Comments of TANGEDCO on the Draft CERC (Terms and conditions of Tariff) Regulations,2024

Reg No	Draft Regulation	As per TR 2019-24	TANGEDCO COMMENTS
3	(5) 'Annual Target Quantity' or 'ATQ' in respect of an integrated mine(s) means the quantity of coal or lignite to be extracted during a year from such integrated mine(s) corresponding to **85%** of the quantity specified in the Mining Plan;	**'Annual Target Quantity'** or **'ATQ'** in respect of an integrated mine(s) means the quantity of coal or lignite to be extracted during a year from such integrated mine(s) as specified in the Mining Plan: Provided that the Commission may relax the Annual Target Quantity up to a maximum of 15% of the quantity of coal or lignite to be extracted during a year as specified in the Mining Plan	ATQ is the critical criteria for calculation of ROM cost. ATQ for mines are approved by the Coal controller and as per Reg 39(4), relaxation from the mining plan can be considered only by the competent authority (Coal controller) only. Hence fixing 85% of ATQ is not admissible under the Regulation. In P.No: 60/MP/2022, due to revision of ATQ from 10 MT to 8.86 MTPA, increase in cost is upto 34% ie., from Rs. 1404/- to 1891/- per tonne has been claimed by the Petitioner. Hence this has to be retained as per the existing Regulations. Further, any deviation from the mining plan in respect of ATQ **may be certified by the competent authority** and can be considered on case to case basis by the Hon'ble CERC, as per the existing Regulation.
	(7) 'Auxiliary Energy Consumption' or 'AUX' in relation to a period in case of a generating station means the quantum of energy consumed by auxiliary equipment of the generating station, Xxx Provided that auxiliary energy consumption shall not include energy consumed for the supply of power to the housing colony and other facilities at the generating station and the power consumed for construction works at the generating station and integrated mine(s); **Proviso to be included:** **Provided that the consumption for quarters and other uses as above shall be metered separately and billed to the generating companies and shall be included in the REA issued by the RPCs.**	No change	**Proviso to be included:** **Provided that the consumption for quarters and other uses as above shall be metered separately and billed to the generating companies and shall be included in the REA issued by the RPCs.**

	(19) 'Date of Operation' or 'ODe' in respect of an emission control system means the date of putting the emission control system into use after meeting all applicable technical and environmental standards, certified through the Management Certificate duly signed by an authorised person, not below the level of Director of the generating company; **Proviso to be added:** **Such claim of declaration of the Date of Operation may be supported and certified by the concerned Pollution Control Board during filing petition for compliance to MOEFCC standards ; Also periodically to be enclosed with the bills**	**No change as per amendment I**	**Proviso to be added:** **Such claim of declaration of the Date of Operation may be supported and certified by the concerned Pollution Control Board during filing petition for compliance to MOEFCC standards ; Also periodically to be enclosed with the bills**
	(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;	New addition – substitute for Bank rate	Interest is in declining trend hence 250 basis points may be considered.

9	**Application for determination of tariff**		
	(5) In case the generating company or the transmission licensee files the application as per the timeline specified in sub-clause (1) to (4) of this Regulation, carrying cost shall be allowed from the date of commercial operation of the project: Provided that in case the generating company or the transmission licensee delays in filing of application as per the timeline specified in sub-clause (1) to (4) of this Regulation, carrying cost shall be allowed to the generating company or the transmission licensee from the date of filing of the application as per Regulation 10(7) and 10(8) of these regulations.	New Regulation	Subject to disposal of Petitions within reasonable time. 685/TT/2020 – Date of filing the petition : 29.08.2020 Date of order : 29.09.2022 This interest will be loaded to the beneficiaries.
17	**Special Provisions for Stations which have Completed 25 Years:**		
	In respect of a thermal generating station that has completed 25 years of operation from the date of commercial operation, the generating company and the beneficiary may agree on an arrangement, including provisions for target availability and incentive, where in addition to the energy charge, capacity charges determined under these regulations shall also be recovered based on scheduled generation.	**Changed from existing :** The beneficiary shall have the first right of refusal and upon its refusal to enter into an arrangement as above, the generating company shall be free to sell the electricity generated from such station in a manner as it deems fit.	Since the entire cost of the station has been serviced by the existing beneficiaries, the first right of refusal shall be retained. TANGEDCO has filed writ petition no: 21963 before Hon'ble Madras High Court and the same is yet to be disposed.
	CHAPTER – 6 COMPUTATION OF CAPITAL COST		
19	**Capital cost:**		
	(5) For Projects acquired through NCLT proceedings, the following shall be considered while approving Capital Cost for determination of tariff: (a) For projects already under operation, historical GFA of the project acquired or the acquisition value paid by the generating company, whichever is lower; 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; 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 same shall be considered under the provisions of Chapter 7 of these Regulations; New proviso to be added	New Regulation	**Open ended;** **Proviso to be added:** **Provided that details of the NCLT project shall be shared along with the petition.**

