

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 10/SM/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 2nd January, 2025

In the matter of

Methodology for Transition from Six-Monthly Escalation Rates to Monthly Escalation Rates for Imported Coal.

ORDER

In pursuance of Clause 5.6 (vi) of the Ministry of Power (MOP) "Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees" dated 19.01.2005, as amended from time to time, the Central Electricity Regulatory Commission (CERC) has been notifying various escalation rates, including the escalation rates for imported coal, every six months, for the purpose of payment.

2. MOP, vide its letter dated April 13, 2022, highlighted the need for notification of escalation rates for imported coal for payment on a monthly basis to avoid the lag in the notification of escalation rates with reference to actual variation in the price of imported coal. The relevant extract of the communication from the MOP is as under:

"After careful consideration, Government have decided that the escalation index for imported coal may be notified on a monthly basis by CERC, in addition to the present six-monthly escalation index. In existing PPAs where the generating company and the procurer agree, they can use the monthly index. For future PPAs, Government proposes to make provisions in the bidding guidelines and bidding document for the use of the monthly Escalation index for imported coal. The present practice of notifying escalation rates every six months, in addition

to notification on monthly basis, should also be continued, to be used by sellers and procurers, in the context of concluded PPAs."

3. In view of the above, the Commission, through its order dated June 6, 2022, in Petition No.7/SM/2022, specified a methodology for computing the escalation rates for imported coal for payment on a monthly basis. Following the methodology, the Commission has been notifying the monthly escalation rates for imported coal, in addition to six-monthly escalation rates from April 2022 onwards. In the order, the Commission, *inter-alia*, recognized the need for addressing the transition from six-monthly escalation rates to monthly escalation rates and decided as under:

"8. Most of the stakeholders have raised issues on the implementation of the monthly escalation rates, particularly in the context of the existing PPAs. APMuL and TPCL have suggested to allow one-time escalation for transition from six monthly to monthly escalation rates. TPCL also suggested that the escalation rates may be notified from April 2022 for the purpose of transition. GUVNL has raised concerns on the adoption of monthly escalation rates for the existing PPAs and submitted that any modification in escalation methodology should not be made applicable to the existing PPAs.

9. In this context, the Commission notes that the MOP's communication dated April 13 2022 stipulates that in the existing PPAs where the generating company and the procurer agree, they can use the monthly index. Accordingly, the parties to the existing PPAs may mutually decide as to whether to continue to use the six-monthly escalation rates or adopt the monthly escalation rates as notified by the Commission from time to time. As the proposal in the staff paper was limited to the methodology for computing monthly escalation rates, the suggestion of a changeover rate or correction factor for transition from six monthly escalation rates to monthly escalation rates for the existing PPAs is beyond the scope of the present order.

10. However, at the same time, the Commission recognizes that there is a need to specify the changeover rate or correction factor for transition from six monthly escalation rates to monthly escalation rates for the existing PPAs, as without the same, the parties to the PPAs may not be in a position to switch over from six monthly escalation rates to monthly escalation rates. The Commission, therefore, may address the issue separately."

4. In pursuance of the directions in the order, the staff of the Commission prepared a discussion paper on "Methodology for Transition from Six Monthly Escalation Rates to Monthly Escalation Rates for Imported." The methodology for addressing the transition to monthly escalation rates proposed in the discussion paper is as under:

"D: Proposed Methodology for Transition to Monthly Escalation Rates

11. After examining the data used for the computation of the escalation rates and the computation and application of the escalation rates, we have arrived at two possible options for addressing the issue of transition from six-monthly escalation rates to monthly escalation rates. In both options, there is no need to provide a separate escalation rate to address the transition/switchover to monthly escalation rates.

