

Comments on Draft CERC (Terms and Conditions of Tariff) Regulations, 2024

Sr. No	Draft Regulation No.	Draft - Tariff Regulation 2024-29	Suggested Changes	Rationale
1.	3. Definitions. ('Reference Rate of Interest')	(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	'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 325 350 basis points.	<ul style="list-style-type: none"> • Regulatory certainty is of utmost importance to continue attracting investment in the Power Sector, specifically a sector which is very important and is going through transition phase. • Further, Working capital being short term in nature, interest rates are higher than that prevailing for long term borrowing. • In this background, we request to continue the existing provision for Reference Rate of Interest on Working Capital i.e 1 Year SBI MCLR + 350 basis Points.
2.	11. In-principle approval in specific circumstances:	The generating company for a specific generating station or for an integrated mine or the transmission licensee undertaking any additional capitalization on account of change in law events or force majeure conditions may file petition for in-principle approval for incurring such expenditure after prior	The generating company for a specific generating station or for an integrated mine or the transmission licensee undertaking any additional capitalization on account of change in law events or force majeure conditions may file petition for in-principle approval for incurring such expenditure after prior	<ul style="list-style-type: none"> • Change in Law essentially requires completion of certain activities within given timeframe. Under the circumstances, provision of filing Petition for In-principle approval for incurring the expenditure would delay the process which may result in additional financial burden in terms of higher project cost or penalty provided for delay in Change in Law Notifications, as the case may be. • Especially, in Transmission Projects, there are large number of beneficiaries which would impact the timing. Further, there cannot be any limit on estimated expenditure i.e. 10% of admitted capital cost. As such even the MOP Change in Law Rules 2021 do not prescribe any such cap/limit for considering the impact of change in law.

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		notice to the beneficiaries or the long term customers, as the case may be, along with underlying assumptions, estimates and justification for such expenditure if the estimated expenditure exceeds 10% of the admitted capital cost of the project or Rs.100 Crore, whichever is lower.	notice to the beneficiaries or the long term customers, as the case may be, along with underlying assumptions, estimates and justification for such expenditure if the estimated expenditure exceeds 10% of the admitted capital cost of the project or Rs.100 Crore, whichever is lower.	<ul style="list-style-type: none"> • In view of above, we request Hon'ble CERC to do away with the proposed Regulation. • In any case, Hon'ble CERC allows any capital/ additional capital expenditure including expenditure on account of Change in Law / Force Majeure only after ascertaining various legal, technical and commercial aspect as well as prudence check.
3.	30. Return on Equity	(3) Return on equity for new project achieving COD on or after 01.04.2024 shall be computed at the base rate of 15.00% for the transmission system, including the communication system, at the base rate of 15.50% for Thermal Generating Station and	(3) Return on equity for new project achieving COD on or after 01.04.2024 shall be computed at the base rate of 16.00% 15.00% for the transmission system, including the communication system, at the base rate of 15.50% for Thermal Generating Station and	<ul style="list-style-type: none"> • Considering no return during gestation period and prevailing high uncertainty and risk in Indian Power Market higher ROE should be considered. • The Indian Grid is moving toward heavy RE generation mix. This transition would need support & incentives for new Transmission projects as these projects are geographically difficult to execute. • On the other hand, there are number of projects requiring upgradation / augmentation of existing Transmission System in proximity to urban areas wherein ROW has become extremely difficult.

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		<p>run-of-river hydro generating station and at the base rate of 17.00% for storage type hydro generating stations, pumped storage hydro generating stations and run-of-river generating station with pondage;</p> <p>Provided that return on equity in respect of additional capitalization beyond the original scope, including additional capitalization on account of the emission control system, Change in Law, and Force Majeure shall be computed at the base rate of one-year marginal cost of lending rate (MCLR) of the State Bank of India plus 350 basis points as on 1stApril of the year,</p>	<p>run-of-river hydro generating station and at the base rate of 17.00% for storage type hydro generating stations, pumped storage hydro generating stations and run-of-river generating station with pondage;</p> <p>Provided that return on equity in respect of additional capitalization beyond the original scope, including additional capitalization on account of the emission control system, Change in Law, and Force Majeure shall be computed at the base rate of one-year marginal cost of lending rate (MCLR) of the State Bank of India plus 350 basis points as on 1stApril of the year,</p>	<ul style="list-style-type: none"> • Further, it is essential to provide correct signal to investors for creating the much-needed capacity considering risk perception of power sector and inflationary pressure. • In view of the above, it is requested to provide higher RoE in the range of 16% (post tax) for Transmission Projects. Such return will provide incentives to the new generation / Transmission projects under Section 62 which are essentially critical projects / project of national importance. • Further, RoE for additional Capitalization should also be at par with the project ROE of 16.00% since any capitalization is allowed only after ensuring prudence of requirement. • It may kindly be noted that equity once invested remains with the business perpetually and is not available with the transmission licensee for investing in other avenues. Hence, it is imperative that RoE is allowed at par with new projects or else it amounts to discrimination between new and existing projects. • Hence, we request to consider the changes as suggested.

