments.
31.	Regulation 14 - Components of Tariff	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(2) The supplementary fixed cost for additional capitalization on account of implementation of revised emission standards in the existing generating station or new generating station, as the case may be, shall be determined by the Commission separately;	It is submitted that the Clause 14 (2) should be consistent with Clause 9 (3): <u>Suggested modification:</u> (2) The supplementary fixed cost <u>or variable cost or both</u> for additional capitalization on account of implementation of revised emission standards in the existing generating station or new generating station, as the case may be, shall be determined by the Commission separately;
32.	Regulation 15 – Capacity Charges	21. Capacity Charges:	15. Capacity Charges:	<u>Suggested modification:</u> “Provided further that the methodology of <u>determination of supplementary capacity charges, if any on account of implementation of revised emission standards in case of a thermal generating station shall be determined separately by the Commission;</u>
33.	Regulation 17 – Debt-Equity ratio	Similar Regulation was not present in the CERC Tariff Regulations, 2014-19	17 (6) In case of generating station or a transmission system including communication system which has completed its useful life as on or after 1.4.2019, the accumulated depreciation as on the completion of the useful life less cumulative repayment of loan shall be utilized for <u>reduction of the equity</u> and depreciation admissible after the	Assets remain in service till their operational life, which itself is testimony that how well the asset has been maintained by the developer. Operational life, in case of well-maintained assets, is almost always greater than accounting (economic) life. Considering the facts referred to in the preamble hereinabove, if the base for RoE is now proposed

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			completion of useful life and the balance depreciation, if any, shall be first adjusted against the repayment of balance outstanding loan and thereafter shall be utilized for <u>reduction of equity till the generating station continues to generate and supply electricity to the beneficiaries.</u>	<p>to be reduced, it will drastically alter the investment risk perception with which a project was conceptualized. This will adversely impact the cost of debt due to increased risk perception of the lenders for any future additional capitalisation which will ultimately impact the interest of the consumers whose cost of electricity will increase.</p> <p>Further, the Developer is not able to recover any return on the equity deployed during the construction period and hence, the provision for reduction of equity after completion of useful life would have a negative impact on the developer in terms of loss of RoE (as an offset for RoE not earned during the construction period) because the developer cannot take out the money invested as equity into the generation/transmission project.</p> <p>Further, as per Clause 6.4.1 (e) of the Explanatory Memorandum, it is submitted that the Appellate Tribunal for Electricity has passed a Judgment on dated 16 May, 2006 in favour of PGCIL, stating that any mechanism by which the equity is gradually reduced proportionately reducing the rate of return below the specified rate of return is not legal. The Judgment was upheld by Hon'ble Supreme Court in its Judgment dated 24 February, 2016 in Appeal No. 256 of 2007. The relevant portion of the SC Judgment is as follows: <i>"3. That there is no depreciation on equity, cannot</i></p>

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				<p><i>be disputed. In the subsequent years, it is seen that the mistake has been corrected also."</i></p> <p>Further, the National Electricity Plan and Tariff Policy mandates regulatory certainty and any such move will de-motivate prospective investors. Moreover, this will create regulatory uncertainty and therefore, the developer will be forced to shut down the plant after the completion of useful life and this will also have a negative financial impact on Beneficiaries as they would have to procure power from alternate sources which would be costlier as compared to the developer's existing plant.</p> <p>Therefore, the developer should be allowed to recover RoE on the entire equity invested in the project till the project continues to generate and supply electricity to beneficiaries even beyond the useful life of the asset, in accordance with the Regulations and the provisions of this Regulation should be made applicable only to plant commissioned after 1.4.2019.</p>
34.	Regulation 18 – Computation of Capital Cost	Clause 9 (2) (a) the expenditure incurred or <u>projected to be incurred</u> up to the date of commercial operation of the project;	<p>2 (a) the expenditure <u>incurred</u> up to the date of commercial operation of the project;</p> <p>(i) Capital expenditure <u>incurred</u> on the ash utilisation, handling including transportation facility as a part of ash</p>	<p>The existing provision in CERC Regulations, 2014-19 may be retained to account for any capital expenditure not already incurred but may be required to be incurred upto the CoD of the project.</p> <p><u>Suggested modification:</u></p>

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			disposal of thermal generating station; (j) Capital expenditure <u>incurred</u> towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station.	2 (a) the expenditure incurred or <u>projected to be incurred</u> up to the date of commercial operation of the project; (i) Capital expenditure incurred <u>or projected to be incurred</u> on the ash utilisation, handling including transportation facility as a part of ash disposal of thermal generating station; (j) Capital expenditure incurred <u>or projected to be incurred</u> towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station.
35.	Regulation 18 – Computation of Capital Cost	Similar Regulation was not present in the CERC Tariff Regulations, 2014-19	(j) Capital expenditure incurred towards <u>railway</u> infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station.	(j) Capital expenditure incurred <u>or projected to be incurred</u> towards railway <u>and port</u> infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station.
36.	Regulation 18 – Computation of Capital Cost	Similar Regulation was not present in the CERC Tariff Regulations, 2014-19	(3) The Capital cost of an existing project shall include the following: (e) capital expenditure incurred towards <u>railway</u> infrastructure and its augmentation for transportation of coal upto the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;	<u>Suggested modification:</u> (3) The Capital cost of an existing project shall include the following: (e) capital expenditure incurred <u>or projected to be incurred</u> towards railway <u>and port</u> infrastructure and its augmentation for transportation of coal upto the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;

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37.	Regulation 18 – Capital Cost	The following shall be excluded or removed from the capital cost of the existing and new project: (a) The assets forming part of the project, but not in use;	The following shall be excluded from the capital cost of the existing and new projects: (a) The assets forming part of the project, but not in use (to be declared at the time of filing tariff petition);	<p>It may be noted that the Transmission schemes are executed only after prior approval of CTU and/or based on the requirement of the beneficiaries. Therefore, it would be gross injustice if capitalization or O&M expenses of un-utilized bays of Transmission Licensee are denied by the Commission.</p> <p>Further, It may be noted that the development of downstream system fall under the purview of the other Utilities in terms of load arrangement, which is not in the control of Transmission Licensee. Hence, impact of such non readiness of other Utilities shall not be passed on the Transmission Licensees.</p> <p>Hence, it is requested that capital cost as well as O&M cost of such bays shall be allowed by the Commission and appropriate provision may be incorporated/amended.</p>
38.	Regulation 19 - Prudence Check of Capital Expenditure:	(1) In case of the thermal generating station and the transmission system, prudence check of capital cost may be carried out taking into consideration the benchmark norms specified/to be specified by the Commission from time to time:	(1) In case of the thermal generating station and the transmission system, prudence check of capital cost shall include scrutiny of the capital expenditure, in the light of capital cost of similar projects based on past historical data, wherever available,	Transmission systems are to be laid down in various geographical locations based on the system strengthening, access and evacuation requirements. It would therefore, be improper to generalize various factors affecting the execution and performance of transmission systems such as hilly terrain, weather conditions, wild forest zone,

