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25th July, 2023

**The Secretary,
Central Electricity Regulatory Commission (CERC),
3rd and 4th Floor, Chander Lok Building,
36, Janpath, New Delhi-110001**

Sub: Comments on Approach Paper for 2024-29 control period

Sir,

As the current tariff period will come to an end on March, 31st 2024, Hon'ble Commission had initiated the process for laying down the terms and conditions of the tariff for the next control period for 2024-29 control period.

Hon'ble Commission had therefore published the Approach Paper on Terms and Conditions of Tariff Regulations on 26th May, 2023 and requested all the stack holders to submit their comments within 15th July, 2023. Later Hon'ble Commission had extended the date for submission to 31st July, 2023.

We are accordingly submitting the comments of OTPC Palatana Project on the approach paper within the stipulated timeline. As desired by Hon'ble Commission we are submitting 3 hard copies and have emailed the soft copy and pdf at tariff-reg@cercind.gov.in

Thanking you.

Yours faithfully,

**Arup Ch. Sarmah
Chief Commercial Officer**

OTPC Palatana Project

Comments on CERC Approach Paper for MYT Regulations 2024-29

3.1 Tariff Determination General Approach

Suggestions are sought as to how the present system of hybrid mechanisms of tariff setting under the cost plus approach can be made more efficient by moving closer to a normative or performance-based approach so that the same would positively impact the interests of consumers as well as utilities. Two possible options could be as follows.

1. Approach 1: Shift to a normative tariff, wherein, once capital costs are approved on an actual basis after prudence check, all other AFC components are determined on normative basis.

2. Approach 2: Further simplification of the existing Performance Based Hybrid Approach, wherein on the basis of admitted capital cost, AFC components can be approved based on actuals or norms as may be specified for the control period. Further, additional capitalisation may be allowed on certain counts on a normative basis.

OTPC Comments:

We agree with Hon'ble Commission that the tariff determination process needs to be simplified and expedited to allow generators to issue energy invoices timely and to prevent cash flow issues in absence of valid CERC orders. The duplicity of the efforts extended in submission of MYT and True-Up petitions also needs to be minimized and the present approach paper seems to be heading in this direction wherein CERC is focusing on considering the actual expenses at time of True-Up exercise and is allowing the projections on normative basis during MYT submissions.

Every generator wants to keep the projected figures close to actual spends for the next control period in MYT regulations to avoid hefty supplementary bills. Further, generators are in a better position to return surplus receivables to beneficiaries rather than recovering money from discoms after true-up. As such every generator wants that the projected figures for next control period are close to actuals or slightly higher than the expected expenses. This also aids the entire power sector to perform efficiently and avoids piling up of receivables for discoms.

Approach-1 seems to be better suited to gas based stations like Palatana as it allows an indexation for the various components of AFC and does not delve into the details of the projected expenses in the ensuing control period. This minimizes the submission of details on part of the generator and the lengthy processing at the regulator level. However, the indexation needs to be arrived at prudently considering the variation in fuel cost and applicable interest loan rates. We think that the indexation need not be dependent only on the previous year and current year value of various AFC components but may be accepted as



per the request of the generator for various ensuing years to allow figures close to actuals and to prevent situations wherein generators shall need to recover hefty amounts of receivables from the beneficiaries during true up.

Approach-2 considers normalization of additional capitalization which is a difficult task as ad-cap expenses are heterogeneous and vary widely year on year. As such Approach-1 seems to be better suited to the needs of the generators.

Therefore, we suggest shift to Approach -1, a normative tariff, wherein, once capital costs are approved on an actual basis after prudence check, all other AFC components are determined on normative basis.

3.2 Tariff Approaches

In this context, comments/ observations from stakeholders are invited on the following points:

- 1) Whether clustering the components of AFC based on their nature to increase/ decrease will allow better projections? Any other possible method to cluster the AFC components?
- 2) What other methodology can be adopted to determine the increasing/ decreasing factors?
- 3) Whether the impact of additional capitalization can also be allowed through the same indexation mechanism or through a separate revenue stream?

