DHARIWAL INFRASTRUCTURE LIMITED COMMENTS ON DRAFT CERC (TERMS & CONDITIONS OF TARIFF) REGULATIONS FOR THE TARIFF PERIOD FY 2019-24

At the outset, Dhariwal Infrastructure Limited ("*DIL*") would like to thank the Hon'ble Central Electricity Regulatory Commission ("*Hon'ble Commission*") for bringing out the Draft (Terms & Conditions of Tariff) Regulations 2019 ("*Draft Tariff Regulations 2019*") for the period FY 2019-20 to FY 2023-24 and providing the stakeholders an opportunity to provide comments/suggestions on the same. Accordingly, the comments and suggestions on the Draft Tariff Regulations 2019 and its terms on behalf of DIL are provided in the following matrix for the kind perusal and consideration of the Hon'ble Commission.

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DEFINITIONS		
1 (50)	Plant Availability Factor' or '(PAF)' in relation to a generating station for any period means the average of the daily declared canacities (DCs) for all the days during	We humbly request the Hon'ble Commission to express the Plant Availability Factor as the average of the daily declared capacities for all the days during the period expressed as a percentage of the contracted capacity in MW loss the permetive
	the period expressed as a percentage of the installed capacity in MW less the normative auxiliary energy	auxiliary energy consumption.
	consumption;	Justification:
	consumption;	Allocation of coal linkages for power sector is based on Power Purchase Agreement (PPA) to cater to the demand of the beneficiaries, and not on the entire installed capacity of the power plant which may remain un-tied. Hence, linking the Plant Availability Factor to the entire installed capacity may express the ratio of Plant Availability Factor on the capacity for which the generating plant doesn't have coal to generate power to beneficiaries on long-term basis on account of its nature of remaining un-tied. Thus, we request the Hon'ble Commission to express the formula as follows:
		N = Number of time blocks during the period, and ALIXn = Normative Auxiliary Energy Consumption as a percentage of gross energy generation:
		Nonn – Nonnative Nazinary Energy consumption as a percentage of gross energy generation,
		Further, the same has also been recognized by the Hon'ble Commission in its Order dated 20.03.2018 in Petition No. 192/MP/2016.

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1 (51)	Plant Load Factor' or '(PLF)' in relation to thermal generating station or unit for a given period means the total sent out energy corresponding to scheduled generation during the period, expressed as a percentage of sent out energy corresponding to installed capacity in	We humbly request the Hon'ble Commission to express the Plant Load Factor as a percentage of total sent out energy corresponding to scheduled generation during the period, expressed as a percentage of sent out energy corresponding to contracted capacity in that period.
	that period and shall be computed in accordance with	Justification: Same as above
	the following formula: N	Thus, we request the Hon'ble Commission to express the formula as follows: N
	PLF = 10000 x ΣSGi/ {Nx IC x (l00-AUXn)} % i=1	PLF = 10000 x ΣSGi/ {Nx CC x (I00-AUXn)} % i=1
	Where, IC = Installed Capacity of the generating station or unit in MW,	Where, CC = Contracted Capacity of the generating station in MW, SGi = Scheduled Generation in MW for the ith time block of the period
	SGi = Scheduled Generation in MW for the ith time block of the period	N = Number of time blocks during the period, and AUXn = Normative Auxiliary Energy Consumption as a percentage of gross energy generation;
	N = Number of time blocks during the period, and AUXn = Normative Auxiliary Energy Consumption as a nercentage of gross energy generation:	
DATE OF COM	MERCIAL OPERATION	
5 (1)	Date of Commercial Operation: (1) The date of commercial operation of a generating station or unit thereof or a transmission system or element thereof and associated communication system shall be determined in accordance with the provisions of the Grid Code.	• It is submitted that the capacity of a Generating Station/Unit may not be fully tied- up to its entire Installed Capacity at the time of declaring date of Commercial Operation ("COD"). In that case, concerned RLDC or SLDC, as the case may be should arrange for adequate transmission corridor in order to ensure evacuation of entire Capacity of such Generating Stations/Units which have only partial Capacity contracted with the beneficiary(ies). In short, COD of the Generating Station or Unit should not be delayed just because it has tied up only partial Capacity with the beneficiary(ies).
		• Further, in case the Generating Station or Unit is not able to achieve COD due to various uncontrollable factors & technical reasons including Force Majeure and Change-in-Law events, the Hon'ble Commission may relax such restriction on case-to-case basis depending purely on merit of the case. We request the Hon'ble Commission to finalize the MYT Regulations 2019 accordingly.

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	• In our humble opinion, Final Tariff Regulations 2019-24 should provide for an eventuality of Trial Run getting delayed or not achieving the desired level of Maximum Continuous Rating <i>("MCR")</i> due to adequate load not being provided by the concerned RLDC or SLDC, as the case may be. In such an event, deemed COD of the Generating Station/Unit should be permitted. We request the Hon'ble Commission to finalize the Tariff Regulations 2019-24 accordingly.
	• It is suggested that it should be made mandatory for the concerned RLDC or SLDC, as the case may be, to schedule the power projects undertaking trial run or commissioning test on full load basis during the period and such plants should be considered as "Must-Run Plants".
6 (1) (b) Treatment of mismatch in date of commercial	• In case of mismatch between the COD of generating unit or transmission lines, the gestation period of the affected party i.e. the party which commission its
(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 part failing which the	 assets earlier, increases. Therefore, the Hon'ble Commission may develop suitable mechanism for compensating the IDC and IEDC accrued for the period of delay to the affected party. It is suggested that in case the Power Station is ready but the Procurer/Transmission Licensee fails to make alternate arrangement for 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.	Transmission evacuation within the stipulated time, then it should be treated as deemed available after inspection by representative of beneficiaries and independent personnel from RLDC/SLDC as the case may be. The delay in commissioning due to non-availability of load or issues in evacuation may lead to increase in IDC, IEDC and other Project Cost components. In such case, the developer should be suitably compensated in order to service its debts, i.e., to ensure the recovery of IDC and IEDC of the corresponding period. Alternatively, we
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	request the Hon'ble Commission to evolve a compensatory mechanism, wherein the generator is suitably compensated for loss of generation for the period the plant could not operate due to unavailability of evacuation system, at a rate determined by the Hon'ble Commission.

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	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.	
7	Sale of Infirm Power: Supply of infirm power shall be accounted as deviation and shall be paid for from the regional deviation settlement fund accounts in accordance with the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2014, as amended from time to time or any subsequent re-enactment thereof: Provided that any revenue earned by the generating company from supply of infirm power after accounting for the fuel expenses shall be applied in adjusting the capital cost accordingly.	 Final Tariff Regulations 2019should also allow for capitalization of any loss incurred on sale of infirm power, i.e., in case DSM Charges recovered is less than the actual Fuel Expenses, this difference should be allowed to be capitalized as 'start-up and trial-run fuel expenses' as part of Capital Cost of the Project for recovery through Tariffs. Further, as per the new Deviation & Settlement Mechanism ("DSM") 4th Amendment Regulations, sale of infirm power by Generating Stations using fuel as Domestic Coal/Lignite/Hydro are now capped at ₹1.78 per unit. Therefore, we feel that there will be assured loss incurred by Generating stations having Energy Charge Rate more than the above rate on sale of infirm power. In view of the above all we request the Hon'ble Commission to include an appropriate proviso in this regard and finalize the Tariff Regulations 2019-24 accordingly.
PROCEDURE F	OR TARIFF DETERMINATION	
9 (3)	Application for determination of tariff: (3) In case of emission control system 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;	 We request the Hon'ble Commission to include a provision in the Final Tariff Regulations 2019 for considering the site-specific factors, additional requirement due to installation of various Pollution Control equipment like FGD under statutory mandate on case to case basis. In view of the following measures undertaken by the generating companies to comply with the environmental norms: Additional Auxiliary Energy Consumption for Flue Gas De-Sulphurization ("FGD") Plant and other emission control equipment: 2% may be considered. A separate provision for Operation and Maintenance (O&M) Expenses of FGD Plant and other emission control equipment may please be incorporated in the final Tariff Regulations.

