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| Clause and  sub-clause | CERC (Terms & Conditions of  Tariff) Regulations,2019 | Draft CERC (Terms & Conditions of  Tariff) Regulation2024 | HPPC comments |
| **CHAPTER 3 – PROCEDURE FOR TARIFF DETERMINATION** | | | |
|  | **Determination of Tariff** |  |  |
| (7) | The difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5) above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with simple interest at the rate equal to the **bank rate prevailing** as on 1st April of the respective year of the tariff period**,** in six equal monthly instalments | Subject to Sub-Clause (8) below, the difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5) above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with simple interest at the rate equal to the **1 year SBI MCLR plus 100 basis points prevailing** as on 1st April of the respective year of the tariff period**,** in six equal monthly instalments.  …….  Provided further that such interest, including that determined as per sub-clause (8) of this regulation 29 shall be payable till the date of issuance of the Order **and no interest shall be allowed or levied during the period of six-monthly instalments. ( ADDED)**  ….. | The ibid clause may be amended as under:  Subject to Sub-Clause (8) below, the difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5) above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with simple interest at the rate equal to the 1 year SBI MCLR plus 100 basis points prevailing as on 1st April of the respective year of the tariff period, in six equal monthly instalments **through invoices for each monthly instalment respectively, thereby allowing rebate, as per Regulations, on each six installments.**  ……….  Provided further that such interest, including that determined as per sub-clause (8) of this Regulation 29 shall be payable till the date of issuance of the Order and no interest shall be allowed or levied during the period of six-monthly instalments.  It is pertinent to point out that various Generators are enforcing the existing CERC Tariff Regulations 2019 in different manners,which are brought hereunder:   1. M/s NHPC issues a single invoice for the shortfall amount and allows payment in six instalments without considering the rebate specified in Regulation No. 58 of the Tariff Regulations. The rebate policy of NHPC applicable in respect of instalment payments received on or after 01.10.2023 is attached as **Annexure A.** 2. M/s NTPC and Aravali contends that the rebate is applicable only if the entire payment is made in one go and also asserts that in case, HPPC makes the payments in six equal instalments, the interest will be charged as applicable in Regulation No. 59 of the Tariff Regulations. For instance, NTPC in its invoice dated 06.11.2023 ( Annexure B) has penned down the note as reproduced below:   **Beneficiaries may choose to pay the Fixed charges (NCTPS-2/KOLDAM in Six (06) monthly instalments. However, in case payment is made in Six instalments, the same shall attract interest as per CERC Regulations.**   1. Notably, other suppliers such as SJVNL and THDC have adhered to the CERC regulations by raising recoverable amounts in six instalments respectively, and HPPC has successfully availed the rebate under Regulation No. 58 in such cases. 2. However, DVC has raised the single invoice with detail of six monthly instalments and allowed the rebate of payment under Regulation No. 58. |
| **CHAPTER-4 TARIFF STRUCTURE** | | | |
| **17**  **Special Provisions for Tariff for Thermal Generating Station which have Completed 25 Years of Operation from Date of Commercial Operation** | | | |
|  | (1) 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.  (**2) 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** | 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.  **Deleted** | 1. Regulation 17(1) enable the parties under respective PPAs, on completion of 25 years term to mutually discuss and arrive at a mutual arrangement to either continue supply /purchase of power. Therefore, the Generator has to make an offer in terms of Regulation 17(1) to the Original beneficiaries. Only when the said offer /arrangement fails, then Regulation 17 (2) provides first right of refusal to the beneficiaries/ Discoms and on such right of refusal by the Discoms, the generator shall be free to sell such power in the open market as it deems fit. Thus, the said regulation safeguards rights of both generator and beneficiaries. 2. The Hon’ble Commission may consider the fact that beneficiaries through its end consumers have already paid towards the capital cost of the old generating stations including depreciation, servicing of debt and equity throughout its useful life. Regulation 17 provides the necessary provision for first right of refusal to beneficiaries, thereby, balancing their interest in an equitable manner since Generating Company has already recovered 90% of its capital cost and remaining 10% value can be recovered through salvage value. It is also submitted that after bearing 90% of the cost of the project, the beneficiaries must have the right to decide whether to continue or to exit from a PPA after its term is over. Therefore, the proposal of omitting Regulation 17 is against the interest of the beneficiary as well as the end user of electricity *i.e.,* consumers. 