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			reasonableness of financing plan, interest during construction, incidental expenditure during construction, use of efficient technology, cost over-run and time over-run, procurement of equipment and materials through competitive bidding and such other matters as may be considered appropriate by the Commission for determination of tariff:	Wind zone, ROW clearances, etc. Therefore, there cannot be any generalization of the capital cost based on the similarity of the project as each transmission project is different.
39.	Regulation 21 – Controllable and Uncontrollable factors	(2) The “uncontrollable factors” shall include but shall not be limited to the following: i. Force Majeure events.; and ii. Change in law.	(2) The “uncontrollable factors” shall include but shall not be limited to the following: a. Force Majeure events; b. Change in law; and c. Time and cost over-runs on account of land acquisition except where the delay is attributable to the generating company or the transmission licensee;	We welcome the proposal of Hon’ble Commission to include land acquisitions as Uncontrollable factor. However, we suggest that time and cost over-runs on account of Right of Way (RoW) should also be included as uncontrollable in line with Land acquisitions as transmission licenses face lot of issues in RoW approval and same is also not in control of Transmission licensees. Additionally, we would like to bring to your kind notice that Hon’ble Commission has noted in its Explanatory Memorandum that acquisition of land and right of way have become one of the main cause of delay in commissioning of the projects and these issues are largely outside the control of the project developer. However, Hon’ble Commission has inadvertently not included Right of Way as uncontrollable parameter in Draft

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				Regulation. Hence, we request Hon'ble Commission to include RoW as uncontrollable Parameter.
40.	Regulation 22 – Initial Spares	13. Initial Spares: Initial spares shall be capitalised as a percentage of the Plant and Machinery cost <u>upto cut-off date</u> , subject to following ceiling norms:	22. Initial Spares: Initial spares shall be capitalised as a percentage of the Plant and Machinery cost <u>upto cut-off date</u> , subject to following ceiling norms:	<p>The capitalised Initial Spares should be allowed <u>even beyond the cut-off date and corresponding to any initial or additional capitalization</u> because any capitalization initial or otherwise is approved/admitted by the Commission after prudence check and considering that the developer is required to maintain capitalized initial spares for smooth operation of the generating station/transmission system.</p> <p>Provided that the cut-off date may be extended by the Commission if it is proved on the basis of documentary evidence that the capitalization could not be made within the cut-off date for reasons beyond the control of the project developer or add. Capitalization which has been approved by the commission.</p>
41.	Regulation 23 - Additional Capitalisation within the original scope and upto the cut-off	14 (1) (iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law; and	(1) (d) Liabilities to meet award of arbitration or for compliance of the directions or <u>order</u> of any statutory authority or the <u>order</u> or decree of any court of law; Change in law or compliance of any existing law within the cut-off date; and	<p><u>Suggested modification:</u></p> <p>(1) (d) Liabilities to meet award of arbitration or for compliance of the directions or order/<u>direction/ requirements</u> of any statutory authority or the order/<u>direction/requirements</u> or decree of any court of law; Change in law or compliance of any existing law within the cut-off date; and</p>

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42.	Regulation 23 - Additional Capitalisation within the original scope and upto the cut-off date	14. Additional Capitalisation and De-capitalisation:	23. Additional Capitalisation within the original scope and upto the cut-off date:	<p>The following proviso may be added in Clause 23 (1):</p> <p>(f) procurement of equipment based on the decision of the Regional Power Committee (RPC), RLDC/SLDC.</p>
43.	Regulation 23 - Additional Capitalisation within the original scope and upto the cut-off date	14. Additional Capitalisation and De-capitalisation:	23. Additional Capitalisation within the original scope and upto the cut-off date:	<p>Provisions similar to Clause 14 (3) (ix) of the CERC Regulations, 2014-19 related to Transmission System should be incorporated for a thermal generating station also in the Draft CERC Regulations, 2019-24. The said clause is reproduced below:</p> <p>(3) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts after the cut-off date, may be admitted by the Commission, subject to prudence check:</p> <p>(ix) In case of transmission system, any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement</p>

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				due to obsolescence of technology, replacement of switchyard equipment due to increase of fault level, tower strengthening, communication equipment, emergency restoration system, insulators cleaning infrastructure, replacement of porcelain insulator with polymer insulators, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of transmission system; and
44.	Regulation 24 - Additional Capitalisation within the original scope and after the cut-off date:	14 (2) (i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;	(1) (a) Liabilities to meet award of arbitration or for compliance of the directions or <u>order</u> of any statutory authority, or <u>order</u> or decree of any court of law;	(1) (a) Liabilities to meet award of arbitration or for compliance of the directions or order/ <u>direction/requirements</u> of any statutory authority, or order/ <u>direction/requirements</u> or decree of any court of law;
45.	Regulation 25 – Additional Capitalisation beyond original scope	Clause 14 (3) (vii) Any additional capital expenditure which has become necessary for efficient operation of generating station other than coal/lignite based stations or transmission system as the case may be. The claim shall be substantiated with the technical justification duly supported by the documentary	-	Point numbers (vii), (ix) and (x) of sub-clause 3 of Clause 14 of the CERC Regulations, 2014-19 may be retained in the ensuing Regulations so that the developers are enabled to recover the additional capital cost incurred on account of technical reasons. Further, sub-clause (f) may be added as follows: “(f) Otherwise allowed by Commission on

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		<p>evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;</p> <p>(ix) In case of transmission system, any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement due to obsolescence of technology, replacement of switchyard equipment due to increase of fault level, tower strengthening, communication equipment, emergency restoration system, insulators cleaning infrastructure, replacement of porcelain insulator with polymer insulators, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of transmission system; and</p> <p>(x) Any capital expenditure found justified after prudence check</p>		sufficient grounds for sustainability and operational efficiency of the plant.”

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		necessitated on account of modifications required or done in fuel receiving system arising due to non-materialisation of coal supply corresponding to full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station:		
46.	27. Special Allowance for Coal-based/Lignite fired Thermal Generating station:	Clause 16 (2) The Special Allowance shall be @ Rs. 7.5 lakh/MW/year for the year 2014-15 and thereafter escalated @ 6.35% every year during the tariff period 2014-15 to 2018-19, unitwise from the next financial year from the respective date of the completion of useful life with reference to the date of commercial operation of the respective unit of generating station:	Clause 27 (3) The special allowance admissible to the generating station shall be @ Rs 9.5 lakh per MW per year for the tariff period 2019-24.	No escalation has been provided in the draft regulations for the period 2019-24. Hence, it requested to provide for the escalation as per the 2014 Tariff Regulations.
47.	29. Additional Capitalization on account of Revised Emission Standards	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	29. Additional Capitalization on account of Revised Emission Standards:	There should be a provision in the Regulations for filing of a separate Petition for approval of Capital Cost on account of revised Emission Standards / Environmental Norms. Any other New technology other than CEA specified technologies should be considered.
48.	Regulation 30 – Return on	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(2) Provided that: i. Return on equity in respect of	Considering the fact that capital expenditure on account of the Revised Emission Standards, Fly ash disposal etc. are inevitable/ mandatory, for the

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	Equity		additional capitalization after cut-off date within or beyond the original scope shall be computed <u>at the weighted average rate of interest on actual loan portfolio</u> of the generating station or the transmission system;	<p>existing generating plants, any proposal to reduce the rate of RoE is regressive and such investment cannot be denied the legitimate RoE at par with the prevalent norms.</p> <p>Further, there is a strong case for Return on Equity for any additional capitalization after the cut-off date within or beyond the original scope being computed <u>at the regulated rate of 15.5% specified in the Regulations</u> and not at the <u>weighted average rate of interest on the actual loan portfolio</u> because, any additional capitalization is admitted/approved only if it is reasonable and after prudence check by the Commission.</p> <p>In the present scenario where the stressed assets in the power sector are on the rise, the IBC Code and similar mechanisms are in place to protect the interest of the lenders however, there is no mechanism available which protects the equity base of the project developer. This makes the risk associated with the equity capital very high. Therefore, the return available on any equity investment should also be commensurate with such risk perception and hence the rate for RoE for any additional capitalization after the cut-off date within or beyond the original scope should be retained at 15.5%.</p> <p>In view of the additional capitalization required to</p>

