My Comments on 'Terms and Conditions of Tariff for the period commencing from 1st April, 2024 – Approach Paper Thereof' are as follows:

1. The Hon'ble Commission vide order No. L-1/268/2022/CERC dated 29.03.2023 sought information from Central Generating Companies, Joint Ventures Companies, Independent Power Producers and Central / Inter-State Transmission Companies whose tariff is being regulated by CERC and directed to submit the subject information, duly audited, from 2017 – 18 to 2021 – 22 by 15.04.2023 and that of FY 2022 – 23 by 30.06.2023. Subsequently, vide order dated 13.04.2023 extended the date till 15.05.2023 and further vide order dated 15.05.2023 the date has been extended upto 30.05.2023. Thereafter, Secretary, CERC vide public notice dated 25.05.2023 issued 'Terms and Conditions of Tariff for the period commencing from 1st April, 2024 – Approach Paper Thereof' and invited public comments on the same by 15.07.2023 and vide addendum dated 03.07.2023 issued compensation methodology for operating a thermal (coal) generating unit below the 55% minimum and thereafter, vide notice dated 13.07.2023 extended last date for submission of comments till 31.07.2023. In general, it is understood that the approach paper is issued subsequent to data received from the entities, however, this time, even though almost two months were lapsed from receipt of such data from entities and also last date for submission of comments on approach paper is about to over, the subject audited data as submitted by utilities is not provided in the public domain. As the data submitted by utilities is the prominent source of information in deciding the regulations for future and analysis of the same necessitates sufficient time, the last date for submission of comments on approach paper shall be extended, atleast two weeks from the date of providing subject audited data in public domain.

2. In 2012, the Commission has acknowledged inefficient operations in coal handling leading to huge loss in GCV from mine end to production of electricity and its unwarranted burden on public. Accordingly, amended CERC (Terms and Conditions of Tariff) Regulations, 2009 for computation of ECR and cost of coal, and moved from 'GCV as fired' to 'GCV as received'. The same was continued in CERC (Terms and Conditions of Tariff) Regulations, 2014 and observed that the loss of GCV from mine end to plant end is very nominal and any loss beyond the certain limit, the generating companies are entitled for compensation from coal companies in terms of FSA. Accordingly, observed that any loss of GCV beyond a certain limit shall be settled among Coal Company, Railways and Generating Company. However, in practice, citing one or other reasons, the generating companies were claiming huge loss in GCV and the Commission was passing the same without fixing the accountability and defeating the very purpose of intended regulations at the cost of consumers. Subsequently, in order to avoid disputes between coal company and generating companies and fix the responsibility thereof, third party sampling was mandated by Ministry of Power, Government of India. However, abnormal loss in GCV is continued to prevail due to various factors such as lack of skilled man power with third party, influence of coal companies and generating companies on this party, lack of accountability of third party, non-transparent practices by coal companies and generating companies, lack of seriousness of Commission to address this important issue but to allow these losses without any prudence etc, leading the public to bear this loss. On the other hand it is also observed that the loss of GCV allowed by CERC is

much more than SERCs and further this issue very prominent with certain entities. Thus, there is a need for fixing the responsibility of coal company, railways, third party and generating companies in this process i.e. may allow nominal loss of 50 – 100 kCal / kg and relieve common man from this unwarranted burden.

3. In regards to determination of ECR, it is noted that the entities are submitting forms (data) in variance with the prescribed forms such as inclusion of opening stock, other charges, irrelevant claims, particularly, unaudited and without any supporting bills. Further, generators are claiming landed cost of fuel with higher imports than consumption i.e. blending ratio. Therefore, any deviation from prescribed format shall be liable to rejected. Further, as per model PPA, the fuel charges are purely a pass through but not for business or profit, however, it is observed that the generating companies are accustomed to make business / profit out of this. In order to address this issue, the GCV and landed cost of coal shall be determined based on annual audited statements along with bills w.r.t.. coal quantity, GCV, charges paid to coal company, Railways, third party, etc, rather than few selected months in a year.

4. It is noted that with the development of sector, the debt equity ratio was changed from erstwhile 50:50 to 70 : 30 in 2004. After this, the sector had rampant growth, become a prominent attractive sector, cash flows were increased and the projects under cost plus had lowest risk ever, however, neither equity has been lowered down nor return on equity has been reduced. As the banks / Financial Institutions are ready to grant the loans beyond 70%, there is a need to revisit limit of equity as well return on equity. Further, the RoE of 15.5 – 16.5 % was decided way back, when the interest rates were sky racketing at around 12 %, but this rate continued the same even though the interest rates are in the range of 7 – 9 %. Thus, the existing percentage of RoE is nothing more than a random number and need to linked with bank rate / repo rate and compared with average return of investment in country.

5. In the past, it is observed that the actual useful life of units / projects is more than the life defined in the prevailing regulations. Accordingly, useful life needs to be redefined and the rate of depreciation shall be reviewed and reduced to align with practical useful life. Further, 90 % of asset value is recovered as a depreciation by the completion of existing useful life, irrespective of R & M, the project cost shall be brought down to salvage value. On the other hand, the total depreciation recoverable may be either restricted to loan amount or it shall be adjusted in RoE i.e. depreciation allowed shall be adjusted either with loan and or with equity. Otherwise, 20 % of asset value as a depreciation is doubly benefitting the owners of generator and transmission companies.