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		 Further, in case of implementing Pollution Control Systems like FGD Plant in a generating unit which has partial untied capacity, the Hon'ble Commission may devise suitable mechanism for recovery of the entire cost pertaining to such untied capacity. The supplementary tariff on account additional capitalization for meeting the new environmental norms would be predominantly of the nature of Fixed Charges. Therefore, the additional Fixed Charges on account environmental capex schemes should be allowed to be recovered along with the Annual Fixed Charges based on actual capitalized cost.
10 (8) & 10 (9)Determination of tariff: (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 Commission, along with interest at 1.20 times of the bank rate as prevalent on 1st April of the respective year.In our humble opinion, we feel that the 10% band & actual Capital Cost be done away in Final Tari Charges reflect the actual Capital Cost at all time be equitable and set at the Bank Rate defined in t 24, i.e., one-year marginal cost of lending rate (1st April of the respective year.	In our humble opinion, we feel that the 10% band between the projected Capital Cost & actual Capital Cost be done away in Final Tariff Regulations 2019-24 as the Fixed Charges reflect the actual Capital Cost at all times. The refund and recovery should be equitable and set at the Bank Rate defined in the proposed Tariff Regulation 2019-24, i.e., one-year marginal cost of lending rate ("MCLR") + 350 bps as prevalent on 1st April of the respective year.	
	(9) Where the capital cost considered in tariff by the Commission on the basis of projected additional capital expenditure falls short of the actual additional capital expenditure incurred by more than 10% on year to year basis, the generating company or the transmission licensee shall recover from the beneficiaries or the long term customers as the case may be, the shortfall in tariff corresponding to difference in additional capital expenditure, as approved by the Commission, along with	

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	interest at the bank rate as prevalent on 1st April of the respective year.	
CAPITAL STR	UCTURE	
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 reduction of the equity and depreciation admissible after the 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 reduction of equity till the generating station continues to generate and supply electricity to the beneficiaries.	 The Hon'ble Commission may not include such provision in Final Tariff Regulations 2019-24 for reduction of equity base post completion of useful life of the assets as it may hamper the future growth of the sector by not generating adequate funds for redeployment and deprive the beneficiaries of the reduced fixed costs of assets completing its useful life. <u>Justification:</u> It is to be noted that reduction of the equity base post completion of the useful life of the asset would severely affect the internal resource generation of power generating companies/transmission licensees and further investment in the power sector will be impacted. The return on the equity base post completion of useful life of the assets helps to generate the internal reserves for future investment in the same/other project. If such equity base is reduced to 5% (considering full payment of outstanding debt and accumulated depreciation up to 95% of the asset value), the investors may not generate sufficient funds for future growth. We are of the considered opinion that the proposed option suggested in the draft Regulations is in contradiction of the spirit of National Tariff Policy 2016 as it may not generate adequate surplus for future growth of the sector. Further, a generating company/transmission licensee may accrue losses on account of several factors during its lifetime which are not compensated through tariff, viz., loss due to early retirement of assets, loss on account of delayed revenue recovery, loss on account of un-contracted capacity etc. Generation of returns beyond useful life would enable the generating company/transmission licensee to meet up for such losses to its investors. With the proposed reduction in equity base, there would be no scope left to the generating company/transmission licensee to meet up the losses made during the useful life of the asset.

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		3. If the proposed approach is considered, the developers may not find sufficient incentive to operate the project efficiently and keep it in good operational condition till end of its useful life and will tend to retire the assets after useful life even if the same are under good conditions. Needless to say, that fresh capacity would replace the retired assets after its useful life and the tariff would again clock back to higher fixed cost. The beneficiaries would be deprived of the benefit of reduced fixed costs of the assets which retires immediately after completion of useful life.
CAPITAL COST		
18 (3)	The Capital cost of an existing project shall include the following:	The provisions for capital expenditure on account of emission control system which become necessary to comply with statutory norms, Change in Law and Force Majeure events may be included for existing projects.
	 (a) Capital cost admitted by the Commission prior to 1.4.2019 duly trued up by excluding liability, if any, as on 1.4.2019; (b) additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations; and (c) expenditure on account of renovation and 	 Justification: We request the Hon'ble Commission to kindly incorporate the following provisions under the proposed Regulation for existing projects: a) Expenditure on account of emission control system necessary to meet the applicable emission standards of notified by Government;
	modernisation as admitted by this Commission in accordance with these regulations; (d) capital expenditure on account of ash disposal including handling and transportation facility; (e) capital expenditure incurred towards railway 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 appurtances and to the receiving	 b) Expenditure on account of change in law and force majeure events. In our humble opinion, requirement of capital expenditure on account of emission control system necessary to comply with government norms or on account of Change in Law and Force Majeure events are equally applicable for existing project. The existing projects are required to obtain the 'Consent to Operate' ("<i>CTO</i>") from the competent authority periodically. Any change/addition to the conditions of the CTO may call for specific capital expenditure in order to meet the requirements.
	<i>appurtenant cost paid to the railway;</i> (f) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be	may call for specific capital expenditure in order to meet the requirements. The Hon'ble Commission would appreciate that such factors which are driven by statutory mandates, court orders, local or global calamities etc. are always beyond the control of any project irrespective of its vintage. Therefore, the above provisions, similar to that included for new projects, may also be included for existing projects.

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	considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.		
18 (5) (b)	The following shall be excluded from the capital cost of the existing and new projects: (b) De-capitalisation of Assets after the date of commercial operation on account of replacement or	De-capitalization may not be done for the assets which are of replacement nature, unless the Hon'ble Commission approves such replacement under additional capitalization. No return/recovery of depreciation is expected from replacement of assets if the same is not approved by the Hon'ble Commission; further de- capitalization of the old assets would increase the adverse financial impact.	
read with	removal on account of obsolescence or shifting from one	lustification	
33 (8)	In case of de-capitalization of assets in respect of generating station or unit thereof or transmission system or element thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the decapitalized asset during its useful services.	The Hon'ble Commission has, in case of replacement of assets, proposed for adjustment of the gross fixed assets and cumulative depreciation of the assets replaced on account of de-capitalization. However, it may be noted that in case the replacement of assets proposed by the generating company/transmission licensee is not approved by the Hon'ble Commission under Regulation 24 (2), in such cases, no adjustment in the gross fixed assets and cumulative depreciation of the assets may be done except in cases where the assets are taken away from use. If the generating company/transmission licensee replaces the old asset with a new asset deploying own funds, they cannot expect any return against such investment unless the Hon'ble Commission approves the same. The depreciation of the new asset capitalized also cannot be recovered from the beneficiaries. Additionally, if the Hon'ble Commission proposes to decapitalize the old assets and adjust the gross fixed assets and cumulative depreciation of the same, the impact on the generating company/transmission licensee.	
PRUDENCE CH	PRUDENCE CHECK OF CAPITAL EXPENDITURE		
19 (1)	In case of the thermal generating station and the	Prudence check of capital cost of the project only through scrutiny of the capital	
	transmission system, prudence check of capital cost shall	expenditure of similar projects based on past historical data and other reasonable	
	include scrutiny of the capital expenditure, in the light of	parameters is appropriate for new projects. For completed projects, the Hon'ble	

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	capital cost of similar projects based on past historical	Commission may continue with the comparison with benchmark capital cost as per
	data, wherever available, reasonableness of financing	the Order dated 04.06.2012.
	plan, interest during construction, incidental	lust:fication.
	technology, cost over-run and time over-run, procurement of equipments and materials through competitive bidding and such other matters as may be considered appropriate by the Commission for determination of tariff:	 The Hon'ble Commission has proposed to conduct the prudence check of the capital cost only through scrutiny of the capital expenditure of similar projects based on past historical data and other reasonable parameters as appropriate. The Hon'ble Commission has done away with the comparison with benchmark Capital Cost as per the Order dated 04.06.2012.
	Provided that, while carrying out the prudence check, the Commission shall also examine whether the generating company or transmission licensee, as the case may be, has been careful in its judgments and decisions in execution of the project.	2. It is submitted that such benchmarking exercise serves as a better platform for comparison instead of capital cost of similar projects based on past historical data since it is very difficult to find an appropriate match in terms of time of placement of Order, period of execution, terms of the contract, project specifications and other critical parameters which define the decisions of the developers on the capital cost.
		3. In particular, for generation projects, the comparison with benchmark capital cost is relevant for projects which has entered into PPA under MoU route after the declaration of the COD of the unit/station. In such cases, the beneficiaries enter into the PPA with complete knowledge on the capital cost of the project. For such projects, the prudent check of capital cost can be done by comparing the same with the benchmark capital cost. It would be impractical to examine the judicious wisdom of the developer in taking its judgments and decisions in execution of the project at a later stage when there is no scope left for the developer to alter such decisions.
INTEREST DUP	RING CONSTRUCTION (IDC) AND INCIDENTAL EXPENDITURE DURING C	ONSTRUCTION (IEDC)
20 (1)	Interest during construction (IDC) shall be computed	The Hon'ble Commission may consider to incorporate specific provision for allowing
	corresponding to the loan from the date of infusion of	IDC on normative loan in case of funding of Project Capital Cost, including Additional
	debt fund, and after taking into account the prudent	Capitalization, through developer's own funds beyond 30% equity.
	phushiy of Julius up to SCOD.	

