



THE WEST BENGAL POWER DEVELOPMENT CORPORATION LIMITED
(A Government of West Bengal Enterprise)

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: Registered & Corporate Office :

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WBPDC

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Ref. No. WBPDC/WBERC-34/24/ 588

26.09.2024

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

**Subject: Submission of comments/ suggestions on draft CERC (Terms and Conditions of
Tariff) (First Amendment) Regulations, 2024**

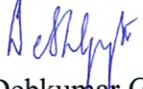
Sir,

This has reference to the public notice No L-1 /268/2022/CERC dated 02.08.2024 and 07.09.2024 seeking Comments, Suggestions and Objection from stakeholders on the Draft CERC (Terms and Conditions of Tariff) (First Amendment) Regulations, 2024.

Please find enclosed Comments/ Suggestions of WBPDC on the draft CERC (Terms and Conditions of Tariff) (First Amendment) Regulations, 2024 for your kind consideration.

Thanking you,

Yours faithfully,


(Debkumar Gupta)
Director(Finance)

Encl.: As above.



Comments/Suggestion/Objection against Draft CERC (Terms and Conditions of Tariff) (First Amendment), 2024 Regulations

Clause	Notified Regulations	Draft First Amendment	WBPDC's Comments
50	<p><i>The input charges of coal or lignite shall be recovered as under:</i></p> <p><i>Input Charges = [Input Price x Quantity of coal or lignite supplied] + Statutory charges, as applicable;</i></p> <p><i>Provided that where the energy charge rate based on the input price of coal from integrated mine(s) exceeds 20% of the energy charge rate 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;</i></p> <p><i>Provided further that where such consents of beneficiaries are not available, the input price of coal from such integrated mine(s) shall be so fixed that the energy charge rate based on the input price of coal from integrated mine(s) does not exceed by more than 20% of the energy charge rate based on the notified price of Coal India Limited for the commensurate grade of coal in a month;</i></p> <p><i>Provided also that the energy charge rate based on the input price of coal does not lead to a higher energy charge rate throughout the tenure of the power purchase agreement than that which would have been obtained as per terms and conditions of the existing power purchase agreement.</i></p>	<p><i>The input charges of coal or lignite shall be recovered as under:</i></p> <p><i>Input Charges = [Input Price x Quantity of coal or lignite supplied] + Statutory charges, as applicable;</i></p> <p><i>Provided that where the energy charge rate based on the input price of coal from integrated mine(s) exceeds 20% of the energy charge rate 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);</i></p> <p><i>Provided further that where such consents of beneficiaries are not available, the input price of coal from such integrated mine(s) shall be so fixed that the energy charge rate based on the input price of coal from integrated mine(s) does not exceed by more than 20% of the energy charge rate based on the price of alternate coal available to the station in a given month;</i></p> <p><i>Provided also that the energy charge rate based on the input price of coal does not lead to a higher energy charge rate throughout the tenure of the power purchase agreement than that which would have been obtained as per terms and conditions of the existing power purchase agreement.</i></p>	<p>The integrated mines are supplying coal to the end use plants only and the input price of coal for such mines is determined by the Hon'ble Commission in terms of the extant Tariff Regulations, comparison of the input price with price of alternate coal available to the station may not be required.</p> <p>Therefore, Hon'ble Commission may be pleased to waive off requirement of prior consent from beneficiaries in case energy charge rate based on input price of coal from integrated mine exceeds by 20% of energy charge rate based on the price of the alternate coal available to the station.</p>
51		Regulation 51 of the Principal Regulations shall be	MDO contracts have been awarded by WBPDC for the integrated mines in FY 2016-17 through