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				<p>be incurred by the developer to meet the revised emission standards and equipment such as FGD etc., a reduced rate of RoE will have an adverse impact on the financial position of the developer and also have a cascading impact on the cost of debt on account of increased risk perception by lenders. This will ultimately result in the increase in tariff for the Beneficiaries.</p> <p>It is further submitted that additional RoE should be allowed over and above the Regulated rate of 15.5%, as an incentive to provide impetus to the sector already under stress on account of multiple factors.</p> <p>Generating Stations alone cannot be held responsible for data telemetry and communication set up and hence the reduction in rate of return by 1% shall not be made applicable.</p> <p>The penalty to the tune of 0.1% during the deficiency period only may be considered.</p>
49.	Regulation 30 – Return on Equity	(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating stations, transmission system including communication system	(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system	Transmission Licensee suffers from challenges related to procuring Right of Way, Land and varying terrain spanning across the country. The expectation of returns for a Transmission Licensee must be in line with risk perception and market expectations. Further, the returns should also ensure viability of the project.

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				Considering above aspects and the enhanced risk perception, there is a case of considering increase in the Return on Equity.
50.	Regulation 30 – Return on Equity	In case of projects commissioned on or after 1st April, 2014, an additional return of 0.50 % shall be allowed, if such projects are completed within the timeline specified in Appendix-I	-	The purpose of additional RoE is to incentivize transmission licensees for early completion of the projects, which will have twin benefit of early power flow to beneficiary and saving in IDC. Nevertheless, completion of huge capital intensive transmission project is in overall national benefits. In view of the same, we request Hon'ble Commission to continue with progressive measure to incentivize early commissioning.
51.	Regulation 33 – Depreciation	Clause 27 (3) Provided also that any depreciation disallowed on account of lower availability of the generating station or generating unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life and the extended life.	(3)..... Provided also that any depreciation disallowed on account of lower availability of the generating station or generating unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life and the extended life.	Depreciation is a very substantial and critical component of tariff and hence needs to be allowed in its entirety. In any case, once the useful life of the asset is served, it is only just and reasonable to allow the balance depreciation. Debt service is not linked to Availability of project, hence depreciation to be allowed in entirety.
52.	Regulation 33 – Depreciation	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	(7) The generating company or the transmission license, as the case may be, shall submit the details of proposed capital expenditure five years before the completion of useful life of the project along with justification and	Depreciation on additional capitalization done at later stage of the useful life of the Plant should be allowed to be recovered by the time of completion of useful life / expected extension of life.

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
			proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure.	
53.	Regulation 34 – Interest on Working Capital	28. Interest on Working Capital :(1) The working capital shall cover: (a) Coal-based/lignite-fired thermal generating stations (i) Cost of coal or lignite and limestone towards stock, if applicable, for 15 days for pit-head generating stations and <u>30 days</u> for non-pit-head generating stations for generation corresponding to the normative annual plant availability factor or the maximum coal/lignite stock storage capacity whichever is lower; (v) Receivables equivalent to <u>two months</u> of capacity charges and energy charges for sale of electricity calculated on the normative annual plant availability factor;	34. Interest on Working Capital: (1) The working capital shall cover: (a)Coal-based/lignite-fired thermal generating stations (i) Cost of coal or lignite and limestone towards stock, if applicable, for 15 days for pit-head generating stations and <u>20 days</u> for non-pit-head generating stations for generation corresponding to the normative annual plant availability factor or the maximum coal/lignite stock storage capacity whichever is lower; (v) Receivables equivalent to <u>45 days</u> of capacity charges and energy charges for sale of electricity calculated on the normative annual plant availability factor;	Cost of Coal Stock should not be misconstrued only for the physical coal stock lying in plant but should also consider cost of coal stock which has been paid for and is in transit. As both for imported and domestic coal, the money is paid in advance and therefore, quantity of coal paid for should be considered as “Stock in Hand”. It is important to note that in case of imported coal based units, higher number of days of coal stock is required as the lead time of vessels is much more than 20 days. Further, there is no change in the ground situation requiring reduction in the time period considered for cost of coal stock. In fact there are several factors affecting the generators. <u>In case of imported coal based units, apart from the coal stock, money is also paid in advance for the coal dispatched through ships from the port of loading and gets locked up till the time the coal reaches the power plant. Therefore, such funds which are locked up during the transit of coal from the port of loading till the power plant also should form part of the working capital requirement.</u>

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				Hence, Coal stock of 30 days should be continued in line with existing regulations
54.	Regulation 34 – Interest on Working Capital	28 (2) The cost of fuel in cases covered under sub-clauses (a) and (b) of clause (1) of this regulation shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the generating company and gross calorific value of the fuel as per actual for the three months preceding the first month for which tariff is to be determined and no fuel price escalation shall be provided during the tariff period.	<p>(2) The cost of fuel in cases covered under sub-clauses (a), (b) and (c) of clause (1) of this Regulation shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the generating station and gross calorific value of the fuel as per actual weighted average for the third quarter of preceding financial year in case of each financial year for which tariff is to be determined.</p> <p>Provided that in case of new generating station, the cost of fuel for the first financial year shall be considered based on landed cost incurred (taking into account normative transit and handling losses) and gross calorific value of the fuel as per actual weighted average for three months, as used for infirm generation, preceding date of commercial operation for which tariff is to be determined.</p>	<p><u>Suggested modification:</u></p> <p>(2) The cost of fuel in cases covered under sub-clauses (a), (b) and (c) of clause (1) of this Regulation shall be based on the landed cost incurred (taking into account normative transit and handling losses) by the generating station and gross calorific value <u>as received less applicable adjustment for storage loss</u> of the fuel as per actual weighted average for the third quarter of preceding financial year in case of each financial year for which tariff is to be determined.</p> <p>Provided that in case of new generating station, the cost of fuel for the first financial year shall be considered based on landed cost incurred (taking into account normative transit and handling losses) and gross calorific value <u>as received less applicable adjustment for storage loss</u> of the fuel as per actual weighted average for three months, as used for infirm generation, preceding date of commercial operation for which tariff is to be determined.</p>
55.	Regulation 34 – Interest on	Similar Regulation not present in the CERC Tariff Regulations, 2014-19	<p>(3)....</p> <p>Provided that in case of truing-up, the rate of interest on working capital shall</p>	There was no provision for Truing up of the interest rate on working capital in the CERC Regulations, 2014-19. Either the same should be

