

Before the Central Electricity Regulatory Commission

3rd and 4th Floor, Chandralok Building,
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In the matter of:

Revision of the mechanism as set out in the order dated August 13, 2021, in Suo-Motu Petition No. 6/SM/2021 for recovery through tariff of the expenditure incurred on account of installation of emission control system by the generating companies in compliance of the revised emission standards of the Ministry of Environment, Forest & Climate Change, Government of India for the electricity supplied by the Coal based Thermal Power Generating station whose tariff is determined through competitive bidding under section 63 of the Electricity Act, 2003.

Submissions of Prayas (Energy Group), Pune

Central Electricity Regulatory Commission (CERC or the Commission) issued a suo-motu draft order towards the revision of the cost compensation mechanism for emission control systems (ECS) as set out in suo-motu petition no. 6/SM/2021, and invited public comments on the same.

Suo-motu action towards the reflection of operational realities and other parallel regulatory revisions (such as the CERC MYT Regulations 2024) is essential towards ensuring that this cost compensation mechanism for Section 63 generators remains relevant and that all generators are held to similar standards. Prayas (Energy Group) has some comments and suggestions to ensure clarity of process, accountability, and effective implementation of the proposed mechanism. These are listed below:

1. Availability linked recovery of supplementary charge

As per para 32 of the draft document, provisions in order 6/SM/2021 continue, unless brought up in the draft order.

Para 86 D of order 6/SM/2021, not discussed in the draft document, states that '*...the generating company shall recover the supplementary capacity charges on monthly basis under each PPA **depending upon the cumulative availability of the thermal power plant or generating unit, as the case may be, till the end of each month***'[**Emphasis added**].

Such consideration does not uphold the spirit of the revised emission norms, and instead assumes compliance.

Para 84 of the same order also states '*To comply with requirements of the 2015 Rules and subsequent notifications of MoEF&CC regarding emission standards, the thermal generating stations cannot be in operation without ECS. Therefore, availability of the ECS need not to be declared separately and for the purpose of payment of supplementary capacity charges, the availability declared by the thermal generating station shall be applicable for ECS too*'.

However, several deadlines towards adherence to the MoEF&CC emission control norms have already been missed. Furthermore, as per the iteration of the norms applicable prior to 2021

(when compliance deadlines based on pollution level and population categories were introduced), TPP's installed after 2017 were required to be in compliance with the norms from the start of their operations – but there are several defaulters. This makes it clear that adherence to the norms is not a given, even if ECS has been installed.

Allowing recovery of supplementary capacity charges based on availability of the generating station could result in consumers paying a higher tariff without a justified achievement of the intent of the related expenses. The cost of ECS should be reimbursed subject to achieving the purpose of incurring the ECS expenditure, i.e. adherence to the environmental norms. Neither operation of the plant, nor construction of the ECS is equivalent to the utilisation of the ECS and adherence to the norms.

Cost recovery of ECS through tariffs should, thus, be based on compliance to the norms. This could be done on the basis of the generator procuring suitable certification from the respective State Pollution Control Board for adherence.

2. Calculation of AUXe

According to Para 54 of order 6/SM/2021 (not discussed in the draft order), AUXe, or the additional auxiliary energy consumption due to ECS, is considered as reported by the CEA and admitted by the CERC. AUXe impacts generation tariffs, as it affects the contracted capacity and the availability factor of the station. Para 59 of the same order states, 'Therefore, the Commission at this stage, when sufficient operational data regarding auxiliary energy consumption of ECS is not available, considers it appropriate to be guided by the norms suggested by Central Electricity Authority (CEA)'.

As recognised in the draft order, there was lack of availability of operational data at the time of issuing the existing compensation mechanism, and '*the mechanism issued by the Commission needs to be evolved and improved upon based on experience, performance data, and technological developments*'. Given that more operational data is now available, adjustments on account of AUXe should also be revisited and only be considered for the time-period that the ECS is available.

Thus, the computation of AUXe dependent parameters, such as the availability factor and contracted capacity, must account for the actual availability of the ECS, instead of being a fixed value based on CEA reporting.

3. Treatment of delays

As per Para 96 of order 6/SM/2021, a provision which continues to apply, thermal generating stations are required to keep the shutdown period to the minimum possible level, and that the interconnection of ECS should be planned during annual overhaul. The costs associated with such shutdown is to be allowed only after prudence check.

These are good measures towards ensuring timely installation of ECS and adherence to the emission norms. To further strengthen this, and to disincentivise delays in compliance, carrying cost should be disallowed on account of any delays in commissioning of ECS by the generator. The stakeholder RVUNL has also suggested this good measure towards accountability.

4. Reporting of non-tariff income

Para 17 of the draft document introduces a modification to Para 44 of order 6/SM/2021, and includes the following, '*44A. All generating companies are directed to maintain the operation & maintenance expenses of the emission control system separately and submit them to the Commission as and when directed*'.

As operations of more ECS picks up and more operational data becomes available, this is a good measure towards ensuring reflection of operational realities in the regulations, and towards ensuring accountability. Further, with increased operation of ECS, there will also be generation of gypsum and other byproducts, the treatment of which will impact the finances of the generator. Sale of gypsum, for instance, could offset the expenses of handling the byproduct, and will impact the finances of the generator, and should be monitored.

In Para 43 of the order 6/SM/2021 the Commission 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*'. Towards ensuring this, the Commission should also require generators to maintain detailed reporting of the handling, disposal, and sale of gypsum and other byproducts.

5. We request the Commission to accept this submission on record and to allow us to make additional submission in this matter, if any. We further request the Commission to allow us to make an oral submission during a public hearing, if one is scheduled.

Maria Chirayil and Ashok Sreenivas

Prayas (Energy Group), Pune

Place: Pune

Date: 22nd July 2024