12. In **Option 1**, it is proposed that the parties may opt for a transition to monthly escalation rates by adopting an appropriate application of the escalation rates. The six-monthly escalation rates need to be made applicable for the current period instead of the future period. In this option, the application needs to be corrected from the start date of PPA to the date of transition/switchover. The parties to the existing PPAs would get escalation on the corrected base energy charges (corrected payment index) from the date of transition/switchover. In this option, a methodology is required to be specified, and the same is proposed as under:

a. The transition to monthly escalation rates provides an opportunity to the parties to the existing PPAs to adopt an appropriate application of six-monthly escalation rates (i.e., application of the six-monthly escalation rates for the current period instead of future period) from the start date of the PPA. By following an appropriate application of escalation rates, the transition can be addressed without any gap in the data used for computing the escalation rates.

b. In this option, the CERC is required to notify six-monthly escalation rates applicable for the current period from the start date of PPA to the date of transition/switchover. These rates for the past period shall be made applicable for correcting the payment index (e.g., correcting the base energy charges) and not for the purpose of payment. The payment index needs to be corrected from the start date of PPA (the escalation rates are applicable from the date of financial bid opening in the case of imported coal) to the date of transition/switchover.

c. In this regard, for the sake of presenting a sample calculation, two assumptions have been made: (i) October 1 2006 has been assumed as the start date of PPA, and (ii) April 1 2024 has been assumed as the date of transition/switchover to monthly escalation rates. There are two reasons for assuming April 2024 for the switchover: (i) volatility in the imported coal prices was relatively low during the last six months, and (ii) application of the latest six-monthly escalation rates notified in October 2023 is ending on March 31, 2024.

13. In **Option 2**, it is proposed that the parties may adopt the escalation rates as it is, i.e., as notified by the CERC and as applicable. This option may be justified for the following reasons:

a. The parties to the existing PPAs have already agreed to the present methodology for the computation and application of the escalation rates. Once the parties to the existing PPAs have agreed to a methodology, they should only be concerned with the escalation rates notified by the CERC.

b. As discussed in para 9 above, the gap in the data used for computing the escalation rates is arising because the escalation rates were made applicable for the future period instead of the current period following the present methodology. If the gap in the data is addressed separately, it would lead to double counting.

14. The parties who wish to opt for Option 1 may need to consider the corrected payment Index, i.e., after correcting the application of six-monthly escalation rates (i.e., base payment index value of 276 as on March 2024) and monthly escalation rate applicable for April 2024, for arriving at the energy charges for April 2024. The parties who wish to opt for Option 2 may need to consider the payment index based on six monthly escalation rates as per the existing methodology (i.e., base payment index value of 355 as on March 2024) and monthly escalation rate applicable for April 2024, for arriving at the energy charges for April 2024.

15. Following the above methodology, the payment index has to be corrected for all three components of energy charges, viz., (i) imported coal, (ii) transportation of imported coal, and (iii) inland handling of imported coal.

16. The parties to the existing PPAs may opt for either Option 1 or Option 2 to address the transition/switchover to monthly escalation rates. In this staff paper, April 2024 has been proposed for transition/switchover to monthly escalation rates. However, the concerned parties are free to opt for their own methodology for transition/switchover to monthly escalation rates."

B: Comments/Suggestions of Stakeholders

5. Comments and suggestions of the stakeholders and other interested persons on the proposed methodology for transition to monthly escalation rates were invited through a public notice dated 24.5.2024. In response to the public notice, the comments and suggestions have been received from the following:

- i. Adani Power Ltd (APL)
- ii. Tata Power Company Ltd (TPCL)
- iii. JSW Energy Ltd (JSWEL)
- iv. Gujarat Urja Vikas Nigam Ltd (GUVNL)

6. The comments submitted by the stakeholders are discussed in brief in the following paragraphs (para 6.1 to 6.4).

6.1 With regard to Option-1, APL submitted that (i) as per the proposed methodology, the lag of 6 months can be avoided; however, the lag of 3 months still persists on account of considering the average of six months data; (ii) the proposed methodology cannot be implemented for correcting the base energy charges in case of escalation rate for transportation of imported coal, mainly for the reason that on account of MARPOL regulation, the escalation rate for transportation of imported coal was notified separately for the period from October to December 2019 and from January to March 2020; and (iii) the proposed methodology takes away the flexibility of transitioning from six monthly to monthly escalation rates any time during the block of six months period; therefore, the usage of monthly escalation rates from the commencement of PPA would provide flexibility to the parties to shift from six-monthly to monthly escalation rates from any particular month as may be mutually agreed. In this context, JSWEL suggested notifying monthly escalation rates from the date of bid submission for the purpose of transition, to eliminate the lag, and to provide accurate base energy charges. GUVNL suggested notifying both monthly escalation rates and six-monthly escalation rates for the same period for comparison and to make a decision on the transition to monthly escalation rates. GUVNL submitted that the Commission, vide order dated 25.9.2023 in Petition No.12/SM/2023, has revised the methodology for the composite index; therefore, the monthly escalation rates based on the old and new composite index may be provided.