Sr. No	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment																								
	Working Capital		be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24;	continued or if true up is to be done it shall be done based on actual interest rate applicable over the entire control period. Resorting to Truing Up based on again industry-wide notional rate will render specifying Tariff Regulations redundant.																								
56.	Regulation 34 – Interest on Working Capital	Hydro generating station including pumped storage hydroelectric generating station and transmission system including communication system: (i) Receivables equivalent to two months of fixed cost; (ii) Maintenance spares @ 15% of operation and maintenance expenses specified in regulation 29; and (iii) Operation and maintenance expenses for one month.	Hydro generating station (including pumped storage hydroelectric generating station) and transmission system: (i) Receivables equivalent to 45 days of annual fixed charges; (ii) Maintenance spares @ 15% of operation and maintenance expenses specified in Regulation 35 of these regulations; and (iii) Operation and maintenance expenses for one month.	Hon'ble Commission has specified the receivables equivalent to 45 days to be part of Working Capital requirement, which at present is 60 days. It is suggested to continue 60 days receivable to be part of working capital. Further, we propose mechanisms that will incentive for payment up to the last date of payment before 45 days i.e. say 0.5% and penalty (LPS) immediately thereafter i.e. on 46th day. Same will result in to levy of LPS along with loss of incentive of 0.5% and will prompt the beneficiaries to make payment in time.																								
57.	Regulation 35 – O&M Expenses	<div>(in Rs. Lakh / MW)</div> <table><tr><th>Year</th><th>600 MW sets and above</th></tr><tr><td>FY 2014-15</td><td>14.40</td></tr><tr><td>FY 2015-16</td><td>15.31</td></tr><tr><td>FY 2016-17</td><td>16.27</td></tr><tr><td>FY 2017-18</td><td>17.30</td></tr><tr><td>FY 2018-19</td><td>18.38</td></tr></table>	Year	600 MW sets and above	FY 2014-15	14.40	FY 2015-16	15.31	FY 2016-17	16.27	FY 2017-18	17.30	FY 2018-19	18.38	<div>(in Rs. Lakh / MW)</div> <table><tr><th>Year</th><th>600 MW series</th></tr><tr><td>FY 2019-20</td><td>17.39</td></tr><tr><td>FY 2020-21</td><td>17.94</td></tr><tr><td>FY 2021-22</td><td>18.52</td></tr><tr><td>FY 2022-23</td><td>19.11</td></tr><tr><td>FY 2023-24</td><td>19.72</td></tr></table>	Year	600 MW series	FY 2019-20	17.39	FY 2020-21	17.94	FY 2021-22	18.52	FY 2022-23	19.11	FY 2023-24	19.72	The normative O&M expense in FY 2019-20 is 5.39% lower than FY 2018-19 for 600 MW and above Unit capacity. Also, the y-o-y escalation is ~ 3.2% in Control Period 2019-2024 as compared to ~ 6.3% during 2014-2019. As per the Explanatory Memorandum, it seems that these norms are proposed only on the basis of Sipat Stage 1 (3 X 660 MW) project and hence
Year	600 MW sets and above																											
FY 2014-15	14.40																											
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Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<p>these norms are specific to only one project and does not reflect the actual O&M requirements of other stations of 600 MW & above.</p> <p>The reduction in O&M charges is not commensurate with the inflation. Further, the CPI & WPI for FY 2017-18 or the weighted average CPI-WPI prescribed for y-o-y escalation in the FY 2019-24 period is not negative. Therefore, there is no logic whatsoever for considering lower O&M Norms for FY 2019-20 as compared to FY 2018-19.</p> <p>Reduced O&M charges will result in Non availability of sufficient funds for carrying out proper maintenance and may adversely impact safe and secure operation of Power System in the long run.</p> <p>Hence, the O&M norms for the FY 2019-20 should not be lower than those for FY 2018-19 and these should be fixed by escalating the norms for FY 2018-19 by at least more than the inflation index to derive norms for FY 2019-20 which should be further escalated y-o-y escalation up to FY 2023-24 based on the escalation index proposed by the Hon'ble Commission.</p> <p>Further, following proviso may be added</p>

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<p>“Provided further that the Commission may allow additional O&M expenses considering specific features of the power plant in addition to applicable normative O&M expenses.”</p> <p>On the same lines of specifying separately an additional Auxiliary Consumption for FGD etc., there is also need for specifying additional O&M expenses separately for plant specific equipment such as FGD, Jetty etc.</p> <p>While determining the O&M expenses for the next control period, the following need worth consideration:</p> <ul style="list-style-type: none"> i. Minimum wages are revised twice in a year. Sometimes the increase in minimum wages goes upto 25% to 30% in some states. Besides, this will also have impact of benevolent policies / schemes/ rules rolled out by central /state govt from time to time. (PF, gratuity, ESI etc). Employee cost forms the biggest component of the O&M expenses which is linked to the CPI Inflation index. Therefore, a higher weightage should be accorded to the CPI Inflation index while computing the weighted average escalation index for O&M norms for the Control Period FY 2019-24. ii. Impact of GST should be considered. iii. With the aging of the plant, the consumption

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<p>of spares shall increase leading to higher maintenance cost.</p> <p>iv. In the present scenario of drastic reduction in the PLF of almost all thermal power plants in the country, higher funds are required to carry out frequent O&M of the plant to preserve its performance.</p> <p>v. Staff, administration and general expenses increase by more than 5% Y-O-Y.</p> <p>vi. In the draft regulation, the difference between 500 MW and 600 MW is only Rs. 2.44 Crs. However the repair and maintenance cost for a 600MW is much higher as compared to 500 MW unit due to the following reasons.</p> <p>a.Higher Spares cost due to higher size of equipment of 600 MW:</p> <p>For example, due to higher size of Mills, component replacement cost of Mills for a 600 MW would be 25% more than that of 500 MW unit mills.</p> <p>b. Upgraded / special metallurgy for higher operating parameters.</p> <p>For example, due to the high temperature of 600 MW Boilers, Higher Grades of Boiler tubes are being used. Replacement cost of damaged tubes during the overhauling of a</p>

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<p>600 MW unit will be around 55 % more than that of a 500 MW Boiler. Due to high pressure and temperature ratings of the 600 MW boiler steam / water valves as compared to that of a 500 MW unit, cost of valve spares would be 15% more.</p> <p>c. Higher chemical consumption:</p> <p>The chemical consumption for maintaining the water chemistry of a 600 MW requires an additional chemical treatment costing atleast 17.5% as compared to a 500 MW unit chemical treatment.</p> <p>d. Comparing the maintenance cost of 500 MW unit with 600 MW unit, the maintenance cost is higher by atleast 15%.</p>
58.	Regulation 35 – O&M Expenses	(3).... Provided further that the O&M expenses norms for HVDC bi-pole line shall be considered as Single Circuit quad AC line.	(3) Provided further that the O&M expenses norms for HVDC bi-pole line shall be considered as Single Circuit quad AC line;	Norms applicable to D/C may be considered for HVDC bi-pole system
59.	Regulation 35 – O&M Expenses	(2) The Water Charges and capital spares for thermal generating stations shall be allowed separately:	(6) The Water Charges, <u>Security Expenses</u> and Capital Spares for thermal generating stations shall be allowed separately prudence check:	<p><u>Suggested Modification:</u></p> <p>(6) The Water Charges, Security Expenses (<u>both physical and cyber security</u>), Capital Spares, <u>External Coal Handling plant etc. (for imported</u></p>

