

---

**FW: Comments on CERC Staff Paper on Methodology for computing 'Deterrent Charges' for maintaining lower coal stock by coal based thermal generating stations**

---

**From :** Harpreet Singh Pruthi <secy@cercind.gov.in> Fri, May 27, 2022 06:23 PM  
**Subject :** FW: Comments on CERC Staff Paper on Methodology for computing 'Deterrent Charges' for maintaining lower coal stock by coal based thermal generating stations 1 attachment  
**To :** Sunil Kumar Jain <sunil\_jain@nic.in>  
**Cc :** sushanta chat <sushanta\_chat@yahoo.com>

**From:** akhurana369@appindia.org.in <>  
**Sent:** 27 May 2022 17:58  
**To:** P.K. Pujari <chairman@cercind.gov.in>  
**Cc:** Harpreet Singh Pruthi <secy@cercind.gov.in>  
**Subject:** Comments on CERC Staff Paper on Methodology for computing 'Deterrent Charges' for maintaining lower coal stock by coal based thermal generating stations

**\*\*The authenticity of this message cannot be vouched for. It may be spoofed. Please treat hyperlinks and attachments in this email with caution\*\***

Ref. No. APP/DG/2022-23/2065

Shri P. K. Pujari, Chairperson, Central Electricity Regulatory Commission

**Sub: Comments on CERC Staff Paper on Methodology for computing 'Deterrent Charges' for maintaining lower coal stock by coal based thermal generating stations**

Dear Sir,

A plain reading of the CERC Staff Paper on '**Methodology for computing 'Deterrent Charges' for maintaining lower coal stock by coal based thermal generating stations**' gives rise to a very pertinent question - who is responsible for inadequate stocking of coal? While imposing 'Deterrent Charges' for maintaining lower coal stock by the coal based thermal generating stations, it appears that CERC's premise is that the generating stations are responsible for inadequate stocking and therefore they need to be penalized. This approach ignores the ground realities of the coal supply chain - **the coal shortage situation experienced during October 2021 and April 2022 has clearly brought before the country the reality that the fault for coal shortages lies with Coal India for inadequate coal production to keep pace with demand and Railways for wagon shortages.**

However, the staff paper has instead sought to penalize the generating stations without considering that the generating stations are the biggest sufferers of inadequate coal supply, as

**their fixed cost payments depend on declaring normative availability which cannot be achieved without adequate coal stocks.**

In the coal supply chain, commencing from production and right till consumption of the electricity generated by using coal, there are four key stakeholders - Coal India, Railways, Generators and DISCOMs. Out of these, three are Government owned monopolies, and work on best effort basis with no accountability for their responsibilities. **These monopolies repeatedly fail to perform their obligations - non supply of coal by Coal India for which advance funds have been deposited, non-availability of wagons by Railways for which advance payments have been made** (evidenced by the fact that in order to lift coal from pit heads, 1,100 passenger and express trains had to be cancelled - clearly bringing out the shortage of rolling stock to transport coal to the power plants) **and non-payment of energy bills by the DISCOMs even after 5-6 months from due date.**

With a series of meetings at the level of PMO and Hon'ble Home Minister and with regular meetings between the 3 Ministries and all 3 HoDs monitoring the supply of coal to power plants on daily basis, the plants were still far away from meeting the new stocking norms, as evident from the report of coal stock position over the past few weeks. **As many as 109 out of the operational 165 thermal power plants in the country currently have actual coal stock varying between 0% to 24% of the required normative level.**

Despite such intensive monitoring, cancellation of passenger trains and diversion of rakes meant for other industrial consumers, the power plants have still not been able to comply with the stocking norms. **The question which arises is that when in normal circumstances, these two monopolies only work on 'best effort' basis, how can anyone realistically expect that power plants will be able to meet these coal stocking norms?**

The Hon'ble Minister for Power has gone on record to state that domestic coal production lags power demand and that he is even more worried about the impact on coal stocks once the monsoon season arrives. All Gencos have been given directions to import coal for blending to the extent of 10% and to be prepared for higher proportion of blending if needed. At the same time, there are media reports that some States, like Uttar Pradesh, have denied consent for import of coal for blending purposes. As the liability of additional cost of imported coal has to be met by the Procurers, consent of the States is imperative for ensuring recovery of payment for imported coal.