21.	**Interest During Construction (IDC) and Incidental Expenditure during Construction (IEDC):** **(1) Interest during construction (IDC) shall be computed considering the actual loan and normative loan after taking into account the prudent phasing of funds up to actual COD:** **Provided that IDC on normative loan corresponding to excess equity over 30% of funds deployed shall be allowed only in case the actual infusion of equity on a quarterly basis is more than 30% of total funds deployed on a pari-passu basis.** **xxx** **(1) Incidental expenditure during construction (IEDC) shall be computed from the zero date, taking into account pre-operative expenses up to actual COD: Provided that any revenue earned during the construction period up to actual COD on account of interest on deposits or advances or any other receipts shall be taken into account for reduction in incidental expenditure during construction.** **xxxx** **Provided that in case of activities like obtaining forest clearance, NHAI Clearance, approval of Railways, and acquisition of government land, where delay is on account of delay in approval of concerned authority, in such cases maximum condonation shall be allowed up to 90% of the delay associated with obtaining such approvals or clearances.**	**TR 2019:** **Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD.**	**In cost plus route, there is no tendering process and hence the SCOD is fixed as per the assurance given by the companies on timely completion of project. Further, there are no timelines in Regulations also to complete the projects. Hence the IDC and IEDC were allowed only upto SCOD. Relaxation upto actual COD will defeat the very purpose and project developers will not be motivated to complete on time. Hence 'Upto SCOD' to be retained** **90% of delay condonation will lead to double jeopardy for beneficiaries – project not commissioned on time and cost hike due to delay in completion of the project. Hence the same shall be on case to case basis.**
23.	**Initial Spares:** Initial spares shall be capitalised as a percentage of the Plant and Machinery cost, subject to the following ceiling norms: …. (d) Transmission system (i) Transmission line including UG Cable - 1.00% (ii) Transmission Sub-station -Green Field - 4.00% -Brown Field - 6.00% (iii) Series Compensation devices and HVDC Station - 4.00% (iv) Gas Insulated Sub-station (GIS) - 6.00% -Green Field - 5.00% -Brown Field - 7.00% (v) Communication system - 3.50% (vi) Static Synchronous Compensator - 6.00% To Include : Bays separately @ 1%		To Include : Bays separately @ 1% as the claims now are made @4% applicable for entire transmission sub station.

28.	**Special Allowance for Coal-based/Lignite fired Thermal Generating station**		
	(2) The Special Allowance admissible to a generating station shall be @ Rs 10.75 lakh per MW per year for the control period	As per Tr 2019: Rs. 9.5 lakh/MW	Details of special allowance must by furnished along with true up petition – Judgment in A 304 of 2016 and batch cases dt: 28.08.23/ Para IX ….. Even details of the capital expenditure, incurred from the Special Allowance under Regulation 16(1), is, in terms of Regulation 16(3), required to be maintained separately by the generating station, and furnished to the CERC as and when it is directed to do so. The 2014 Tariff Regulations are statutory in character, and have the force of law. The CERC is, therefore, legally obligated to carry out prudence check/ verification of claims for capital expenditure/R&M expenditure/ expenditure incurred from the Special Allowance. Xxx
	. (3) In the event of a generating station availing of Special Allowance, the expenditure incurred upon or utilized from Special Allowance shall be maintained separately by the generating station, and details of the same shall be made available to the Commission as and when directed. Provided all the details may be submitted by the generator along with the true-up petition.		New Proviso to be suggested: Provided all the details may be submitted by the generator along with the true-up petition
29.	**Additional Capitalization on account of Revised Emission Standards:**		
	(1) After completion of the implementation of revised emission standards, the generating company shall file a petition for determination of tariff. Any expenditure incurred or projected to be incurred and admitted by the Commission after prudence check based on the reasonableness of the cost and impact on operational parameters shall form the basis of the determination of tariff. Proviso to be added: The application shall be accompanied by a certificate issued by the concerned PCB in compliance of the MOEFCC standards	No change	Proviso to be added: The application shall be accompanied by a certificate issued by the concerned PCB in compliance of the MOEFCC standards