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<u>coal</u>) for thermal generating stations shall be allowed separately <u>after</u> prudence check:
60.	Regulation 35 – O&M Expenses	Normative O&M Expenses of sub-station Bays for Transmission System	Normative O&M Expenses of sub-station Bays for Transmission System	<p>The normative O&M expenses for sub-stations bay specified for FY 2019-20 is 56% lower than FY 2018-19. Additionally, y-o-y escalation for sub-station bay is ~3.1% in control period 2019-24 as compared to ~3.2% during 2014-19. While it is proposed to include O&M charges for Transformation capacity, it may be appreciated that the same is not sufficient to cover the reduction in O&M expenses of bays. In our case, the effect of reduced O&M expenses for bays is such that the overall O&M expenses are getting reduced by app. 20%, which is not sufficient to carry out the O&M and will hamper the O&M activities adversely. Details of calculations showing effect of reduced Bays expenses and transformation expenses enclosed at Annexure-2.</p> <p>Further, we would like to bring to your notice that Hon'ble commission, while working out normative O&M expenses for Bays and Transformers in its explanatory memorandum, has allocated actual O&M expenses for substation in the ratio of 50:50 for bays and transformers. The Hon'ble Commission has also noted that in absence of the adequate data it has considered ratio of 50:50. In this regards, we would like to submit that there</p>

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<p>are very few substations with less number of bays and high MVA capacity compared with substations with lower MVA and higher number of bays. Therefore, the ratio considered by Hon'ble commission is not justified and adequate. Same will have adverse impact on recovery of expenses and will erode the internal accruals. Further, in case of increase in bays in any substation without increase in transformer capacity, additional adequate O&M expenses will be less.</p> <p>We would also request the Hon'ble Commission to provide separate O&M charges for Bus Reactor, Switchable Line Reactor and FSC, as the O&M expenses on these is substantial, whereas as per current regulations, transmission licensees don't get paid for O&M of Bus Reactor, Switchable Line Reactor and FSC.</p>
61.	Regulation 35 – O&M Expenses		Normative O&M Expenses for Transmission System	<p>The Hon'ble Commission has proposed the Normative O&M Expenses for Transformers (Rs. Lakh per MVA) & for Communication system.</p> <p>Without prejudice to the above point, we request Hon'ble Commission to specify the separate norms of O&M Cost for Bus Reactor, Switchable Line Reactor and FSC, as has been proposed by CERC for Transformer and Communication system.</p>
62.	Regulation 35 – O&M Expenses		(c) The Security Expenses, Capital Spares and Self-insurance reserve for transmission system and associated	We request Hon'ble Commission to give clarity regarding definition of Security Expenses, Capital Spares and self-insurance along with quantum of

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
			communication system shall be allowed separately after prudence check:	such allowable expenses, to avoid disputes a to a later date.
63.	Regulation 35 – O&M Expenses	Provided that operation and maintenance expenses for new HVDC bi-pole scheme for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expense for 2000 MW, Talcher-Kolar HVDC bi-pole scheme for the respective year:	Provided that operation and maintenance expenses for new HVDC bi-pole scheme for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expense with reference to similar HVDC bi-pole scheme for the respective year:	The Hon'ble Commission has specified that for new HVDC bi-pole scheme, O&M expenses of similar HVDC bi-pole scheme shall be allowed on pro-rata basis. In this regards, we believe that new HVDC bi-pole scheme means new HVDC scheme achieving its commercial operation on or after 01.04.2019. HVDC Mundra-Mohindergarh system is not a new scheme and hence it is respectfully submitted to clarify that normative O&M expense of Talcher-Kolar HVDC scheme shall continue to be applicable to Mundra-Mohindergarh system to avoid confusion.
64.	Regulation 35 – O&M Expenses	Normative O&M Expenses for HVDC Back-to-Back stations	Normative O&M Expenses for HVDC Back-to-Back stations	We would like to submit that Back-To-Back stations have been provided to transfer power from one Region to other Region when the Regions were not synchronously connected and Regions were operating at different frequencies. Now since all Regions are connected synchronously and Indian Power System is operating as one, the need for these Back-To-Back Stations no more exists and should be de-commissioned and terminals so released should be installed at new HVDC locations.

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
65.	Regulation 35 – O&M Expenses		Provided also that the O&M expenses for the GIS bays and transformers shall be allowed as worked out by multiplying 0.70 of the O&M expenses of the normative O&M expenses for bays and transformers.	It may kindly be noted that transformers at Gas Insulated Sub-stations (GIS) are similar to Air Insulated Substations and hence there should not be any discrimination in O&M norms between GIS & AIS substations.
66.	Regulation 47 – Components of landed cost of primary fuel	(8) The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by rail / road or any other means, and, for the purpose of computation of energy charge, and in case of coal/lignite shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal or lignite dispatched by the coal or lignite supply company during the month as given below:	47. Components of Landed cost of Primary Fuel: The landed cost of primary fuel for any month shall include base price or input price of fuel corresponding to the grade and quality of fuel and inclusive of statutory charges as applicable, transportation cost by rail or road or any other means, and loading, unloading and handling charges.	<p>The regulation should include the coal washery charges also in the landed cost of primary fuel to give ample clarity, which is a legitimate cost incurred for generation of electricity and needs to be allowed as part of Landed cost of coal.</p> <p><u>Suggested Modification:</u></p> <p>47. Components of Landed cost of Primary Fuel: The landed cost of primary fuel for any month shall include base price or input price of fuel corresponding to the grade and quality of fuel and inclusive of statutory charges as applicable, transportation cost by rail or road or any other means, and loading, unloading, and handling charges <u>and coal washery charges etc.</u></p>
67.	Regulation 48 – Transit & Handling	For Imported coal - 0.2%	For Non-pithead/Imported Coal (Distance of Generating Station from source of fuel upto 1000 Km) – 0.8%	For Imported coal based Generating Stations, the coal has to be transported over the large distance and therefore the Commission has specified applicability of transit loss of Non-pithead station

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
	Losses		For Non-pithead/Imported Coal (Distance of Generating Station from source of fuel Above 1000 Km) – 1.2%	for imported coal based station. However, there is some anomaly in the Explanatory Memorandum which may be clarified and corrected in line with the Draft Regulations.
68.	Regulation 49 - Computation of Gross Calorific Value	30 (7) Provided further that copies of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, lignite, natural gas, RLNG, liquid fuel etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company. The details should be available on its website on monthly basis for a period of three months.	Provided further that copies of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, lignite, natural gas, RLNG, liquid fuel etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company.	It is submitted that hosting of these details indefinitely on the website would lead to higher IT costs for storage and security. Therefore, the details should be made to be displayed only for a specified period of time i.e. three months in line with CERC Regulations, 2014. <u>Suggested modification:</u> Provided further that copies of the bills and details of parameters of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, lignite, natural gas, RLNG, liquid fuel etc., details of blending ratio of the imported coal with domestic coal, proportion of e-auction coal shall also be displayed on the website of the generating company. <u>The details should be available on its website on monthly basis for a period of three months.</u>
69.	Regulation 51 - Computation and Payment of Capacity Charge for	Similar Regulation not present in the CERC Tariff Regulations, 2014-19.	Provided further that if the cumulative peak period PAF achieved during the quarter is less than the specified NQPAF for peak period and the cumulative Off-Peak period PAF achieved during the quarter is more than the specified NQPAF for Off-Peak period, the loss in	- In a situation where, we are operating as one nation and one grid, the concept of recovery of capacity charge on peak and off-peak period basis which shall be separate for each Region, is not appropriate since Power flow is not confined to any particular region. Regional Grids are not operating in isolation and now it

