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CGM (Regulatory)/244

Jabalpur, Dated: 06/09/2024

To

Secretary
 Central Electricity Regulatory Commission,
 6 th, 7th & 8th Floors, Tower B, World Trade Centre,
 Nauroji Nagar, New Delhi- 110029.

Sub: Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2024.

Ref: (i) Public Notice No. L-1/268/2022/CERC dated 2nd August 2024.
 (ii) MPPMCL letter no.242 dated 05.09.2024


Sir,

Reference may please be made to the Public Notice dated 02.08.2024 vide which draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2024 for the tariff period from 01.04.2024 to 31.03.2029 have been published for inviting Comments/Objections/Suggestions from the stakeholder and interested persons on the provisions of above draft regulations. The last date for submission of the comments/suggestions/objections is 6th September 2024.

In this context it is submitted that the draft amendment proposes significant changes to the Principal Tariff Regulations, 2024 which may have significant impact on the beneficiaries, however no Explanatory Memorandum have been published by the Hon'ble Commission along with the Draft Tariff Regulations (First Amendment), 2024. It is humbly submitted that in absence of Explanatory Memorandum it will be difficult for the beneficiaries to comprehend the objective of such massive changes as proposed in draft Tariff Regulations (First Amendment),2024. In view of above it was humbly requested to publish the Explanatory Memorandum on draft amendment, so that beneficiaries may be able to offer their submissions on the proposed draft and a humble request was made to Hon'ble Commission vide our letter dated 05.09.2024 to extend the date of submissions of comments.

However, as the last date of filing of comments has not been extended till date, the MPPMCL is submitting its comments on the Draft Regulation for kind consideration of Hon'ble Commission. In case, the date of submission of comments is extended, MPPMCL may be allowed to make further submissions.

Encl: As above


 CGM(Regulatory)
 MPPMCL, Jabalpur

Comments of MP Power Management Co. Ltd.

on Draft of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2024

1. Amendment of Regulation 3, Regulations 9 & 10 and Regulation-37(4) of the Principal Regulations-

Sub-regulation (9A) shall be added after sub-regulation (9) of Regulation 3 as under:-

“Bank Rate” means the one year Marginal cost of lending rate as specified by the State Bank of India from time to time or any replacement thereof for the time being in force plus 100 basis points.”

Comment- It is proposed to modify the definition of Bank rate and to link it with reference date as the one year Marginal cost of lending rate as on 01st April of respective year may be made applicable for that year. It is further submitted that in regulated tariff regime the 'Bank Rate' must not be a source of earning to the generating company or the transmission licensee, as the case may be and accordingly it is requested that no margin should be allowed over and above MCLR.

2. Amendment of Regulations 36 of the Principal Regulations –

In the first proviso to clause (d) of sub-regulation (3) of Regulation 36 of the Principal

Regulations, the numbers “0.09%” shall be substituted by the numbers “0.12%”.

Comment : The proposed revision is a hike of 33% without stating any justifiable reason and will put unjustified financial burden on the beneficiaries. It is proposed to drop the new provision introduced in Tariff Regulation, 2024 of allowing insurance expenses separately. It is further submitted that such proposed upward revision in self insurance may be dropped till next Tariff period till such time the actual data is available for taking any informed decision.

3. Amendment of Regulations 37 of the Principal Regulations –

“ 5.1 The proviso under sub-regulation (2) of Regulation 37 of the Principal Regulations shall be substituted by the following provisos:-

“Provided that the generating company may plead for an interim input price in its petition, which may be allowed by the Commission up to 90% of the claimed input price after the first hearing of the application; Provided further that the difference between the input price of coal determined under these regulations and the input price of coal either adopted by the generating company in terms of this sub-regulation or the interim input price allowed by the Commission in terms of the first proviso to this sub-regulation shall be recoverable or payable in accordance with sub-regulation (4) of this Regulation.” ”

Comments - The provision in principal Regulations-24 is a balanced and justifiable proposition as it relates the price of coal of input mines to the price of coal notified by CIL. It is therefore, proposed to drop the proposal of amendment in Regulation-37(2) or the Hon'ble Commission may consider to amend the proposed provision as under:

“Provided that the generating company may plead for an interim input price limited to the price of coal notified by CIL, commensurate with the grade of coal, in its petition, which may be allowed by the Commission subject to prudence check up to 90% of the claimed input price after the first hearing of the application”.