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		subject to a ceiling of 14%;	subject to a ceiling of 14%;	
4.	32. Interest on loan capital	<p>(6) In the case of New Project(s), the rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio of the generating company or the transmission licensee, as the case may be;</p> <p>Provided further that if the generating station or the transmission system, as the case may be, does not have any actual loan, then the rate of interest for a loan shall be considered as 1-year MCLR of the State Bank of India as applicable as on April 01, of the relevant financial year.</p>	<p>(6) In the case of New Project(s), the rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio of the generating company or the transmission licensee, as the case may be;</p> <p><u>Provided further that if the generating station or the transmission system, as the case may be, does not have any actual loan, then the weighted average rate of interest of the loan portfolio of the generating company or the transmission licensee as a whole shall be considered.</u></p>	<ul style="list-style-type: none"> • Being capital intensive, financing for power sector project has become very difficult and lenders in most cases insist for lower tenure. Further, developer generally avails finance on consolidated basis. • Also, higher tenure of loan would have bearing on the interest rate and overall cost of financing. • In this background, the financial institute factors risk associated with power sector and accordingly charges margin over MCLR. • In view of above, it is suggested to consider interest rate for company as a whole. Further, in case of no loan available at company level, it is suggested to consider "Reference Rate of Interest" as defined under Draft Regulation 3(67).

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			<p>Provided further that if the generating station or the transmission system, as the case may be, does not have any actual loan, then the rate of interest for a loan shall be <u>the Reference Rate of Interest. considered as 1-year MCLR of the State Bank of India as applicable as on April 01, of the relevant financial year.</u></p>	
5.	<p>34 (1) Interest on Working Capital (Cost of Fuel)</p>	<p>(c) For Open-cycle Gas Turbine / Combined Cycle thermal generating station</p> <p>(i) Fuel Cost for 15 days corresponding to the normative annual plant availability factor, duly taking into account the mode of operation of the generating</p>	<p>(c) For Open-cycle Gas Turbine / Combined Cycle thermal generating station</p> <p>(i) Fuel Cost for 30 days corresponding to the normative annual plant availability factor, duly taking into account the mode of operation of the generating station</p>	<p>Current norms for considering the amount of stock of Fuel as specified in existing regulations should continue.</p> <ul style="list-style-type: none"> • Due to the non-availability of domestic gas, the generator needs make alternate arrangement i.e., to procure LNG from the International Market. • Import of LNG is also cost-effective as procurement from domestic suppliers attracts VAT. • However, to facilitate procurement of LNG from the international market, booking of storage cum regasification capacity on long term basis is necessary.

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		station on gas fuel and liquid fuel;	on gas fuel and liquid fuel;	<ul style="list-style-type: none"> Generator needs to make either advance payment or payment within 7 to 10 days' time on receipt of LNG. Cargo quantity of LNG (about 32,00,000 MMBtu) lasts for about 30 to 45 days or longer period based on schedule of power by beneficiary considering merit order dispatch and operational flexibility at Terminal's end. <p>In view of the above, it is submitted that Fuel Cost for 15 days instead of existing provision of 30 days Fuel Cost corresponding to the normative annual plant availability factor for calculating working capital requirement to avoid adverse impact on the generator.</p> <p>Further, the existing norms have already gone through scrutiny & deliberation of almost five tariff control period (more than 20 years) and should be continued to ensure regulatory certainty in terms of principle and approach, it is also important (for availability) in view of the present & future situation of RE heavy grid.</p>
6.	34 (1) Interest on Working Capital (Liquid Fuel Stock)	(c) For Open-cycle Gas Turbine/Combined Cycle thermal generating station (ii) Liquid fuel stock for 15 days corresponding to the	(c) For Open-cycle Gas Turbine/Combined Cycle thermal generating station (iii) Liquid fuel stock for 15 days corresponding to the	<p>It is not operationally as well as economically feasible for generating station to own separate LNG storage capacity owing to the following:</p> <ul style="list-style-type: none"> Storage capacity requires considerable land space & huge capex. LNG mainly consists of Methane (~85%) which is highly flammable and hazardous to the environment

