

DHARIWAL INFRASTRUCTURE LIMITED

Comments on Draft Suo-Motu Order on the Revision of the Mechanism of Compensation of Emission Control System for Thermal Power Generating stations whose tariff is determined through competitive bidding under Section 63 of the Electricity Act, 2003

At the outset, Dhariwal Infrastructure Limited (“**DIL**”) would like to thank the Hon’ble Central Electricity Regulatory Commission (“**Hon’ble Commission**”) for bringing out the Draft Suo-Motu Order on Revision of the Mechanism of Compensation as set out in the Order dated 13.08.2021 in Suo-Motu Petition No. 06/SM/2021 for determination of compensation due to expenditure on account of installation of Emission Control Systems (“**ECS**”) in respect of the Thermal Power Generating stations whose tariff is determined through competitive bidding under Section 63 of the Electricity Act, 2003 (“**Draft Order**”) and providing the stakeholders an opportunity to provide comments/suggestions on the same. The comments and suggestions on behalf of DIL on the revised methodology proposed in Draft Order are provided in the following matrix for the kind perusal and consideration of the Hon’ble Commission.

Paragraph	Particulars	Comments and Suggestions
OPERATION & MAINTENANCE EXPENSES		
Para 44	<p><i>Accordingly, the Commission is of the view that operation and maintenance expenses shall be allowed @2.0% of the additional capital expenditure (ACEe) for installation of ECS (excluding IDC, IEDC, and FERV) as admitted by the Commission and to be escalated at the rate of 5.25% per annum till 31st March 2029 or revision by the Commission based on availability of data, whichever is earlier. Till 31.03.2029, the additional O&M expenses (O&Me) shall be worked out as follows:-</i></p> <p><i>First Year: 2.0% of ACEe excluding IDC, IEDC, and FERV (to be allowed proportionately if the operation of the ECS is for part of the year)</i></p>	<p>A) We humbly request the Hon’ble Commission to allow the norm of Operation & Maintenance Expenses for the first year @ 2.5% of the Capital Cost (including IDC, IEDC and FERV) considering that the competitively bid projects have to accommodate costs towards insurance, additional water consumption due to ECS and gypsum handling & storage which cannot be maintained within the proposed norm of 2% of the Capital Cost (without IDC, IEDC and FERV). Also, any loss on account of O&M Expenses may first be offset against the gain from gypsum sale and the balance may be passed on to the beneficiaries.</p> <p><u>Justification:</u></p> <p>It is submitted that the ECS technologies would handle corrosive materials and the O&M costs are likely to be higher than normal</p>

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	<p><i>Second Year onwards: 2.0% of ACEe escalated annually at the rate of 5.25%.</i></p> <p><i>The additional O&M expenses payable shall be worked out by reducing the income generated from the sale of gypsum or other by-products from the operation and maintenance expenses.</i></p>	<p>plant O&M Expenses. Hence, the Hon'ble Commission may consider the entire capital cost (including IDC, IEDC and FERV) as the value base for Normative O&M Expenses. Further, the high value capital expenditure schemes would also involve cost towards insurance, additional water consumption for ECS and gypsum handling & storage during the operation period. The rationale behind allowing the O&M Expenses for 1st year @ 2.5% of the Capital Cost is clarified through the observation of this Hon'ble Commission in the Order dated 13.08.2021 which is reproduced as under:</p> <p style="text-align: center;"><i>“43. We have considered all the suggestions and comments of the stakeholders. The Commission appreciates concerns of stakeholders as regards difficulty in availability of data relating to O&M expenses due to lack of ECS in operation. The Commission also notes that the issues raised by the stakeholders regarding expenses for handling and disposal of gypsum and additional water consumption due to ECS installation needs to be addressed.”</i></p> <p>Presently, while the Hon'ble Commission allows water charges separately for generating stations whose tariffs are determined u/s 62 of the Act, no such provision exists for competitively bid</p>

