

MB POWER (MADHYA PRADESH) LIMITED

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MBPMPL/ANP-I/CERC/21-22/92

29th April 2021

The Secretary,

Central Electricity Regulatory Commission (CERC)

3rd & 4th Floor, Chanderlok Building,

36, Janpath, New Delhi-110001.

Sub: *Comments/ Concerns of MB Power (Madhya Pradesh) Limited on the Draft Order of this Hon'ble Commission in the Suo-Motu Petition No. 04/SM/2021*

Dear Sir,

We write in reference to this Hon'ble Commission's Public Notice dated 12.04.2020 vide which comments/ suggestions of various stakeholders have been invited on the CERC Draft Order in the Suo-Motu Petition No. 04/SM/2021 ("**Draft Order**") issued in pursuance to the CERC Staff Paper dated 05.09.2020 ("**Staff Paper**"), proposing a compensation mechanism considering the MoEF Amendment Rules 2015 dated 07.12.2015 as Change in Law in respect of Power Purchase Agreements (PPAs) signed under Section 63 of the Electricity Act, 2003 ("**Proposed Compensation Mechanism**")

We, MB Power (Madhya Pradesh) Limited, are a Generating Company having an operational 1200 MW (2X600 MW) coal based Thermal Power Project in district Anuppur of Madhya Pradesh. We had earlier submitted our comments/ suggestions/ concerns on the Staff Paper before this Hon'ble Commission vide our letter dated 30.09.2020. However, unfortunately the same have not been considered under the Proposed Compensation Mechanism elucidated in the Draft Order. Accordingly, we are hereby furnishing our detailed comments/ suggestions/ concerns on the Draft Order (enclosed herewith as **Annexure-1**) for the kind consideration of this Hon'ble Commission.

We hope this Hon'ble Commission would acknowledge a genuine merit in our comments/ concerns/ suggestions and would consider the same favourably while finalising the Order.

Thanking You

Yours Faithfully,



Abhishek Gupta

General Manager (Regulatory & Commercial)

MB Power (Madhya Pradesh) Limited

1) Para(s) 31-35 of the Draft Order - Recovery of Depreciation:

Our Comments:

- a) The Draft Order has standardized the useful life of the associated Emission Control System (“ECS”) as 25 Years and the useful life of the generating projects as 40 Years. Accordingly, recovery of Depreciation towards ECS CAPEX has been standardized @ 3.6 % per annum (considering salvage value as 10% and allowing recovery of balance 90% ECS CAPEX over a useful life of 25 Years: $90\%/25=3.6\%$ per annum).
- b) As such, the Draft Order considers the following generating projects at par for the purpose of recovery of Depreciation towards ECS CAPEX:
 - i. A new generating project in which ECS is being installed along with project construction and both the project and ECS become operational simultaneously.
 - ii. An existing generating Project which has been under operations for (say) 5 years at the time of Date of Operation (“**ODe**”) of the associated ECS.
 - iii. An existing generating Project which has been in service for (say) 15 years at the time of ODe of the associated ECS.
- c) Further recovery of Depreciation @ 3.6% per annum has been restricted only over the balance tenure of the PPA, irrespective of the balance life of the generating project/ ECS.
- d) Such a fallacious methodology to standardize recovery of Depreciation of ECS CAPEX is not only against the fundamental principles of recovery of depreciation, but also undermines the Principles of Restitution upheld by the Hon'ble Supreme Court and the Hon'ble APTEL, which has also been duly acknowledged by this Hon'ble Commission in the present Draft Order.
- e) The proposed methodology for recovery of Depreciation of ECS CAPEX would leave the generators at a severe financial disadvantage, as the generators would neither be able to contract new PPAs in the absence of any bids nor recover the actual CAPEX incurred towards installation of ECS under the ongoing PPAs.

- f) This anomaly may be adequately addressed to ensure that the recovery of Depreciation of ECS CAPEX is not standardized/ capped at 3.6% per annum and is rather computed for the balance tenure of the PPA to ensure that the Compensation on account of this “Change in Law” event adequately restores the affected generating company to the same economic position if such “Change in Law” had not occurred.