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		 Justification: The Tariff Regulations adopt the principle of restricting the equity component of Capital Cost only up to 30%. Any amount of equity investment above 30% is treated as normative loan. Therefore, IDC on normative loan should also be allowed from the date of infusion of such normative loan during construction of the project.
		2. Further, Additional Capitalization being a part of the Capital Cost also follows a normative funding pattern through debt and equity in the ratio of 70:30. In many cases, 100% of the Additional Capitalization is funded through equity (internal accruals). In absence of any explicit provision in the Tariff Regulations, the normative IDC on normative loan component for Additional Capitalization is denied. It is noteworthy that the developer would have earned interest from appropriate fund management in lieu of investing the amount for Additional Capitalization.
		 Further, it is to be noted that, had there been actual loan deployment instead of normative loan, IDC would have been payable under the Regulations. Hence, the developer should not be deprived of return up to the weighted average rate of interest on actual loan portfolio on the normative component of loan.
20 (5)	If the delay is attributable either in entirety on in part to the generating company or the transmission licensee or its contractor or supplier or agency, in such cases, IDC and IEDC beyond SCOD may be disallowed after due prudence check either in entirety or on pro-rata basis	In case of delay in commissioning the project not being condoned, the Hon'ble Commission may consider to disallow the actual IDC incurred/accrued for the actual period of delay in the project phase. Justification:
	corresponding to the period of delay not condoned and the liquidated damages, if any, recovered from the contractor or supplier or agency shall be retained by the generating company or the transmission licensee, as the case may be.	 It is to be noted that delay in execution of the project may occur at any phase of the same. The delays occurring at the initial phases are generally restituted by speedy execution at later stages. However, sometimes the initial delays or such delays occurring at the mid-phase of the project cannot be recompensed till the SCOD of the project. If the delay beyond the SCOD is not condoned by the Hon'ble Commission, the generating company/transmission licensee has to bear the IDC and IEDC for such period. The developers have to suffer the loss of IDC and IEDC incurred for the period beyond the SCOD for the entire life if the same is not

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		approved by the Hon'ble Commission. Such prudence scrutiny therefore already incorporates the disincentive by way of zero return on 30% equity invested on the amount of cost overrun.
		2. However, the methodology of computing IDC and IEDC on pro-rata basis, corresponding to the period of delay not condoned, takes into consideration uniform distribution of IDC over the entire project phase. Hence, even if the delay has occurred in the initial phases when the actual IDC accrual would have been much less, the generating company/transmission licensee has to bear the disallowance at a higher rate on account of pro-rata distribution of the total IDC. In our humble opinion, the Hon'ble Commission may consider to disallow the actual IDC incurred for the actual period of delay in the project phase.
CONTROLLABL	e and Uncontrollable Factors	
21 (2)	<i>The "uncontrollable factors" shall include but shall not be limited to the following:</i>	In our humble opinion, the Hon'ble Commission may consider it essential to further include Rate of Water Charges under uncontrollable factors.
	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;	<u>Justification:</u> We appreciate the intent of the Hon'ble Commission to allow water charges separately based on water consumption subject to prudence check depending upon type of plant as a part of O&M Expenses. However, it is submitted that water charges are levied by the respective State Government agencies where the station is located. The Water Charges may be increased by the State Government for increasing the revenue of the State and also to charge for the national natural resource. Hence any abnormal/unnatural increase in the rate of the same which is beyond the control of the generating plant may be allowed to be made pass through in tariff.
	CAPITALIZATION	
24(2)	In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the	In our humble opinion we request the Hon'ble Commission to allow the entire depreciation on the new asset which has been capitalised without adjustments of cumulative depreciation accumulated on the replaced asset.

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	gross fixed assets and the cumulative depreciation, subject to prudence check on the following grounds: (a) The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these regulations; (b) The replacement of the asset is necessary on account of change in law or Force Majeure conditions; or (c) The replacement of such asset has otherwise been allowed by the Commission based on sufficient grounds	Justification: Depreciation is a major component of Annual Fixed Charges. It is accepted in regulatory regime that the depreciation represents service to capital subscribed and normally considered a cash flow available for repayment of Ioan. The regulatory meaning of depreciation as pronounced in Tariff Regulations holds that there should be enough cash flow available to meet the repayment obligations of the generating Company or transmission licensee during the first 12 years of operation. Further, even after repayment of Ioan, the reserves created through depreciation ensures that by the time the asset stops functioning, the company already collected sufficient necessary funds to buy new ones.
		In a cost-plus regime, the shareholder's minimum expected return on the invested amount is the Return on Equity as specified in the Tariff Regulations. De-capitalisation of an asset before its useful life restricts the recovery of Return on the investment on the old asset till the time of replacement of such asset, which otherwise would have fetched return for its entire useful life. The shareholders' return anyway suffers from such de-capitalisation and adjustment of cumulative depreciation taking into account the depreciation recovered in tariff by the decapitalized asset during its useful services would further cause cash flow issues to the generator and is not desirable. Further, adjustment of cumulative depreciation during de-capitalisation of an asset would also reduce the depreciation reserves for funding future capital expenditure. Hence, we humbly request the Hon'ble Commission to allow the entire depreciation on the new asset which has been capitalised without adjustments of cumulative depreciation accumulated on the replaced asset.
25(1)	The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or on the following counts beyond the original scope, may be admitted by the Commission, subject to prudence check:	In our humble opinion, the Hon'ble Commission may consider it essential to allow deferred/undischarged liabilities on account of capitalization of new assets which is not within the original scope executed prior/beyond the cut-off date. <u>Justification:</u> The Regulation emphasizes on the admittance of additional capitalisation on account
	(a) Liabilities to meet award of arbitration or for compliance of the order or directions in the order of any	of works beyond the original scope but it does not bring out its meaning with reference to the Cut-Off Date.

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	statutory authority, or order or decree of any court of law; (b) Change in law or compliance of any existing law; (c) Force Majeure Events; (d) Any capital expenditure to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Indian Government Instrumentality or statutory authorities responsible for national or internal security; (e) Deferred works relating to ash pond or ash handling system in additional to the original scope of work, on case to case basis; Provided also that if any expenditure has been claimed under Renovation and Modernisation (R&M) or repairs and maintenance under O&M expenses, same expenditure cannot be claimed under this Regulation.	 The Hon'ble Commission may need to recognize that it is impractical to disallow the deferred/undischarged liabilities on account of capitalization of new assets which is not within the original scope executed prior/beyond the cut-off date, as it is very difficult to actually project the extent of discharge of such liabilities by actual payments. Further the reasons for withholding of such payment and release of the same may also not be foreseen. Hence, in our humble opinion, the said provisions of admitting the capital expenditure incurred or projected to be incurred beyond the original scope and after the cut-off date in Tariff Regulation for FY 2014-19 may also be continued in Tariff Regulations for FY 2019-24. Any liability for works executed prior to the cut-off date, after prudence check of the details of such undischarged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.; Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receiving system arising due to non-materialization 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: It is also pertinent to mention that deferring the liabilities also passes on the benefit in the fixed charges to the consumers for the period the liability has been deferred and the other with the control of the intervent of the consumers for the period the liability has been deferred and the other with the other with the control of the set of the consumers for the period the liability has been deferred and the other with the oth
	Proposal of New Regulation	The Hon'ble Commission may also admit any additional capital expenditure which has become necessary for successful and efficient operation of coal/lignite based generating plant but not included on the original project cost on account of the following grounds: • Replacement due to obsolescence of Technology

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		 Reliable operation of the Units and would therefore reflect intangible benefits for the Beneficiaries
		 Technical constraints on account of OEM Support
		 Reassessment of necessity/usefulness of Schemes owing to changing scenario
RENOVATION	AND MODERNISATION AND SPECIAL ALLOWANCE	
26	Additional Capitalisation on account of Renovation and Modernisation	Renovation & Modernisation should be allowed to be undertaken after specified years of service. Further, depreciation and debt servicing cost of the Additional Capitalization should be allowed to be recovered within the balance useful life of the plant after considering the life extension, if any.
		Justification: 1. Approval of R&M expenditure for generating companies or transmission licensee should be provided through a separate exercise by the Hon'ble Commission after specified years of operation (to be fixed by Commission). Plants completing specified number of years of operation (say 15-20 years) may opt to take up R&M evaluation based on OEM recommendation & certification before submitting the proposal before the Hon'ble Commission. Based on the evaluation, R&M schemes for the plant should be approved by the Hon'ble Commission based on a cost benefit analysis and expected life extension.
		2. Taking up R&M on completion of 25 years could deteriorate the unit to such a condition that the R&M will not bring intended results. Taking up projects for R&M before completing 25 years of operation will give sufficient time for recovery of R&M expenses through tariff without significant increase in tariff. The utilities taking up R&M Projects, with expected life extension, should be allowed to recover the depreciation and debt servicing costs within the extended useful life of the project. In our humble opinion, the Hon'ble Commission may consider it essential to specify in Tariff Regulations the time period after which the generating companies/transmission licensees may opt for such R&M activities, based on industry trends and recommendations of key OEMs in the power sector. Hence, In our humble opinion, Hon'ble Commission may consider it essential to specify in Tariff