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		<p>projects. Therefore, instead of reducing the norm of O&M Expenses, the Hon'ble Commission may continue the same at 2.5% of the Capital Cost (including IDC, IEDC and FERV) wherein 2% shall be towards regular O&M Expenses and 0.5% should be allocated towards insurance cost, additional water consumption and gypsum handling & storage. Reference to such setting of norm of O&M Expenses can be drawn from the principles of tariff setting by the Ministry of Power ("MoP") dated 30.03.1992 which formed the framework of the tariff structure under cost-plus regime which is even relevant to the principles of tariff setting adopted by the Hon'ble Commission in Tariff Regulations for determination of tariff for projects u/s 62 of the Act. The relevant excerpts from the MoP Tariff Setting Principles dated 30.03.1992 are reproduced hereinbelow:</p> <p style="text-align: center;"><i>"c) Operation and Maintenance expenses including insurance for the first full year, after commissioning of the Plant, shall be calculated as a percentage on the actual capital expenditure as provided in clauses 1.2 on the basis of one of the following alternatives, namely:-</i></p>

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		<p><i>(I) at the rate of 2.5 per cent of the actual capital expenditure of ceiling on capital expenditure provided in the power purchase agreement: or</i></p> <p><i>(ii) at 2 per cent of the actual capital expenditure on ceiling on capital expenditure provided in the power purchase agreement together with actual expenditure on insurance.</i></p> <p><i>provided that total of 2 per cent of the actual capital expenditure on ceiling on capital expenditure provided in the power purchase agreement and the actual expenditure on insurance shall not exceed 3 per cent on the capital expenditure as provided in clause 1.2.”</i></p> <p>B) We request the Hon’ble Commission to allow the generating companies to offset any actual additional O&M expenses over the normative from the income on account of sale of gypsum and other by-products before passing on the benefits to the consumers.</p> <p><u>Justification:</u></p> <p>In case the actual expenditure made by the generating company cannot be contained within the normative O&M expenses set by</p>

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		the Hon'ble Commission for each year of the tariff period, the losses would be borne by the generating company. It is therefore submitted that the generating companies may be allowed to offset such losses from the income generated, if any, from sale of gypsum and other by-products before passing on the benefits to the consumers. Such provision would insulate the generators from incurring any loss on account of O&M expenses.
COST OF DEBT & EQUITY OF EMISSION CONTROL SYSTEM		
Para 27	<i>The Commission has already recorded in its order dated August 13, 2021, in Suo- Motu Petition No. 6/SM/2021, that the emission control system requires significant additional capital expenditure. The financing of large amounts of capital expenditure may require equity infusion by the generating companies. But, as per the tariff-based bidding guidelines issued under Section 63 of the Act, the debt: equity ratio of a competitively bid project is not required to be submitted by the generating company. In view of the above, and with due regard to the consideration of the principle of restitution, the servicing of capital employed during each year of the contract period is proposed to be delinked from the actual weighted average rate of interest, and it shall</i>	<p>We humbly request the Hon'ble Commission to allow the norm of recovery of return on equity similar to that allowed for the projects whose tariff are determined u/s 62 of the Act.</p> <p><u>Justification:</u></p> <p>Under NFA approach, Return on Equity ("RoE") is assumed as integral part of Return on Capital employed ("RoCE") and is equated with debt. Further, the RoCE is calculated on reducing capital employed adjusted by Depreciation on year-on-year basis & not on base capital. Under this approach, the following principles of financial prudence have not been maintained:</p> <p>(i) the equity portion remains invested in the capital expenditure and is not repaid through Depreciation unlike debt;</p>

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	<p><i>be worked out based on net fixed asset (derived by adjusting cumulative depreciation of emission control system) and 1 year MCLR of State Bank of India (for one year tenor as on 1st April of the financial year) plus 250 bps.</i></p>	<p>(ii) cost of equity is always higher than the cost of debt. since equity investment by a shareholder bears more risk than the same associated with the cost of debt.</p> <p>Considering the above, we request the Hon'ble Commission to allow the rate of RoCE at Weighted Average Cost of Capital ("WACC") based on the following formula:</p> <p>WACC = 70% * 1 year MCLR of State Bank of India plus 250 basis points + 30% * Post-Tax RoE on ECS as per CERC Tariff Regulations 2024</p> <p>Such WACC may be valid till the capital investment is reduced by Depreciation upto 70% of the capital invested, i.e, the debt component of the capital employed and thereafter, the generators be allowed to recover RoE at Post-Tax RoE on ECS as per CERC Tariff Regulations 2024 of 30% of the capital employed, i.e., the equity component of the capital employed.</p>