



KERALA STATE ELECTRICITY BOARD LIMITED

Incorporated under the Companies Act, 1956

Corporate identity Number: U40100KL201 ISGC0272424

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KSEB/TRAC/CG/Draft Regulations/CERC Regulations/2020-21/882

14-6-2020

To
*The Bench Officer,
Central Electricity Regulatory Commission,
Chanderlok Building, Janpath Marg,
New Delhi.*

Sir,

Sub: Draft Central Electricity Regulatory Commission(Terms and conditions of Tariff) (Second Amendment) Regulations, 2020– Comments –reg:

Ref: Notification No.L-1/236/2018/CERC Dated: 1-6-2020 of CERC.

Kind attention of the Hon’ble Commission is invited to the draft Central Electricity Regulatory Commission (Terms and conditions of Tariff) (Second Amendment) Regulations, 2020. KSEBL comments on the same are submitted below for kind consideration. It is requested that the comments may kindly be considered while issuing final regulation.

1. **Amendment to clause (2) of Regulation 2** : The applicability of the regulations to existing mines, i.e. mines existing as on the date of notification of the amended regulation may be specified.
2. **Regulation (4a)** : It is specified that a normative ATQ may be specified for coal and lignite mines. The unit of ATQ may be specified.
3. **Regulation 3(14)** : ‘Cut-off Date’ for mine may also be fixed.
4. **Regulation 3(21)**: ‘Existing mine’ may also be defined.
5. **Regulation 3(41a)** : In the definition of “Loading point”, the loading point in case of integrated mines for lignite plants may be specified.
6. **Regulation 5(3)** : If the date of commercial operation is fixed by taking the date of 2 years from the date of commencement of production, then there is no check on the production from the mine. Therefore a minimum capacity from the mine may also be specified for 5(3)(c) also. Methodology for addressing the delay in commissioning of mines due to reasons attributable to mine developer may also be included. Methodology to deal with time overrun

and cost overrun of mines may also be specified. Liquidated damages payable by the mine developer to be deducted from the capital cost.

7. **Regulation 6:** Provisions under Regulation 6 may be retained.
8. **Regulation 7(A):** Supply of coal or Lignite prior to the date of commercial operation of Integrated Mine: In the case of lignite, the pooled lignite price so far is being determined by NLCIL as per the guidelines issued by MoC and approved by Commission. Therefore, Regulation 7A(b) may be modified as follows:
“in case of lignite, the estimated price available in the investment approval or the last available pooled lignite prices as approved by Commission for transfer price of lignite, whichever is lower.”
9. **Regulation 9(4):** Along with filing of tariff petition for determining input price, the mining plan shall also be filed by the developer.
10. **Regulation 10(1):** Along with filing of tariff petition for determining input price, the mining plan shall also be filed by the developer.
11. **Regulation 13(1a) :** Truing up provision may be included for Operation & Maintenance expenses and Mine Closure expenses of mines also in addition to the capital expenditure incurred. NLCIL had always attempted to align the lignite transfer price with the market price of power to ensure better position in the merit order of beneficiaries and thereby get better scheduling instructions. Therefore, a provision may be added in the Regulations that under these circumstances, the price charged by the generator or the true-up price as per the Regulations whichever is lower shall be considered. Thus, the trued up lignite transfer price shall be treated as the ceiling price to ensure that no over recovery is made by the regulated entity and at the same time market driven decisions taken in lignite pricing is not revised retrospectively in such a manner to distort the market dynamics and merit order principles followed by the beneficiaries.
12. **Regulation 20(b):** The details of escrow account and the amount available in it may be made available in the public domain.
13. **Regulation 36(2):** The input price of coal before the date of commercial operation of mines is specified under Regulation 7(A). The same may be continued to be applied after CoD also till the input price of coal is determined by Commission under these Regulations. This will avoid ambiguities on multiple stipulations of input price for a mine.
14. **Regulation 36(3):**The input price of lignite before the date of commercial operation of mines is specified under Regulation 7(A). The same may be continued to be applied after CoD also till the input price of lignite is determined by Commission under these Regulations. This will avoid ambiguities on multiple stipulations of input price for a mine
15. **Regulation 36A:** As per the report of working group on regulatory framework on determination of lignite transfer price, unlike coal mining, requirement of washing of coal, crushing and transportation is not envisaged in case of lignite. It is compulsory to have pit