OTPC Comments:

Certain components of AFC like RoE and Depreciation are fairly normative and variations occur due to interest rates on capital, loans and ad-cap. Projection of interest rates is difficult but fair projection of Ad-cap may be done if planned properly. So to avoid supplementary bill burdens on beneficiaries, a fair normalization of even ad-cap can be done by Hon'ble Commission in discussion to arrive at a fair Indexation factor in discussion with the generators. **We suggest that Approach-1 as suggested by CERC can be improved by adding a template for Ad-cap to make it even better.**

4.2.1 Interim Tariff

The provision for interim-tariff can, therefore, be continued in the next tariff period as well. However, comments and suggestions are sought from stakeholders on the continuation of the said provision.



OTPC Comments:

Interim Tariff by Hon'ble Commission is a much required as beneficiaries insist on a valid CERC order to process invoices. However, CERC may expedite the issuance of Interim Tariff orders after a prudence check as it is vital for cash flows from beneficiary states. **CERC may allow the interim tariff at 90% of estimated capital cost as for the benefit of all stakeholders.**

4.2.2 Procurement of Equipment and Services

Comments and suggestions are therefore invited from stakeholders on the 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.

OTPC Comments:

With checks from auditors and the management, most of the generators are procuring equipment and services during development phase through proper transparent tendering and competitive bidding duly complying with the applicable guidelines/policy of Government of India.

However, wherein the equipment and services are proprietary in nature it becomes essential for the developers to acquire the same through nomination basis. In fact, most of the spares and services after COD need to be acquired from EPC contractor or equipment supplier on nomination basis.

Similarly, for projects under NCLT the developer may need to assign procurement from best suppliers and not rely on tendering process. L1 supplier may not always the best quality supplier and developers may need to negotiate with L2/L3 suppliers for quality material and services. **Therefore, Hon'ble Commission may like to modify the phrasing to capture such proprietary/quality needs.**

4.2.3 Reference Cost for Approval of Capital Cost - Benchmark Cost V/s Investment Approval

Comments and suggestions of stakeholders are invited on other efficient reference costs other than Investment Approval costs that can be considered for prudence checks.

OTPC Comments:

Benchmarking of capital cost is very difficult as site specific requirements of different projects based on their location and other specific requirements. As such it becomes difficult to benchmark capital cost and Investment approval may be kept as reference cost for allowing capital cost.



Comparison of capital cost for prudence check may be done for projects commissioned in the same geographical terrain for a fair comparison. A project in NE/Hilly terrain cannot be compared with a project in mainland India as remote locations lead to higher logistical, erection, commissioning, labor and transportation costs.

CERC does the prudence check by comparing capital cost of project with projects using similar technology and it may be continued for a fair check and comparison.

4.2.3 Capital Cost – Hydro Stations

Comments and suggestions are sought from stakeholders to incentivise the developer if it executes the project faster/ or ahead of schedule and vice-versa if it delays.

OTPC Comments:

Though Hydro projects have been covered here, we would like to submit that CERC may continue to incentivize faster commissioning of project through additional RoE of 0.5-1%. This will foster competition and timely completion of projects when additional capacity is required in the grid. However, there should be a check on the schedules agreed to by the developer and EPC contractor so that these are in line with acceptable standards for comparison of timely schedules.

We agree with Hon'ble Commission that early commissioning of projects should be incentivized.

4.3 Capital Cost – Projects Acquired Post NCLT Proceedings

Comments and suggestions are sought from stakeholders on the following issues:

1. Historical Cost or Acquisition Value whichever is lower should be considered for the determination of tariff post approval of Resolution Plan.
2. Tariff provisions to be included to address the issue of the cost of debt servicing, including repayment, that were allowed as a part of the tariff during the CIRP process.

OTPC Comments:

Acquisition value of projects may be higher or lower than historical cost. So such projects need to be assessed in detail for tariff purposes. However, to avoid burden on the end consumer Hon'ble Commission may consider allowing debt servicing to such ailing projects as considerable time is exhausted when the entities are under CIRP.

Further, the acquired projects may need modification/upgrade to make them perform at CERC approved normative parameters and hence the modification cost should also be



considered while approving tariff in addition to the acquisition cost. The acquiring entity should not suffer any loss on its investment as it is aiding the power requirement in the country.

