Views of TERI on Draft Terms and Conditions of Tariff for 2014-2019

By TERI

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Process for carrying out prudence check

Draft regulation for period 2014-19	Description of Regulation	Comments
Regulation 6 and 7	Process for carrying out prudence check	Process for carrying out prudence check of information provided in tariff petition has not been defined. This has led to avoidable litigations in the past and will lead to litigations in the future also. Hence, it would appropriate to define process to be adopted for carrying out prudence check and data/information required for carrying out the same

Benchmark cost for prudence check

Draft regulation for period 2014-19	Description of Regulation	Comments
Regulation10 and 13	Benchmarking capital cost	The benchmark norms specified by CERC has not been updated after it was made in June, 2012. The benchmark is required to be updated every six months. As such, the existing benchmark requires updating so that its relevance is not lost. Also, there is no benchmark for thermal generation capacities below 500 MW. This anomaly is required to be removed by preparing benchmarks for generating stations below 500 MW

PAT Scheme

Draft regulation for period 2014-19	Description of Regulation	Comments
9(5)	The capital cost with respect to thermal generating station, incurred or projected to be incurred on PAT scheme of GoI will be considered by the Commission on case to case basis and shall include: a) Cost of plan proposed by developer in conformity with norms of PAT Scheme; and b) Sharing of the benefits accrued on account the PAT Scheme	Carrying out PAT is mandatory under provisions of BEE. Hence, the cost of capital expenditure on account of PAT should be a pass through subject to prudence check. Also, as the capital cost is a pass through, benefits accruing due to implementation of PAT (as per project document of PAT) should accrue to the beneficiary, even if the developer is not able to demonstrate achievement of performance parameters as per PAT

Hedging of funds

Draft regulation for period 2014-19	Description of Regulation	Comments
9 2(b)	"b) Interest during construction, financing charges and any gain or loss on account of foreign exchange risk variation during construction period, on the loans	It should be mandatory to hedge exposure to foreign exchange and cost of hedging should be a pass though subject to prudence check. Also, there should be statement by the statutory auditor stating whether hedging has been prudently done or not i.e. neither should there be over hedging nor should there be under hedging

Demonstration of normative availability of the plant

Draft regulation for period 2014-19	Description of Regulation	Comments
3 (48)	If the generating station or unit thereof is not able to demonstrate normative availability, except for the reason beyond the control of generating company, such generating station or the unit is said to be put into commercial service from the month of normative availability	There have been cases where plant has not been successfully commissioned after synchronization as it was not able to achieve Maximum Continuous Rating (MCR). In case any such plant is not able to demonstrate normative availability say for long period – even years. Regulations should provide for alternative(s)

Inadequate information

Draft regulation for period 2014-19	Description of Regulation	Comments
6(4)	The generating company or the transmission licensee, as the case may be, shall make an application as per Annexure-I of these regulations, for determination of tariff based on capital expenditure incurred duly certified by the auditors or projected to be incurred up to the date of commercial operation and additional capital expenditure incurred duly certified by the auditors or projected to be incurred during the tariff period of the generating station or the transmission system as the case may be:	Audited Accounts generally do not provide sufficient details for carrying out prudence check. Detailed information required for carrying out prudence check along with supporting documents should be included in the Regulations. It has also been observed that developers do not provide adequate information or even information provided as Annexure-I do not match with the audited accounts submitted. It should be mandatory for developers to prepare and submit Regulatory Accounts to assist in tariff determination and true up.

Information Requirement

Draft regulation for period 2014-19	Description of Regulation	Comments
6(7)	In case of the new projects, the generating company or the transmission licensee, as the case may be, may be allowed tariff by the Commission based on the projected capital expenditure from the anticipated COD in accordance with the Regulation 6 of these regulations	Tariff should be replaced with "provisional tariff". In case the generating company or transmission licensee is required to file tariff application again because of delays beyond 180 days, the fees for tariff processing should not be a pass through. It should be borne by the petitioner.

Normative Plant Availability and SHR

Draft regulation for period 2014-19	Description of Regulation	Comments
36.A.	Normative Annual Plant Availability Factor (NAPAF) of DVC Bokaro TPS and Durgapur TPS at 75%	Normative Annual Plant Availability Factor (NAPAF) of DVC Bokaro TPS and Durgapur TPS at 75% is very low. They have not shown any improvement. The inefficiency of these plants should not be passed on to consumers. Their availability should also be raised to 85% for recovery of full AFC or else a trajectory of annual 2% improvement in availability should be mandated so that it is 85% by 2019..
36. C(iii)	Thermal Generating Stations of Damodar Valley Corporation (DVC): Bokaro TPS: 2700 kCal/kWh Chandrapura TPS: 3100 kCal/kWh Durgapur TPS : 2820 kCal/kWh	The SHR of DVC Bokaro TPS, Chandrapura TPS, Durgapur TPS have been consistently low and there has been no effort for any improvements. Energy audits will reveal areas of inefficiency. Badarpur, Tanda and Talcher TPS have shown improvements. DVC must be set challenging targets of station heat rate to be progressively improved by 2.5 % every year from the current allowed station heat rate. There is no reason why consumers should pay for the inefficiency of DVC.