33.	Depreciation		
	Emission control system: (12) In case the date of operation of the emission control system is subsequent to the date of completion of the useful life of generating station commercial operation of the generating station or unit thereof, depreciation of ECS shall be computed annually from the date of operation of such emission control system based on the straight line method, with a salvage value of 10% and recovered over ten years or a period mutually agreed by the generating company and the beneficiaries, whichever is higher. **New proviso for plants completing 15 years after useful life:** **Provided that the generator shall furnish the details of RLA studies / any other supporting studies assuring further life availability of the Station (Unitwise), along with the petition filed for approval of tariff**	(10) Depreciation of the emission control system of an existing or a new generating station or unit thereof where the date of operation of the emission control system is subsequent to the date of commercial operation of the generating station or unit thereof, shall be computed annually from the date of operation of such emission control system based on straight line method, with salvage value of 10%, over a period of — xxxx c) ten years or a period mutually agreed by the generating company and the beneficiaries, whichever is higher, in case the generating station or Unit thereof has completed its useful life."	Ramagundam I & II I and II Units served 40 years and other Units follow suit Proposed expenditure for FGD 1254.65 CR To avoid huge avoidable wastage of public funds, a new proviso is suggested.
34	**Interest on Working Capital:** (1) The working capital shall cover: (i) Cost of coal or lignite, if applicable, for 10 days for pit-head generating stations **and** **20 days** for non-pit-head generating stations for generation corresponding to the normative annual plant availability factor or the maximum coal/lignite stock storage capacity, whichever is lower;	No change	**Coal stock/ lignite stock to be reduced to 15 days for non pit head stations**
	35. **De-Commissioning** (1) In case a generating station or unit thereof, or a transmission system including communication systems or element thereof after it is certified by CEA or CTU or any other statutory authority, that any asset cannot be operated or needs to be replaced on account of environmental concerns or safety issues or system upgradation or a combination of these factors not attributable to generating company or a transmission licensee, the unrecovered depreciable value may be allowed to be recovered on a case-to-case basis after duly adjusting the actual salvage value post disposal of such project. New proviso suggested Provided that the generating company or a transmission license shall file a petition with all details including the cost of initial procurement, years of service, reasons for opting for decommissioning and balance depreciable value etc.	New Regulation	New proviso suggested Provided that the generating company or a transmission license shall file a petition with all details including the cost of initial procurement, years of service, reasons for opting for decommissioning and balance depreciable value etc.