Similarly, there may be projects which are not under NCLT but are open for acquisitions. **Hon'ble Commission may also cover such projects under the ambit of these regulations for a fair tariff determination.**

4.4 Computation of IDC

Comments are invited for following options for allowing IDC:

1. Existing mechanism wherein the pro-rata deduction (based on delay not condoned) is done on IDC beyond SCOD.
2. Pro-rata IDC may be allowed considering the total implementation period wherein the actual IDC till implementation of the project is pro-rated considering the period upto SCOD and period of delay condoned over total implementation period.
3. IDC approved in the original Investment Approval to be considered while allowing actual IDC in case of delay.

OTPC Comments:

CERC is right to note that there have been instances wherein the developer did not incur any IDC till SCOD as interest liability for the project started after SCOD and due to the above provision, in case the delay is not condoned, the entire IDC gets disallowed. So a change in the provision is required so that Pro-rata IDC may be allowed considering the total implementation period wherein the actual IDC till implementation of the project is pro-rated considering the period upto SCOD and period of delay condoned over total implementation period.

Further, if the actual IDC incurred is less than the IDC in investment approval, then CERC may allow the actual IDC for the developer as it is due to prudent phasing of funds adopted by the utilities.

The clause 4,5 & 6 of the existing regulations may be continued as it is fair & reasonable that consumer should not pay for higher IDC on account of delay beyond SCOD if its attributable due to EPC contractor/supplier.



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4.4.2 Treatment of Liquidated Damages

Comments and suggestions are sought from stakeholders on necessary changes in tariff forms and regulations, if any, to provide further clarity on the adjustment of LD.

OTPC Comments:

At the time of execution of the project difficulties are faced by developers in ascertaining the amount of liquidated damages (LD) to be retained. This is due to the fact that no settlement is reached on LD amounts during the execution and developers do not want vendors to delay work by raising such issues. LD settlements hence happen after the work execution.

Sometimes, LD is being adjusted by developers from the balance payable and payment is made on net basis to such vendors. Developers calculate the approximate LD applicable due to delays and on several occasions retain amounts from vendor payments as recovering LD from vendors is an uphill task (especially from PSU vendors).

There are chances of double deduction, i.e., first in the form of deduction in IDC and then LD which was supposed to be retained by the utilities which gets adjusted in additional capitalization. But developers can not declare such LD adjustments upfront as the amount has not been agreed to with vendors.

Further, as the LD amount has been withheld by the developer with other payment for a long time but gets reflected in the books only upon settlement of LD, allowance of LD from settlement dates denies the developer the benefit of holding the money from earlier dates. The developer in such cases has acted prudently in the interest of the consumers but does not get rewarded for its efforts.

This requires that Hon'ble Commission may make provisions for such necessary declarations from developers in tariff forms. The declaration may be in form of amount retained by developer for payment to vendor pending settlement of LD amount.

4.5 Price Variation

For allowing price variation, the utilities may be mandated to submit the statutory auditor certificate along with the petition duly certifying the price variation corresponding to delay and the same may be allowed on pro-rata basis corresponding to the delay condoned. Further, a separate form may also be specified to submit the relevant information pertaining to price variation. Comments and suggestions are sought from stakeholders on the above proposal and suggest alternatives, if any.

OTPC Comments:



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CERC has reasoned that delay in commissioning of projects not only increases IDC and IEDC, it may also result in increase in the hard cost in case the contract provides for cost escalation beyond SCOD. In such cases, if the impact corresponding to such delay is disallowed for the delay not condoned, it appears logical to extend the same treatment to price variation.

It may be noted that price variations are dependent on cost indexes published by the government and no contractor shall be ready to work if appropriate price escalation is not provided in the contract to cover the contractor's risk. There shall be no price escalation possible for the contractor if no price variation effect is allowed to the developers.

Attention is invited to the fact that contractors have already been chosen through a competitive bidding route and too much meddling in the contracts by the regulator may not be treated fair and equitable. **In such a case, such a clause/provision is not suitable and may be removed.**

4.6 Renovation and Modernization

Comments and suggestions are sought from stakeholders on continuation of the existing provisions and on the above suggestion of continuing with Special Allowance, if opted at the beginning of the tariff period for the rest of the tariff period.