6. It is noted that the existing norms allowed for SHR and Auxiliary Consumption are over and above the designed parameters. As these have a lot impact on the working capital and ECR, gradually these norms shall be brought down for all plants w.r.t existing norms. In case of the plants, whose boiler efficiency is lower than 85 % (as specified by CEA) and turbine heat rate is more than 1945 kCal / kWh, SHR shall be restricted to maximum of norms or design heat rate (without any margin), so that it will be level playing field to generators as well as consumers.

7. Even though the CERC (Terms and Conditions of Tariff) Regulations are for projects and capacity tied up under section 62 i.e. cost plus, i.e. the source of profit is RoE. However, the profit of these projects is much higher (2 – 3 times) than allowed RoE. Thus, the projects might be making profit out of other components such as Depreciation, IoL, IWC, O & M, ECR etc, On the other hand, these projects have claimed wage revision impact citing deficit in O & M norms and after preliminary assessment of actual expenditure, the Commission has allowed in few cases and rejected in others. Further, even though, the major percentage (70 %) of O & M is being salaries and man power is reducing year on year, the claim for O & M expense is increasing. It is also noted that recently, CEA has notified that the O & M expenses of TBCB projects is much lower (1/3) than norms provided by CERC. Thus, one of the reasons for the profits in excess of RoE is might be due to excessive O & M norms but not due to efficient operation. Therefore, the process of determining O & M norms need to be transparent and reviewed holistically, particularly, which units to be considered, which components to be considered etc, and unwarranted margins shall be disallowed and detailed computation in arriving at specified numbers from audited data submitted, shall be made available in public. Further, where he generators have more than one unit, the resources are being shared and lead some saving, the multiplication factor such as 0.9, 0.85 etc factors shall be considered in allowing O & M for second unit onwards of all existing generating stations.

8. Even though prevailing regulations provide for various components under IWC, including coal stock, generation etc, corresponding to NAPAF, in practice the actual stocks are not maintained and the same leading to shortage of coal at generating station from October, onwards during every year and necessitating for imports and impacting country's forex reserves and common man. On the other hand, irrespective actual generation, receivables for specified period are recovered. Therefore, the cost of coal for generation shall be restricted to average advance cost given to coal company and similarly, all components of IWC shall be linked to NAPLF and delinked with NAPAF.

9. All forms submitted by entities shall be duly audited by empaneled list of auditors / authorized auditor, either approved by board or Commission and auditor certification shall have UID and date. Further, the auditor shall submit an undertaking / a certificate that the statement has been made after examining all associated documents and liable for any action, in case of found guilty.

10. The compensation allowance allowed in 2014 – 19 is being already implemented, the same along with appropriate escalation shall be considered in arriving at normative add caps expenses during 2024 – 29.

11. As the assets of generating station are being fully depreciated by the end of PPA period, the beneficiaries shall have the first right to refusal or to continue i.e. exit option. Further, as facilitated the relinquishment charges in transmission, surrendering of power shall be allowed during the period of PPA, with some penalty.

12. As per the prevailing regulations the IDC and IEDC are capitalized and leading to higher capital cost and higher RoE thereof, the existing approach is encouraging and incentivizing delay in execution of projects (upto 12 years), the fixed charges are allowed upto 15 Cr / MW and increasing the unwarranted load on public. In order to restrict this, bench mark cost shall be established and cost of new projects shall be

restricted to the same. Further, as the depreciation shall be accounted only for assets in use rather than complete capital cost, after prudence check, the IDC and IEDC may be reimbursed rather than capitalizing. In addition, penalty, deduction in RoE, may be levied on delayed projects.

13. In spite of various additional capitalization under Change in Law allowed such as zero liquid discharge, reduction in water consumption, ash transportation etc, the additional capitalizations part of original scope of works, which are redundant are also continued to be allowed, to enhance the capital and RoE as much as possible. On the other hand, outcome of expenditure under Change in Law i.e. intended target and actual savings achieved on this account are neither emphasized nor passed on to beneficiaries. Therefore, prudence check shall be made prior to allow of the original scope of works. Further, the Petitioner shall be directed to submit existing specifications and envisaged specifications for detailed analysis, prior to taking a decision on the matter.

14. The prevailing regulations specify for submission of certain information by entities, prior to allowing any other expenses, however, it is observed that entities are not submitting such details i.e. expenses made out of special allowance, compensation allowance etc, In the interest of public, the Commission may implement the relevant Regulations in letter and spirit and make the concerned entity is responsible for the same.

15. In order to bring transparency in expenses incurred, billing and collection, the concerned utilities shall be directed to provide expenses incurred, utility wise amount billed and received shall be made available in public domain on monthly basis.

16. The Commission may make necessary arrangements to reach out every state, civil societies and common public through various means i.e. presentations, interactions, discussions, debates etc, and instill confidence and bring awareness regarding the new developments, existing regulations, necessity for change, how it would impact and improve their life etc.