**MoP's recent directions to CERC under Section 107 of the Act to allow higher amount of blending of up to 30% with imported coal, without beneficiaries' consultation, for the period up to 31st March 2023 clearly shows that the Government has recognized and accepted the ground reality that Coal India production CANNOT meet the power plant's coal requirements, leave aside stocking inventory.**

Another ground reality which has been overlooked in the Staff Paper is the chronic problem of non-payment of monthly energy invoices raised by the generating companies, which is severely impacting the ability of the generating companies to procure sufficient fuel for continued generation of power. **The total dues to power generating companies as of May 2022 has crossed Rs 103,000 Cr across the country, out of which the dues to IPPs are**

**around Rs 55,800 Cr. An overhang of more than 6 months receivables makes it almost impossible for generators to deposit advance for coal and its transportation, make debt service payments and meet O&M expenditures simultaneously.**

The above factual narrative clearly shows that the basic premise of the Staff Paper that generators are defaulters for non-stocking of adequate coal stock is misplaced. In fact, generators are the victims as they are sandwiched between three Government monopolies for whom no rules apply. Therefore, penalizing generators will not help to ensure adequate coal stocks. CERC needs to address the root cause of inadequate stock which has clearly been brought forth in the last 2 power shortage episodes (Oct'21 and Apr'22).

Considering the above ground realities, our key suggestions are summarized as follows:

- a. **The 'Deterrent Charges' mechanism may be kept in abeyance till at least 31st March 2023 or until the coal supply situation stabilizes.**
- b. However, if it is felt that the stocking norms and penalty mechanism still need to be implemented at this time, then the provisions of the Staff Paper need a complete relook since **the move to impose 'Deterrent Charges' on generating companies for something which is beyond their control and practically unfeasible because of constraints of other stakeholders, seems to be completely against the principles of equity and justice.**
- c. Penalties should be imposed on those who actually default in their obligations and not on those who suffer on account of failure of other stakeholders to fulfil their responsibilities. Therefore, our contention is that **in case a generating company has submitted its program as per MSQ (under FSA) and has deposited the requisite advance payment to CIL and Railways, then any consequent shortfall in coal availability arising out of reasons such as less coal supply by CIL, less rakes availability, running at very high (>85%) PLF etc., should not result in imposition of any penalty on the generating company.**
- d. CERC/CEA should accept the reality of the situation and **clearly specify in what proportion are the domestic coal and imported coal stocks to be maintained, after realistically accounting for domestic coal availability.**
- e. **In case of denial of consent by the Procurers for importing coal, the generating company should not be penalized for being unable to stock up imported coal to the stipulated level.**
- f. **The penalty mechanism should provide exemption to the IPPs having PPAs with those Disoms who have significant outstanding dues (payments overdue for more than 1 month) from the DISCOMs as they should not be penalized for something out of their control. If the generators are penalized for shortfall in coal stocking by reduction in fixed**

charges against a particular PPA for which the monthly invoices have not been paid, it would be akin to asking the actual defaulter to punish the victim – a travesty of justice.

**A detailed note covering the above suggestions and containing additional comments on the Staff Paper is enclosed for perusal.**

We expect that the CERC will take due cognizance of ground realities and not penalize only generators because of their weak positioning in the value chain, as this would be unfair, unjust and inequitable. Being a quasi-judicial authority, CERC should fix norms and responsibility for each of the stakeholders to run the coal supply chain smoothly. Ultimately, the penal framework needs to be fixed in accord with the principle of penalizing the actual defaulter.

With regards,

Yours sincerely,  
For Association of Power Producers

(Ashok Khurana)  
Director General

**Copy to:**

**Shri Harpreet Singh Pruthi, Secretary, Central Electricity Regulatory Commission**

With best regards,

**ASHOK KHURANA**

*Director General*

**Association Of Power Producers**

Flat No. 4 to 7, Ground Floor, Prakash Deep Building,  
7, Tolstoy Marg,  
New Delhi-110 001  
Tel: 011-43628357/358/359  
Fax:011-43628356