OTPC Comments:

R&M allows the deferral of huge capital investments on the construction of new capacities and avoids seeking fresh approvals and clearances, it is a cost effective alternative. In view of the inherent benefits of undertaking R&M as against going for fresh capital investment, the current provisions may be continued. A utility intends to undertake R&M through proper planning and not abruptly.

However, the developer undertaking the R&M may be better incentivized to take up the R&M so that they do not undertake the same under additional capitalization means. **As such a better Debt Equity ratio of at least 50:50 may be allowed for R&M projects so that developer may be keen to take up R&M over normal Ad-cap route to modernize the plant.**

4.7 Initial Spares

Comments and suggestions are sought from stakeholders on the above proposed approach and alternative options to standardize and simplify the norms for initial spares.

OTPC Comments:

Though Hon'ble Commission has not included anything for generators under the clause, we would like to point out the fact that the norms for Initial spares were 4% of project cost in



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2009-14 regulations (during COD of Palatana project) and were reduced to 4% of Plant and machinery cost in 2014-19 regulations. The change in norms led to a disallowance to capitalize initial spares of nearly Rs 80 Crs for Palatana Project. Such disallowance owing to a change of regulatory norms may be done away with through some formal process as developers place orders for equipment and spares in one control period and COD generally spills over to next control period.

The disallowed initial spares are used in the plant in one form or another. If disallowed as initial spares due to regulatory control period, the same may be allowed to developers under capital spares to prevent such massive capitalization losses.

Further, initial spares amount for a project is also dependent on the location of the project. Remote locations necessitate that developers acquire a higher amount of initial spares as sourcing the same consumes a lot of time and effort for plants in remote locations. OEMs advice/suggestions for the necessary amount of initial spares required may also be considered by Hon'ble Commission for smooth operation of the plant. Drastic reduction in amount of initial spares by Hon'ble Commission to contain the capital cost may be avoided as it shall lead to uncertainty in plant operations.

We would hence request a suitable provision from the Hon'ble Commission to adjust such changes and prevent the losses for developers.

4.8 Controllable-Uncontrollable Factors – Forest Clearance

Comments and suggestions are sought from stakeholders on continued inclusion of delay on account of land acquisition as an uncontrollable factor and on the further inclusion of delay on account of forest clearances as an uncontrollable factor.

OTPC Comments:

While framing the 2019 regulations, the Commission included the delay on account of land acquisition in the list of uncontrollable factors along with Change in Law and Force Majeure. This was a welcome step as land acquisition was a major challenge by developers despite their best efforts.

Similarly, forest clearance may be included in the list of uncontrollable factors as the pertinent offices take a lot of time to hand over the forest lands despite constant persuasals. Further, only the forest office has the right to clear the trees from the forest land and provide the land ready for use to the developers. **As such it will be a welcome step to include forest clearance in the list of uncontrollable factors.**



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4.9 Differential Norms – Servicing Impact of Delay

In order to encourage rigorous pursuit of such approvals, even if delay beyond SCOD is condoned for any reasons, some part of the cost impact (Say 20%) corresponding to the delay condoned may be disallowed.

In view of the above, comments and suggestions are sought on the following:

1. To encourage rigorous pursuit of such approvals from statutory authorities, even if delay beyond SCOD on account of clearances and approvals that are condoned, some part of the cost impact (Say 20%) corresponding to the delay condoned may be disallowed.
2. Alternatively, RoE corresponding to cost and time overruns allowed over and above project cost as per investment approval may be allowed at the weighted average rate of interest on loans instead of a fixed RoE.
3. The current mechanism of treating time overrun may be continued, considering that utilities are automatically disincentivised if the project gets delayed.

OTPC Comments:

It is opined by the Hon'ble Commission that it has been observed that these delays (forest clearance etc) could have been restricted if the approvals were sought more assertively instead of merely through written correspondence. It is further observed that it is always not possible for the Commission to ascertain if adequate efforts have been made at the senior level to get the clearances and so some penalty may be put in form of deduction of RoE or some part of the cost impact (Say 20%) corresponding to the delay condoned may be disallowed.