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
	Thermal Generating Stations:		<p>recovery of Capacity Charge for Peak period shall not be off-set against the notional gain on account of over-achievement in Off-Peak period;</p> <p>Provided also that carry forward of under-recovery of Capacity Charge shall not be allowed for recovery from one quarter to the subsequent quarter.</p>	<p>is a synchronous National Grid. Adoption of proposed change in regulation based on regional peak/off-peak periods has potential scope to create disputes between regions like water disputes. Since, power flows from one region to the other, the proposal to discriminate availability for peak and off-peak hours can be dispensed with. If this change is intended to bring in discipline in declaration of correct Availability, the same may be explored by tightening the penalties for mis-declaration or by other means.</p> <ul style="list-style-type: none"> - The proposed regulations do not provide for excluding forced outages in calculation of NQPAF which will lead to under-recovery of fixed cost. - In case, CERC wishes to continue with proposed options. Following may be considered. <p><u>Suggested modification:</u></p> <p>Provided further that if the cumulative peak period PAF achieved during the quarter is less than the specified NQPAF for peak period and the cumulative Off-Peak period PAF achieved during the quarter is more than the specified NQPAF for Off-Peak period, the loss in recovery of Capacity Charge for Peak period shall not be off-set against</p>

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
				<p><u>the notional gain on account of over-achievement in Off-Peak period;</u></p> <p>Provided also that carry forward of under-recovery of Capacity Charge shall not <u>be allowed</u> for recovery from one quarter to the subsequent quarter.</p> <p>- Monthly declaration of Peak and Off-Peak is not practical for operation and may be taken on Quarterly basis.</p> <p><u>Suggested Modification</u></p> <p>(7) In addition to the capacity charge, an incentive shall be payable to a generating station or unit thereof @ 65 paise / kWh for ex-bus scheduled energy during Peak period and @ 50 paise / kWh for ex-bus scheduled energy during Off-Peak period corresponding to scheduled generation in excess of ex-bus energy corresponding to Normative Quarterly Plant Load Factor (NQPLF) as specified in Regulation 59 (B) of these regulations. 70%.</p>
70.	Regulation 52 – Computation and	(6) Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following	(2) Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following	Adjustment in calorific value for 85 Kcal on account of storage loss at plant should be aligned with CEA proposal vide letter dated 17.10.2017 for margin of 105-120 kcal/kg for non-pit head and 85-100 for

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
	Payment of Energy Charge for Thermal Generating Stations	<p>formulae:</p> <p>(a) For coal based and lignite fired stations:</p> $ECR = \{(GHR - SFC \times CVSF) \times LPPF / CVPF + SFC \times LPSFi + LC \times LPL\} \times 100 / (100 - AUX)$ <p>(b) For gas and liquid fuel based stations</p> $ECR = GHR \times LPPF \times 100 / \{CVPF \times (100 - AUX)\}$ <p>Where, AUX = Normative auxiliary energy consumption in percentage. CVPF=(a) Weighted Average Gross calorific value of coal as received, in kCal per kg for coal based stations.</p>	<p>formulae:</p> <p>(a) For coal based and lignite fired stations:</p> $ECR = \{(SHR - SFC \times CVSF) \times LPPF / (CVPF + SFC \times LPSFi + LC \times LPL) \times 100 / (100 - AUX)$ <p>(b) For gas and liquid fuel based stations</p> $ECR = SHR \times LPPF \times 100 / \{(CVPF) \times (100 - AUX)\}$ <p>Where, AUX = Normative auxiliary energy consumption in percentage. CVPF = (a) Weighted Average Gross calorific value of coal as received, in kCal per kg for coal based stations <u>less 85 Kcal/Kg on account of variation during storage at generating station;</u></p>	pit head stations
71.	Regulation 52 – Computation and Payment of Energy Charge for Thermal Generating Stations	<p>30 (10)</p> <p>Provided further that the weighted average price of use of alternative source of fuel shall not exceed 30% of base price of fuel computed as per clause (11) of this regulation:</p>	<p>(3).....</p> <p>Provided further that the weighted average price of use of alternative source of fuel shall not exceed 30% of base price of fuel computed as per clause (7) of this Regulation.</p>	<p>Suggested modification:</p> <p>Provided further that the weighted average price of use of <u>fuel including</u> alternative source of fuel shall not exceed 30% of base price of fuel computed as per clause (7) of this Regulation.</p>
72.	Regulation	Similar Regulation not present in CERC	The generating company shall declare	It is practically not possible for the generating

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
	53 – Declaration of Availability and Dispatch in case of thermal generating station	Tariff Regulations, 2014-19.	day ahead availability or any revision thereof in respect of generating station for each fuel source which may be differentiated in terms of their price and calorific value and the beneficiaries shall have an option to schedule the power based on their merit order dispatch.	<p>station to declare day ahead availability or any revision thereof in respect of generating station for each fuel source in case of domestic coal based stations on account of the following reasons</p> <ul style="list-style-type: none"> the coal may be supplied by multiple mines. When stations / units are running out of coal stock, direct bunkering of coal from unloading wagon Tippler or Track hopper to unit coal bunkers are required. The quality of coal directly bunkered cannot be predicted earlier. Coal GCV analysis results are available only after 72 hours. Coal available in the stations will be of widely varying quality. Storing different coals in dedicated bunkers will upset the coal consumption plan, in the case of breakdown of any Mills or Feeders. <p>Similarly, declaration of separate availability for imported coal based stations for different coal sources is also not practically possible. This may only be possible for gas based stations and not for coal based stations.</p> <p>Therefore, the Regulations may be modified to drop this requirement.</p>
73.	Regulation 56 - Computation and Payment	No incentive between 98% to 98.5% for AC and 95% to 96% for HVDC	Incentive only upto 99.75% No incentive between 98% to 98.5% for AC and 95% to 97.5% for HVDC	<p>For AC System and HVDC System:</p> <ul style="list-style-type: none"> The Transmission charges should be allowed upto 100% Availability including the incentive. Incentive should be computed from the base Availability for full recovery of Transmission

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
	of Transmission Charge for Inter-State Transmission System and communication system			<p>Charges i.e. 98% for AC system and 95% for HVDC system instead of from 98.5% and 97.5% for AC and HVDC system, respectively.</p> <ul style="list-style-type: none"> The incentive ceiling of 99% for recovery of charges pertaining to Communication System may be reviewed.
74.	Regulation 56 – Computation and Payment of Transmission Charges for ISTS and communication system	<p>The Transmission charge (inclusive of incentive) payable for a calendar month for transmission system or part shall be</p> <p>For AC system: a) For TAFM < 98.00% $AFC \times (NDM/NDY) \times (TAFM/98.00\%)$ </p> <p>Where, TAFM = Transmission System availability factor for the month, in percent computed in accordance with Appendix-III.</p>	<p>(2) The Transmission charge (inclusive of incentive) payable for a calendar month for transmission system or part shall be computed for each region separately for AC and DC system as under:</p> <p>For AC system: a) For TAFM < 98.00% $AFC \times (NDM/NDY) \times (TAFM/98.00\%)$ </p> <p>Where, TAFM = <u>Transmission System availability factor for the month</u>, in percent computed in accordance with Appendix-II.</p>	<p>Since normative availability is prescribed on annual basis, there is no logic in specifying the recovery of transmission charges (including incentive) on standalone basis for each month.</p> <p>Proposed regulation will result in non-availability of funds for debt service and O&M for the months during which maintenance is carried out</p> <p>ISTS licensee may not be able to recover Incentive for all months of the year, despite cumulative annual availability greater than 99.75%, resulting in unavoidable distress to ISTS licensees.</p> <p>Therefore, recovery of transmission charges (including incentive) should be allowed based on cumulative availability..</p> <p>Further, same is also in contrary to provision of working out incentive, based on cumulative annual availability for generation projects applicable in terms of CERC Terms & Conditions of Tariff</p>