6.2 With regard to Option-2, GUVNL submitted that an outright transition to monthly escalation rates, as notified by the Commission, would not be feasible considering the commercial aspects under the PPA.

6.3 GUVNL submitted that the Commission notified the six-monthly escalation rates for energy charge components and capacity charge components to work out the applicable tariff for the month. Since the capacity charge is part of the tariff, clarification with regard to the escalation rates for capacity charge components may also be provided for the purpose of transitioning from six-monthly escalation rates to monthly escalation rates.

6.4 TPCL submitted that (i) there should also be Option 3, where one can mutually accept the time of transition from six-monthly to monthly escalation rates considering the Section-11 period, and (ii) the escalation rate for inland handling of imported coal shall also be considered on a monthly basis.

C: Analysis and Decision

7. We have considered the stakeholders' submissions, as summarised in the preceding paragraphs. After examining the possible approaches for addressing the transition as proposed in the CERC staff paper and submissions made by the stakeholders, our views and decisions on the issues involved in the transition to monthly escalation rates are as under:

7.1 The CERC, through its staff paper dated 24.5.2024, proposed two options for addressing the transition from six monthly escalation rates to monthly escalation rates for the existing PPAs. In addition, the staff paper provided that the concerned parties are free to opt for their own methodology for transition/switchover to monthly escalation rates. All four stakeholders who submitted comments have proposed different approaches besides the options proposed in the CERC staff paper.

7.2 Three out of four stakeholders sought for monthly escalation rates to be notified by the CERC for the period from the date of the financial bid opening till date for correcting the base energy charges/payment index and thereby addressing the transition from six-monthly escalation rates to monthly escalation rates. In this context, it is clarified that the options proposed in the CERC staff paper were to address the transition to monthly escalation rates prospectively because the stakeholders have already agreed to the terms of the existing PPAs, the extant MoP Guidelines, and CERC Notifications issued and made payments thereof for the past period. Therefore, we are of the considered view that in the absence of any consensus amongst the stakeholders on any of the two options proposed in the staff paper, the transition to monthly escalation rates, including the date of transition, should be left to the parties concerned.

7.3 APL submitted that the proposed methodology in the CERC staff paper (i.e., the change of application of six-monthly escalation rates) could not be implemented to correct the base energy charges in case of an escalation rate for transportation of imported coal. This is mainly for the reason that on account of the International Convention for the Prevention of Pollution from Ships (MARPOL regulation), the escalation rate for transportation of imported coal was notified separately for the period from October to December 2019 and from January to March 2020. The Commission notes the difficulty highlighted by the stakeholders and holds that it would not be advisable to stipulate any specific methodology as proposed in the staff paper regarding escalation rate for transportation of imported coal. Therefore, it should be left to the parties to agree on the methodology as deemed appropriate.

7.4 GUVNL sought clarification on the monthly escalation rates for capacity charge components for the purpose of transition. We have noted that the CERC staff paper discussed the monthly escalation rates for energy charge components and not capacity charge components in pursuance of the MoP letter dated

13.4.2022, which provides for notification of monthly escalation rates for energy charge components only.

7.5 TPCL suggested option 3, where the parties mutually accept the time of transition from six monthly escalation rates to monthly escalation rates. In this regard, the Commission is of the view that the staff paper has already provided an alternative to the parties to opt for their own methodology for the purpose of transition. Therefore, there is no need to address the same in this order.

8. In view of the above, we direct that the parties to existing PPAs, where the generating company and the procurer agree to use the monthly escalation rates, adopt their own mutually agreed methodology for the transition from six-monthly to monthly escalation rates.

9. Petition No. 10/SM/2024 is disposed of in terms of the above.

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

Sd/-
(Jishnu Barua)
Chairperson