35.	**Operation and Maintenance Expenses:**		
	(1) Thermal Generating Station: Normative Operation and Maintenance expenses of thermal generating stations shall be as follows: (1) Coal based and lignite fired (including those based on Circulating Fluidised Bed Combustion (CFBC) technology) generating stations, other than the generating stations or Units referred to in clauses (2), (4) and (5) of this Regulation:	Deleted from TR 2019: Provided that where the date of commercial operation of any additional unit(s)of a generating station after first four units occurs on or after 1.4.2019, the O&M expenses of such additional unit(s) shall be admissible at 90% of the operation and maintenance expenses as specified above;	. **This Proviso shall be reinstated, as the common facilities will be shared between the Units.**
	(6) The Water Charges, Security Expenses and Capital Spares for thermal generating stations shall be allowed separately after prudence check: Provided that water charges shall be allowed based on water consumption depending upon type of plant and type of cooling water system or water agreement with state govt./utilities, and the norms specified by the Ministry of Environment, Forest and Climate Change subject to prudence check. The details regarding the same shall be furnished along with the petition;	New Addition: 1. Water agreement with state authorities 2. Capital spares more than Rs. 20 lakhs	New Proviso suggested : Provided that as per circular No. No. 09/01/2023-RCM issued by MoP dt: 25.10.2023, no taxes/ duties can be levied by any State on generation or inter-State supply of electricity under the guise of additional charges/ fee on generation of electricity from any source - Thermal/ Hydro/ Renewables etc. Link 1 - Link 1 - MoP circular.pdf
	(8) In the case of a generating company owned by the Central or State Government, the impact on account of implementation of wage or pay revision shall be allowed at the time of truing up of tariff. New proviso: Provided the expenses cannot be accommodated in the normative O&M expenses allowed collectively for the entire tariff period for the Station.	New Regulation	New proviso: In case of 364/MP/2019 filed by a generator, for 2014-19 Tariff period, Normative O&M expenses allowed : Rs. 69441.80 lakhs Actual O&M expenses for period : Rs. 68951.17 lakhs (Including wage revision expenses of Rs. 3387 lakhs) A new proviso has to be given: Provided the expenses cannot be accommodated in the normative O&M expenses allowed collectively for the entire tariff period for the Station.
44.	**Integrated mines:**		
	(3) Return on equity shall be computed in rupee terms on the equity base arrived under Clause (1) of this Regulation at the base rate of **14%.**	No change as per Amendment II	RoE shall be reduced to 10%, as there is no risk for integrated mines

46	**Operation and Maintenance Expenses:**		
	(1) The Operation and Maintenance Expenses in respect of integrated mine(s) shall be allowed as under: (a) The Operation and Maintenance expenses in respect of integrated mine(s) of coal, for the tariff period ending on 31st March 2029 shall be allowed based on the projected Operation and Maintenance Expenses for each year of the tariff period subject to prudence check by the Commission; Provided that the Operation and Maintenance expenses allowed under this clause shall be trued up **based on actual expenses for the tariff period ending on 31st March 2029.** (b) The Operation and Maintenance expenses for the tariff period ending on 31st March 2029 in respect of the integrated mine(s) of lignite commissioned on or before 31st March 2024 shall be worked out based on the Operation and Maintenance expenses as admitted by the Commission during 2023-24 and escalated at the rate of 5.89 % per annum;	as per Amendment II The Operation and Maintenance expenses for the tariff period ending on 31st March 2024 in respect of the integrated mine(s) of lignite commissioned on or before 31st March 2019, shall be worked out based on the Operation and Maintenance expenses as admitted by the Commission during 2018-19 and escalated at the rate of 3.5% per annum	The rate of escalation shall be retained as 3.5% per annum., as the Hon'ble CERC in EM has observed that there is not much actual data available for review the current operational norms. Hence the norms of integrated mines shall be retained as per the existing norms.
	CHAPTER – 10 COMPONENTS OF ENERGY CHARGE		
59	**Transit and Handling Losses:**		
	For coal and lignite, the transit and handling losses shall be as per the following norms: Pithead : 0.2% Non pithead – Rail : 0.8% Non pit head multi mode : 1.00% Provided that in the case of pit-head stations, if coal or lignite is procured from sources other than the pit-head mines which is transported to the station through rail, transit and handling losses applicable f3or non-pit head stations shall apply; Provided further that in case of imported coal, the transit and handling losses applicable for pit-head station shall apply.	**New : Multi mode transportation**	Since the losses for Non pit head stations already available (0.8%) is based on the losses for multi mode transportation only, new provision for multi modal transportation shall not be allowed. Pithead : 0.2% Non pithead – rail : 0.5% Non pithead multimode : 0.8%