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		<p>normative annual plant availability factor, and in case of use of more than one liquid fuel, cost of main liquid fuel duly taking into account mode of operation of the generating stations of gas fuel and liquid fuel;</p> <p>Provided that the above shall only be allowed to generating stations that have facilities to store liquid fuel"</p>	<p>normative annual plant availability factor, and in case of use of more than one liquid fuel, cost of main liquid fuel duly taking into account mode of operation of the generating stations of gas fuel and liquid fuel;</p> <p>Provided that the above shall be allowed to generating stations that have either own or rented facilities to store liquid fuel."</p>	<p>in case of leakages. Hence, it cannot be stored near human vicinity [TPL plant is situated near Surat city and therefore, storage at Plant location is not possible].</p> <ul style="list-style-type: none"> • Building storage capacity of LNG requires various government approvals. • In case such storage facilities are owned by Terminal Operators, it would be on chargeable basis. In other words, storage facility for liquid fuel at the re-gasification terminal is akin to storage facility at Site. <p>Thus, it is clear that arrangement as above would require additional transportation and consequent increase in the landed cost of fuel.</p>
7.	<p>36. Operation and Maintenance Expenses:</p> <p>(O&M Expense for Transmission System)</p>	<p>.....</p> <p>(3) Transmission system: (a) The following normative operation and maintenance expenses shall be admissible for the transmission system:</p>	<p><u>We request to add proviso as suggested in Rationale.</u></p>	<ul style="list-style-type: none"> • O&M Expense for Sub-station Bays for FY 24-25 have been proposed at ~ 30% lower norms as compared to FY 23-24. Such a drastic reduction in O&M Expense for bays would affect efficient O&M. Especially, small transmission licensees do not enjoy benefit of scale like Powergrid and would be put to hardship. • In case of bays of other Transmission licensee in Powergrid's substations, such Licensee is required to pay O&M Expense at CERC rate alongwith GST. Hence, there will be substantial under recovery of

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				<p>O&M Expense for bays for these licensees. There have been repeated representations on this aspect. However, there is no relief till date.</p> <ul style="list-style-type: none"> • Under the circumstances, it is suggested to keep O&M Expense for Sub-station Bays for FY 24-25 at the same level of FY 23-24. • Additionally, in case of bays of other licensees situated in Powergrid's Substation, it is required to allow impact of GST in addition to basis value of O&M Expense.
8.	<p>36. Operation and Maintenance Expenses:</p> <p>(O&M Expense for Change in Law)</p>	<p>(3) Transmission System</p> <p>(e) On the occurrence of any change in law event affecting O&M expenses, the impact shall be allowed to the transmission licensee at the time of truing up of tariff.</p> <p>Provided that such impact shall be allowed only in case the overall impact of such change in law event in a year is more than 5% of</p>	<p>(3) Transmission System</p> <p>(e) On the occurrence of any change in law event affecting O&M expenses, the impact shall be allowed to the transmission licensee at the time of truing up of tariff.</p> <p>Provided that such impact shall be claimed allowed only when in case—the overall cumulative impact of such change in law event</p>	<ul style="list-style-type: none"> • Any expenditure due to Charge in law is always over and above regular expenditure. Though, cumulatively it will have substantial impact. Hence, we suggest to consider additional impact due to change in law on cumulative basis i.e. additional O&M Expense shall be allowed whenever cumulative impact reaches 5% for the particular year. • This is also in line with the provision for claiming change in law relief in earlier Competitive Bidding Guidelines.

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		normative O&M expenses for the year.	in a year is more than 5% of normative O&M expenses for the year in which it is claimed.	