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		Regulations the time period after which the generating companies/transmission
		licensees may opt for such R&M activities.
27 (1)	In case of coal-based/lignite fired thermal generating	The Hon'ble Commission may allow special allowance on cumulative basis for the
	station, the generating company, instead of availing	eligible plants and allow the balance capital cost for addition to the GFA.
	accordance with the norms specified in this Regulation,	Justification:
	as compensation for meeting the requirement of	Special allowance is in lieu of R&M and a generating company may opt to avail a Special
	expenses including renovation and modernisation	allowance instead of availing R&M. Special Allowance as allowed by the Hon'ble
	beyond the useful life of the generating station or a unit thereof and in such an event, upward revision of the capital cost shall not be allowed and the applicable operational norms shall not be relaxed but the special allowance shall be included in the annual fixed cost:	Commission, in various Projects, could not meet the entire investment required for R&M purpose. Further, R&M projects cannot be undertaken on piecemeal basis. Therefore, if special allowances are envisaged for meeting the R&M requirements, the Hon'ble Commission should allow the utilities to utilize the accumulated special allowances, starting after say specified number of years, at the time of undertaking the R&M Project. The balance, if any required for meeting the cost requirement of R&M Project may be additionally approved by the Hon'ble Commission. However, the utility may be allowed to recover the additional fixed charges only on the balance approved by the Hon'ble Commission. We would explain the same with the following hypothetical exhibit.
		The Generating Station upon reaching 22 years of operation proposes to undertake R&M Project with an investment of about Rs 500 Crores.
		Let us assume the Special Allowance for a Generation Project of 500 MW = Rs 10 Lakhs/MW escalated @9% p.a. The Generating Station shall be eligible for such Special Allowance after 15 years of operation.
		Total Accumulation of Special Allowance = 500*10/100*(1-(1+9%) ^7)/ (1-(1+9%))
		= Rs 460 Crores
		Let the life extension proposed be of 7 years beyond 25 years.
		Balance fund required for meeting the R&M Project = (500-460) = Rs 40 Crores.

R&M Project shall be met through nce Rs 40 Crores may be allowed to be Interest on Loan and Return on Equity
le Commission to include an escalation Ider Special Allowance for undertaking
in order to operate the unit beyond its id reliability. Such R&M projects being ditions of the various equipment, the th the phased-out/existing technology ay result in incremental phasing out of M works based on the actual ne Hon'ble Commission to include an dmissible under Special Allowance for bus tariff Regulations.
lards would entail additional capital ble Commission should allow provision NCEF) by Private Generating Companies ol equipment. approve additional loan on account of poor financial health across the country equity investments over the normative causing adverse financial impact to the 9.2018, which provides for soft loan for

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be extended to Private TPPs instead of only State/Central General strongly feel that these funds should be utilised for sectoral benefit, an irrespective of ownership.	ting Stations. We nd should be used
During installation of FGD, there would be shutdown of units ther availability of the existing plant. Such reduction of Availability will de their Capacity Charge, which needs to be further allowed to be recov	eby reducing the prive the plant of vered separately.
RETURN ON EQUITY	
 30 (2) (i) Return on equity in respect of additional capitalization after cut-off date within or beyond the original scope shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system; In our humble opinion, the Hon'ble Commission may allow the R capitalization after cut-off date within or beyond the original scope account of the fact that there is an implicit discount in the tariff for on account of the lact that there is an implicit discount in the tariff for on account of the transmission system; In our humble opinion, the Hon'ble Commission may allow the R capitalization after cut-off date within or beyond the original scope of the transmission system; In our humble opinion, the Hon'ble Commission may allow the R capitalization of the generating of equity investment at a envisaged returns would lead to double impact on the shareholders. In there is no benefit realized by the generating company/transm delaying the capitalization of assets within the original scope of the the Cut-off Date. On the contrary, such delay in capitalization of a cut-off date surmounts to lower recovery of returns over the life of Hon'ble Commission system cannot be commission distribut the critica which bear the majority share of the project capitalization of assets by date are mostly on account of undischarged liabilities and wor pond. Such deferred capitalizations are generally contained veramission system cannot be equity invested in assets while beyond the cut-off date do not realize the envisaged returns for 	toE on additional pe at 15.50% on the beneficiaries in realize returns t of equity being a rate below the s. ission licensee by he project beyond assets beyond the of the project. The ting station or a l elements/assets age, Ash Disposal eyond the cut-off ks related to ash within 5% of the y up to the useful ch are capitalized the shareholders

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		further reduction of the rate of return on equity to the level of weighted average rate of interest on actual loan portfolio would lead to double impact on the developer. The beneficiaries are anyways enjoying the benefits of delayed capitalization by way of reduced tariff for the period the assets are not capitalized.
		2. Further, in case of capitalization of assets under original scope beyond the Cut-off Date, there is every possibility of cost-overrun. The Hon'ble Commission allows the cost overrun only under certain grounds. The developers have to suffer the loss on account of cost overrun incurred during the period of delay for the entire life if the same is not approved by the Hon'ble Commission. Such prudence scrutiny therefore already incorporates the disincentive by way of zero return on 30% equity invested on the amount of cost overrun. Additional reduction of return on equity in case of additional capitalization beyond the Cut-off Date of the project would lead to double penalization which would not be fair and equitable.
		3. Further, considering the present status of power projects across the country, the risk associated with the existing and new projects on account of macroeconomic changes, uncontrollable factors, pending litigations etc. are relatively higher even for projects based on cost-plus model. Owing to the higher risk factor, the cost of equity is higher than the cost of debt. The gap is further wider for the new players in the sector for whom the equity beta (β) is higher than the sector average.
		4. It will not be out of place to mention here that it is becoming difficult for the developers to arrange for funds for additional capitalization of assets not within the original scope of work/original financing plan. Banks/Financial Institution are reluctant to approve additional loan for the additional capitalization post commissioning of the plant on account of the prevalent financial stress across the sector. This is resulting in financing of such additional capitalization of assets not within the original scope of work by means of internal accruals or equity investments in excess of 30%. Therefore, a part of such investment made by the developers for funding the additional capitalization are treated as normative loan wherein only the weighted average rate of interest on actual loan portfolio is

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		allowed. The Hon'ble Commission may therefore not consider to further reduce the rate of return on normative equity component of such additional capitalization by way of allowing RoE only up to the weighted average rate of interest on actual loan portfolio.
DEPRECIATIO	N	
33 (8)	In case of de-capitalization of assets in respect of generating station or unit thereof or transmission system or element thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the decapitalized asset during its useful services.	In case the replacement of assets proposed by the generating company/transmission licensee is approved by the Hon'ble Commission, in such cases, the useful life of the new asset should be commensurate with the useful life of the project and the Hon'ble Commission may allow the generating company/transmission licensee to recover the depreciation of the replaced asset within the balance useful life of the Project. <u>Justification:</u> 1. It may be noted that in case of replacement of assets, the new asset is
		1. It may be noted that in case of replacement of assets, the new asset is commissioned in an existing project. It is unlikely that such new asset would extend the useful life of the Project and is capitalized only to operate up to the useful life of the Project along with other assets. Theoretically, the new asset can be considered a replacement for the old asset from inception and serve till the useful life. On the same note, the new asset should be depreciated within the useful life of the old asset. Therefore, the new asset should be fully depreciated within the balance useful life of the Project since the Hon'ble Commission has adopted the methodology adjustment of cumulative depreciation of the old asset on account of decapitalization.
INTEREST ON	Working Capital	
34 (a) (i)	Cost of coal or lignite and limestone towards stock, if applicable, for 15 days for pit-head generating stations and 20 days 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;	The Hon'ble Commission may allow the working capital for coal stock for 30 days 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 in view of the coal stock requirement, whether in plant or in transit, for non-pit plants and the uncontrollable factors which clogs the working capital against coal procurement.

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		 Justification: Normative fuel stock is allowed to the generators for maintaining adequate inventory so as to generate as per the required schedule of the beneficiaries. In case the Plant Availability suffers on account of shortage of fuel, the generators are penalized by way of reduction in Fixed Charges as the period is not considered as deemed available under the Tariff Regulations 2014.
		2. The Hon'ble Commission has proposed to reduce the working capital requirement for Coal Stock further by 10 days for non-pithead plants than that available under Tariff Regulations 2014. It is to be noted that Non-pit head stations can range from as low as 50 Km to as high as 1500 Km. The risk of maintaining low fuel stock for non-pit head stations in the near-distance range is much less than that for similar stations at higher-distance range. Fuel-stock in transit for latter category of stations also play an important role in mitigation of such risk and should also be considered as a part of stock since the working capital for procurement of such is blocked at the time of dispatch of the coal from the mines.
		3. Further, in case of shortfall of coal supply under FSA, the generators have to procure e-Auction coal which accounts for around 25-30% of total coal procurement. Apart from the payment of initial Security Deposit (in cash or through BG) the generators are required to place advance cash deposit for the coal value either upfront or as per scheduled delivery. However, the actual materialization of bid quantity happens after long gestation periods with high chances of sub optimal materialization in many cases. The above results in blockage of working capital for the bidders with consequential higher interest cost. Getting refunds of coal value against quantity not supplied for some auction(s) is also a prolonged time-consuming process leading to further blockage of working capital.
		4. In view of the above uncontrollable factors, the Hon'ble Commission may allow the working capital for coal stock for 30 days 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.