60	**Gross Calorific Value of Primary Fuel:**		
	(1) The gross calorific value for computation of energy charges as per Regulation 64 of these regulations shall be done in accordance with 'GCV as Received'; Provided that the generating station shall have third party sampling done at the billing end and the receiving end through an agency certified by the Ministry of Coal and ensure recovery of compensation as per Fuel Supply Agreement(s) and pass on the benefits of the same to the beneficiaries of the generating station; Provided further that in the absence of any third party sampling through an agency certified by the Ministry of Coal, the GCV shall be considered on the basis of 'as billed' by the Supplier less: i. Actual loss in calorific value of coal between as billed by the supplier and as received at the generating station, subject to maximum loss in calorific value of 300 kCal/kg for Pit-head based generating stations or generating stations with Integrated mine and 600 kCal/kg for Non-Pit Head based generating stations. No loss in calorific value between 'GCV as billed' and 'GCV as received' is admissible for generating stations procuring coal from Integrated mines or through the import of coal	**New proviso** **Contradiction**	**Basis for arriving at 300 kCal/kg and 600 kCal/kg not explained.** **No loss in GCV to be allowed for integrated mines, as the generators are responsible for transit of coal/ lignite.**
	CHAPTER – 11 COMPUTATION OF CAPACITY CHARGES AND ENERGY CHARGES		
62	Computation and Payment of Capacity Charge for Thermal Generating Stations:		
	(1) The fixed cost of a thermal generating station shall be computed on annual basis based on the norms specified under these regulations and recovered on a monthly basis under capacity charge. The total capacity charge payable for a generating station shall be shared by its beneficiaries as per their respective percentage share or allocation in the capacity of the generating station. The **capacity charge shall be recovered in two parts, viz., Capacity Charge for Peak Hours of the month and Capacity Charge for Off- Peak Hours of the month as follows:**	**High demand and low demand season removed:** **The capacity charge shall be recovered under two segments of the year, i.e. High Demand Season (period of three months) and Low Demand Season (period of remaining nine months in two parts**	Justification in 2019-24 Link 2 - [Link 2 - SOR 2019 on High demand.docx] High demand and low demand seasons shall be retained as generators tend to make the machines available more than 100% during low demand season and offset the shortfall, if any during high demand season by availability during low demand season (Ref : P.No: 154/MP/2021)

	(4) In case of part or full use of an alternative source of fuel supply by coal based thermal generating stations other than as agreed by the generating company and beneficiaries in their power purchase agreement for the supply of contracted power on account of a shortage of fuel or optimization of economical operation through blending, the use of an alternative source of fuel supply shall be permitted to generating station up to a maximum of 6% blending by weight.	**Provided further that the weighted average price of alternative source of fuel shall not exceed 30% of base price of fuel computed as per clause (5) of this Regulation:** **Provisos also modified.**	• **As per MoP circular dt: 25.10.2023, blending @ 6% is allowed only upto March 2024.** • **Blending for entire tariff period will impose a huge financial burden on end users.** • **Upper limit of increase in ECR in case of blending may also be specified.**
	CHAPTER – 12 NORMS OF OPERATION		
70	Norms of operation for thermal generating station		
	(A) Normative Annual Plant Availability Factor (NAPAF) (a) 85% for all thermal generating stations, except those covered under clauses (c), (c), (d) & (d) (b) **80% for coal and lignite based generating stations completing 30 years from COD as on 31.03.2024** (c) xxx (d) Lignite fired Generating Stations using Circulatory Fluidized Bed Combustion (CFBC) Technology and Generating stations based on coal rejects: 1. First Three years from the date of commercial operation – 68.50% 2. After completion of three years of the date of commercial operation - 75% (e) For following lignite fired thermal generating stations of NLC TPS-II State-I and Stage-II : 80% Barsingsar (CFBC) : 75% **TPS-II Expansion (CFBC) : 50%** TPS-1 Expansion : 80% New Neyveli TPS : 80%	New clause NLC TPS II - 85% Barsingsar - 75% **TPS II Expansion – 85%** TPS I Expansion – 85% NNTPS – 85%	Reduced PAF of the TPS II Expansion is due to the inherent design fault of the station. **This will result in increase in the annual financial commitment of TANGEDCO by Rs. 175 Crores** (Substituting NAPAF 80% and APC 12.5% during Jan 2023 to December 2023)
	Auxiliary consumption for NLC TS II Expansion – 12.5%	Aux consumption 10%	

81. Sharing of gains due to variation in norms:

81. **Sharing of gains due to variation in norms:** (1) The generating company or the transmission licensee shall work out gains based on the actual performance of applicable Controllable parameters as under:
i) Station Heat Rate;
ii) Secondary Fuel Oil Consumption; and
iii) Auxiliary Energy Consumption.
(2) The financial gains by the generating company or the transmission licensee, as the case may be, on account of controllable parameters shall be shared between the generating company or transmission licensee and the beneficiaries or long term customers, as the case may be on an annual basis.
Net Gain = (ECRN– ECRA) x Scheduled Generation
Where,
ECRN = Normative Energy Charge Rate computed on the basis of norms specified for Station Heat Rate, Auxiliary Energy Consumption and Secondary Fuel Oil consumption.

