Comments / Suggestion on Approach Paper – CERC Terms & Conditions of Tariff Regulations for 2024-29:

Sr. No.	Parameter	Clause no.	CERC proposals	JSW Energy's Comments / Suggestions
1	Procurement of Equipment and Services	4.2.2 & 7.1.4	Need to mandatorily award work and services contracts for developing projects under the regulated tariff mechanism through a transparent process of competitive bidding, duly complying with the policy/guidelines issued by the Government of India as applicable from time to time.	It is suggested that: 1. Procurement through competitive bidding shall be made mandatory for main plant & major packages only. 2. CERC may consider to put a threshold limit i.e. X% of Project Cost or value like Rs. 10 Crore and above for the purpose of procurement of main plant & major packages through competitive bidding. Rationale: In order to have faster completion of contracts, small value contracts < Rs. 10 Crore should not be considered for procurement through competitive bidding
2	Reference Cost for Approval of Capital Cost – Benchmark Cost vs Investment Approval Cost	4.2.3 & 7.1.5	Benchmark Cost may not be a true representation for all the plants that can form basis for disallowing cost due to following reasons ➢ Thermal Generating Station - Cost is largely affected by site conditions, water handling, coal handling systems etc ➢ Hydro Generating Station - Cost depends on several aspects such as choice of technology design, reservoir based/Pondage/ROR, etc. ➢ Transmission System - Cost depends on factors such as tower design, terrain, soil type, wind zones etc Therefore, benchmarking may serve limited purpose and may not be a better alternative to current project specific Investment Approvals	JSW suggests that the capital cost as mentioned in original investment approval i.e. Project Detailed project report (DPR) may be considered as DPRs are more site specific. Further Designated independent agency (DIA) of the Commissions' panel are vetting the DPRs. Rationale: As observed by the Hon'ble Commission, project cost is specific to the generating stations and benchmarking would derail the enthusiasm of the developers.

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3	Capital Cost of Hydro Generating Station	4.2.4 & 7.1.6	To incentivise the developer if it executes the project faster/ or ahead of schedule and vice-versa if it delays.	JSW Suggests that an additional incentive of 0.50% increase in ROE should be considered for such projects which are commissioned ahead of schedule and vice versa if it delays. Rationale: As it is observed that Hydro projects do take years for execution, thus the developers which complete their project ahead of schedule after various risks involved during construction phase, may be incetivised.
4	Capital Cost – Projects Acquired Post NCLT Proceedings	4.3 & 7.1.7	Section 62 specifies determination of tariff based on cost plus principle and therefore, the acquisition value may need to be considered. 1. Historical Cost or Acquisition Value whichever is lower should be considered for determination of tariff post approval of Resolution Plan. 2. Tariff Provisions to be included to address the issue of cost of debt servicing including repayment that were allowed as a part of tariff during the CIRP process.	JSW suggest that since 2004, there has not been any concept of truing up the project cost except for additional capitalization & undischarged liabilities. Further to mention that the assets being acquired through NCLT process are stressed assets. Revival of such projects irrespective they are in operation phase or are under construction requires significant/ incremental investments, for revival of such projects. In case Commission is of the view that only acquisition cost approved by NCLT is to be considered for Tariff purpose, an additional ROE of 0.50%-1.0% may be allowed to the new acquirer so that more and more Companies are encouraged to revive the stressed assets.. Rationale: Any new Developer or Acquirer factors in all such investments over and above the acquisition value. Therefore, considering only acquisition value for the purpose of Tariff will be detrimental to the interest of new developer or acquirer.

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5	Computation of IDC – Post Scheduled COD	4.4.1 & 7.1.8	1. Existing mechanism wherein the pro rata computation is done on excess IDC pertaining to delay period beyond SCOD or 2. Pro-rata IDC may be allowed considering the total implementation period wherein the actual IDC is pro-rated considering the SCOD and period of delay condoned over total implementation period or 3. IDC approved in the original Investment Approval to be considered while allowing actual IDC in case of delay. 4. In case the actual IDC is below that approved in the Original Investment approval, the same may be allowed as lower IDC even in case a project is delayed may be due to prudent phasing of funds adopted by the utilities.	It is suggested that option no. 1 may be continued i.e pro rata computation is done on excess IDC pertaining to delay period beyond SCOD. Rationale: In option no. 2 the actual IDC upto SCOD would also be prorated and will impact developer significantly as the IDC upto SCD is also getting trued up indirectly.
6	Differential Norms – Servicing Impact of Delay	4.9 & 7.1.14	1. To encourage rigorous pursuit of approvals from statutory authorities, even if delay beyond SCOD is condoned, on account of any reasons are condoned, some part of the cost impact (Say 20%) corresponding to the delay condoned may be disallowed. 2. Alternatively, RoE on Equity corresponding to cost and time overrun allowed over and above project cost as per investment approval may be allowed at the weighted average rate of interest on loan instead of fixed RoE. 3. The current mechanism of treating time overrun may be continued considering that utilities are automatically disincentivised if the project gets delayed."	JSW suggests that in any project various clearances are required from statutory authorities. Project developers undertake rigorous and constant follow up with the concerned authorities but granting them in timely manner is only in the hand of such concerned authorities. Further PPAs have terms & conditions by which a developer is penalized in case of delay in SCOD. Rationale: Disallowing some part of project cost for reasons not in control of project developers, in addition to the existing delay penalties as per PPA, will be discouraging for them.