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34 (a) (v)	Receivables equivalent to 45 days of capacity charges and energy charges for sale of electricity calculated on the normative annual plant availability factor:	The Hon'ble Commission may consider to provide receivables up to 60 days as in Tariff Regulations 2014.
		Justification: The Hon'ble Commission has allowed the generating company/transmission licensee to levy Late Payment Surcharge only after 45 days. However, the generating company/transmission licensee accrues its receivables from the very first day of the month up to the last day of the month and raises its bill on the first day of the next month which is payable till 45 days from the date of the bill. Therefore, the receivables accrued on the first day of the month is realized on the 75 th day and the receivables accrued on the last day of the month is realized on the 45 th day. If we consider the average of receivables accrual period, receivables of 60 days appear to be fair and justified instead of 45 days.
OPERATION 8	MAINTENANCE (O&M) EXPENSES	
35 (1)(1)	Thermal Generating Station : Normative Operation and Maintenance expenses of thermal generating stations shall be as follows: Coal based and lignite fired (including those based on Circulating Fluidised Bed Combustion (CFBC) technology) generating stations, other than the generating stations	The Hon'ble Commission may consider the normative O&M Expenses for FY 2018-19 as the base O&M Expenses and allow the escalation factor of 6.33% as in the previous Tariff Period of FY 2014-19 except for the security expenses which have been proposed to be considered separately. Further, the Hon'ble Commission may also include the provision for Change in Law events to capture the unexpected expenditure such as wage revision, change in State taxes & duties etc.
	or units referred to in clauses (b) and (d):	 Justification: The generating stations, irrespective of their size, incurs expenditure under the three broad categories a) Repair & Maintenance Expenses b) Administrative & General Expenses and c) Employee Expenses. These expenses are directly related to the inflation rate and are also specific to the State where the Generating Station is located since it decides the availability of labour, spares and other administrative expenses. We understand that the Hon'ble Commission has considered the weighted average inflation rate for last five years to arrive at the average escalation factor of 3.20%.

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	(in Rs Lakh/MW)							Annual Esca	alation Facto	r based on W	PI & CPI				
	Year	200/210/ 250 MW	300/330/ 350 MW	500 MW Series	600 MW Series	800 MW Series and			F 1	 	nflation rate	s (%) Wt	d. Average nflation		
	FY 2019-20	30.59	24.22	20.38	17.39	above 15.65			Finar	ncial Year	WPI C	CPI WPI	:CPI = 60:40		
	FY 2020-21 FY 2021-22	31.57	24.99	21.03	17.94	16.15			FY 20	013-14	5.20 9	.68	6.99		
	FY 2022-23	33.62	26.62	22.40	19.11	17.20			EV 20	01/ 15	1 26 6	20	2 27		
	FY 2023-24	34.69	27.47	23.12	19.72	17.75			FT 20	014-15	2.00 0	.29	0.07		
									FT 20	012-10	-3.02 2	.00	0.07		
									FY 20	016-17	1.73 4	.12	2.69		
									FY 20	017-18	2.92 3	.08	2.98		
									Aver	rage Inflation	(%)		3.20		
							aver 201 and sala be i fact fact expo 2. Furt Gen	rage inflat 5-16. The Fuel cost l the effect ries or red gnored, wi or. We the or of 6.339 enses whic ther, the C erating Sta	ion rates, WPI index by around in reducti- uced O&IV hich other erefore re % as in the ch have be D&M Expenations acro	is signific has beer 20% in th on by suc A expense wise wou quest the previous en propo nses prop oss capac	cantly low distorted e said yea tha signifi es by any v ild lead to e Hon'ble Tariff Per sed to be posed sho ities for th	ver on ac d by the r ar. Howev icant num way. Hence fixation Commiss iod of FY consider ow a diffe ne first ye	count of lo remarkable ver, this was ober never r ce, such abr of below pa sion to cons 2014-19 exc ed separate erent rate o ar, i.e., FY 2	ower WPI reduction s a tempor reflected in normalities ar annual e sider the e cept for th ely. of escalatic 2019-20.	during FY in Power ary phase n reduced s ought to escalation escalation e security on for the
							Year	for 250 MW Sets (Lakhs/MW)	Previous Year (%)	for 300 MW Sets (Lakhs/MW)	s Previous Year (%)	for 500 MW Se (Lakhs/MW)	Previous Year (%)	for 600 MW Sets (Lakhs/MW)	Previous Year (%)
							FY 2018-19	30.51		25.47		20.43		18.38	
							FY 2019-20	30.59	0.26%	24.22	-4.91%	20.38	-0.24%	17.39	-5.39%
							FY 2020-21	31.57	3.20%	24.99	3.18%	21.03	3.19%	17.94	3.16%
							FY 2021-22	32.58	3.20%	25.79	3.20%	21.71	3.23%	18.52	3.23%
							FY 2022-23	33.62	3.19%	26.62	3.22%	22.4	3.18%	19.11	3.19%
							FY 2023-24	34.69	3.18%	27.47	3.19%	23.12	3.21%	19.72	3.19%

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		There is no secular increase in the normative O&M expenses per the draft Tariff Regulations 2019-24 for the first year of the Tariff Period, i.e., FY 2019-20 vis-à-vis the terminal year of the previous Tariff Period, i.e., FY 2018-19. It is highly unlikely that the escalation factor for a year is negative when the inflation is positive. The Hon'ble Commission may therefore derive the O&M Expenses for FY 2019-20 by applying the annual escalation factor on the normative O&M Expenses for FY 2018- 19 to remove such anomalies. For example, for a 300 MW Unit, the security expenses are around 33,000/MW. Accordingly, the O&M Expenses for FY 2019-20 would be (25.47 x (1+6.33%) – 0.33) = Rs 26.75/MW.
		3. Further, the impact of Goods & Service Tax (" <i>GST</i> ") on the O&M contracts needs to be incorporated. GST had become effective from 01.07.2017 due to which the tax on O&M contracts went up from 15% to 18%. The impact due to the change in law including GST needs to be considered separately while arriving at the base O&M expenses for the Tariff Period FY 2019-24. Averaging the O&M expenses for the 5 years would not capture the impact of GST which has been effective only for 6 months in FY 2017-18.
		4. In our humble opinion, in addition to the base O&M Expenditure determined through suitable annual escalation factors year-on-year, we further suggest to expand the scope of O&M Expenses by including the provision for Change in Law events to capture the unexpected expenditure such as wage revision, change in State taxes & duties etc. Such unexpected statutory expenses generally average out during the derivation of CPI/WPI on national level but can impact specific generators exceptionally.
		5. It is respectfully submitted that the actual O&M costs are increasing due to partial and cyclical operation of the thermal stations. The proposed lower levels of O&M Expenses for FY 2019-20 and subsequent years would result in under-recovery of O&M Expenses and would lead to compromised maintenance of equipment leading to poor availability of equipment, unsafe operations due to non-availability of spares/services and low employee motivation due to lower compensation. It is