It would not be just to levy such a heavy penalty on a provision which Hon'ble Commission is proposing to include in the list of uncontrollable factors. Further, it may be kindly noted that management and Board of the developers keep an ample check on the rigorous pursuits of such approvals and no developer wants to delay the project for the same. **Hon'ble Commission is hence requested not to include any such proposed provision for the matter.**

4.10 Additional Capitalization

Therefore, in order to have an enabling provision under which such 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.

1. Thermal Generating Stations – Based on the analysis of actual additional capitalisation incurred by such generating stations in the past (15-20 years) and co-relating such expenses to different unit sizes such as 200/210 MW series, 500/660 MW Series and



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different vintages (5-10, 10-15, 15-20, 20-25 years post COD), a special compensation in the form of yearly allowance may be allowed based on unit sizes and vintage, which shall not be subject to any true up and shall not be required to be capitalised.

2. While determining such special compensation for a thermal or hydro generating station, costs incurred towards works presently covered under Regulation 26 to Regulation 29, wherever applicable, may not be included as these expenses may be allowed separately.
3. Further, any items that cost below Rs. 20 lakhs that may be in the nature of minor items such as tools and tackles, and those pertaining to Capital Spares may be allowed only as part of O&M expenses and may not be considered as part of additional capitalisation in case of both thermal and hydro generating stations.
4. Further, discharge of liabilities of works already admitted by the Commission as on 31.03.2024 may be allowed as and when such liability is discharged.

OTPC Comments:

We welcome CERC's approach to undertake such an exercise to provide special compensation that needs not be trued up. However, we shall have to wait and see the results of such an exercise whether the same can accommodate the Ad-cap variations from year to year, especially when the machines go for a major maintenance under long planned outage after necessary fired hours. Such maintenances put a major spike in the Ad-cap in those years as it may involve rotor replacement/repair and other major works. It will be difficult to adjust such spikes under a yearly allowance and no generator would prefer a delayed capitalization of such major expenses.

Further, separately allowing the expenses under regulation 26 to 29 will slightly complicate the tariff process as some part is special compensation and other part is allowed separately as such. This requires an interactive session with the developers and the regulator before issuance of the draft regulations. As of now we would not prefer the benchmarking of thermal station like Palatana which has been operating in a remote location and has not been extended any special allowance in O&M or other provisions. However, we would welcome it if it can accommodate the yearly fluctuation in Ad-cap expense.

We also propose that any items that cost below Rs. 1 (one) lakhs that may be in the nature of minor items such as tools and tackles, and those pertaining to Capital Spares may be allowed only as part of O&M expenses and may not be considered as part of additional capitalisation in case of both thermal and hydro generating stations. This is because of the fact that CERC has already considered the same figure while calculating the capital spares in our tariff petitions.

Further attention is invited to special cases of gas based plants like Palatana which is one of the only gas stations in the country operating successfully with a PLF of about 80%. Most of the gas stations in the country are stranded assets or are struggling with PLFs of 10-20%. In



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such a scenario it would be difficult to analyze and arrive at O&M requirements of gas stations in the country by clubbing them into one set of parameters. Running plants like Palatana incur higher O&M costs due to regular maintenance and LTSA cost at particular Factored Fire Hours of the gas turbines. Palatana tariff being very competitive, the station gets fully scheduled with hardly any difference in PLF and PAF. Whereas other gas stations have very high PAFs and poor PLFs. Such stations are realizing profits even without operating.

As such Hon'ble Commission is requested to consider the special case of Palatana Project and allow a higher O&M normative figure for Palatana. A comparison of PAF/PLF of some of the gas based projects for FY 20-21, FY 21-22 and FY 22-23 is shown below for kind reference:

APRIL 2020 - MAR 2021			
STATION	Monitored Capacity (MW)	PLF	PAF
AGARTALA GT (AGTCCPP)	135.00	74.42	86.34
ANTA CCPP	419.33	9.92	NA
AURAIYA CCPP	663.36	11.83	
DADRI CCPP	829.78	24.53	
GANDHAR CCPP	657.39	14.40	93.70
KATHALGURI CCPP (AGBP)	291.00	61.59	64.66
KAWAS CCPP	656.20	17.90	95.47
MONARCHAK CCPP (TGBP)	101.00	60.21	NA
RATNAGIRI CCPP	1967.08	14.94	32.22
TRIPURA CCPP (Palatana)	726.60	79.97	81.45
ALL CENTRAL	7237.91	25.78	