3. It is relevant to mention that from the date of Commercial Operation of the Station the States are liable to pay the fixed cost of the generating station irrespective of the fact whether they have availed any power or not. Further, the beneficiaries bear the entire cost of the Power Plant during its useful life and are also liable to pay the incentive for operation of the Plant above specified limit. Accordingly, it is only justifiable and equitable that the beneficiaries enjoy the benefit of reduced cost of AFC. 4. Hon'ble CERC in the Tariff regulation 2009-14 had introduced the option of recovery of Special Allowance by the Generator as compensation for meeting the requirement of expenses including renovation and modernization beyond the useful life of project and the same is being recovered through fixed cost. Now, if the right of the beneficiary to continue receiving power from such project(s) is withdrawn it will have a huge implication on beneficiaries and may lead to profiteering by the Generating Company by seeking additional tariff for the residual period. 5. Regulation 17 (2) safeguards the interests of end consumers since once the power plant has completed its 25 years term in commercial operation, then the beneficiaries cannot be compelled to pay higher tariff and bear the burden of running an old and financially unviable generating plant especially if the market offers more efficient, environmentally benign, competitive and economical power. Pertinently, any special concession offered by generator to its beneficiaries will benefit the consumer at large. 6. Regulation 17 allows/assists the generators and beneficiaries in exercising commercial decisions that are mutually beneficial with respect to procurement of power that to only after completion of term of PPA. Regulation 17 (2) is in line with section 61(d) of Electricity Act,2003, which states as under:   *“safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;”*   1. On the other hand, it is pertinent to point out that omission of Regulations 17 is in contravention to the following clause of PPA signed between NTPC and HPPC dated 08.09.2008 for Rihand Super Thermal Power Plant Stage III ,where Haryana is one of the beneficiaries:   **“***11.0 EFFECTIVE DATE AND DURATION OF AGREEMENT:-*  *“This agreement shall come into force from the date of signing of this agreement for all purposes and intent and shall remain operative upto completion of twenty five (25) years from the date of commercial operation of last unit of Rihand STPP Stage -III, unless it is specifically extended on mutual agreed terms.* ***However, after the 25 year period, NTPC would first offer capacity to the existing customers****.*  Also, HPPC has signed similar PPA with Aravali Power Company Limited( APCPL) (Joint venture of NTPC and Haryana Power Generation Company Limited) for Indira Gandhi Super Thermal Power Station ( IGSTPS), which too include the ibid clause.  **“***11.0 EFFECTIVE DATE AND DURATION OF AGREEMENT:-*  *“This agreement shall come into force from the date of signing of the agreement for all purposes and intent and shall remain operative upto completion of twenty five (25) years from the date of commercial operation of last unit of station, unless it is specifically extended on mutual agreed terms.* ***Beyond the 25 years period, APCPL would first offer capacity to the existing beneficiaries and the existing beneficiaries would have the first option of refusal of this capacity.***   1. MOP vide letter dated 20.4.2023 had introduced scheme for Pooling of Tariff of those plants whose PPAs have expired to create Genco-wise common pools and uniform capacity charges. Subsequently, MOP vide letter dated 11.9.2023 has also clarified that guidelines issued by Ministry vide letters dated 22.3.2021 and 5.7.2021( enabling DISCOMs to exit the PPA after completion of its life) stands superseded subsequent to issuance of pooling scheme dated 20.4.2023. However, it may also be noted that MP Discoms have challenged the MoP Pooling scheme in Hon’ble Delhi High Court and the matter is pending for adjudication. Hon’ble CERC is proposing to amend the 2019 Tariff Regulations and omit Regulation 17 for implementation of the Scheme for Pooling of Tariff, that is under challenge before the Hon’ble Delhi High Court in W.P. (C) No. 8653/2023, but the same has not been mentioned in the explanatory memorandum. 2. It is submitted that Tariff Regulations 2019 should not be amended by omitting Regulation 17. The provisions contained in Regulation 17 of Tariff Regulations 2019 be kept in all the Tariff Regulations to be enacted for control period beyond year 2024 as well. 3. In terms of above, it can be concluded that Regulation 17 of the Principal Regulations is in consumer interest and omitting the said regulation will act in favour of the generators at large and will put an additional burden to consumer at large in the form of fixed charges towards the share of allocated power. Accordingly, the said regulation needs to be retained as it is. Also, PPAs where Generator has offered the power availability to the beneficiaries even after completion of PPA will hold good irrespective of the Regulation.   Hence, the existing Regulation may be retained. |
| **CHAPTER – 11**  **COMPUTATION OF CAPACITY CHARGES AND ENERGY CHARGES** | | | |
| **65 ( 10)** **Computation and Payment of Capacity Charge and Energy Charge for Hydro Generating Stations:** | | | |
|  |  | In addition to the above, an incentive shall be payable to a ROR Hydro generating station @ 50 paise/ kWh corresponding to the saleable scheduled energy during peak hours of the day in excess of average saleable scheduled energy during the day (24 hours).  **( ADDED)** | The provision of incentive payable to a ROR Hydro generating station @ 50 paise/ kWh corresponding to the saleable scheduled energy during peak hours of the day in excess of average saleable scheduled energy during the day (24 hours) is untenable .Since Run of the river hydro power plant can not increase its generation during peak hours.  Further, Hydro power plants with storage of one or two hour generation capacity will try to take undue advantage under this provision. |