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				Regulations 2014-19. Hence, recovery formula of Monthly Transmission Charges including incentive to be modified to factor in Cumulative Annual Availability.
75.	Regulation 59 – Norms of operation	36. The norms of operation as given hereunder shall apply to thermal generating stations: (A) Normative Annual Plant Availability Factor (NAPAF) (a) All thermal generating stations, except those covered under clauses (b), (c), (d), & (e) - 85%	59. The norms of operation as given hereunder shall apply to thermal generating stations: (A) Normative Quarterly Plant Availability Factor (NQPAF) (a) For all thermal generating stations, except those covered under clauses (b), (c), (d), & (e) - <u>83%</u>	<ul style="list-style-type: none"> Considering the power surplus scenario in the country, there is no requirement to provide for separate availability during peak and off-peak periods. Instead of NQPAF, existing system of annual PAF may be included Alternatively, there should be a penalty mechanism for lower off-peak schedule by the beneficiaries. For recovery of full capacity charges, Normative Availability shall be calculated on yearly basis because if a plant were to undergo a major maintenance there would be loss of plant availability which cannot be recovered in subsequent quarters, leading to fixed cost under-recoveries. This situation will render the generating companies to fail in their debt service obligations and face consequences of the present strict RBI guidelines. Further, If any scheduled COH/AOH (OCC approved) is shifted due to some reason to another quarter, the same treatment should be given. There may be instances that the availability in

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				<p>a particular quarter falls down significantly due to various reasons beyond the control of the generating station like unforeseen/ forced outages, limited availability/ shortage of coal/ water etc. constraints in coal transportation by railways etc.</p> <ul style="list-style-type: none"> Hence, to even out such aberrations, it is proposed that computation of availability shall continue to be done on annual basis instead of quarterly basis.
76.	Regulation 59 – Norms of operation	<p>36 (C)</p> <p>(b) New Thermal Generating Station achieving COD on or after 1.4.2014</p> <p>(i) Coal-based and lignite-fired Thermal Generating Stations = 1.045 X Design Heat Rate (kCal/kWh)</p>	<p>(C) Gross Station Heat Rate:</p> <p>(b) New Thermal Generating Station achieving COD on or after 1.4.2009:</p> <p>(i) For Coal-based and lignite-fired Thermal Generating Stations: <u>1.05</u> X Design Heat Rate (kCal/kWh)</p>	<p>It is submitted that once a machine is designed, the margin depends upon the design parameters and cannot be improved. Therefore, the margin may be considered at <u>6.5% for Units commissioned during the period from 2009 to 2014.</u></p>
77.	Regulation 59 – Norms of operation	<p>36 (C)</p> <p>(b) New Thermal Generating Station achieving COD on or after 1.4.2014</p>	<p>(C) Gross Station Heat Rate:</p> <p>(b) New Thermal Generating Station achieving COD on or after 1.4.<u>2009</u>:</p> <p>Design Heat Rate for Bituminous Imported Coal</p>	<ul style="list-style-type: none"> It seems that in clause 59(C)(b), reference date is mentioned as 01.04.2009 for New Projects. The same may be corrected as '<u>1.4.2019</u>' Design heat rate should be separately for (i) Imported Coal with higher moisture and (ii) Imported Coal with lower moisture. The proposed ceiling specified in 'Bituminous Imported Coal' is for imported coal with lower moisture. The power plant is designed for domestic coal and hence, if imported coal is used, increase in

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				<p>SHR with increase in moisture above 12% (average moisture in domestic coal) should be provided.</p> <ul style="list-style-type: none"> - In case of bituminous imported coal with moisture more than 16%, the boiler efficiency would not be 89%. For each one percent increase in moisture, the boiler efficiency would drop by 0.12%. With increase in moisture, the additional latent heat of evaporation would be 540 kcal per kg. In addition to this, due to high volume of flue gas generation, the APH exit temperature increases, leading to high dry flue gas losses. As the velocity of the flue gas increases, the convective heat transfer takes place in the second pass leading to more heat transfer in LTSH and LTRH and hence it requires more super heater and Reheater spray. - The boiler efficiency while firing imported bituminous coal with total moisture ranging from 16% to 35% will be around 85%. - The modified norm (attached as Annexure-1) for using high moisture coal (16% to 35%) should be incorporated. -
78.	Regulation 59 – Norms of operation	36 (E) Auxiliary Energy Consumption : (a) Coal-based generating stations except at (b) below: (ii) 300/330/350/500 MW and above Steam driven boiler feed pumps - 5.25%	(E) Auxiliary Energy Consumption : (a) For Coal-based generating stations except at (b) below: (iii) 600 MW and above Steam driven boiler feed pumps : 5.75%	<ul style="list-style-type: none"> - For 600 MW & above, Aux. Consumption should be considered as 6.5% for steam driven feed pumps - Further, following Proviso may be added: “Provided that in specific cases where the

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		Electrically driven boiler feed pumps - 7.75%	Electrically driven boiler feed pumps : 8.00%	Commission has allowed additional Auxiliary consumption in its Original Tariff Order, same may be allowed in addition to applicable Auxiliary consumption provided in this Regulations"
79.	Regulation 61 - Normative Annual Transmission System Availability Factor (NATAF)	For incentive consideration: (1) AC system: 98.50% (2) HVDC bi-pole links and HVDC back-to-back Stations: 96%	For incentive consideration: (1) AC system: 98.50% (2) HVDC bi-pole links and HVDC back-to-back Stations: 97.50%	<p>Hon'ble Commission has proposed to increase incentive threshold for HVDC from 96% to 97.5% (Reduction of 1.50%). It may be appreciated that HVDC system is not comparable with AC system for following reasons:</p> <ul style="list-style-type: none"> • HVDC system is the state of art technology, which involves complex controls and logic function and cannot be compared with AC system. • In HVDC system, both terminal stations along with line is considered as a one element. Hence, should not be equivalent to AC system. <p>Such reduction in incentive shall be adversely affecting the investment in the sector, as the developers invested in the project considering the benefit of this incentive and now, reducing it will adversely affect their returns and discouraging future investments in the sector. This will also be viewed negatively by lenders as at the time of financial closure, financial institutions carried out the due diligence considering this incentive as part of the revenue and non-availability will discourage them and they are bound to treat it as high risk owing to regulatory uncertainties.</p>

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				Therefore, the incentive should be continued as provided in the existing regulations i.e. for availability beyond the performance norms of 96% for HVDC system.
80.	Norms of operation for transmission system (Communication system)	-	-	<p>We would like to submit that Hon'ble Commission has specified the formula for calculation of Normative Availability of Communication System (NACF) region wise. However, Hon'ble Commission has not specified the NACF for recovery of Communication charges (including incentive).</p> <p>Further, Hon'ble Commission has also not defined OPGW availability calculation in complete system availability formula.</p>
81.	Regulation 69 – Late Payment Surcharge	Applicable beyond 60 days @ 1.5% per month	Applicable beyond 45 days @ 1.25% per month	<ul style="list-style-type: none"> - In order to bring discipline in the payment by the Discoms, LPS rate of 1.5% per month may be retained. It is understood that Hon'ble Commission has proposed reduction in LPS rate in view of current trend of reducing rate of interest. However, off late such trend is reversed and the rates of interest are again increasing. - Tariff Regulations does not specify the Priority of Apportionment of Payment among Late Payment Surcharge, past dues, Current dues etc. This encourages Discoms to delay the payments