APRIL 2021 - MAR 2022			
STATION	Monitored Capacity (MW)	PLF	PAF
AGARTALA GT (AGTCCPP)	135.00	78.14	83.08
ANTA CCPP	419.33	2.89	86.67
AURAIYA CCPP	663.36	6.22	89.39
DADRI CCPP	829.78	10.83	90.96
GANDHAR CCPP	657.39	6.88	86.16
KATHALGURI CCPP (AGBP)	291.00	70.11	71.52
KAWAS CCPP	656.20	4.45	87.85
MONARCHAK CCPP (TGBP)	101.00	81.15	NA
RATNAGIRI CCPP	1967.08	18.25	24.07
TRIPURA CCPP (Palatana)	726.60	64.80	64.9
ALL CENTRAL	7237.91	20.07	



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APRIL 2022 - MAR 2023			
STATION	Monitored Capacity (MW)	PLF	PAF
AGARTALA GT (AGTCCPP)	135.00	71.50	84.83
ANTA CCPP	419.33	3.65	87.56
AURAIYA CCPP	663.36	3.86	90.37
DADRI CCPP	829.78	9.41	86.51
GANDHAR CCPP	657.39	4.65	86.34
KATHALGURI CCPP (AGBP)	291.00	66.29	73.36
KAWAS CCPP	656.20	4.61	92.82
MONARCHAK CCPP (TGBP)	101.00	84.45	NA
RATNAGIRI CCPP	1967.08	1.83	17.47
TRIPURA CCPP (Palatana)	726.60	77.55	77.58
ALL CENTRAL	7237.91	15.95	

4.11 GFA/NFA/Modified GFA Approach

Increasing the investors' confidence by ensuring assured returns is important, and further considering the recent spikes in power tariffs in power exchanges indicating 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.

OTPC Comments:

The existing GFA approach allows the creation of internal resources for further capacity augmentation and some predictability in returns even under uncertain market conditions and varying interest rates which is much desirable. The power sector as such is not yielding superlative returns to the investors and any change in the approach could result in reducing returns for investors as the project ages and may reduce the bankability of power sector projects. **Therefore, the existing GFA approach, being a balanced approach, may be continued by Hon'ble Commision.**

4.12 O&M Expenses

Therefore, the above suggestion may also be seen from the perspective that these expenses have historically been allowed as one expense, and any change in the methodology as suggested above may result in unnecessary complications. Alternatively, to give effect to the impact of pay/wage revision, 50% of the actual wage revision can be allowed on a normative basis. Comments and suggestions are sought from stakeholders on above suggestions and alternatives, if any.

OTPC Comments:

It has been rightly noted by Hon'ble Commission that systems that are more automated will require less manpower and systems that are less automated will require more manpower, approving separate norms may result in inequity even though the total O&M expenses of such systems may be comparable.



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O&M expenses are an integral part of the tariff process and it has already been treated as normative for thermal stations like Palatana. Wage expenses constitute a part of the O&M expenses and segregation of the same may not yield any true benefit. Salary expenses can not be processed if not allowed by the Hon'ble Commission and this will lead to a loss of morale for the workforce. People make the processes happen and if people are not looked after all automation and processes shall fall apart. **It is hence requested to the Hon'ble Commission that these expenses have historically been allowed as one expense, and any change in the methodology as suggested above may result in unnecessary complications.**

4.12.3 O&M Norms for Special Cases

Comments and suggestions are sought from stakeholders on whether additional O&M expenses can be given for transmission assets being operated in the North Eastern and Hilly Regions and the manner in which such additional costs can be considered.

OTPC Comments:

Hon'ble Commission has rightly noted that O&M expenses towards the upkeep of systems in the North Eastern and hilly regions of India entail additional costs due to logistical challenges as well as the inadequate infrastructure growth of the region. Several representations have been made by various entities seeking additional O&M expenses for transmission licensees that are operating in these regions.

Palatana Project has faced these logistical challenges while setting up the plant and while transporting rotor for repair to mainland India. We have also made several requests to the Hon'ble Commission to allow higher O&M expenses in line with provisions for Hydro projects in our tariff petitions. As such we request Hon'ble Commission to treat Palatana Project as a special case along with transmission system projects and allow a higher O&M expenses than projects situated in mainland.