2) **Para(s) 36-40 the Draft Order - Cost of Additional Capital Expenditure:**

Our Comments:

- a) No differentiation has been made between the Equity and Debt components in terms of Rate of Return and both these components have been clubbed under Cost of Additional Capital Expenditure. Such a proposed approach clearly fails to take into consideration the fundamental fact that none of the lenders are willing to fund the Additional Capital Expenditure of ECS on 100% Debt basis and infusion of Equity corresponding to 30-35% of Additional Capital Expenditure of ECS is a pre-requisite for funding by the lenders. As such, the Equity component having a much higher risk needs to be treated differently than the Debt component.

As such, it is strongly proposed that in line with the principles of Tariff Regulations of this Hon'ble Commission, Cost of Additional Capital Expenditure be duly apportioned between Debt & Equity components in the ratio of 70:30 and post-tax RoE of 15.5% be allowed on the Equity component.

- b) Further, the Draft Order proposes to restrict Weighted Average Rate Of Interest (“WAROI”) at SBI MCLR (for one year tenor) plus 350 basis points. This assumption fails to take into consideration the fact that there is a sizeable number of existing generating projects where the actual WAROI is substantially higher than SBI MCLR (for one year tenor) plus 350 basis points owing to their credit rating / financial metrics. Hence, such proposed capping of WAROI would invariably lead to under-recovery of Cost of Additional Capital Expenditure, which is against the Principle of Restitution laid down by the Hon'ble Supreme Court and the Hon'ble APTEL as duly acknowledged by this Hon'ble Commission in the present Draft Order. **Accordingly, it is requested that WAROI on the Debt component be allowed on actual basis without any capping/ linking it to SBI MCLR.**

3) Para(s) 41-44 of the Draft Order - Additional O&M Expenses

Our Comments: Estimation of O&M Expenses towards operation of ECS is presently a difficult exercise due to the lack of available data and experience. However, proposed capping of such O&M expenses @ 2% of ECS CAPEX (excluding IDC & FERV) is extremely low as evident from the limited available data. This is especially because O&M expenses of ECS on a standalone basis would require additional cost involvement on account of the following:

- Thermal generating projects predominantly have electromechanical devices (though there are several small chemical facilities) whereas Wet Limestone FGD is primarily a large chemical based plant with higher wear and tear entailing higher O&M Expenses.
- Degradation of equipment as the whole system operates in corrosive environment. This may pose major challenges for the generators to ensure availability of ECS.
- Higher maintenance cost as a sizeable number of equipment installed for the ECS likely to be imported and imported spares are sensitive to FERV fluctuations.
- Implementation of ECS in the existing generating projects may require additional infrastructural support to facilitate smooth operation
- Recurring annual insurance costs of ECS which is almost of the order of 0.5% of ECS CAPEX.

Accordingly, it is requested that for the first year of operation of ECS, additional O&M Expenses be allowed @ at-least 4% of the ECS CAPEX with an annual escalation of 5% thereafter.

4) Para(s) 45-48 of the Draft Order - Additional Interest on Working Capital

Our Comments: Currently there are uncertainties related to availability and location of limestone and there are constraints in its transportation/ logistics since the limestone is essentially transported by road. **In view of these uncertainties and constraints associated with procurement and transportation of limestone, it is requested that stocking period of limestone be increased from proposed 20 days to 30 days.**

5) Para(s) 73-75 of the Draft Order - Shutdown Period of an operating project during installation of ECS and Compensation on account of loss of revenue thereof.

Our Comments: The Draft Order has left it to the responsibility of the generating companies to ensure integration (i.e., interconnection and synchronization) of the ECS with the operating project during its the annual overhaul period. Further, no normative Shutdown Period towards such ECS integration and consequential compensation towards loss of revenue suffered by a generating company due to overall reduction in Annual Plant Availability Factor (“PAF”) on account of project Shutdown during ECS integration has been proposed in the Draft Order.

It may kindly be appreciated that while the generating companies shall make earnest endeavors to synchronize ECS integration with project annual overhaul, however such a synchronous integration may not be always possible on account of various external factors beyond control of generating companies like delivery and commissioning schedule of ECS, Force Majeure factors affecting transportation and commissioning of ECS, unplanned shut-down of the project compelling revision of its scheduled annual overhaul etc.

In this regard, it is requested based on various parameters like type of technology adopted by ECS, size of generating unit etc., a normative shut-down period of at least 30 days for each unit of a generating project towards installation of ECS be allowed, during which the associated generating unit be considered as “Deemed Available”.