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		requested that the base O&M Expense for FY 2019-20 and annual escalation factor thereafter may be determined by the Hon'ble Commission after considering the aforementioned aspects.
35 (1)(6)	The Water Charges, Security Expenses and Capital Spares for thermal generating stations shall be allowed separately prudence check:	The Hon'ble Commission may also consider to allow the Ash Disposal Expenses separately on case to case basis considering the ash content in coal, level of generation, ash utilization options available and technology employed for ash disposal.
		 Justification: The present norms do not provide for ash disposal expenses separately although such expenses are incurred by the generating stations in order to comply with the conditions for ash disposal imposed upon by the concerned Pollution Control Board and MoEFCC. Ash disposal expenses vary from project to project and depend on ash content of coal, level of generation, ash utilization options available and technology employed for ash disposal. MoEFCC notification dated 25.01.2016 stipulates that cost of transportation of ash for road construction projects or for manufacturing of ash based products or use as soil conditioner in agriculture activity within a radius of 100 Km from a coal or lignite based thermal power plant shall be borne by such coal or lignite based thermal power plant and the cost of transportation beyond the radius of 100 km and up to 300 km shall be shared equally between the user and the coal or lignite based thermal power plant. Further, the income, if any, from ash disposal has to be utilized for environment protection and hence, cannot be deducted from the cost of handling/disposal. Present norms of 0&M Expenses based on NTPC plants do not cover such expenses for most of its plants as they have ash dykes for which capitalization is allowed separately. It is respectfully submitted that the Hon'ble Commission had vide its Order dated 19.11.2014 in Petition No. 274 of 2010 of Maithon Power Limited already approved ash handling and disposal expenses separately for the Tariff Period. Further, the Hon'ble Commission has already approved such expenses as Change in Law for Case-1 power projects in several cases (Example: CERC Order dated 22.06.2018 in Pet No. 171/MP/2016). The same may be uniformly applicable

to all generators by considering the such expenses at actuals after due provide the normative O&M expenses on case basis. COMPUTATION OF VARIABLE COST 47 Components of Landed sets of Primary Evel: The Landed
COMPUTATION OF VARIABLE COST
47 Components of Landed cost of Primary Evel: The landed
 the components 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. Provided that procurement of fuel at a price other than Government notified prices may be considered, if based on competitive bidding through transparent process, for the purpose of landed fuel cost; Expenses towards the third-party sampling facility. Normative Transit & Handling Loss. In our humble opinion, different categories of thermal power plants (like coastal, pit-head, non-pit-head etc.) incurs different cost components for brin Coal form the mines to the plant. Such cost components may include various is bank guarantee cost, handling agent charges, weighbridge maintenance cos rents to railways etc. The Hon'ble Commission to allow all cost components of the landed the procurers. There request the Hon'ble Commission to allow all cost components of the landed the procurers. There request the Hon'ble Commission to allow all cost components of the landed the procurers. There request the Hon'ble Commission to allow all cost components of the landed the procurers. There request the Hon'ble Commission to allow all cost components of the landed the procurers. There request the Hon'ble Commission to allow all cost components of the landed the procurers. There request the Hon'ble Commission to allow all cost components of the landed the procures.

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48	Transit and Handling Losses: The landed cost of coal or lignite during the month shall include the transit and handling losses as per the following norms: -			oal or We will like to highlight the recommendation of Central Electricity Authority ("CEA") it and on Operation norms of Thermal Generating stations for the tariff period 2019-24 through reference letter no. CEA/TETD-TT/2018/N-15/1451 dated 10.12.2018. The
	Thermal Generator	Distance of Generator from fuel source	Transit & Handling Losses (%)	<i>"G. Transit Losses and GCV loss of coal on shortage and handling etc.:</i>
	Pit Head	-	0.20%	The recommendation of the Committee constituted by MOP on 26.02.2018 on the
	Non-Pit Head	Up to 1000 km	0.80%	issue of ACQ of thermal power stations including for transit loss and GCV loss of coal on shortage and handling etc. is given below:
	Provided the is procured j which is trai and handlin shall apply;	Above 1000 km at in case of pit head from sources other nsported to the stat g losses applicable ;	1.20% stations if coal or l than the pit head i tion through rail, t for non-pit head st	a.) Losses in Washing of Coal: For all power plants using washed coal with 34% ash content additional ROM coal requirement of 7% for ash content up to 40% ±0. 5% and additional ROM coal requirement of 10% for ash content beyond 40% may be considered. Further additional ROM coal of 1% should also be given as a compensation of 1% loss of washed coal on account of addition of 1% TM (ARB) in washed coal during wet washing process.
	Provided further that in case of imported coal, the transit and handling losses applicable for non-pit head station shall apply; b.) Transit Loss : CEI non-pit head pla by NTPC & RRVL		mported coal, the t for non-pit head si	 tation b.) Transit Loss: CERC Tariff Regulation for FY 14-11 9 allows transit loss of 0.8% to: non-pit head plants and 0.2% for pit head plants. However, as per inputs provided: by NTPC & RRVUNL, they have experienced an- average transit loss of ~1.2% and
49	 49 Computation of Gross Calorific Value: (1) The gross calorific value for computation of energy charges as per Regulation 52 of these regulations shall be done in accordance with GCV on as received basis. 		Value: ue for computatio Regulation 52 of e in accordance with	\sim 1.5% respectively. For the time being, the Committee feels that Transit Loss as specified by CERC in its present Tariff Regulations should be included in the consumption norms so that power plants can get compensated in terms of quantity that is lost in transit. In case above norms get modified by CERC in future tariff regulations, the prevailing norms in that regulation will be considered.
	 Weighted Average Gross calorific value of coal as received, in kCal per kg for coal-based stations less 85 Kcal/Kg on account of variation during storage at generating station (mentioned in Regulation 52)			 a.) Loss of Energy in Storage: CEA has already recommended following recommendations to MOP and CERC related to the issue of loss energy in storage: i. CEA is of the view that while taking coal sample from wagon- top, GCV measurement will not be representative for the whole lot due to impact of moisture change. GCV measurement of wagon top coal will give comparatively

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		higher GCV value clue to settling of moisture at the bottom of the wagon anal loss of moisture from wagon top during transportation of Coal. On this account, for calculating energy charge, a GCV compensation of around 70-80 kcal/kg may be allowed to the generator.
		ii. CEA Is of the view that there is a loss of GCV in the coal stock where coal is stored inside the power plant. On this account for calculating energy charge a GCV compensation of around 35 kcal/kg (on an average 1% loss for a coal of 3500 kcal/kg GCV) may be allowed to the generator for a storage of 30 days in a non- pit head station and 15 kcal/kg for pit head station.
		iii. CEA is of the view that there: is minor unavoidable loss of GCV in the coal during handling inside the power plant and for that purpose, a GCV compensation of around 2-3 kcal/kg may be allowed to the generator.
		Further. in its inputs to MOP & CERC, CEA has suggested that above mentioned margins would vary from plant to plant, season to season and to varying coal characteristics and accordingly a margin of 85-100 kCal/kg for pit head stations and a margin of 105-120 kCal/kg for non-pit head stations may be allowed to the generators as a loss of GCV measured at Wagon top at unloading point till the point of firing in the boiler.
		The committee feels that the above recommended losses in coal storage along with loss due to GCV measurement error because of wagon top sampling at plant receiving end are part of energy that needs to be supplied to the generating stations to meet the target generation and hence a quantity compensation for these losses should be provided to the stations. This quantity may be revised further as appropriate post release revised norms by CERC."
		Therefore, we request the Hon'ble Commission to kindly align the CEA recommendations for the finalization of computation of GCV in Tariff Regulations 2019-24.

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C OMPUTATIO	N OF CAPACITY CHARGES	
51	 (5) Achievement of PAF less than the specified NQPAF in "Peak" or "Off-Peak" periods shall result in pro-rata reduction in recovery of Capacity Charge for the appropriate period. Provided that if the cumulative peak period PAF 	It is also relevant to analyse as to why the Hon'ble Commission thought of changing the norms of Plant Availability Factor from Annual basis to Quarterly basis. We can fathom only three reasons for declaring lower availability in peak period namely (i) machine being on outage (ii) fuel constraints (iii) Wilful lower declaration by the generator with a view to divert the power to some other source say Power Exchange owing to better realisation.
	achieved during a quarter is more than the specified NQPAF for peak period and the cumulative Off-Peak period PAF achieved during the quarter is less than the specified NQPAF for Off-Peak period, the loss in recovery of Capacity Charge for Off-Peak period shall be off-set	In case of (i) machine outage - Hon'ble Commission has itself recognized that the outage is beyond the control of the generator and hence has been exempted even under the quarterly PAF proposal.
	against the notional gain on account of over- achievement in Peak period, subject to the ceiling of full recovery of Capacity Charge for Off-Peak period;	In case of (ii) fuel constraints – it is submitted that coal is a monopoly of CIL and procurement of coal upto normative 85% has not been assured even under the FSA/Shakti scheme. The actual supply is further lowered due to preference for IPPs in lower order of priority of allocation.
	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 the notional gain on account of over- achievement in Off-Peak period;	In case of (iii) Wilful lower declaration by the generator - it is respectfully submitted that Power Purchase Agreements already have suitable checks and balances and appropriate penal provisions incorporated in them to tackle such aspects. In this regard, it is relevant to reproduce Article 4.4 and Article 4.5.1 of the Model Power Purchase Agreement for Procurement of long-term Power, Standard Bidding Document - Case 1 Bidding Procedure:
	Provided also that carry forward of under-recovery of	"4.4 Purchase and sale of Available Capacity and Scheduled Energy
	Capacity Charge shall not be allowed for recovery from one quarter to the subsequent quarter.	4.4.1 Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to the Procurers, and the Procurers undertakes to pay Tariff for all of the Available Capacity up to the Contracted Capacity and corresponding Scheduled Energy.