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	<p><i>Adjustment on account of Shortfall of Overburden Removal (OB Adjustment):</i></p> <p>(1) <i>The generating company shall remove overburden as specified in the Mining Plan.</i></p> <p>(2) <i>In case of a shortfall of overburden removal during a year, the generating company shall be allowed to adjust such shortfall against excess of overburden removal, if any, during the subsequent three years.</i></p> <p>(3) <i>In case of excess of overburden removal during a year, the generating company shall be allowed to carry forward such excess for adjustment against the shortfall, if any, during the subsequent three years.</i></p> <p>(4) <i>Where the shortfall of overburden removal of any year is not made good by the generating company in accordance with Clause (2) of this Regulation, the adjustment on account of the shortfall of overburden removal (OB Adjustment) for that year shall be worked out as under:</i></p> <p><i>OB Adjustment = [Factor of adjustment for shortfall of overburden removal during the year] x [Mining Charge during the year + Operation and Maintenance expenses during the year]</i></p> <p>Where,</p>	<p><i>substituted by following:</i></p> <p><i>Adjustment on account of Shortfall of Overburden Removal (OB Adjustment):</i></p> <p>(1) <i>The generating company shall remove overburden as specified in the Mining Plan.</i></p> <p>(3) <i>In case of a shortfall or excess of overburden removal during a year, the generating company shall be allowed to adjust such shortfall or excess, as the case may be, if any, during the remaining years of the tariff period till 31.3.2029.</i></p> <p><i>Provided that –</i></p> <p><i>a) the excess overburden as on 31.3.2029, if any, on account of the reasons not attributable to the generating company, shall be allowed to be carried forward beyond the end of the tariff period at the time of true up of the input price;</i></p> <p><i>b) the generating company shall submit the details of the adjustment of overburden at the end of the tariff period for the purpose of trueing up.</i></p> <p>(2) <i>Where the overburden removed in a year is less than the overburden to be removed as per the year wise schedule of extraction given in mine plan, the adjustment on account of the shortfall of overburden removal (“OB Adjustment”) for that year shall be worked out as under:</i></p> <p><i>a) If Mine Developer and Operator is appointed:</i></p>	<p>transparent competitive bidding prior to the notification of the coal mines related Tariff Regulations by the regulators.</p> <p>The MDO Agreements of WBPDC, provide the conditions for submission of bank guarantee in case overburden removal is less than required in terms of the MDO Agreements.</p> <p>In view of the same, no additional OB Adjustment provision may be required in CERC Regulations for such MDO operated mines as any difference in the OB Adjustment amount arrived based on the Regulations and in terms of the MDO Agreement shall result in the unjustified financial loss to the generating company.</p> <p>It is also pertinent to submit that there is difference in the OB Adjustment formula proposed in the Draft Amendment and the existing MDO Agreements. Same is brought out below:</p> <table border="1" data-bbox="1518 991 2175 1382"> <thead> <tr> <th data-bbox="1518 991 1809 1098">Factor of OB Adjustment as per Draft Amendment</th> <th data-bbox="1809 991 2175 1098">OB Adjustment as per existing MDO Agreements</th> </tr> </thead> <tbody> <tr> <td data-bbox="1518 1098 1809 1382">Factor of Adjustment = [(Annual Stripping ratio as per mining plan)-(Actual Stripping ratio based on the actual quantity of coal and</td> <td data-bbox="1809 1098 2175 1382">In case the OB removed by the MDO is less than the scheduled OB quantity in any accounting year, then MDO shall submit an irrevocable, unconditional and first demand bank guarantee in favour of</td> </tr> </tbody> </table>	Factor of OB Adjustment as per Draft Amendment	OB Adjustment as per existing MDO Agreements	Factor of Adjustment = [(Annual Stripping ratio as per mining plan)-(Actual Stripping ratio based on the actual quantity of coal and	In case the OB removed by the MDO is less than the scheduled OB quantity in any accounting year, then MDO shall submit an irrevocable, unconditional and first demand bank guarantee in favour of
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	<p>i) Factor of adjustment for the shortfall of overburden removal during the year shall be computed as under:</p> <p>[(Actual quantity of coal or lignite extracted during the year x Annual Stripping Ratio as per Mining Plan) - (Actual quantity of overburden removed during the year/ Annual Stripping Ratio as per Mining Plan)]/ (Annual Target Quantity);</p> <p>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.</p> <p>iii) Mining Charge is the charge per tonne of coal or lignite paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable.</p> <p>iv) Mining Charge and Operation and Maintenance expenses shall be in terms of Rupees per tonne corresponding to the Annual Target Quantity.</p> <p>(5) The provisions of this Regulation regarding adjustment on account of shortfall of overburden removal shall not be applicable in case of the integrated mine(s) allocated through an auction route under the Coal Mines (Special Provisions) Act, 2015.</p>	<p>OB Adjustment = [Factor of adjustment for shortfall of overburden removal during the year] x [Mining Charge during the year]</p> <p>b) If Mine Developer and Operator is not appointed: OB Adjustment = [Factor of adjustment for shortfall of overburden removal during the year] x [Operation and Maintenance expenses during the year]</p> <p>Where,</p> <p>i) Factor of adjustment for the shortfall of overburden removal during the year shall be computed as under:</p> <p>[(Annual Stripping ratio as per mining plan) - (Actual Stripping ratio based on the actual quantity of coal and overburden removed during the year)] / (1+Annual Stripping Ratio as per Mining Plan);</p> <p>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.</p> <p>iii) Mining Charge is the quoted charge per tonne of coal or lignite paid by the generating company to the Mine Developer and Operator engaged by the generating company for mining, wherever applicable, without the OB adjustment as per contract with the Mine Developer and Operator.</p> <p>iv) Mining Charge and Operation and Maintenance expenses shall be in terms of Rupees per tonne corresponding to the stripping ratio and annual quantity of coal and overburden as per the mining plan.</p>	<p>overburden removed during the year)] / (1 + Annual Stripping Ratio as per Mining Plan)</p>	<p>WBPDCL for a sum equivalent to the Mining Charge payable to the MDO for OB shortfall. OB shortfall means the difference between the Scheduled OB qty. and actual OB removed, divided by the stripping ratio.</p>
			<p>In view of the mentioned difference, there will be additional financial implications for the generating company if the formula for OB Adjustment is made applicable on the mines for which MDO Contracts are already in place.</p>	