Further attention is invited to special cases of gas based plants like Palatana which is one of the only gas stations in the country operating successfully with a PLF of about 80%. Most of the gas stations in the country are stranded assets or are struggling with PLFs of 10-20%. In such a scenario it would be difficult to analyze and arrive at O&M requirements of gas stations in the country by clubbing them into one set of parameters. Running plants like Palatana incur higher O&M costs due to regular maintenance and LTSA cost at particular Factored Fire Hours of the gas turbines. Palatana tariff being very competitive, the station gets fully scheduled with hardly any difference in PLF and PAF. Whereas other gas stations have very high PAFs and poor PLFs. As such Hon'ble Commission is requested to consider the special case of Palatana Project and allow a higher O&M normative figure for Palatana.

We further request Hon'ble Commission that it may consider some additional benefits for gas stations like Palatana which is one of the few performing gas stations in the country and has been commissioned in remote area by transportation of equipment through foreign



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country. **We request Hon'ble Commission that some additional O&M may be allowed for Palatana in line with the focus of CERC on transmission and hydro projects in difficult terrains/NE region.**

4.12.4 Inclusion of Capital Spares

If the same can be projected with some degree of predictability, the same may be allowed on a normative basis along with O&M expenses. Alternatively, instead of including all such capital spares as part of normative O&M expenses, recurring and low value spares below Rs. 20 lakh may be made part of normative O&M expenses, while for capital spares with a value in excess of Rs. 20 lakh, utilities may submit the same on a case to case basis for reimbursement with appropriate justification for the Commission's consideration. Comments and suggestion are sought from stakeholders on the above suggested approach and alternatives, if any, to streamline the approval process for spares.

OTPC Comments:

Initial spares and maintenance spares (part of O&M expenses) are already allowed on a normative basis and it's only the capital spares that are allowed on an actual basis. The challenge with capital spares is that these expenses are non-recurring and sporadic, so benchmarking them can be difficult. Drawing a correlation between capital spares and predictability needs a detailed study which is unavailable at the time. So Hon'ble Commission is requested to keep the provision unchanged for the Capital spares.

Further, as already submitted earlier, we would request Hon'ble Commission to treat spares with value of Rs 1 Lakh and above as Capital spares in line with the treatment meted out to the spares in our tariff petition to the Hon'ble Commission. This will preserve a uniformity of regulations and developers like Palatana shall not have to bear another disallowance of major capital spares as already suffered to the treatment of initial spares during change of regulatory control period.

4.12.5 Impact of Change in Law and Taxes

Comments and suggestions are therefore sought from stakeholders on whether to include any provisions with regard to allowing impact of a change in law on O&M expenses.

OTPC Comments:

There are no provisions with regard to allowing additional expenses on account of any change in law resulting in an increase in O&M expenses. However, including the same may lead to recurring impacts, and claims that may result in regulatory overburden.

It is therefore requested to the Hon'ble Commission that a provision may be included to allow the impact of Change in Law and Taxes from the date of inclusion of the same in the



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official gazette notification or as per government guidelines without any vetting from CERC. The same may only be tried up to minimize the regulatory burden.

4.13 Depreciation

In view of the above, a depreciation rate may be specified considering a loan tenure of 15 years instead of the current practice of 12 years. Further, additional provisions may also be specified that allow lower rate of depreciation to be charged by the generator in the initial years if mutually agreed upon with the beneficiary(ies). Comments and suggestions are therefore sought from stakeholders on the above proposal and any modifications required, if any.

OTPC Comments:

It is a welcome step to increase the spread of depreciation and will lead to lowering of tariffs for beneficiary discoms. However, the lending institutions are not offering loans for 15 years and same may be made available to developers to enable such provisions in the regulations.

The rate of Depreciation and residual value may also be looked at as some residual value of the assets remains even after 15 years. The rate may be kept as 70% of residual value divided by 15 to offer even better tariffs for the beneficiaries. The residual value, depreciation rate, loan tenures and life of project may be made uniform to achieve the desired target of lowering of tariffs (APPC/ACoS) for beneficiaries.