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7	Additional Capitalisation	4.10 & 7.1.15	In view of discussion held under Section 4.10, in order to have an enabling provision under which additional capitalisation can be allowed with prior approval, a provision may be introduced to existing Regulation 26 to allow such expenses if they are found to be beneficial/ essential for continued operations	JSW agrees to the proposed enabling provision.
8	GFA/NFA/Modified GFA approach	4.11 & 7.1.18	Increasing the Investors confidence by ensuring assured returns is important, and further considering the recent spikes in power tariffs in power exchanges indicating a shortage of power availability, investment in Power sector needs a boost, and therefore the existing GFA approach, being a balanced approach may be continued. However, comments/suggestions are invited on alternate approaches, i.e. GFA/ NFA/ Modified GFA approach.	JSW agrees that existing approach of GFA may be continued.
9	O&M Expenses	4.12 & 7.1.19	O&M norms may be specified under the following two categories. 1. Employee Expenses 2. Other O&M Expenses comprise of Repair and Maintenance and Administrative and General Expenses.	JSW suggests that existing methodology should be continued as it is ongoing since long and also being monitored by the Commission. Further, a provision may be considered in regulation for allowance of Change in Law in case of occurrence of any Change in Law Event impacting O&M Expenses. Rationale: Any change in methodology will lead to the complications and discrimination among developers.

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10	Depreciation	4.13 & 7.1.20	Depreciation rate may be specified considering a loan tenure of 15 years instead of the current practice of 12 years. Further, additional provision may also be specified that allows lower rate of depreciation to be charged by the generator in the initial years if mutually agreed upon with the beneficiary(ies).	JSW agrees that lower depreciation rate may be considered in line with 15 years' loan repayment period.
11	Interest on Loan	4.14 & 7.1.21	To simplify the approval of interest on loan, the weighted average actual rate of interest of the generating company or transmission licensee may be considered instead of project specific interest on loan. Further, the cost of hedging related to foreign loans be allowed on actual basis, without allowing any actual FERV.	JSW suggest that the risk profile of the developers varies from project to project. Therefore, it is requested to continue with the existing approach i.e. the weighted average interest rate calculated on the basis of the actual loan portfolio deployed to be considered.
12	Return on Equity vs Return on Capital Employed	4.15 & 7.1.22	As in the past much has been deliberated and discussed on the two approaches and in view of the long-standing position of this Commission, the present system, or RoE approach, may be continued.	JSW agrees that the existing RoE approach may be continued.
13	Tax Rate	4.17 & 7.1.24	Base Rate of RoE may be grossed up as follows: 1. At MAT rate (If not opted for Section 115 BAA) 2. At effective tax rate (if not opted for Section 115BAA) subject to ceiling of Corporate Tax Rate; or 3. At reduced tax rate under Section 115BAA of the Income Tax Act or any other relevant categories notified from time to time subject to ceiling of rate specified in the relevant Finance Act. Further, Tax shall be allowed only in cases where the company has actually paid taxes as under no circumstances tax can be allowed to be recovered if the company has not paid any tax for the year under consideration.	JSW agrees that the proposed provision is clarifying that the Base Rate of RoE should be grossed up with effective & applicable tax rate to the Company/ SPV/ Project.

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14	Interest on Working Capital (IOWC)	4.18 & 7.1.25	It is observed that the working capital norms are efficient, so the existing norms may be retained. However, comments and suggestions are invited on any modification that may be required in the norms. As per the existing Regulations, the Bank Rate for the purpose of computing the Interest on Working Capital (IoWC) is defined as one-year MCLR plus 350 bps. Stakeholders may comment as to whether the same may be continued or may suggest any better alternative to the same.	JSW agrees that the existing approach for calculation of Interest on Working Capital may be continued.
15	Life of Generating Stations and Transmission System	4.21 & 7.1.26	The useful life of coal based thermal generating stations and Transmission Sub-stations may be increased to 35 years from the current specified useful life of 25 years. As the need for higher repairs will still be required, the current dispensation of allowing a special allowance or provision of R&M may be continued after 25 years.	JSW suggests that the useful life of coal based thermal generating may be kept unchanged to 25 years, as the OEMs are mentioning similar useful life of the machines. Further, special allowance on account of R&M may be continued after 25 years so that the old plants do not compromise on the ground of efficiency.
16	Treatment of arbitration award – Servicing of Principal & Interest Payment	4.22 & 7.1.29	CERC Tariff Regulation 2019 provide for allowing additional capitalization including liabilities to meet an award of arbitration or for compliance with the directions or an order of any statutory authority, or order or decree of any court of law. Principal amount may be capitalised and the interest amount may be allowed to be recovered in instalments from the beneficiaries. However, such a recovery of interest amount may also involve carrying cost.	JSW agrees with CERC suggestion that the principal amount may be capitalized and the interest amount may be allowed to be recovered in installment from the beneficiaries. Also, such recovery of interest may also involve carrying cost.