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		<p><i>v) Where the generating company has engaged the Mine Developer and Operator for mining and the OB Adjustment is carried out as per the contract with the Mine Developer and Operator, the net OB adjustment as per this regulation shall be computed on the basis of the difference between the OB adjustment as per Regulation 51(4) of this regulation and the OB adjustment as per the contract of the generating company with the Mine Developer and Operator:</i></p> <p><i>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.</i></p> <p><i>(4) The provisions of this Regulation regarding adjustment on account of shortfall or excess overburden removal, as the case may be, shall not be applicable in case of the integrated mine(s) allocated through an auction route under the Coal Mines (Special Provisions) Act, 2015."</i></p>	



Clause	Notified Regulations	Draft First Amendment	WBPDC's Comments
70(G)	<i>Compensation for the operation of generating station below normative plant availability factor</i>		<ul style="list-style-type: none"> ➤ Flexible operation of thermal plant with frequent ramping up and ramping down will result in additional stress and thus have adverse impact on the plant life. O&M requirement will increase, and availability of plant shall be affected due to increased forced outages. As a result, O&M cost is expected to increase. ➤ Frequent flexible operation will cause increase in failure rate and more frequent replacement of Superheater & Reheater tubes, Water wall tubes etc. which will also increase the O&M Cost. ➤ NAPAF is expected to reduce due to increase forced outage in case of flexibilization of unit. Hence compensation on account of lower NAPAF / lowering value of NAPAF itself than the existing norms may be included in the Regulations for same total fixed cost allotment. ➤ Under the current Tariff scenario, PLF is based on Schedule Generation. Hence, lower schedule on account of flexible operation may adversely affect the PLF of stations and thus the incentive scheme may be affected. Hence, the PLF % linked to incentive may also be reduced accordingly.



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			<p>➤ Energy Billing to be computed on monthly basis with different slabs of elevated SHR, APC and SOC based on schedule energy.</p> <ul style="list-style-type: none"> ▪ Illustration: - <p><i>If Ex bus capacity of station is 400 MW, then 85% of daily capacity is 8.16 MU.</i></p> <p>Case #1: <i>Unit running at 55% for 04 Hrs & 100 % for next 20 Hrs, then daily capacity will reach 8.88 MU (0.88 MU + 8 MU).</i></p> <p>Case#2: <i>Unit running at 40% for 02 Hrs, 55% for 04 Hrs & 100 % for next 18 Hrs, then daily capacity will reach 8.40 MU (0.32 MU + 0.88 MU + 7.2 MU).</i></p> <p><i>From above case it can be observed that even if the unit is running at part load, still the NAPAF of 85 % will be achieved. So the energy billing for the same need to be computed with different slabs (0.88 MU & 8 MU for Case#1 and 0.32 MU + 0.88 MU + 7.2 MU for Case#2) i.r.o. SHR, APC and SOC on daily basis.</i></p>
<p>42 (1) & 42 (2)</p>	<p>Additional Submission: <i>42 Additional Capital Expenditure: (1) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of commercial operation and up to the date of achieving the Peak Rated Capacity may be admitted by the Commission, subject to a</i></p>		<p>It is submitted that the Mining Plan is formal document mainly encompassing the provisions for various phases of the life of the mines.</p> <p>Mining Plan provides a broad overview of the Project, Geology, Mining Method, Safety Management,</p>