ECRA = Actual Energy Charge Rate computed on the basis of actual Station Heat Rate, Auxiliary Energy Consumption and Secondary Fuel Oil consumption

Net Gain = (ECRN– ECRA) x Scheduled Generation
Where,
ECRN = Normative Energy Charge Rate computed on the basis of norms specified for Station Heat Rate, Auxiliary Energy Consumption and Secondary Fuel Oil consumption.
ECRA = Actual Energy Charge Rate computed on the basis of actual Station Heat Rate, Auxiliary Energy Consumption and Secondary Fuel Oil Consumption for the month.

The Hon'ble Commission in the Statement of Reasons to Tariff Regulations 2014-19 has observed as below:
"10.12 The provisions of the Regulations allow the generating companies operating at the normative performance parameters to pass through all the prudent costs incurred by them. Further, the Commission has specified uniform normative performance parameters throughout the Tariff Period and has not specified any trajectory for performance improvement. It is expected that the generating companies would endeavor to improve their performance during the Tariff Period, which would result in significant cost saving, which should be shared with the beneficiaries. **On the other hand, losses would imply that the generating companies have not put in adequate efforts to sustain even at the normative performance parameters** specified by the Commission contrary to the expected improvement. **Passing on such losses on account of the lapse of the generating companies would not be appropriate and would discourage improvement in efficiency by the generating companies. Hence, no sharing of losses is being considered for the generating companies.** "

In P.No 284/RC/2019, Honble CERC observed

"14. The method of averaging as adopted by NTPC is not in line with SOR and Regulation 8(6) of 2014 Tariff Regulations as averaging takes into account the gains as well as losses which are not shared.

Proviso to be included:
Provided the losses if any during any month shall not be included in arriving at the annual sharing of gains

93.	Approval Process of Non-ISTS Lines carrying Inter-State Power:		
	(1) Existing intra-state transmission lines other than Natural ISTS lines shall be considered as ISTS systems; Provided that these transmission lines are being used for evacuation and transfer of interstate power on a regular basis as identified by CTU in consultation with the concerned RPC and RLDC and the STUs;	New Regulation	'and STUs' shall be added'
	(3) CTU, in consultation with RLDC and STUs shall identify all such natural ISTS lines and non-ISTS lines which are utilized for ISTS power transfer after ascertaining that such nature of flow of power has become permanent.	**New Regulation**	**'And STUs' shall be included**
	(4) No New ISTS lines shall henceforth be planned and developed by State Transmission Utility unless agreed by CTU in consultation with RPC and approved by the Ministry of Power. Provided that in case if development of ISTS by STU is the only economically prudent option, the same may be taken by STU in consultation with RPC and CTU with the approval of NCT based on optimum transmission planning.	**New Regulation**	**New proviso to be added**

Other suggestions:

- Definition of ‘exclusions in Capital cost’ and methodology of dealing with it shall be included.
- Filing charges – Cost towards filing charges for tariff petitions may be shared between generators/transmission licensees and beneficiaries @ 50:50
- Fees for review petitions filed against Order of Honble CERC may be borne by generators/transmission licensees.
- NTPC carries out revision of invoices many times

  (i) Provisional tariff (ii) final tariff (iii) truing up (iv) carry over of truing up of previous year on provisional tariff (v) revision of CVPF, LPPF, CVSF and LPSF - Reference P.No: 111/MP/2021 – atleast (iv) can be avoided and a regulation may be stipulated for this.
- Arrears bills and regular bills are to be claimed separately by generators.

DISCOMS –
THE MAIN LINK IN POWER SECTOR CHAIN

Thank you