4. Amendment of Regulations 50 of the Principal Regulations –

In first proviso to Regulation 50, the words and expressions “based on the notified price of Coal India Limited for the commensurate grade of coal in a month, prior consent of the beneficiary(ies) shall be required to be obtained by the generating company;” shall be substituted by “based on the price of alternate coal available to the station in a given month, the generating company shall obtain prior consent from the beneficiary(ies);”.

Comments- It is to humbly submit that the basis of price of alternate coal available to the Station will provide the Generating Company of a freehand without any restriction on the price of the coal which will be highly unjust and grossly against the interest of the beneficiary and ultimate consumer. In view of this, it is proposed to amend the Regulation as submitted hereunder:-

“ based on the notified price of Coal India Limited for the commensurate grade of coal in a month, or based on the price of alternate coal available to the station in a given month, whichever is lower, the generating company shall obtain prior consent from the beneficiary(ies).”

The above provision will maintain a balance between the interest of both the stakeholders, the Generating Company as well as beneficiary.

It is also proposed the second proviso to Regulation-50 may also be substituted by the following phrase:

“based on the notified price of Coal India Limited for the commensurate grade of coal in a month, or based on the price of alternate coal available to the station in a given month, whichever is lower.”

5. Amendment of Regulations 51 of the Principal Regulations –

The following is proposed in the Draft :

“ 51(2) (ii) Annual Stripping ratio is the ratio of the volume of overburden to be removed for one unit of coal or lignite as specified in the Mining Plan”.

Comments- It is proposed to replace the proposed Regulation-51 (2)(ii) by the following phrase :

“ 51(2) (ii) Annual Stripping ratio is the ratio of the volume of overburden to be removed for one unit volume of coal or lignite as specified in the Mining Plan”.

In Regulation -51(3), shortfall as well as excess of over burden removal during a year is mentioned whereas formula is given in 51 (2) only for shortfall. Thus, it is understood that any excess of over burden

removal may only be carried forward for the future period. This may please be mentioned specifically in the amendment.

Proviso of proposed amendment in Regulation-51(2)(v) provides as:

“ Provided that if the OB adjustment as per the contract with the Mine Developer and Operator exceeds the OB adjustment as per Regulation 51(4), the OB adjustment shall be treated as NIL”.

Comments : The proposed proviso in amendment seems to be erroneous [51(4)], which may kindly be looked into.

- 6. Amendment of Regulations 70 of the Principal Regulations –**
- 10.1. In Clause (b) of Regulation 70(A), the words “ or thereafter” shall be added after the words “as on or after 31.03.2024”.*
- 10.2. In Clause (b) of Regulation 70(B), the words “ or thereafter” shall be added after the words “as on or after 31.03.2024”.*
- 10.3. In Regulation 70(E)-a) In table of clause (a), the numbers and expressions “300/ 330/ 350/ 500 MW and above” shall be substituted as “500 MW and above” at Sr.No.2 of the table;*
- b) In table of Clause (b), the value of auxiliary consumption as “9.50%’ in second row of table in respect of Chandrapur TPS (2x250 MW) (DVC) shall be substituted as “9.80%”.*
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Comments : In principal Regulations, the Clauses are as under :-

- i. 70(A) (b) : 83% for coal and lignite based generating stations completing 30 years from COD as on 31.03.2024.*

The existing provision of 70(A) (b), which is mentioned in the proposed amendment seems to be erroneous, which may kindly be looked into.

- ii. 70(B) (b) : 83% for coal and lignite based generating stations completing 30 years from COD as on 31.03.2024.*

The existing provision of 70(B) (b), which is mentioned in the proposed amendment seems to be erroneous, which may kindly be looked into.