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17	Treatment of interest on differential tariff after truing up	4.23 & 7.1.30	It is observed that the current regulation allows for recovery/refund of differential Tariff in Six Equal Monthly Installments However, stakeholders have raised concerns over the method of charging interest on the differential amount up to the liquidation of the last Instalment. In order to streamline the rate of interest on the differential amount, the current practice of allowing a simple interest rate as per Regulation 10 (7) in the 2024-29 tariff block may be continued. Further, interest may be allowed to be charged on the differential amount by the Utility only until the issuance of the Order, and no interest may be allowed during the recovery in six equal monthly instalments	JSW suggests that the Utility/ Developer may be allowed to charge interest on the differential amount till the date of receipts of payment by utility/developer (including six equal monthly instalments).
18	Normative Annual Plant Availability Factor (NAPAF) – Review of Existing Norms	5.1.1 & 7.1.31	1. Reintroduction of the methodology adopted in the CERC Tariff Regulations, 2004 Based on Regulation XI (under Chapter 3 of the Tariff Regulations, 2004 the methodology can be specified as follows: "In case of purely run of river power stations, declared capacity means the ex-bus capacity in MW expected to be available from the generating station during the day (all blocks), as declared by the generating station, taking into account the availability of water, optimum use of water and availability of machines 2. The existing norms of NAPAF may need review by considering past years PAF, procurement of coal from alternate sources, other than designated fuel supply agreement, change in hydrology etc.	JSW suggests that the existing approach for NAPAF calculation may be continued.

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19	Peak and Off-Peak Tariff	5.2 & 7.1.32	As recovery of reasonable costs is of prime importance for any infrastructure sectoral growth, comments/suggestions are sought on the possible interventions/modifications required to address the issues highlighted above. Specific suggestions are also sought on the following. 1. Whether it would be advisable to limit the recovery based on daily peak and off-peak periods. 2. Suggestions on National versus Regional Peak as a reference point for recovery of fixed charges.	JSW submits that limiting the Recovery on the basis of Peak and Off Period is not viable for the generating stations using lignite fired CFBC boilers. Reasons for the same is detailed below: Thermal Power Plants having lignite as fuel generally use CFBC boilers. Since, CFBC technology with Hot Cyclone and U seal, employ heavy 400 mm thick Refractory lining. The quantum of refractory used in the boiler is more than 1400 Tonnes. Per Boiler and about 200 MT of refractory need to be replaced every year due to below reasons: 1. Thermal Cycling- CFBC boilers experience frequent and rapid temperature changes due to start-up, shutdown, and load fluctuations. These thermal cycles cause expansion and contraction of the refractory lining, leading to cracks, spalling, and ultimately failure 2. High Erosion- CFBC boilers utilize a bed of solid particles that circulate at high velocities. This circulating bed cause erosion of the refractory lining, especially in areas where the bed material impinges on the refractory surfaces. Erosion which has been causing considerable damage resulting in loss of refractory material leading to reduced lining thickness. For the above reasons, the plant requires an extended duration of downtime, leading to reduced operational availability and loss of production. Every annual overhaul keeps the boiler out of bar for more than 25 days to replace around 200 Ton refractory in boiler. Lignite, being a fuel

				with inherent characteristics of High moisture and sulphur content, which, during combustion, forms sulphur dioxide (SO2) as a by-product. SO2 is a corrosive gas that attacks on the metal surfaces of the air preheater (APH). Over the time, sulphur dioxide reacts with the metal components causing corrosion and degradation of the APH which needs a periodic inspection and replacement. Hence in view of above it has been submitted that the Plant using Lignite & CFBC Technology may be excluded from Peak and Off Peak Availability recovery method in the proposed Tariff Regulation.
20	Separate Norms for ROR/Storage Based Hydro Projects	6.1 & 7.1.41	It is proposed that more enabling framework or incentive mechanism for dam/reservoir based generating stations to operate as peaking plants wherein these stations may be incentivized to operate as peaking plants.	JSW agrees that Storage/PSP projects will play significant role in meeting the peaking demand, thus such projects should be incentivized in the form of additional ROE.