TSPL/CERC/AK/JUL-24/87 **Date: 25 July 2024**

To,
The Secretary,
Central Electricity Regulatory Commission,
7th Floor, Tower B, World Trade Centre,
Nauroji Nagar, New Delhi- 110029

Subject: **Comments on the revised compensation mechanism on account of the installation of the Emission Control System.**

Dear Sir,

This is with reference to the above subject wherein the Hon'ble Central Electricity Regulatory Commission by way of Draft Order in Suo Motu Petition 04/SM/2024 dated 03.07.2024 has invited comments/suggestions/objections from the stakeholders and interested persons on the provisions of the above draft paper.

Talwandi Sabo Power Limited (TSPL) as a Generating Company submits suggestions on the *"Revised compensation mechanism on account of installation of emission control system, proposed in draft Order in Suo Motu petition no. 4/SM/2024".*

This is submitted for your kind consideration.

Thanking You,
Yours Sincerely,
For **Talwandi Sabo Power Ltd.**

Arun Kumar
Head – Advocacy, Regulatory & Legal Affairs

Enclosure: As Above.

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CIN No. U40101PB2007PLC031035

TSPL Comments on CERC draft Order Suo Motu petition no. 4/SM/2024

Sno.	Cl no.	Draft Order Suo motu petition no. 4/SM/2024	TSPL Comments	Rationale
1	12 (a), (b)	Depreciation: 70% of the additional CAPEX (considering salvage value to 10%) shall be recovered in 12 years. 30% of the CAPEX shall be recovered from 13th year till balance operational life of plant	The additional capital expenditure should be recoverable within the duration of the Power Purchase Agreement (PPA) to ensure that the affected party is returned to the same economic position as if the change in law had not taken place.	It is stated that huge expenditures are required to be done by generators to install ECS. If the term of the Power Purchase Agreement (PPA) is not extended by the procurer, the generator would suffer huge losses. The PPA does not provide for automatic extension beyond 25 years. Eg. For TSPL, the useful life of the plant as of now is around 17 years (till August 2041). By the time, FGD is expected to be installed, it may be around 15 years. In such a scenario, the compensation should be calculated in such a way that useful life of ECS is around 15 years and all costs to be recovered accordingly. In case of TSPL which is situated in the State of Punjab, it is not feasible to have PPA term extended beyond originally envisaged term of 25 years (till 2041). Though, the PPA has clause for extension of the PPA on mutually agreed basis, if the PPA is not extended then TSPL shall not be able to recover the investments made. Salvage value cannot be considered as 10% as there is no such provision in the TSPL PPA. In fact, there may be additional expenses to keep FGD functional and not taking salvage value shall help the generator to take care of that eventuality rather than abandoning

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				the plant for want of money to correct the FGD at that time.
2	17	Operation and Maintenance Expenses: 2.0% of ACEe excluding IDC, IEDC, FERV for first year. From Second year onwards, 2.0% of ACEe to be escalated at 5.25%	In case the Operation and Maintenance Expenses by the Generator could not be recovered on actuals in the present form, there should be a provision for recovery on actuals to ensure that the affected party is returned to the same economic position as if the change in law had not taken place. Furthermore, Sale of gypsum should not be reduced from O&M expenses as there will be additional cost in handling and disposal of gypsum.	It is submitted that the generators incur additional cost/ loss on account of disposal of the byproducts (generated only on account of installation of the emission control system) including in meeting the directives for scientific disposal by various statutory bodies. As such, the same shall also be made recoverable from the beneficiary. This is because if any new requirement, on account of change in law, such as the requirement to install FGD, any excess expenditure incurred ought to be recovered by the generator. This is in line with Section 61(d) of the Electricity Act, 2003 which guarantees that all reasonable costs associated with generation of electricity ought to be allowed.
3	29	Servicing cost of additional CAPEX COCe, COCe(y) = [NFA(y) x RI(y) /100] where RI(y)= SBI MCLR (one year as on 1st April of the year) plus 250 bps	The installation of the Emission Control System (ECS) should be treated as a new project, with the Return on Investment (ROI) evaluated accordingly. The capital infusion and operational expenditure for the ECS installation form part of the overall cost of electricity supplied	It is submitted that this Hon'ble Commission proposed the aforementioned with a view that it would be reasonable to allow equity infused by the generating company for installing emission control system at the cost of borrowing from financial institution. However, it is humbly submitted that the said approach may be re-looked on account of the following:

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			to consumers. Therefore, the cost recovery should be structured in a manner that ensures the ROI is consistent with that of a new project.	Section 61 (d) of the Electricity Act, 2003 provides that the Commission, while specifying the terms and conditions for the determination of tariff, shall be guided by the principle of 'safeguarding of consumers interest and at the same time, recovery of cost of electricity in a reasonable manner'; i. The above principle is also recognized under para 5.11 (a) of the Revised Tariff Policy, which is as follows: "5.11..... a) Return on Investment Balance needs to be maintained between the interests of consumers and the need for investments while laying down rate of return. Return should attract investments at par with, if not in preference to, other sectors so that the electricity sector is able to create adequate capacity. The rate of return should be such that it allows generation of reasonable surplus for growth of the sector....." ii. The infused capital and operational expenditure on installation of emission control system is part of cost of electricity supplied to consumer. Therefore, recovery of cost of

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				electricity should be done in a reasonable manner However, the cost of equity at cost of Debt level as proposed by this Hon'ble Commission is not aligned with the provisions of the Electricity Act, 2003, and the policies under the said Act (i.e. the Revised Tariff Policy, 2006); Additionally in terms of the PPA the parties affected by Change in Law should be restored to the same economic position as if the Change in Law had not occurred.