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				<p>as the LPS remains static. Consequently, generating stations would have to incur higher working capital.</p> <ul style="list-style-type: none"> - We would further like to submit that LPS should not be discriminatory and LPS should be added to the bills. - This anomaly was addressed in the competitive bidding PPA's by stipulating priority of apportionment of payment. Similar provision may be included in the Regulation with payment appropriation priority as follows: <ul style="list-style-type: none"> i. Amount Received is first adjusted against Outstanding Late Payment Surcharge. ii. Balance Amount if any is adjusted against Past Arrears if any. - Balance Amount if any is adjusted against Current Months Dues. Alternatively, LPS should be allowed on compounding basis. This is appropriate considering the fact that all the accounting is on compounding basis.
82.	Regulation 70 – Sharing of gains due to variation in norms	Applicable for i. SHR, ii. Secondary Fuel Oil Consumption, iii. Aux Consumption, In ratio of 60:40 & iv. Re-financing of loan or otherwise change in Interest Rate in the ratio of 2:1 to beneficiaries and	Applicable for i. SHR, ii. Secondary Fuel Oil Consumption, iii. Aux Consumption, iv. Re-financing of loan or <u>otherwise change in Interest Rate</u> In ratio of 50:50	<ul style="list-style-type: none"> - The existing provision for sharing of gain in the ratio of 60:40 between -Generating Stations Vs beneficiaries should be revised to 70:30 because the efficiency improvement activities require additional investment (Data analytics, digitization, adoption of new technologies and new efficient equipment etc.) and efforts on the part of generating stations. Otherwise there would not be any much incentive for generating

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
		Generating Company		stations to further improve the efficiency parameters.
83.	Regulation 72 Sharing of Non-tariff Income	Similar Regulation not present in CERC Tariff Regulations, 2014-19.	72. Sharing of Non-Tariff Income: The non-tariff income in case of generating station and transmission system on account of following shall be shared in the ratio of 50:50 with the beneficiaries and the long term customer on annual basis: a) Income from rent of land or buildings; b) Income from sale of scrap; c) Income from statutory investments; d) Interest on advances to suppliers or contractors; e) Rental from staff quarters; f) Rental from contractors; g) Income from advertisements; h) Interest on investments and bank balances; Provided that the interest or dividend earned from investments made out of Return on Equity corresponding to the regulated business of the Generating Company shall not be included in Non-Tariff Income.	<ul style="list-style-type: none"> - Since, activities a,d,e,f & h can be carried out only in case of Reserve & surplus available with the company, it needs to be removed from the list. - It may please be appreciated that it takes a lot of efforts to develop a new line of business and therefore, we need to incentivize the licensees / Generators, to optimize the resources for other businesses. Therefore, Sharing may be considered @ 25:75 with the beneficiaries and Generator/Licensee - The interest on investment out of depreciation and 50% gain due to controllable parameters which comes to the share of the generating company should also be exempted from non-tariff income. - The first proviso to the regulation regarding exclusion of interest/dividend income out of ROE has been made applicable to the generating company only. It should be applicable to transmission company too.
84.	Regulation 72 –	-	Provided that the interest or dividend earned from investments made out of	We request Hon'ble Commission to include the transmission licensees also in the provision of Non-

Sr. No.	Regulation No.	Existing Regulations (CERC Regulations, 2014-19)	Proposed Regulations (CERC Draft Regulations, 2019-24)	Comment
	Sharing of Non-Tariff Income		Return on Equity corresponding to the regulated business of the Generating Company shall not be included in Non-Tariff Income.	<p>Tariff Income.</p> <p><u>Suggested modification:</u></p> <ul style="list-style-type: none"> - Provided that the interest or dividend earned from investments made out of Return on Equity corresponding to the regulated business of the Generating Company <u>and Transmission licensees</u> shall not be included in Non-Tariff Income.

Annexure-1

	Proposed	Proposed	Proposed
Pressure rating (Kg/cm2)	150	170	170
SHT/ RHT (°C)	535/535	537/537	537/565
Type of BFP	Electrical Driven	Turbine driven	Turbine driven
Max Turbine heat rate (kcal/kwh)	1955	1950	1935
Min. Boiler efficiency			
Sub-bituminous Indian coal	0.86	0.86	0.86
Bituminous Imported coal	0.89	0.89	0.89
Sub-bituminous Indian coal	2273	2267	2250
Bituminous Imported coal	2197	2191	2174

	To be modified	To be modified	To be modified
Pressure rating (Kg/cm2)	150	170	170
SHT/ RHT (°C)	535/535	537/537	537/537
Type of BFP	Electrical Driven	Turbine driven	Turbine driven
Max Turbine heat rate (kcal/kwh)	1955	1950	1935
Min. Boiler efficiency			
Sub-bituminous Indian coal	0.86	0.86	0.86
Bituminous Imported coal (Moisture <16%)	0.88	0.88	0.88
Bituminous Imported coal (Moisture: 16% to 35%)	0.85	0.85	0.85
Sub-bituminous Indian coal	2273	2273	2273
Bituminous Imported coal (Moisture <16%)	2222	2216	2199
Bituminous Imported coal (Moisture: 16% to 35%)	2300	2294	2276

	Proposed	Proposed	Proposed	Proposed
Pressure rating (Kg/cm2)	247	247	270	270
SHT/ RHT (°C)	537/565	565/593	593/593	600/ 600
Type of BFP	Turbine Driven	Turbine Driven	Turbine Driven	Turbine Driven
Max Turbine heat rate (kcal/kwh)	1900	1850	1810	1800
Min. Boiler efficiency				
Sub-bituminous Indian coal	0.86	0.86	0.865	0.865
Bituminous Imported coal	0.89	0.89	0.895	0.895
Sub-bituminous Indian coal	2222	2151	2105	2081
Bituminous Imported coal	2135	2078	2034	2022

	To be modified	To be modified	To be modified	To be modified
Pressure rating (Kg/cm2)	247	247	270	270
SHT/ RHT (°C)	537/565	565/593	593/593	600/ 600
Type of BFP	Turbine Driven	Turbine Driven	Turbine Driven	Turbine Driven
Max Turbine heat rate (kcal/kwh)	1900	1850	1810	1800
Min. Boiler efficiency				
Sub-bituminous Indian coal	0.86	0.86	0.865	0.865
Bituminous Imported coal (Moisture <16%)	0.88	0.88	0.88	0.88
Bituminous Imported coal (Moisture: 16% to 35%)	0.85	0.85	0.85	0.85
Sub-bituminous Indian coal	2222	2151	2105	2081
Bituminous Imported coal (Moisture <16%)	2159	2102	2057	2046
Bituminous Imported coal (Moisture: 16% to 35%)	2235	2176	2129	2118

Annexure-2

All figures in Rs. lacs

Normative O&M Cost			
O&M Expenses for bays as per Existing Regulation with Escalation	A	2,086.92	
O&M expenses for bays Draft Regulation	B	882.58	
Reduced O&M Cost of Bays	C=A-B		1,204.34
Proposed Additional amount for			
O&M expenses for Transformer	D	167.58	
O&M Expenses for OPGW	E	125.87	
Sub Total	F=D+E		293.45
Net reduction in Normative O&M Cost	G=C-F		910.89