
APP comments on the Draft CERC (Terms & Conditions of Tariff) (First Amendment) Regulations 2024

From : akhurana369@appindia.org.in

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Subject : APP comments on the Draft CERC (Terms & Conditions of Tariff) (First Amendment) Regulations 2024

 1 attachment

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Dear Sir,

Please find enclosed APP's comments on the Draft Central Electricity Regulatory Commission (Terms & Conditions of Tariff) (First Amendment) Regulations 2024, for your consideration.

With best regards,

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Existing Clause & Amendment	Comments
<p>• Clause (G) added after clause (F) of Regulation 70 of the Principal Regulations</p>	
<p>10.4. Clause (G) shall be added after Clause (F) of Regulation 70 of the Principal Regulations as follows:-</p> <p>“(G) Compensation for the operation of generating station below normative plant availability factor</p> <ol style="list-style-type: none"> 1. The generating stations whose tariff is determined by the Commission under Section 62 of the Act shall be compensated for degradation of station heat rate and auxiliary energy consumption, consumption of additional secondary fuel oil due to loading below the normative plant availability factor specified under Regulation 70(A) of these regulations. 2. The compensation for degradation under regulation (1) of this regulation shall be borne by the entity which has caused the plant to be operated schedule lower than the corresponding Normative Plant Availability Factor. 3. The compensation for the station heat rate and auxiliary energy consumption shall be worked out in terms of energy charge rate. 4. For the purpose of compensation under regulation (1) of this regulations, the degradation of gross station heat rate (SHR) over and above the norms specified under 	<ul style="list-style-type: none"> ➤ As per the 4th Amendment to IEGC 2010, dated 06.04.2016 and a Detailed Operating Procedure (“DOP”) issued vide Hon’ble CERC Order dated 05.05.2017, a compensation mechanism towards degradation of SHR, increase in Auxiliary Energy Consumption (“AEC”) and increase in secondary fuel oil consumption on account of part load scheduling by the beneficiary(ies) (below normative levels and upto technical minimum levels) (“Technical Minimum Compensation”) was introduced which was uniformly applicable for both Sec-62 and Sec-63 PPAs without any discrimination/ demur. Further, concerned RPCs were entrusted with the responsibility of determining/ computing this Technical Minimum Compensation for both Sec-62 and Sec-63 PPAs of any generating station. ➤ Further, as per 3rd & 4th Provisos to Regulation 45(12) and Regulation 59(2) of the IEGC 2023, such Technical Minimum Compensation mechanism for both Sec-62 and Sec-63 PPAs shall continue to be governed as the above mentioned DOP. However, vide draft amendment to CERC Tariff Regulations 2024, it has now been proposed to have a different mechanism towards such Technical Minimum Compensation for Sec-62 and Sec-63 PPAs. While Technical Minimum compensation for Sec-63 PPAs shall continue to get governed in accordance with the existing Technical minimum compensation mechanism under the above mentioned DOP, a different Technical Minimum Compensation mechanism for Sec-62 PPAs is now proposed to be included in the CERC Tariff Regulations 2024. Such a differential mechanism for Technical Minimum Compensation for Sec-62 and Sec-63 shall create a discrimination on account of the following:

Regulation 70(B) of these regulations shall be considered as under:-

a) For coal or lignite based generating stations:-

Sr. No.	Unit loading as a % of Installed Capacity of the unit	Increase in SHR (for sub-critical units)%	Increase in SHR (for super critical units) %
1	85-100	Nil	Nil
2	85-<85	2.1	1.8
3	75-<80	3.0	2.5
4	70-<75	4.0	3.3
5	65-<70	5.1	4.1
6	60-<65	6.1	4.9
7	55-<60	7.6	6.0
8	50-<55	9.2	7.1
9	45-<45	11.3	8.3
10	40-<45	13.8	9.9

- a) The underlying parameters for computation of Technical Minimum Compensation under both these mechanism are different leading to non-uniformity in the compensation for Sec-62 and Sec-63 PPAs.
- b) While Technical Minimum Compensation for Sec-63 PPAs shall be computed/ determined by the concerned RPC, however, the same for Sec-62 PPAs shall have to be mutually reconciled between the generating station and the beneficiary, which may lead to unwarranted disputes and litigations.
- c) The existing Technical Minimum Compensation mechanism (applicable for Sec-63 PPAs) provides that compensation shall be computed and payable to the generating stations on monthly basis (based on the certification of the concerned RLDC/SLDC) which shall be reconciled on annual basis. However, in the proposed amendment with respect to Technical Minimum Compensation applicable for Sec-62 PPAs, there is no such provision for compensation on a monthly basis and it only proposes for reconciliation on annual basis considering actual weighted average operational parameters of SHR, AEC and secondary oil consumption. Such an approach shall dilute the degradation of SHR and AEC at part load operation due to averaging of period of operations at high load and low load.
- d) It may further be noted that currently there is a significant number of IPPs which are regional entities and governed by the CERC IEGC (and not State IEGC), however, their Tariff determination under Sec-62 PPAs is being undertaken by the respective SERCs (and not CERC) in accordance with the Tariff Regulations of the respective SERCs. Such IPPs are currently entitled to Technical Minimum Compensation under their Sec-62 PPAs by virtue of applicability of CERC IEGC. However, as per the proposed amendment, these IPPs may be devoid of Technical Minimum Compensation under their

b) For gas or liquid fuel based generating station:-

....