6) No Provision with respect to compensation on account of Gypsum (by-product of ECS) disposal.

Our Comments: Simultaneous commissioning of similar limestone based ECS by a majority of the generating projects in the years 2022-2024 would pose a challenge for disposal of Gypsum (ECS by-product). As it is, Gypsum has a quite a low demand in the market and with high availability of Gypsum post commissioning of a sizeable ECS capacity from the year 2022 onwards, Gypsum demand would further shrink, making Gypsum disposal a challenging proposition. As such, this environmentally hazardous Gypsum would necessitate adoption of safe measures for its storage and disposal thereby entailing significant expenses by generating projects towards the same.

However, the Draft Order does not address this concern. It may kindly be appreciated that since safe storage and disposal of Gypsum (ECS by-product), shall have a significant cost implication on account of ECS installation, hence it becomes imperative that this Hon'ble Commission duly addresses this important aspect. As such, is it earnestly requested that a normative handling, storage and disposal charges of Gypsum (say Rs 150/tonne) be allowed to the generating companies, while finalizing the Draft Order.

7) No Provision with respect to grant of provisional and/or adhoc and/or projected Compensation.

Our Comments: The Draft Order provides for determination of Compensation (in terms of Supplementary Tariff) only after installation of ECS and no enabling provision has been kept for grant of provisional and/or adhoc and/or projected Compensation for the period between Date of Operation (“**ODe**”) of the ECS till the date of determination of Compensation thereof by the Hon'ble Commission.

It may kindly be appreciated that such Compensation determination, being an exhaustive process, may span across 6-12 months after ODe of the ECS. Hence, in absence of any provisional and/or adhoc and/or projected Compensation, the generating companies would not be able to secure any revenue during such intervening period of 6-12 months. However, the debt servicing obligations of the generation companies to their lenders would start immediately after ODe of the ECS. In absence of any provisional and/or adhoc and/or projected Compensation, it would be extremely difficult for any generating company to discharge its debt-servicing obligations during such intervening period, which would severely affect its cash flows.

Further, in the current challenging scenario, with a view to secure debt-servicing by a generating company, the lenders are increasingly insisting for a mechanism in terms of provisional and/or adhoc and/or projected Compensation as a pre-requisite for lending, in absence of which, it would be extremely difficult for any generating company to achieve timely financial closure. Such a delay in achieving financial closure, would eventually lead to breach of permissible timelines prescribed by MoEF&CC, GoI for installation of ECS, for absolutely no fault of generating companies.

Hence it is earnestly requested that based on the estimated/ projected CAPEX to be incurred towards installation of ECS, the Hon'ble Commission may kindly grant a provisional and/or adhoc and/or projected Compensation (@ say 90% of the estimated Compensation) 2-3 months before ODe of the ECS which may subsequently be trued up on the basis of actual ECS CAPEX. This will be a win-win proposition for the all stake holders viz. the lending institutions, generating companies, Discoms etc. as:

- This would enable the generating companies to secure the return on investment made by them towards ECS, right from the first day of its operation, thereby facilitating them to honor their debt-servicing obligations in a timely basis.
- Further, this will also prevent accumulation of substantial arrears Discoms/ Beneficiaries in terms of Supplementary Tariff and Carrying Cost thereof during such intervening period of 6-12 months, which may otherwise impair their cash-flows on account of a substantial accrued liability.

8) No Provision with respect to Degradation of Gross Station Heat Rate due to installation of ECS

Our Comments: The Draft Order does not address an important aspect related to degradation of Gross Station Heat Rate (“GSHR”) of a generating project due to installation of De-NOx System, which is an essential component of ECS.

As per the discussions held with various technical experts and OEMs, due to installation of De-NOx System, the combustion pattern of Boiler will change which will invariably result in increase in combustibles in the fly ash as well as bottom ash. **Such an increase in unburnt combustibles shall consequently reduce the Boiler Efficiency thereby increasing the existing GSHR of the thermal generation projects by more than 1%.**

As such, not allowing any normative increase in GSHR due to installation of De-NOx System shall lead to substantial under recovery by the generating companies. Accordingly, it is sincerely requested that 1% increase in the existing normative GSHR on account of installation of De-NOx System be allowed while finalizing the Draft Order.