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		4.4.2 Unless otherwise instructed by all the Procurers (jointly), the Seller shall sell all
		the Available Capacity to each Procurer in proportion of each Procurer's then existing
		Contracted Capacity pursuant to Dispatch Instructions of such Procurer." (Emphasis
		<u>supplied)</u>
		"4.5 Right to Contracted Capacity and Scheduled Energy
		4.5.1 Subject to provisions of this Agreement, the entire Aggregate Contracted
		Capacity shall be for the exclusive benefit of the Procurers and the Procurers shall
		have the exclusive right to purchase the entire Aggregate Contracted Capacity from
		the Seller. The Seller shall not grant to any third party or allow any third party to
		obtain any entitlement to the Contracted Capacity and/or Scheduled Energy"
		Similarly, in case of Model Power Supply Agreement (DBFOO) framed by the Ministry of Power, Govt. of India, Article 18.2, 18.3 and 24.1.4 are relevant clauses which have been reproduced below:
		"18.2 Contracted Capacity
		Pursuant to the provision of this Agreement, the Supplier shall dedicate a
		generating capacity of *** MW to the Utility as the capacity contracted hereunder
		(the "Contracted Capacity") and the Contracted Capacity shall at all times be
		operated and utilized in accordance with the provision of this agreement.
		18.3 Committed Capacity
		The Parties expressly acknowledge and undertake that the Contracted Capacity
		hereunder alongwith similar capacity contracted between the Supplier and other
		Distribution Licensees and supply of electricity in accordance with the provisions of
		Section 63 of the Act shall at all times be dedicated for production of electricity and
		supply thereof to the Utility and/or other Distribution Licensees with whom such
		agreement have been signed (the "Committed Capacity") and shall be utilized in

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		accordance with the instructions of the Utility and/or such Distribution Licensees,
		save and except as provided in this agreement.
		 24.1 Dispatch of Contracted Capacity 24.1.4 In the event the Supplier schedules any electricity, produced from Contracted Capacity, for sale of Buyer in breach of this Agreement, the Supplier shall pay Damages equal to the higher of: (a) twice the Fixed Charge; and (b) the entire sale revenue accrued from Buyer. For the avoidance of doubt, no Fixed Charge or any amount in lieu thereof shall be due or payable to the Supplier for and in respect of any electricity sold hereunder." Thus, it can be seen that under both Case-1 and DBFOO bidding guidelines and relevant PPA/PSA, suitable provisions have been built in by the Ministry of Power to tackle the
		issue of wilful lower declaration of availability by the generator with a view to divert
		the power to some other source say Power Exchange owing to better realisation.
INCENTIVE		
51 (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.	In our humble opinion we request the Hon'ble Commission to link the incentive to Normative Plant Availability Factor. <u>Justification:</u> We appreciate the intent of the Hon'ble Commission to de-link the incentive with aggregate performance and incentivise the ability of the thermal power plants to meet the demand of the beneficiaries during the peak hours and non-peak hours differently, which has addressed the present scenario of beneficiaries having high spinning reserves opting for lower scheduling during off-peak hours to avoid the incentive. It is submitted that Availability of a generating station is under the control of the developer while the actual dispatch is controlled by the beneficiaries depending on the

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		system. Therefore, linking the recovery of the incentive with the actual dispatch would result into under recovery of incentive by the generating company due to lower dispatch by the beneficiaries, even if the Generator has maintained a higher Plant Availability Factor both for peak and off -peak hours. As per the National Tariff Policy, 2016 the mechanism of incentive and disincentive needs to be encouraged among the Developers. Since the disincentive for the Generators is already linked to normative Plant Availability factor (PAF) an equitable approach needs to be adopted for Incentive. Hence, the Hon'ble Commission may link the recovery of incentive to Normative Plant Availability Factor instead of Normative Plant Load Factor.
NORMS OF O	PERATION FOR THERMAL GENERATING STATION	
59 (A)	 A) Normative Quarterly Plant Availability Factor (NQPAF) (a) For all thermal generating stations, except those covered under clauses (b), (c), (d), & (e) - 83% 	• We would like to highlight the recommendation of CEA on Operation norms of Thermal Generating stations for the tariff period 2019-24 through reference letter no. CEA/TETD-TT/2018/N-15/1451 dated 10.12.2018. The relevant extract of the letter is reproduced below:
	Provided that for the purpose of computation of	"A. Normative Annual Plant Availability Factor (PAF)
	Normative Quarterly Plant Availability Factor, annual scheduled plant maintenance shall not be considered	i) a) All Coal/lignite based thermal generating stations except those covered under clause ii) iii) & iv) below:
		Pithead stations -: 83%
		Non-pithead stations-: 75% (to. be reviewed after 2 years)
		First FY after COD-: 68.5%".
		Therefore, we request the Hon'ble Commission to kindly align the CEA recommendations for the finalization of Tariff Regulations 2019-24.
		 Further, shortfall in coal supply under designated FSA urge the Generators to procure coal from alternate sources at higher prices in order to maintain the availability of Generating units at the normative level. We therefore, request the Hon'ble Commission to revise the Normative Plant Availability factor or allow the deemed availability benefits in case of coal shortage.

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		 Justification: As the availability of domestic coal is out of control of the generators, there is a case for lowering of target Plant Availability to avoid under recovery of Fixed Charges by the generators. To protect the interest of the developers, the Normative Annual Plant Availability should be suitably aligned. Therefore, we suggest the Normative Annual Plant Availability may be set at 80% for existing power stations under no coal scarcity scenario. Further, in view of the shortfall of coal supply from CIL and reluctance of DISCOMs to approve procurement of imported coal or in the event of power from the generating station not being scheduled by Load Dispatch Centre, the generating station should be considered as deemed available and should be allowed to recover full Fixed Charges.
59 (B)	(B) Normative Quarterly Plant Load Factor (NQPLF) for Incentive: (a) For all thermal generating stations, except those covered under clauses (b), (c) - 85% 	We would like to highlight the recommendation of CEA on Operation norms of Thermal Generating stations for the tariff period 2019-24 through reference letter no. CEA/TETD-TT/2018/N-15/1451 dated 10.12.2018. The relevant extract of the letter is reproduced below: <i>"Annual Plant Load Factor (PLF) for Incentive.</i> <i>The level of Annual Plant Load Factor (PLF) for Incentive is recommended at</i> <i>the same level of Normative Annual Plant Availability Factor (NAPAF) for the</i> <i>station for the year."</i> If the Hon'ble Commission at all decides to link Incentive with NAPLF, we request the Hon'ble Commission to kindly align the above CEA recommendations for the finalization of NQPLF for Incentive in Tariff Regulations 2019-24.
59 (C)	(C)Gross Station Heat Rate: (b) New Thermal Generating Station achieving COD on or after 1.4.2009:	Gross Station Heat Rate (" <i>GSHR</i> ") = 1.05 x Design Heat Rate (kCal/kWh) is very difficult to achieve in view of partial loading, temperature variation and coal quality.

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	(i) For Coal-based and lignite-fired Thermal Generating Stations:		We request the Hon'ble Commission that 6.5% Design Heat Rate margin may be allowed i.e. = 1.065 x Design Heat Rate (kCal/kWh) due to the following reasons:					
	1.05 X Design Heat Rate (kCal/kWh) 	 With statio cases adver Vario meth Comr only t 	peak power and ene ons will not be able to of frequent ramp- rse impact on station us State Electricity R odologies specified nission may kindly co the CGS while framin	ergy shortage coming c o achieve desired level oup / ramp-downs. Th heat rate. egulatory Commissions by Hon'ble Comm onsider overall situatio g the norms of Gross Si	down, it is expected that of PLF. Additionally, then nese circumstances will s are guided by the princi ission. Therefore, the n of the Indian Power se tation Heat Rate.	the new re will be have an iples and Hon'ble ector, not		
59 (C)	Note 3	We wou	ld like to highlight	the recommendation	of CEA on Operation r	norms of		
	The normative gross station heat rate above is exclusive of the compensation specified in Regulation 6.3 B of the Grid Code. The generating company shall, based on unit loading factor, consider the compensation in addition to the normative gross heat rate above.		Thermal Generating stations for the tariff period 2019-24 through reference letter no. CEA/TETD-TT/2018/N-15/1451 dated 10.12.2018. The relevant extract of the letter is reproduced below: <i>"F. Impact of Part Load Operation on Performance of Thermal Generating Stations: -</i> 1. Coal/lignite based thermal generating stations: - <i>i) Impact on station heat rate: The currently applicable factors for unit heat rate degradation at part loading for sub-critical and super-critical units as. notified by CERC</i>					
		S. No.	Unit Loadina (%)	Unit HR de	paradation (%)	1		
				Sub-critical units	Super critical units	-		
		1.	90-100	0	0			
		2.	80-89.99	1.3	0.9	1		
		3.	70-79.99	2.8	2.1	1		
		4.	60-69.99	4.8	3.7	1		
		5.	50-59.99	7.2	5.7			
		6.	40-49.99	10.0	8.0			
		ii) Impac auxiliary	t on auxiliary ener energy consumptior	rgy consumption: The n values at part loadin	currently admissible a ng of coal/ lignite based	dditional thermal		