head linkage. The committee has recommended that the input price of lignite shall comprise only Run of Mine cost along with associated statutory charges. **Therefore it is requested that the Regulation may stipulate that the input price of lignite shall comprise only Run of Mine cost along with associated statutory charges only.**

16. **Regulation 36B:** Under Regulation 36B(2), the adjustment on account of grade slippage as computed based on input price of the respective year, mid-GCV of declared grade and actual slippage may be deducted from the Annual Extraction cost in line with the report of the working group. It may be specified that for lignite mines, the annual extraction cost may be worked out by considering the total capital cost required upto the receiving point of the generating station. The charges involved under the head 'mining charge' may be specified clearly in the Regulation. **Further Annual Extraction cost per Tonne, mining charge per Tonne and Reserve price per Tonne may be calculated with respect to ATQ or actual quantity supplied whichever is higher.**
17. **Regulation 36C:** As per the report of the working group, for lignite mines, crushing charges, washing charges and transportation charges are not applicable. The same may be specified in the Regulation.
18. **Regulation 36D:** The Regulations may provide a provision mandating the generating company to finalize the scope of work outsourced if any immediately after taking investment approval and the details of the same may be made available in the public domain.
19. **Regulation 36G:** Provision for truing up of RoE at the end of each financial year based on actual tax rates for the year may be included in the Regulation.
20. **Regulation 36H:** The salvage value of the asset may be considered as 10% in line with the norms of generating stations.
21. **Regulation 36J:** It is requested that for computation of the working capital of the integrated mine of lignite, the consumption of stores and spares @15% of operation and maintenance expenses excluding mining charge of Mine Developer and Operator or annual charges of any agency other than Mine Developer and Operator, engaged by the generating company may be considered similar to that of coal mines.
22. **Regulation 36L:** The income arising out of outside sale of coal/Lignite may be deducted from the input price.
23. **Regulation 36M: Recovery of input charges:** The proposed provision has no relevance as far as beneficiaries are concerned. Keeping this provision in the Regulations will create ambiguities. Therefore it is requested that the same may be deleted.
24. **Regulation 36N. Adjustment on account of Shortfall of Overburden Removal (OB Adjustment):** In the report of Working group on "Regulatory framework for Determination of

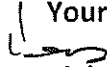
Input price or Transfer price of coal or lignite from integrated mine”, the group has recommended the following on OB adjustment :

“Since the mine plan provides the stripping ratio inter-alia guiding factor for quantity of coal extracted and overburden to be removed, the same needs to be complied. The implementation of mine plan and compliance of stripping ratio will take care of the requirement of OB adjustment.

The compliance of mine plan and stripping ratio obviates the requirement of OB adjustment. The adjustment of OB is result of non-adherence of mine plan and stripping ratio. The regulatory framework should encourage the best practice discouraging inefficient practice. Accordingly, that any loss on account of higher OB adjustment may not be passed on to the consumer through input price. The OB adjustment may be rationalized, either in quantity of coal (in case of lower removal of overburden) or overburden (in case of lower extraction of coal) in accordance with annual production plan.”

Therefore the provision for OB removal shortfall adjustment to subsequent years may not be allowed and the OB removal shall be strictly as per the mining plan.

25. **Regulation 36Q:** The credit adjustment note for adjusting the income arising out of outside sale of coal/Lignite may be deducted from the input price.

Yours faithfully,

Deputy Chief Engineer(Commercial & Planning)
With full powers of Chief Engineer