

Ref: LAPL/PWR/COM/CON/L3/CERC/2023-24/229482

20.02.2024

**Shri Harpreet Singh Pruthi****Secretary, CERC**3rd & 4th Floor,  
Chanderlok Building, 36, Janpath,  
New Delhi -110 001**Subject: Comments/ Suggestions on behalf of Lanco Amarkantak Power Ltd, on Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 for the tariff period from 01.04.2024 to 31.03.2029**

Ref: CERC Public Notice No. L-1/236/2022/CERC dated 30th January 2024

**Dear Sir,**

With reference to above mentioned subject, Lanco Amarkantak Power Ltd (LAPL), a coal based thermal power generating station having 2x300 MW Units located at Pathadi, Dist. Korba, State Chhattisgarh is submitting its Comments/ proposed suggestions on **Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 for the tariff period from 1.4.2024 to 31.3.2029.**

You are request to acknowledge the same as per Annexure-1 enclosed herewith.

Thanking you,

Yours faithfully

**For Lanco Amarkantak Power Limited****Anil Sharma**

Executive Director (Commercial &amp; Fuel Management)

Enclosure: As above

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**Corporate Identity Number : U40109TG2001PLC036265**

<b>Lanco Amarkantak Power Limited (LAPL) - Comments on Draft CERC Tariff Regulations 2024-29</b>			
<b>S. No.</b>	<b>Regulation</b>	<b>Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 for the tariff period from 01.04.2024 to 31.03.2029.</b>	<b>Comments/ Proposed Suggestions</b>
1	<b>CHAPTER – 1 PRELIMINARY 3. Definition</b>	67.'Reference Rate of Interest' means the one year marginal cost of funds based lending rate (MCLR) of the State Bank of India (SBI) issued from time to time plus 325 basis points;	It is suggested to retain reference rate of interest in line with the previous CERC Tariff Regulations 2019-24, which is defined as “ <i>one year marginal cost of funds based lending rate (MCLR) of the State Bank of India (SBI) issued from time to time plus 350 basis points</i> ”;
2	<b>CHAPTER-6 COMPUTATION OF CAPITAL COST</b>	<p><b>19. Capital Cost</b></p> <p>(5) For Projects acquired through NCLT proceedings, the following shall be considered while approving Capital Cost for determination of tariff:</p> <p>(a) For projects already under operation, historical GFA of the project acquired or the acquisition value paid by the generating company, whichever is lower;</p> <p>(b) For considering the historical GFA for the purpose of Sub-Clause (a) above, the same shall be the capital cost approved by the appropriate commission till the date of acquisition;</p> <p>Provided that in the absence of any prior approved cost of an Appropriate Commission, the Commission shall consider the same on the basis of audited accounts subject to prudence check; Provided further, that in case additional capital expenditure is required post acquisition of an already operational project, the</p>	<p>Regulation 19 (3) of the current CERC Tariff Regulations, 2019-24 provide that the Hon’ble Commission shall determine the capital cost of an existing project based on the capital cost admitted prior to 01.04.2019, duly trued up by the excluding liability, if any, as on 01.04.2019. Thereafter, additional capitalization and de-capitalization for the respective year of tariff is also allowed as per the conditions specified in the Regulation, after prudence check by the Hon’ble Commission. Therefore, the capital cost already approved by the Hon’ble Commission becomes the historical cost, which is a sunk cost and on the basis of which the annual fixed charges were determined for the period from the COD of the Project upto FY 2023-24.</p> <p>The acquisition price of the generating company under CIRP by a Resolution Applicant (RA) depends on many factors inter alia including the cash inflows /revenue received through tariff from Procurer Discoms as well as project economics. Due to inherent under-recovery of tariff from applicable projects, whose tariff have been determined under Section 62, the generating company was not able to service its loans and consequently got admitted to CIRP.</p>