5. For the purpose of compensation under regulation (1) of this regulations, the degradation of auxiliary energy consumption (AEC) over and above the norms specified under Regulation 70(E) of these regulations shall be considered as under:-

a) For coal or lignite based generating stations:

Sr. No.	Unit loading as a % of Installed Capacity	% degradation in AEC admissible
1	85 -100	Nil
2	80 - <85	0.5
3	70 - <80	1.1
4	60 - <70	1.8
5	50 - <60	2.5
6	40 - <50	3.2

b) For gas or liquid based generating stations:

...

Sec-62 PPAs, till the time the respective SERCs amend their existing Tariff Regulations to include the provisions for Technical Minimum Compensation for Sec-62 PPAs, which shall cause a huge financial loss to such IPPs in absence of any deterrent their beneficiary(ies) to refrain from under-scheduling vis-à-vis normative levels

➤ The proposed amendment applicable to Sec-62 PPAs, mandates that that the financial gains computed, after taking into account Technical Minimum Compensation, over and above actual energy charge shall be shared between the generating station and the beneficiaries in the ratio of 1:1. However, in the existing Technical Minimum Compensation mechanism applicable for Sec-63 PPAs, there is no such provision. The proposed sharing of financial gains with the beneficiaries will deprive the generating station of his due compensation for the following reasons:

a) Regulation 81 of the CERC Tariff Regulations, 2024 already provides for sharing of financial gains based on actual performance of controllable parameters viz., SHR, AEC and secondary fuel oil consumption on annual basis in the ratio of 1:1 according to a formula based on difference between the normative Energy Charge Rate and Actual Energy charge Rate.

b) Any further sharing of gains under the proposed Technical Minimum Compensation mechanism for Sec-62 PPAs on account of under scheduling by the beneficiary(ies) will be contrary to the basic intent of the regulation to compensate the generating station for degradation of SHR and Auxiliary Energy Consumption and additional secondary fuel oil consumption for operation below the normative levels

➤ In view of the above submissions, it is strongly requested that the existing Technical Minimum Compensation mechanism as per the DOP may not be altered and shall continue to remain applicable for both Sec-62 and

6. The additional compensation for secondary fuel oil consumption shall be permissible over and above seven (7) start / stop in a year for the generating station under Unit Shutdown in terms of Regulation 47 of the Grid Code Regulations 2023. For the purpose of compensation under regulation (1) of this regulation, the secondary fuel oil consumption per start up shall be considered based on the following norms or actual, whichever is lower:-

Unit Size (MW)	Secondary fuel oil consumption per start up (Kl)		
	Hot	Warm	Cold
200/210/250 MW	20	30	50
500 MW	30	50	90
660 MW	40	60	110

Additional specific secondary fuel oil consumption of 0.2 ml/kWh shall be provided for units operating below 55% unit loading.

7. The financial gains computed, after taking into account compensation, over and above the actual energy charges

Sec-63 PPAs. The proposed amendment would only unsettle the existing Technical Minimum Compensation mechanism which has stabilized over the years and shall create an unwarranted discrimination between Sec-62 and Sec-63 PPAs, which would be in contravention to the basic spirit and intent of The Electricity Act 2002. There is no rationale behind creating such a discriminatory approach which would only lead to a spate of avoidable disputes and litigations.

- In this regard, it is noteworthy to mention that the Hon'ble Supreme Court vide its judgment dated 23.11.2022 in the matter of *TATA Power Company Limited Transmission vs. Maharashtra Electricity Regulatory Commission & Ors.*(Civil Appeal No. 1933 of 2022) has upheld the position that Sections 62 and 63 stand on an equal footing and it would be incorrect to postulate that either has a dominant character. The Hon'ble Court has in clear terms held that there is nothing in Sections 62 or 63 that could lead us to interpret that either of them is the dominant route for determination of tariff. Both the provisions provide alternative modalities through which tariffs can be determined.

shall be shared between the generating station and the beneficiaries in the ratio of 1:1. in accordance with the procedure to be issued by NLDC with the approval of the Commission.

8.

9.

10. Procedure stipulating the mechanism to work out the compensation for degradation of heat rate, auxiliary consumption and secondary fuel oil consumption due to part load operation and multiple start and stop of units of the generating station shall be issued by the NLDC separately with the approval of the Commission.”