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	<p><i>prudence check and shall be capitalized in the respective year of the tariff period as additional capital expenditure corresponding to the Annual Target Quantity of the year as specified in the Mining Plan or actual extraction in that year, whichever is higher, on following counts:</i></p> <p>(a) <i>expenditure incurred on activities as per the Mining Plan;</i></p> <p>(b) <i>expenditure for works deferred for execution and un-discharged liabilities</i></p> <p>(c) <i>recognized for works executed prior to the date of commercial operation;</i></p> <p>(d) <i>expenditure for works required to be carried out for complying with directions or orders of any statutory authorities;</i></p> <p>(e) <i>liabilities arising out of compliance with the order or decree of any court of law or award of arbitration;</i></p> <p>(f) <i>expenditure for procurement and development of land as per the Mining Plan;</i></p> <p>(g) <i>expenditure for procurement of additional heavy earth moving machineries for replacement, on completion of their useful life; and</i></p>		<p>Infrastructure Facilities, Project Area etc. Specific details of the various expenditures required to be made during construction and operational phase of the mine is not part of the Mining Plan.</p> <p>It is also submitted that procurement and development of land in a typical mining project involves the following:</p> <ul style="list-style-type: none"> (i) Land acquisition (land payments, payment of assets, trees etc.) (ii) Rehabilitation and Resettlement of villages (construction of R&R colony, rehabilitation grants, other benefits in R&R as per approved R&R package). (iii) Community development activities in and around the project area. Such activities can be need-based or can be driven by directions from the Government, Elected Bodies, Elected members etc. for development of the area from time to time. <p>It is also worthwhile to mention that the process of land acquisition and village resettlement continues even after declaration of COD and achievement of PRC in a typical scenario for opencast coal mines in India.</p> <p>Such expenditures are not covered under mining plan explicitly as mining plan is only a guiding document. These items are covered at the time of preparation of detailed project report.</p>



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			<p>It is also submitted that Regulation 42(1) allows for capitalization of the expenditure incurred or projected to be incurred after the date of commercial operation and up to the date of achieving the Peak Rated Capacity, subject to a prudence check. However, the Regulation 42(1)(b) allows for capitalization of the expenditure for un-discharged liabilities recognized for works executed prior to the date of commercial operation.</p> <p>It is submitted that the expenditure for un-discharged liabilities recognized for works admitted by the Hon'ble Commission after to the date of commercial operation may also be allowed.</p> <p>Similar provision is required under Regulation 42(2) for allowing the capitalization of expenditure for un-discharged liabilities recognized for works admitted by the Hon'ble Commission after to the date of achieving the Peak Rated Capacity.</p> <p>Accordingly, the regulations may be modified.</p>
<p>42(1) & 42(2)</p>	<p><i>Provision of Miscellaneous Assets like Office Equipment's, Furniture & Fixture, Containerised cabins etc</i></p>		<p>It is submitted that the Miscellaneous Assets are necessarily required for regular operation of mine. There is requirement of furniture, Office equipment, Computer & peripherals and other office equipment which are purchased as Miscellaneous items and capitalized.</p> <p>Significant no. of these items are procured after COD and PRC. As number of employees also increase after COD and PRC and infrastructure is established by the time peak rated capacity is achieved. Such</p>



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			<p>Miscellaneous items may or may not be explicitly mentioned in the Mining Plan.</p> <p>Considering that the miscellaneous items as mentioned above are essentially required for operation of the mine, provision for capitalization of the expenditure on such items up to peak rated capacity or beyond peak rated capacity, after prudence check by the Hon'ble Commission may be provided.</p>
	<p>Capitalization of Mines</p>		<p>WBPDC humbly submit before the Hon'ble Commission that capitalization of mines is a continues exercise. Considering life of mines of thirty years, there are various capital expenses which are incurred over a period. For example RR , Compensatory Afforestation expenses etc which are incurred as and when required.</p> <p>In CERC Tariff Regulation (2024-29) it has been written “Note: Where the life of the particular asset is less than the useful life of the project, the useful life of such particular asset shall be considered as per the provisions of the Companies Act, 2013 and subsequent amendment thereto” under Appendix I & Appendix II , <i>however it has been noticed that the same is not mentioned under Appendix III (Depreciation Schedule for Integrated Mine).</i></p> <p>Now for a life of a mine which is more than 20 years and various expenses ie RR, CA expenses incurred after 20 th year how depreciation will be calculated? At the same time when the life of mine is 5 years, in that case how Depreciation on items (roads, bridges, furniture etc) which have a life of more than five years will be calculated?</p>

THE WEST BENGAL POWER DEVELOPMENT CORPORATION LIMITED



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			There is no item of coal bearing land in the Depreciation Schedule wrt Mines. May please consider adding the same.