		<p>same shall be considered under the provisions of Chapter 7 of these Regulations;</p> <p>(c) In case any under construction project is acquired which is yet to achieve commercial operation, the acquisition value or the actual audited cost incurred till the date of acquisition, whichever is lower, shall be considered. and;</p>	<p>In most of the cases, the RAs already factor in the historical cost on the basis of which the tariff were earlier determined for applicable projects and accordingly submit their resolution plans for reviving the generating company for approval first before the Committee of Creditors, who agree to it and thereafter it is approved by NCLT. The RAs in some generating companies have already been finalised and in some other cases are waiting for appropriate/final approval from the NCLT.</p> <p>It is rightly acknowledged in the said Approach paper and practically proven that the acquisition costs of such assets have been considerably lower than the historical value of the assets, and the creditors have to take a haircut, and so too the defaulting entities, who had to forego their equity investments.</p> <p>In case the acquisition cost which is always lower than the historical asset, is considered as the opening capital cost for the tariff period FY 2024-25 onwards, then it will surely impact the resolution potential of power assets leading to even higher haircuts for financial creditors or lead to withdrawal of resolution plans by successful RAs. This will also dissuade the RAs to bid for such power generation assets and lead to flight of investments in the generation sector. Further, it would be against the value maximization principle of the assets under the IBC, which have also been upheld by the Hon'ble Supreme Court.</p> <p>Additionally, a CIRP transaction under IBC is more like a secondary/distress sale by the lenders, and therefore the objective should be to ensure maximum recovery of public taxpayers money from the distress sale and Beneficiaries</p>
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			<p>should not be allowed to gain any benefit from this distress sale arrangement.</p> <p>Further, most of the assets would also require additional capitalization, from time to time, considering that these assets were in operation for a considerable time before being admitted to CIRP. The new investor/RA may have to make additional investments to overcome the challenges faced by the assets in question, which it may not have envisaged at the time of conducting due diligence for acquiring this asset.</p> <p>In view of the above, it would be prudent to consider to continue the historical cost of asset already approved by the Hon'ble Commission as opening capital cost as on 01.04.2024 for the determination of tariff and not consider the acquisition cost due to the practical challenges of haircuts faced by the lenders and factoring of all existing revenue sources in the bids by successful RA as detailed above.</p>
3	<p><b>CHAPTER – 11 COMPUTATION OF CAPACITY CHARGES AND ENERGY CHARGES</b></p>	<p>62. Computation and Payment of Capacity Charge for Thermal Generating Stations:</p> <p>(5) In addition to the AFC entitlement as computed above, the thermal generating station shall be allowed an incentive of up to 1.00% of AFC approved for a given year, which shall be billed monthly as per the following.  <math display="block">\text{Incentive} = (1.00\% \times \beta \times \text{CCy})/12</math> Where,  <math>\beta</math> = Average Monthly Frequency Response Performance for that generating station, as certified by RPCs, which shall be computed by considering primary response as per the methodology prescribed by the NLDC and shall range between 0 to 1.</p>	<p>In the past, WRPC had refused to consider certification of ramp rate of 1% per minute as per CERC Tariff Regulations 2019-24 citing the reason that this is not applicable for the generating stations whose tariff is determined by State Commission. Since, the certification for Factor <math>\beta</math> = Average Monthly Frequency Response Performance for such generating stations shall not be issued by RPC's, therefore, it is suggested to consider <math>\beta</math> factor certification also from third party testing agencies for raising of monthly bills for above incentive to Discoms.</p>

		CCy= Capacity Charges for the Year.					
4	<b>CHAPTER - 12 NORMS OF OPERATION</b>	<p>70. The norms of operation as given hereunder shall apply to thermal generating stations:</p> <p><b>C) Gross Station Heat Rate:</b></p> <p><b>(a) Existing Thermal Generating Stations achieving COD before 1.4.2009</b></p> <p>(i) For Coal-based Thermal Generating Stations other than those covered under clause (ii) below:</p> <table border="1"> <thead> <tr> <th>200/210/250 MW Sets</th> <th>500 MW Sets (Sub-critical)</th> </tr> </thead> <tbody> <tr> <td>2,400kCal/kWh</td> <td>2,375kCal/kWh</td> </tr> </tbody> </table> <p><b>(b) Thermal Generating Stations achieving COD on or after 1.4.2009:</b></p> <p>i. For Coal-based and lignite-fired Thermal Generating Stations: For 200/210/250 MW Sets. : 1.05 X Design Heat Rate (kCal/kWh) For 500 MW Sets and above: 1.04 X Design Heat Rate (kCal/kWh)</p>	200/210/250 MW Sets	500 MW Sets (Sub-critical)	2,400kCal/kWh	2,375kCal/kWh	It is suggested to consider additional 300 MW unit size in the same category of 200/210/250MW sets as many generating stations including LAPL have operating units of 300 MW unit size in the country.
200/210/250 MW Sets	500 MW Sets (Sub-critical)						
2,400kCal/kWh	2,375kCal/kWh						
5	<b>CHAPTER - 13 SCHEDULING, ACCOUNTING AND BILLING</b>	77. Recovery of Statutory Charges: The generating company shall recover the statutory charges imposed by the State and Central Government, such as electricity duty and water cess, by considering normative parameters specified in these regulations. In case the electricity duty is applied to the auxiliary energy	The recovery of statutory charges such as electricity duty shall be applied on actual reimbursement basis instead of normative parameters basis. The reason behind that in many PPA cases, where the tariff is determined under section 62 of EA act 2003, beneficiaries prior permission is required for alternate coal				

		<p>consumption, such amount of electricity duty shall apply to the normative auxiliary energy consumption of the generating station (excluding colony consumption) and apportioned to each of the beneficiaries in proportion to their scheduled dispatch during the month.</p>	<p>procurement by the generating company and if the consent was not granted, the generating company has to operate the plant at the technical minimum and accordingly, the auxiliary consumption gets increased at low PLF (55% - 60% PLF) which results in actual higher auxiliary energy consumption than the normative auxiliary energy consumption of the Unit leading to payment of higher Electricity duty charges to the concerned State Govt. and under recovery of the same from beneficiaries.</p>
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