

## Comments on Draft CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2020

Sl. No.	Regulation	Proposed Amendment	Comments and Suggestions
1	<b>Regulation 36B:</b> <b>Run of Mine (ROM) Cost read with Regulation 36C:</b> <b>Additional Charges</b>	<p><b>36B</b></p> <p><i>Run of Mine Cost of coal in case of integrated mines allocated through auction under Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:</i></p> <p><i>ROM Cost = [(Quoted Price of coal) + (Fixed Reserve Price)]. Where,</i></p> <p>(i) <i>Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal Block or Mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement: Provided that additional premium, if any, quoted by the generating company in auction, shall not be considered in the Run of Mine Cost; and</i></p> <p>(ii) <i>Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine</i></p>	<p><b>We request the Hon'ble Commission to consider the following and make necessary provisions in the Regulation.</b></p> <ul style="list-style-type: none"> <li>(a) As it appears from the draft Regulations, in case of ROM cost of coal for the mines allocated through auction under Coal Mines (Special Provisions) Act, 2015, there is no provision of inclusion of mining charge charged by the Mine Developer and Operator (MDO).</li> <li>(b) If a generating company engages an MDO for the purpose of crushing, transportation, handling or washing, the same cannot be recovered under the proposed draft Regulation.</li> <li>(c) Ministry of Coal vide its clarification dated 17 January 2015 in “Queries &amp; Responses to Standard Tender Document dated 27 December 2014” had clarified that charges such as transportation cost, crushing cost, washing cost etc are allowable expenses while calculating the Energy Charge in relation to an auctioned coal mine. An extract of Ministry of Coal’s response to query no. 9 in the aforesaid clarification is given below for ready reference:</li> </ul> <p style="padding-left: 40px;"><i>“.....the Appropriate Commission shall, while reviewing/determining the energy charge, factor in other</i></p>

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		<p><i>Development and Production Agreement.</i></p> <p><b>36C</b></p> <p>(2) Where crushing, transportation, handling or washing are within the scope of the Mine Developer and Operator engaged by the generating company, no additional charges shall be admitted, as the same shall be recovered through mining charge of the Mine Developer and Operator.</p>	<p><i>allowable expenses and permissible components of such energy charge and ensure that it does not lead to higher energy charge throughout the tenure of the PPA. It is expected that the Appropriate Commission, while discharging this responsibility, <u>shall use appropriate benchmarks in terms of transportation costs for the relevant mode(s) of transportation and CIL's costs for washing and crushing charges</u> etc. to prevent undue gain to the Successful Bidder on these counts.”</i></p> <p>(d) The Hon’ble Commission is requested to include mining charge, charged by the MDO (only to the extent of crushing, transportation, handling or washing) in the ROM cost of coal mined from coal mines allocated through auction under Coal Mines (Special Provisions) Act, 2015.</p>
2	<b>Regulation 36E:</b> <b>Additional Capital Expenditure</b>	<p><i>“(1) The expenditure, in respect of the integrated mines, incurred or projected to be incurred after the Date of Commercial Operation and upto the date of achieving the Peak Rated Capacity may be admitted by the Commission, subject to prudence check and shall be capitalized in the respective year as Additional Capital Expenditure corresponding to the Annual Target Quantity of the year as specified in the Mining Plan or actual extraction in that</i></p>	<p><b>We request the Hon’ble Commission to consider the following and make necessary provisions in the Regulation:</b></p> <p>(a) From the draft amendment it is not clear whether Additional Capital Expenditure shall be considered for the coal mines allocated through auction under Coal Mines (Special Provision) Act, 2015.</p> <p>(b) Since Input Price of coal from such mines consists of cost of <b>ROM coal + Additional Charges incurred for crushing, washing, handling and transportation</b>, any additional capital expenditure incurred for infrastructure beyond crushing, washing, handling and transportation due to reasons such as</p>