Auxiliary Power consumption

Draft regulation for period 2014-19	Description of Regulation	Comments
35.E.b	For DVC stations the actual APC is higher than the norms except in case of Chandrapura TPS wherein the actual APC is considerably lower than the norm of 11.50% approved for first three units of 130 MW. For Bokaro it is 10.25% and Durgapur it is 10.5%.	It is observed that DVC plants except Chandrapura have shown no signs of improvement. . Energy audits will reveal areas of inefficiency and implementation of energy audit measures will certainly result in improvement of efficiency. As such, auxiliary consumption of Bokaro and Durgapur should be fixed at not more than 10%.

Special Provisions relating to Damodar Valley Corporation

Draft regulation for period 2014-19	Description of Regulation	Comments
53	Special provision with respect to DVC	Section 14, 4th proviso of EA, 2003 is reproduced below: *"Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948, shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, in so far as they are not inconsistent with the provisions of this Act, shall continue toapply to that Corporation".* As such, any special provision for DVC is outside the purview of the EA, 2003.

Special Provisions relating to Damodar Valley Corporation

Draft regulation for period 2014-19	Description of Regulation	Comments
53	Special Provisions relating to Damodar Valley Corporation	It would be appropriate to mention that Electricity Act, 2003 does not provide any "Special Provision relating to Damodar Valley Corporation" . Also, The *"Expanatory Explanatory Memorandum to Draft Terms and Conditions of Tariff for 2014-2019"* also does not provide any deliberation on providing Special Provisions relating to Damodar Valley Corporation:. As such, this provision is required to be deleted.
53.Capital Cost:	Provided that the capital expenditure incurred on head office, regional offices, administrative and technical centers of DVC, after due prudence check, shall also form part of the capital cost.	Methodology of carrying out prudence check and ensuring ring fencing of different functions of DVC (power, flood control, irrigation) should be defined clearly in Regulations. This should include allocation of assets, revenue and expenditure, capital expense, manpower, etc.

Special Provisions relating to Damodar Valley Corporation

Draft regulation for period 2014-19	Description of Regulation	Comments
53. Debt Equity Ratio	Debt Equity Ratio:all projects of DVC commissioned prior to 01.01.1992 shall be 50:50 and that of the projects commissioned thereafter shall be 70:30.	DVC plants commissioned before 1992 would be fully depreciated plants with zero or close to zero debt. As such, allowing 50% as equity component will result in raising cost of power from old plants of DVC and there is no reason/justification for passing on these extra costs to consumers. Further, The EA, 2003 does not permit any special treatment to DVC. There is no provision which allows 50% of capital to be treated as equity.

Special Provisions relating to Damodar Valley Corporation

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53.	Funds under section 40 of the DVC Act, 1948: The Fund(s) established in terms of section 40 of the Damodar Valley Corporation Act, 1948 shall be considered as items of expenditure to be recovered through tariff.	**Section 40 of DVC Act: *Provision for depreciation and reserve and other funds:*** *(1) The Corporation shall make provision for depreciation and for reserve and other funds at such rates and on such terms as may be specified by the Auditor General of India in consultation with the Central Government.* *(2) The net profit for the purposes of section 37 shall be determined after such provision has been made.* DVC's funds are made for three activities as per DVC Act and there is no reason why power sector consumer should bear the burden of this expense. Further, Section 33 of DVC Act itself mentions of trifurcation of DVC's costs to its three functions. Hence, this section should be deleted. A section is required to be inserted which should stipulate that DVC should ring fence its power sector activities with other activities and prepare separate accounts for power sector activities and other activities,

Truing up exercise

Draft regulation for period 2014-19	Description of Regulation	Comments
8(1)	The Commission shall carry out truing up exercise along with the tariff petition filed for the next tariff period, with respect to the capital expenditure including additional capital expenditure incurred up to 31.03.2019, as admitted by the Commission after prudence check at the time of truing up	The next tariff period shall start from 01.04.2019. Tariff petition for next control period is required to be filed 120 days before 31.03.2019. At the time of filing of tariff petition for next control period (from 01.04.2019 onwards) the FY 2018-19 has not ended. As such, capital expenditure incurred up till 31.03.2019 cannot be determined. Further by this time audited account won't be available for carrying prudence check. Hence, the tariff petition for the terminal year of control period 2014-19 should be for the first year of the next control period and should be provisional in nature

Thank You