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		generating s to be approp	tation as notified by CERC '\ priately modified as below:	vide notification dated 6.4.2016 a	re proposed	
		S. No.	Module/Plant loading as % of installed Capacity	Admissible % degradation in Auxiliary Energy Consumption (% point)		
		1.	90-100	Nil		
		2.	80-89.99	0.25		
		3.	70-79.99	0.50		
		4.	60-69.99	0.80		
		5.	50-59.99	1.20		
		6.	40-49.99	1.80		
		"				
		Therefore, recommend Tariff Regula	we request the Hon'ble ations on degradations of G ations 2019-24.	e Commission to kindly align SHR and APC with PLF for the fin	h the CEA alization of	
59 (D)	(D) Secondary fuel oil consumption:	Few plants in	n India achieved Secondary I	fuel oil consumption of less than 0).5 ml/kWh.	
	(a) For Coal-based generating stations other than at (c) below: 0.50 ml/kWh	Therefore, v consumption	we request the Hon'ble Co n to 1.0 ml/kWh due to the	mmission to restore the Second following reasons:	ary fuel oil	
		The The	rmal Generating stations, wl	hich are under advance stage of c	construction	
	••••	have foll	owed existing CERC guideling	es and may achieve COD after 01.0	4.2014. The	
		Hon'ble	commission may allow the	e existing guidelines for projects	whose EPC	
		Contract	s have already been placed	and under construction.		
		 Further, country. reviewed increase stations. 	considering fast pace of ren it is suggested that norm d in near future as for its ac d flexible operation of the	ewable energy-based capacity add of specific oil consumption may dequacy based on actual consum coal and lignite based thermal	dition in the be suitably ption under generating	
		• A new G Stabiliza	enerating Unit undergoes ma tion Period post COD. The s	any outages due to various reason tart-ups after the outages require	s during the e secondary	

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				fuel oil support before s consumption during this regulations may theref consumptions, done as Stabilization and Post-S Commercial Operation or	synchronization with period is generally h fore specify separa in case of CERC Stabilization period f the Units.	n the system. The s igher than the norm ate norms for se Tariff Regulations of six months fr	secondary fuel oil of 1 ml/kWh. The condary fuel oil s 2004, for Pre- om the date of								
59 (E)	(E) Auxi	liary Energy Consumpt	ion:		We would like to highlight t	he recommendation	n of on Operation r	orms of Thermal							
	(a) For Coal-based generating stations except at (b) below:			Generating stations for the CEA/TETD-TT/2018/N-15/14 reproduced below:	e tariff period 201 51 dated 10.12.201	1 9-24 through refe 8. The relevant extr	erence letter no. act of the letter is								
	S. No. Generating Stations With NDCT/without Coolina Tower		"D. Auxiliary energy consum 1. Coal Based Thermal Gener	ption rating Stations:											
	i.	200 MW series	8.50%		i) Coal-based thermal generating stations except at (ii) '3 (iii) below:										
	ii.	300/330/350/500 MW series				Particulars	Auxiliary Energy C of Gross G	onsumption as % eneration							
		Steam driven BFP	5.75%			Without IDCT	With IDCT								
		Electrically driven BFP	8.00%									200-270 MW unit generating stations	8.5%	9.0%	
	iii.	600 MW and above			300-800 MW unit	5.75%	6.25%								
		Steam driven BFP	5.75%		Steam turbine driven BFP)										
		Electrically driven BFP	8.00%		300-800 MW Sub-Critical units (with electric motor	8.0%	8.5%								
	Provided that for thermal generating stations with				driven BFP)										
	induced	draft cooling towers a	nd where tube type c	oal	300-800 MW Super-	9.0%	9.5%								
	mill is used, the norms shall be further increased by 0.5% and 0.8% respectively: 			Critical units (with electric											
				motor driven BFP)											
				In case of thermal generating	stations provided w	vith tube and ball m	ills the								
				additional auxiliary energy co	onsumption allowed	shall be 0.7%									
					″										

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		Therefore, we request the Hon'ble Commission to kindly align the CEA recommendations for the finalization of Tariff Regulation 2019-24.
REBATE		
68 (2)	Where payments are made on any day after 2 days and within a period of 30 days of presentation of bills by the generating company or the transmission licensee, a rebate of 1% shall be allowed.	In our humble opinion, rebate should be prorated for payment within 30 days of receipt of monthly bill. <u>Justification:</u>
		days may be discontinued. Beneficiaries are making 1% rebate for payment within so days may be discontinued. Beneficiaries are making payment only on 30 th day in most cases and still enjoying a rebate of 1% on the billing amount. Rebate may not be allowed for such long period of 30 days and should be prorated for receipt of payment from 3 rd to 30 th day of receipt of the bill.
		2. Further, the energy charges are envisaged to be passed on actual subject to performance of the generating companies within the normative parameters. There is no discount available for making early payment for procurement of fuel. Hence the rebate should be applicable only on the bill amount pertaining to Capacity Charges.
SCHEDULING,	ACCOUNTING AND BILLING	
69	Late payment surcharge: In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long-term transmission customers as the case may be, beyond a period of 45 days from the date of billing, a late payment surcharge at the rate of 1.25% per month shall be levied by the generating company or the transmission licensee, as the case may be.	In our humble opinion we request the Hon'ble Commission to align the late payment surcharge to 1.50% per month in line with CERC Tariff Regulations 2014-19. <u>Justification:</u> Delayed payments for power are adding to the woes of stressed power projects, as many of them are undergoing the insolvency process at the National Company Law Tribunal. It is noteworthy that all payments for procurement of coal are made in advance, while at the same time, the progressive increase in the delay of output
		payments are having an adverse financial impact on the generators.

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		Hence, we request the Hon'ble Commission, not to reduce the rate of late payment surcharge and align it with CERC Tariff Regulations 2014-19 to 1.50% per month, as waiver of late Payment Surcharge would further enable the Discoms to delay the payments towards the energy bills raised by the Generators.	
SHARING OF GAINS DUE TO VARIATION IN NORMS			
70 (2)	The financial gains by the generating company or the transmission licensee, as the case may be, on account of controllable parameters shall be shared between generating company or transmission licensee and the	The Hon'ble Commission may allow the gains on account of Station Heat Rate, Secondary Fuel Oil Consumption and Auxiliary Energy Consumption to be shared with the beneficiaries' subject to the conditions that NAPAF>NAPLF and NAPLF>=90%.	
	beneficiaries or long-term transmission customers, as the case may be, on monthly basis with annual reconciliation. The financial gains computed as per the following formulae in case of generating station other than hydro generating stations on account of operational parameters as shown in Clause 1 of this Regulation shall be shared in the ratio of 50:50 between the generating stations and beneficiaries.	 Justification: The Hon'ble Commission has proposed to treat Station Heat Rate, Secondary Fuel Oil Consumption and Auxiliary Energy Consumption as controllable parameters and any efficiency gain on account of better operational performance by the Generating Station w.r.t. the norms for the above parameters should be shared with the beneficiaries in equal proportion. In this context, it is submitted that since the gains are shared in equal proportions, both generators and beneficiaries should strive for achieving such gains. It the generators are accountable for operating at optimum efficiencies, the beneficiaries should also strive to provide a higher load demand which is required to achieve higher efficiencies. Subject to the condition that NAPAF>NAPLF, the beneficiaries should provide annual load demand schedule >90% in order to claim their share on such gains. 	
		achieved by the generating station on better operational performance.	
SHARING OF NON-TARIFF INCOME			
72	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;	We request the Hon'ble Commission not to allow any sharing for income on account of rent of land or buildings whose Capital Cost is not included in the Project Capital Cost, income on sale of scraps generated out of decapitalized assets and rental from staff quarters.	

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	 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; 	 Justification: The income from rent of land or buildings can be shared with the beneficiaries only if the Capital Cost of such land or building is included in the Capital Cost of the Project approved by the Hon'ble Commission. It would not be fair to pass on benefits accrued by way of rent from land or buildings which are created by the generating company/transmission licensee by deploying its own funds. The loss on account of decapitalization is borne fully by the generating company/transmission licensee. Therefore, it would not be prudent to allow the income from sale of scraps which would be generated from the decapitalized assets to be shared with the beneficiaries. Only the income from sale of O&M scrap may
	Interest on investments and bank balances;	 3. Further, the rental from staff quarters may not be shared by the generating company/transmission licensee since such rentals are generally recovered against the specific allowances in the staff salary. Had the rentals not been recovered, the generating company/transmission licensee would have to pay the equivalent amount as allowances to the staff thereby showing as an expense under O&M Expenses. Rentals are therefore not income as such for the generating company/transmission licensee.