---

**Annexure - APP comments on the Staff Paper on Methodology for computing**

**'Deterrent Charges' for maintaining low coal stocks.docx**

35 KB

---



## **APP Comments on CERC Staff Paper on Methodology for computing ‘Deterrent Charges’ for maintaining lower coal stock by coal based thermal generating stations**

### **1. Coal shortage situation - Penalties should be imposed on stakeholders defaulting on their obligations and not just on Generators**

The current coal shortage situation is well known to all. As many as 109 out of the operational 165 thermal power plants in the country have actual coal stock varying between 0% to 24% of the required normative level. **This precariously low level of coal stock situation has not been caused due to any reluctance or deficiency on part of the power plants to stock coal but has been entirely caused by the inability of the coal companies to produce sufficient coal to match the demand and the inability of Railways to transport sufficient coal to the power plants.**

As of May 2022, around one third of CIL’s total rake loading in the month has been delayed due to ‘shortage or poor availability of coal at the mines’, as reported in the media. In the past year, demurrage charges paid by CIL for rake loading delays due to unavailability of sufficient coal at the loading sidings has gone up by 30%. On the other hand, Railways has had to cancel 1,100 trains (express and passenger trains) to increase coal transport to the power plants. There are several instances wherein power plants have made advance payment for coal and have still not received the allocated quantum of coal even after several months. For example, in the MCL Talcher area itself, there are 560 allotted indents (under SFEA) of various power plants which are pending for loading, with some of these indents pending since September’21. Even under FSA, lapsing of rakes continues to be common and widespread, with some of our members informing us of upto 50% lapsing of FSA rakes in some months.

Some of the coal companies continue to supply only at the trigger level of 80% of ACQ. For the remaining coal requirement, the power plants used to depend on the Special Forward E-Auction for power. However, this window has now been discontinued and the only option to secure coal to meet shortfall in quantity supplied under PPA is through the spot/unified auction windows wherein non-regulated sectors also participate. In the two

spot auctions held by SECL and MCL in May so far, the premium has crossed 570% and 730% over notified price, respectively. Such high premiums in the recent spot auctions have led to almost all the coal being secured by non-power sector consumers as power producers supply power under regulated/competitive bid PPAs cannot afford to pay such high premiums. The issues of shortfall in coal and rake allocations are discussed during the weekly Sub Group meeting comprising representatives from MoC, MoP, Railways, CEA, coal companies and generators. In almost all these meetings, the coal and rakes allocation is specified just to meet the FSA commitments and not for building of coal stock beyond certain level. Thus, generating companies are not able to maintain adequate coal stock due to compulsion and not by choice.

Ministry of Power has already given directions to all domestic coal based plants to import coal for blending at 10%, and has also directed that if sufficient quantum of imported coal is not received by 15.06.2022, the blending will have to be increased to the extent of 15%. MoP has also issued directions to CERC under Section 107 of the Act to allow higher amount of blending of up to 30% with imported coal, without beneficiaries' consultation, for the period up to 31st March 2023. These measures clearly show that the Government has recognized and accepted the ground reality that Coal India production CANNOT meet the power plants' coal requirements, leave aside stocking inventory. The coal stocking norms and the 'deterrent charges' computation mechanism needs to reflect this ground reality and be put in abeyance till the ground situation stabilizes. At the very least, the norms must be revised in order to realistically reflect the ground situation and segregate the stocking norms into domestic and imported coal stock requirements.

Further, the revised coal stocking norms issued by CEA provides for grading of power plants wherein it has been stated that power plants submitting program as per its MCQ (as per FSA) with the coal companies would be graded in the Green Zone. This grading mechanism should be an integral part of the mechanism of 'Deterrent Charges' computation and no penalty should be applied on power plants which are graded in the Green Zone but are unable to meet their stock requirements even after submitting their program and making advance payment of coal, due to failure of coal companies/railways to ensure full supply.

Also further, as per extant CERC Tariff Regulations, prior consent of beneficiary is required where the weighted average price of fuel based on use of alternative source of fuel exceeds 30% of base energy charge. There are already reports that certain states, such as U.P., have denied consent for import of coal. In such cases, generators should not be penalized for being unable to stock up imported coal to the stipulated level as consent of the States is imperative for ensuring recovery of payment for imported coal.

The above ground realities suggest that the provision of the Staff Paper need a complete relook.