- iii. In the proposed Amendment in Regulation 70(E), it has been proposed that in table of clause (a), the numbers and expressions “300/ 330/ 350/ 500 MW and above” shall be substituted as “500 MW and above” at Sr.No.2 of the table;

It is to humbly submit that this substitution has already been made through corrigendum dated 9th April 2024. It may not be required here again.

- iv. In the proposed Amendment in Regulation 70(E) (b), it has been proposed that in table of clause (b), the value of auxiliary consumption as “9.50%’ in second row of table in respect of Chandrapur TPS (2x250 MW) (DVC) shall be substituted as “9.80%”.

This proposal is in gross contravention to the provisions contained in ‘Electricity Act, 2003 and Tariff Policy’ which provides that the appropriate Commission shall be guided by the factors which would encourage competition, efficiency, economical use of resources, good performance and principles of rewarding efficiency in performance whereas this proposal is rewarding in efficiency in performance, it is to submit that since last more than 10 years, the Commission is prescribing AEC for Chandrapur TPS @9.5% now suddenly without any justification for assigning any reason, is proposed to increase the AEC of Chandrapur TPS by 0.3% which is grossly unjustified. It is, therefore, proposed to drop the amendment.

7. Addition of Regulations 70 (G) after Clause-70 (G) of the Principal Regulations –

“ 70 (G) Compensation for the operation of Generating Station below normative Plant Availability Factor.

(1) The Generating Station whose Tariff is determined by the Commission

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Comments : The Hon'ble Commission has prescribed compensation for degradation for operation of Plant below normative PAF. The proposed increase in SHR for different unit loading is even more than 100% in some cases in comparison to existing provision. For instance, the increase in SHR for super critical units has been proposed as 6% in the range of 55 to 60% which is only 3% as on date. Similarly, other parameters have also been proposed to increase by 150% in case of AEC for unit loading 55 to 60%. It is humbly submitted that no justification or reason has been assigned for such a huge increase in compensation is grossly unjust, unreasonable and impacting the interest of beneficiary and the ultimate consumer severely.

It is requested to drop the proposal in the interest of justice and same may be considered after due deliberation with all the stakeholders after providing the basis of such massive changes in compensation clause.

In this context, it is to humbly submit that MPPMCL has filed a Writ Petition no.4777 of 2021 before Hon'ble High Court of Delhi challenging the legality and vires of the Principle IEGC Regulations to the extent that the beneficiaries of generating stations, such as the MPPMCL are required to compensate the generating station when the plant is operated at a schedule lower than the corresponding normative annual plant availability factor ('NAPAF') but above the Technical Minimum (55% of the installed capacity of the generating station).

The compensation is computed based on the mechanism provided in the Detailed Operating Procedure, prepared by National Load Dispatch Centre, and approved by this Hon'ble Commission vide Order No.I-1/219/2017- CERC dated 05.05.2017.

The said amendments have been notified against principles of equity and without any justification, in as much as, the compensation is levied on the beneficiaries despite there being no breach of the terms in the PP A, or violations of the provisions of the applicable regulations made by this Hon'ble Commission and under the Electricity Act, 2003.

The liability under the Principle Regulation to pay compensation is in addition to the liability of paying fixed charge/ capacity charge for the un-requisitioned/idle contracted capacity, the same is beyond the terms of the PPA and the agreed arrangement between the Generating Company

and the beneficiary, hence the same is arbitrary, exorbitant and ultra vires being contrary to the provisions and the object of the Electricity Act, 2003. In the process of bringing the Impugned Amendments through the Fourth Amendment, Hon'ble CERC only took into consideration issues relating to the hardship and financial constraints of CGS' s.

The hardship and financial constraints that would result to the distribution licensees/ beneficiaries and the consumers, consequent to the passing of Detailed Operating Procedure, were not considered.

During the pendency of the WP no. 4777 of 2021, filed by MPPMCL before Hon'ble High Court of Delhi, it is humbly requested not to consider any changes in existing provisions of compensation.
