**Appendix**

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

| **Sl.** | **Particulars** | **Comments/ Suggestions** |
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| 1 | Renovation and Modernisation **(Reg.-27)**andSpecial Allowance for Coal-based Thermal Generating station**(Reg.-28)** | 1. The existing provisions for both Renovation and Modernisation (R&M) and Special Allowance for Thermal Generating Stations aim to sustain normative performance levels beyond the useful life of the station.
2. Generators benefitting from special allowance are rightfully exempted from availing R&M. They are allowed special allowance of Rs 10.75 lakh per MW per year, along with Return on Equity (RoE) at 15.50% on the Original Capital Cost beyond the station's useful life (25 years). Conversely, generating stations opting for R&M, for reasons beyond their control, are only entitled to RoE on additional Capitalisation towards R&M, which is around 30% lower than original project cost or around 60% of the capital cost required for new project.
3. Draft Regulation 27(4), which is excerpted below stipulates that expenditure incurred or projected to be incurred and admitted by the Commission after prudence check and after deducting the accumulated depreciation already recovered from the admitted project cost shall form the basis for the determination of tariff for generating stations opting for R&M.

*“****27. Additional Capitalisation on account of Renovation and Modernisation****…**(4) After completion of the renovation and modernisation (R&M), the generating company, as the case may be, shall file a petition for determination of tariff. Expenditure incurred or projected to be incurred and admitted by the Commission after prudence check and after deducting the accumulated depreciation already recovered from the admitted project cost shall form the basis for the determination of tariff.”*1. The above provision denies the generator, opting for R&M, the opportunity to earn legitimate RoE on the originally invested equity admitted by the Commission as part of admitted project cost, unlike the other generators operating beyond their useful life. **Further, applicable rate of RoE on the additional capitalisation on account of Renovation and Modernisation has not been specified anywhere in the Regulation.** Therefore, the generating station choosing R&M over Special Allowance ends up inearning less RoE and revenue.
2. The issue can be understood from an example given hereunder:

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| **Station Availing Special Allowance without R&M** | **Station Availing R&M** |
| Station Capacity - 420 MWOriginal Capital Cost - Rs.1,200 CrR&M Cost - Rs.0.00 CrCapital Cost for Tariff after useful life - Rs.1,200 CrDebt Equity Ratio - 70:30Equity for RoE - Rs. 360 Cr**Annual** **RoE@15.5%** **- Rs. 55.80 Cr**Spl.Allowance@Rs.10.75lakh/MW/Year - Rs. 45.15 Cr **Total Annual Benefit- Rs. 100.95 Cr** | Station Capacity - 420 MWOriginal Capital Cost - Rs. 1200 CrSalvage value (10% of Rs. 1200 Cr) - Rs. 120 Cr R&M Cost - Rs. 700 CrCapital Cost for Tariff after useful life - Rs. 820 CrDebt Equity Ratio - 70:30Equity for RoE - Rs. 246 Cr**\*Annual** **RoE@14.00%** **- Rs. 34.44 Cr**Spl.Allowance@10.75lakh/MW/Year - NA **Total Annual Benefit- Rs 34.44 Cr** |
| \*Assuming RoE @ 14.00% on the Additional Capitalisation on account of Renovation and Modernisation |

1. **Suggestion:** **In view of the above, it is proposed to modify the draft Regulations 27(4) meant for R&M as follows**: *“****27. Additional Capitalisation on account of Renovation and Modernisation****…*

*(4) After completion of the renovation and modernisation (R&M), the generating company, as the case may be, shall file a petition for determination of tariff. Expenditure incurred or projected to be incurred and admitted by the Commission after prudence check ~~and after deducting the accumulated depreciation already recovered from the admitted project cost~~ shall form the basis for the determination of tariff.”* |
| 2 | Gross Calorific Value of Primary Fuel (**Reg: 60**) | 1. In the draft Regulations, for Pithead generating stations or generating stations with Integrated Mine, it has been mentioned that in the absence of any third-party sampling GCV shall be considered on the basis of ‘*as billed*’ by the supplier less maximum loss of 300 kCal/kg. Further, in the subsequent paragraph it has been mentioned that **no loss** in calorific value between ‘*GCV as billed*’ and ‘*GCV as received*' is admissible for generating stations procuring coal from Integrated mines. The relevant extract from the draft Regulations has been reproduced below for reference:

*“*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:*1. *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.”*1. Further, Regulation 3(38) which defines ‘*GCV as received*’ does not specify the methodology of measurement of the GCV (i.e, ‘Air Dried basis’ (ADB) or ‘Equilibrated Method’ (EM) basis or ‘Total Moisture’ (TM) basis). Generally, the GCV measured at loading / billing end is on EM /ADB basis as per IS 436 (Part-1/Section-1)-1964 to decide the Grade of Coal being supplied. However, the GCV measured at unloading end is measured on TM basis, takes into account the total moisture content in the coal to arrive at the fair value of heat produced by the complete combustion of coal. The adoption of different methodology for measuring GCV at loading and unloading points results in GCV loss of around 250-300 kCal/kg for the same sample of Coal.
2. **Suggestion:** **In view of the above, the provision of “*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*.” is impractical and needs to be addressed appropriately by specifying the applicable methodology for measurement of GCV at both ends.**
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| 3 | Normative Add-Cap - Generating Station**{Reg. 25(2)}** | 1. Considering individual asset expenditures up to Rs. 20 lakhs under Operation and Maintenance (O&M) expenses may lead to higher operational costs. This, in turn, could have repercussions on the profitability of Generating Companies, resulting in a potential financial risk and also Normative O&M expenses allowed may not be adequate.
2. **Suggestion:** **In view of the above, it is proposed that all expenditures exceeding Rs 1 lakh in place of Rs. 20 lakhs limit be treated as Additional Capital Expenses, while those below this threshold should be categorized as revenue expenses (O&M Expenses).**
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| 4 | Definition ‘Long-Term Customer'**{Reg 3(50)}** | 1. The term 'Long Term Customer' has been referred to “*as defined in the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium term Open Access in inter-State Transmission and related matters) Regulations, 2009*”.
2. **Suggestion:** **We understand the Connectivity Regulations, 2009 has been repealed under Regulation 43.1of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022. In view of the above, the draft provision may be suitably amended.**
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| 5 | Sale of Infirm Power{**Reg. 6}** | 1. In the draft Regulation, it has been mentioned that ‘*Provided that any revenue earned by the generating company from the supply of infirm power after accounting for the fuel expenses shall be applied in adjusting the capital cost accordingly*.’
2. Under DSM, the revenue earned by the generating company from the supply of infirm power may be less than the cost of fuel. Also, under the DSM mechanism, it is not possible to segregate the expenses towards start up power and Infirm power in a particular time block or day, in case of tripping of the unit during trial run. As fuel expenses prior to CoD and the start up power are treated as pre-operative expenses, the same is capitalized in the books of accounts after netting of the total revenue earned from supply of infirm power.
3. **Suggestion:** **Therefore, the proviso may be modified such that, any fuel expenses incurred before CoD needs to be capitalised and all revenue earned from sale of infirm power may be deducted from the capital cost to arrive at the admitted capital cost.**

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| 6 | Truing up of tariff for the period 2024-29 {**Reg.13(5)}** | 1. In the draft Regulations, it has been mentioned that ‘*Provided that the generating company shall refund such excess amount or recover the shortfall amount from the beneficiaries based on scheduled energy*.’
2. Under draft Regulation 13(1), Truing-up of only capital expenditure and additional capital expenditure for the generating stations are allowed. Any change of capital expenditure or additional capital expenditure shall lead to change in AFC and not in base ECR.
3. AFC is recovered by the generating company from the beneficiaries as capacity charge on the basis of capacity allocated to the beneficiaries and the availability of the station and is not dependent on energy scheduled.
4. **Suggestion: In view of the above submissions, the proviso to the draft Regulation 13 (5) may be modified as ‘*Provided that* *the generating company shall refund such excess amount or recover the shortfall amount from the beneficiaries based on ~~scheduled energy~~ their contracted capacities****.*’
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| 7 | Interest on Loan Capital {**Reg.32 (6)}** | 1. The draft Regulation 32(6) stipulates that in the absence of the actual loan portfolio, the weighted average rate of interest of the generating company shall be deemed as rate of interest applicable to the loan for installation of the emission control system. However, the draft Regulation does not specify the rate of interest to be considered for emission control system when the generating station does not have any actual loan.
2. **Suggestion: To enhance clarity regarding the applicability of the interest rate for emission control system, it is suggested to interchange the sequence of the two provisions in draft Regulation 32(6). This modification would help provide a more coherent structure and make the first proviso applicable to the second one thereby removing the ambiguity surrounding the determination of the interest rate in cases where no actual loan for the emission control system exists.**
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| 8 | Interest on Working Capital {**Reg.47(1)}** | 1. It is submitted that the billing cycle of the Mine Developer and Operator has not been considered while estimating the working capital requirement for determination of Input Price of coal.

 1. **Suggestion: In view of the above, it is suggested to modify Regulations 47 (1) (iii) as follows:**

***“****(iii) Operation and maintenance expenses for one month, ~~excluding~~* ***including******one-month equivalent*** *mining charge of the Mine Developer and Operator and annual charges of the agency other than the Mine Developer and Operator, engaged by the generating company.”* |
| 9 | Base Energy Charge Rate{**Reg. 64 (6)}** | 1. The draft Regulation 64(6) specifies that the Commission, through specific tariff orders for each generating station, shall approve the Energy Charge Rate (ECR) at the start of the tariff period. The approved ECR shall be the base for the first year of the tariff period. Further it has been mentioned that the base energy charge rate for subsequent years shall be the energy charge computed after escalating the base energy charge rate by escalation rates for payment purposes as notified by the Commission from time to time under competitive bidding guidelines.
2. It is understood that the aforesaid provision (underlined) of the base energy charge rate for subsequent years has been provided to regulate the energy charge rate payable by the beneficiaries. However, in absence of any provision with respect to capping of ECR on account of use of alternative source of fuel, the base ECR for subsequent years shall have no relevance.
3. **Suggestion: In view of the above, the enabling provision of Regulations 64 (6) may be suitably amended considering its applicability**.
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