**Suggestions:**

- a. The ‘Deterrent Charges’ mechanism may be kept in abeyance till at least 31<sup>st</sup> March 2023 or until the coal supply situation stabilizes, whichever is earlier.**
- b. In case a generating company has submitted its program as per MSQ under FSA and has deposited the requisite amount to CIL and Railways, then any consequent shortfall arising out of reasons such as less coal supply by CIL, less rakes availability, running at very high (>85%) PLF etc., should not result in imposition of any penalty on the generating company.**
- c. CERC may like to utilize this opportunity to fix responsibility of CIL and Railways and impose penalty on them in case they default. If this suggestion is deemed to be beyond CERC’s jurisdiction, then an advisory on this point can be considered.**
- d. While determining the obligation of CIL/Railways to supply specified quantum of coal, backlog of short supply from previous months should also be considered on rolling basis so that the generating company is not penalized for backlog short-supply while considering average coal stock of 3 months.**
- e. No ‘Deterrent Charges’ should be applicable if the Procurer does not provide consent for import of coal – There are already reports that certain states, such as U.P., have denied consent for import of coal. In such cases, generators should not be penalized for being unable to stock up imported coal to the stipulated level.**



## **2. Liquidity constraints of generators - Overdue payments from Discoms**

The power sector is facing a chronic problem of non-payment of monthly energy invoices raised by the generating companies, which is severely impacting the ability of the generating companies to procure sufficient fuel for continued generation of power. The total dues to power generating companies as of May 2022 has crossed Rs 103,000 Cr across the country, out of which the dues to IPPs are around Rs 55,800 Cr.

In the existing backdrop of severe financial stress in the sector, an overhang of more than 6 months receivables makes it almost impossible for generators to deposit advance for coal and its transportation, make debt service payments and meet O&M expenditures simultaneously. The payment security mechanism for the IPPs need to be strengthened significantly as a pre-requisite for the revised norms to be practically implementable. At present, the LCs provided by the DISCOMs correspond to 1.1 times the monthly billing amount whereas most of the IPPs now have overdue payments from the DISCOMs stretching over multiple months – thus the LCs opened by the DISCOMs do not cover the entire dues owed to the IPPs. Further, neither can the IPPs resort to mass invocation of the LCs as this would lead to large scale disruption of power.

Placing the entire obligation of maintaining coal stocks on the generators with penalty of reduced fixed cost, without taking into account the lack of/delayed payments from the Discoms, is not only a travesty of justice but also results in the deterrent mechanism being practically unfeasible right from the get go.

### **Suggestion:**

**It is requested that the penalty mechanism may be rationalized by way of providing exemption to the IPPs which have significant outstanding dues (payments overdue for more than 1 month) from the DISCOMs as they should not be penalized for something out of their control.**

### **3. Computation of coal stock under multiple PPAs**

As per the staff paper, the coal stock is being determined against a power plant as a whole. However, in case the plant has multiple PPAs, then it may be noted that each PPA has a separate FSA/linkage and the coal stock available against that PPA would be dependent on the actual coal delivered against the PPA and the actual quantity consumed. Therefore, the coal stock needs to be determined against each PPA of a plant rather than the whole generating station.

For the purpose of illustration, consider a 300 MW unit with the following PPA structure:

- 100 MW tied up with Discom A with FSA from SECL
- 100 MW tied up with Discom B with FSA from WCL
- 100 MW untied capacity utilized for merchant sales with Coal Linkage under SHAKTI Policy Para B(viii)(a) covering Para B(iii)
- Additionally, some coal stock is available to the plant from e-auction, domestic or imported coal that can be used for Discom A & B
- Coal requirement of the total 300 MW unit is 4500 MT per day at 85% PLF

The month end coal stocks beneficiary wise would differ as shown in the Table below:

Discom A -100 MW							
Month Opening Stock from FSA (SECL) as 01.01.2022 (A)	Month Opening Stock from E-auction/Opened Coal (B)	Coal Received from FSA(SECL) ( C )	Coal Received from E-auction/Opened Coal (D)	PLF of the beneficiary during the month (%)	Coal Consumed during the month ( E )	Balance Coal Available F=A+B+C+D-E	No of Days stock for month end @ 1500 MT per day
2000	5000	50000	0	90%	49200	7800	5
Discom B - 100 MW							
Month Opening Stock from FSA (WCL) as 01.01.2022 (A1)	Month Opening Stock from E-auction/Opened Coal (B1)	Coal Received from FSA(WCL) ( C1 )	Coal Received from E-auction/Opened Coal (D1)	PLF of the beneficiary during the month (%)	Coal Consumed during the month ( E1 )	Balance Coal Available F1=A1+B1+C1+D1-E1	No of Days stock for month end @ 1500 MT per day
10000	5000	45000	0	60%	32800	27200	18
Short Term PPA/Selling to Exchange -100 MW							
Month Opening Stock from Shakti B(viii)a as 01.01.2022 (A2)	Month Opening Stock from E-auction/Opened Coal (B2)	Coal Received from Shakti B(viii)a ( C1 )	Coal Received from E-auction/Opened Coal (D1)	PLF of the untied capacity during the month (%)	Coal Consumed during the month ( E1 )	Balance Coal Available F1=A1+B1+C1+D1-E1	No of Days stock for month end @ 1500 MT per day
10000	0	35000	0	30%	16400	28600	19
Overall plant stock of coal at the end of January							14 Days

### Suggestions:

- The coal stock needs to be determined against each PPA of a plant rather than the whole generating station.
- Coal stock should be calculated based on the % capacity of plant tied up under PPA. Capacity without PPA should not be factored into coal stock computations.
- Further, if any shortfall in coal stocks is against a PPA where the Discom is at default in terms of making payments, then there should not be any penalty imposed on the generator.

**4. Computation of shortfall in Normative Availability and penalty for non-maintenance of coal stock should be on quarterly basis and not on monthly basis**

The CEA’s revised coal stocking norms states the following:

*“In the event, the availability is less by 5% or more from the Normative Availability (as applicable) on **quarterly basis**, the fixed charge shall be reduced to the extent of shortfall in Normative Availability and in addition, the reduction below the Normative Availability shall be multiplied by a factor of 0.2 (i.e. levy of additional 20% due to reduced availability) to determine the charges payable for non-maintenance of coal stock on **quarterly basis.**”*

The above has also been repeated in Clause 4 of CERC’s staff paper. However, the proposed methodology and illustrations in CERC’s staff paper (Clause 6 onwards), proposes that shortfall in availability will be computed on monthly basis and generators will be penalized even for a month of lower availability.

Not only is this approach inconsistent with CEA’s recommendation as mentioned in Clause 4 of the Staff Paper, but this is inherently unjust since it would result in generators being penalized due to a planned/forced outage occurring in a month even if the generator has been able to achieve the Normative Availability in the quarter. The table below illustrates such a situation:

Month	Plant Availability Declared (%)	NAPA F (%)	PLF (%)	Actual Coal Stock (Number of days)	Coal stock norms as per CEA (Number of days)
November	99	85	95	7	22
December	99	85	95	6	23
January	59.5	85	55	26	24
Average	85.8	85	81.6	13	23

In the above case, while the shortfall in Availability is more than 25% in the month of January, the Availability of the entire quarter is still more than the Normative Availability. As per the CEA norms, this plant should not be penalized, and this approach is justified since the sudden loss of Availability in one month may not be due to low coal stock but could be due to a forced outage situation.

However, as per the CERC Staff Paper, this plant would still be subject to reduction in capacity charges for the month of January, despite meeting the normative availability for the quarter, which is gross miscarriage of justice. Further, this will be against the terms of the PPA as the PPA provides for full fixed cost recovery upon meeting normative availability for the entire year. There is no justification for deduction of fixed cost if the generator is able to achieve the overall normative availability of the entire year.

**Suggestion:**

**Computation of shortfall in Normative Availability and penalty for non-maintenance of coal stock should be on quarterly basis and not on monthly basis. Further, in case the generator is able to meet the annual normative availability, then no deterrent charges should be applicable.**

**5. Allowing reduction in coal stock for the purpose of planned outage**

Unutilized coal stocks lying over a long period of time lead to high stacking loss and hence generators usually reduce coal stock during annual overhauling or capital overhauling. **It is suggested that generators should be allowed one month in a year for each unit, where they can reduce coal stock for units on planned outage.**