4.14 Interest on Loans

To simplify the approval of interest on loans, the weighted average actual rate of interest of the generating company or transmission licensee may be considered instead of project specific interest on loans. Further, the cost of hedging related to foreign loans be allowed on an actual basis, without allowing any actual FERV. Comments and suggestions are sought from stakeholders on the above suggestions and alternatives, including in respect of treatment of FERV/cost of hedging.

OTPC Comments:

Palatana project being a single project company is complying with the proposition and weighted average actual rate of interest are being considered.

For multi-project developers such a proposition should be adopted to provide a smooth tariff determination exercise.



A handwritten signature in blue ink, appearing to be a stylized name.

4.15 RoE V/s ROCE

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. Comments and suggestions are, however, sought from stakeholders on the continuation of the RoE approach.

OTPC Comments:

We support that the RoE approach may be continued by the Commission due to its inherent benefits and simplicity.

4.16 Rate of Return on Equity

Comments and suggestions are sought from stakeholders on the following issues:

1. Review of Rate of RoE to be allowed, including that to be allowed on additional capitalisation that is carried out on account of Change in Law and Force Majeure.
2. Whether the revised rate of RoE to be made applicable to only new projects or to both existing and new projects?
3. Whether timely completion of hydro generating stations can be incentivised to attract investments?
4. Merit behind approving different Rate of RoE to thermal, hydro generation and transmission projects with further incentives for dam/reservoir based projects including PSP.
5. Merit in allowing RoE by linking the rate of return with market interest rates such as G-SEC rates/MCLR/RBI Base Rate.

OTPC Comments:

- a) **Existing system of giving post tax ROE of 15.5% may be continued.** It may be noted that if we consider implementing period of large project effective rate of return would be 12 % only.
- b) No change in existing ROE of existing project as existing investors have invested keeping in view the return as per the prescribed policy at the time of setting up of the project.
- c) **Commission may consider incentive for setting up projects in difficult areas such as North East and some incentives for performing stations in remote locations like North East**
- d) In respect of projects in North East, compensation for major shutdown/breakdown period due to remote location and logistical issues may be kindly considered.



4.17 Tax Rate

In view of the above discussion and recent amendments to the Income tax regime, a domestic company shall fall under one of the following brackets, and the maximum tax amount that shall be payable is limited by the tax rates notified for the relevant category. Therefore, 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.

In view of the above discussion, comments and suggestions are sought on the above and any other alternative(s).

OTPC Comments:

- a. In new tax regime Commission may consider grossing of ROE on the basis effective tax rate applicable for the respective generator / transmission company.
- b. OTPC is fine with effective tax rate being applied. Hon'ble Commission is requested to continue the same.**
- c. MAT is applicable rate as per regulations. Effective Tax rate may vary from Genco to Genco.
- d. Effective rate should be applied and not Applicable (MAT) Rate.
- e. If MAT is 17.47%, actual tax rate may be more or less than this rate.

4.18 Interest on Working Capital

Comments and suggestions are invited on any modification that may be required in the norms of old gas generating stations to factor in the actual generation while allowing for the working capital requirement for gas based generating stations.

OTPC Comments:

We suggest that Hon'ble Commission may continue with existing norms.



4.18.2 Rate of Interest on Working Capital

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.

OTPC Comments:

The Commission, while formulating the CERC Tariff Regulations, 2019, shifted from base rate to a more efficient MCLR based funding which is more responsive to policy rate changes. **We request the Commission that same may be continued.**

4.18.3 Normative Working Capital and Interest thereon

Comments and suggestions are sought from stakeholders on the ways to determine IoWC along with any other alternatives, if any, so that the same may not require periodic truing up.

OTPC Comments:

The commission may continue allowing Normative working capital as per existing norms.

5.2 Peak and Off-Peak

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 offpeak periods.
2. Suggestions on National versus Regional Peak as a reference point for recovery of fixed charges.

OTPC Comments:

The approach of National or Regional Peak seems impractical as states peak and off-peak loads differ too much. The peak and off-peak billing also created troubles in billing and scheduling of power. As fuel gas flows can not be regulated easily it also creates hindrances in optimal operation of plant.

We suggest that Hon'ble Commission should let go of this approach and revert to old simple approach for tariff determination and billing by generators.