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		<p><i>year, whichever is higher, on following counts:</i></p> <p>.....</p> <p>.....</p> <p>..... “</p>	<p>complying with directions or orders of any statutory authorities, liabilities due to Change in Law or Force Majeure events etc. needs to be taken into account while calculating input price of coal.</p> <p>(c) It is requested to make appropriate changes in the Regulations to take into account the effects of Additional Capital Expenditure incurred due to Change in Law or Force Majeure events or other similar reasons on the input price of coal from the coal mines allocated through auction under Coal Mines (Special Provision) Act, 2015.</p>
3	<b>36K Mine Closure Expenses</b>	<p><i>“(l) Where the mine closure is undertaken by the generating company, the amount deposited in the Escrow account as per the Mining Plan, after adjusting interest earned, if any, in the Escrow account shall be admitted as Mine Closure Expenses:</i></p> <p>.....</p> <p>..... “</p>	<p><b>We request the Hon’ble Commission to consider the following and make necessary provisions in the Regulation</b></p> <p>(a) Mine Closure Expenses are allowed to be recovered for the coal mines allocated through allotment order under Coal Mines (Special Provisions) Act, 2015 under Annual Extraction Cost (Para 36 F). However, as per the draft Regulations there is no provision of recovery of Mine Closure Expenses for the coal mines allocated through auction order under Coal Mines (Special Provisions) Act, 2015.</p> <p>(b) Hon’ble commission is requested to make appropriate changes in the Regulations to allow recovery of mine closure expenses for the coal mines allocated through auction under Coal Mines (Special Provision) Act, 2015 in line with those allocated through the allotment route.</p>

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4	<b>36N</b> <b>Adjustment on account of Shortfall of Overburden Removal (OB Adjustment)</b>	<p><i>"(3) In case of excess of overburden removal during a year, the generating company shall be allowed to carry forward such excess to adjust shortfall, if any, during subsequent three years.</i></p> <p><i>(4).....</i></p> <p><i>.....</i></p> <p><b><i>OB Adjustment = [Factor of adjustment for shortfall of overburden removal during the year] x [mining charge during the year + Operation and Maintenance expenses during the year]</i></b></p> <p><i>Where,</i></p> <p><i>i) Factor of adjustment for shortfall of overburden removal during the year shall be computed as under:</i></p>	<p><b>We request the Hon'ble Commission to consider the following and make necessary provisions in the Regulation:</b></p> <ul style="list-style-type: none"> <li>(a) It is not clear from the Regulation whether such OB adjustment shall be considered for the coal mines allocated through auction under Coal Mines (Special Provision) Act, 2015.</li> <li>(b) Such auctioned mines should also be allowed the OB Adjustment.</li> <li>(c) We request the Hon'ble Commission to introduce suitable provisions in the Regulations to enable admission of O&amp;M Expenses for coal mines allocated through auction under Coal Mines (Special Provision) Act, 2015 for the computation of OB Adjustment.</li> <li>(d) We also request the Hon'ble Commission that in case of excess OB removal during a year, such excess should be allowed to adjust for the shortfall, if any, <u>during subsequent ten years</u>.</li> </ul>

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		<p><i>[(Actual quantity of coal or lignite extracted during the year) - (Actual quantity of overburden removed during the year/ Annual Stripping Ratio as per Mine plan)]/ (Annual Target Quantity);</i></p> <p><i>ii) Annual Stripping ratio is the ratio of volume of overburden to be removed for one unit of coal or lignite as specified in the Mining Plan.</i></p>	
5	<b>36O Adjustment on account of shortfall in GCV (GCV Adjustment):</b>	<p>“..... .....</p> <p><i>Where the integrated mine is allocated through auction under Coal Mines (Special Provisions) Act, 2015:</i></p> <p><b>GCV Adjustment = (Quoted Price of coal) X [(Declared GCV of coal – Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]</b></p> <p><i>Where,</i></p> <p><i>i) Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal Block or Mine, along with subsequent</i></p>	<p><b>We request the Hon'ble Commission to consider the following and make necessary provisions in the Regulation:</b></p> <p>(a) For GCV Adjustment, we request Hon'ble Commission to also consider Fixed Reserve Price, Additional Charges, and other Statutory Charges (such as Royalty, payment towards DMF / NMET any state specific levies/taxes/duties ) along with Quoted Price of Coal.</p>

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		<p><i>escalation, if any, as provided in the Coal Mine Development and Production Agreement:</i></p> <p><i>Provided that additional premium, if any, quoted by the generating company in auction, shall not be considered; and</i></p> <p><i>ii) Declared GCV of coal shall be the GCV of coal as specified or quoted in the auction.</i></p> <p>.....</p> <p>..... “</p>	
<b>6</b>	<b>Other suggestion</b>		<p><b>We request the Hon'ble Commission to consider the following and make necessary provisions in the Regulation:</b></p> <p>(a) Successful Bidder of a coal mine allocated through auction under Coal Mines (Special Provision) Act, 2015 are required to make payment of “Upfront Amount” and “Fixed Amount” to the relevant authorities.</p> <p>(b) Hon'ble Commission is requested to consider amortization of such payable amount over the life of the mine and make suitable provision in the Regulation for inclusion of the same in the input price of the coal.</p>