JSW Energy Limited

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January 28, 2019

To,
The Commission,
Central Electricity Regulatory Commission (CERC),
3rd & 4th Floor, Chandralok Building, 36,
Janpath, New Delhi – 110 001

Dear Sir,

Sub: Submission of Comments/Suggestions on Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for the tariff period from 1.4.2019 to 31.3.2024.

This has reference to your Public Notice no. L-1/236/2018/CERC dated 14th December 2018 seeking comments and suggestions on the Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for the tariff period from 1.4.2019 to 31.3.2024. Please find enclosed our comments/suggestions on the Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for your kind consideration.

Thanking you.

Yours faithfully,
For JSW Energy Limited

JSW ENERGY LIMITED MUMBAI

Abhay Yagnik
(General Manager – Business Development)

Comments and/ or Suggestions on CERC's
Draft Regulations (Terms and Conditions of Tariff Regulations 2019 – 24)

Sr. No.	Clause of Present/ Draft Regulation	Brief Description	JSWEL Comments / Suggestions
1.	**2- Proviso**	Provided that any generating station for which agreement(S) have been executed for supply of electricity to the beneficiaries on or before 5.1.2011………such projects shall not be eligible for determination of tariff **unless fresh consent of the beneficiaries is obtained and furnished**	All the power procurement should be done by discoms through competitive bidding specifically when many stressed stranded power assets are available and ready to sign the PPA at competitive rates. Regulator may carry out the comprehensive reviews of all such PPAs where beneficiaries are ready to give consent and scrutinize the readiness of the project likely cost /viability, construction time etc. and decide on continuity of PPAs.
2.	**2(42)**	**Landed Fuel Cost**	As washing is compulsory for coal transport beyond 500 Kms, washing charges should also form the part of Landed Fuel Cost
3.	**2 (45)**	**Mine Infrastructure** The definition of Mine Infrastructure doesn't include intangible assets.	The definition of Mine Infrastructure should include the Intangible Assets like surface right/lease on mining land etc.
4.	**2 (79) (f)**	**'Useful life'** in relation to a unit ……… from the date of commercial operation shall mean the following : Hydro generating station including pumped Storage hydro generating stations – 40 years	There are certain Hydro Power plants where PPA is signed for 35 years considering its useful life. Increase in useful life to 40 years would reduce the recovery of Annual Fixed Charges for such Hydro plants. It is suggested that the change of useful life may be applied for hydro plants commissioning after 31.03.2019.
5.	**9(1)**	**The generating company or the transmission licensee may make an application for determination f tariff ………..within 60 days of the anticipated date of commercial operation**	The Regulatory process takes atleast 3-6 months for getting the approval of interim tariff due to various administrative issues and delays so it is proposed that tariff application should allowed to be filed before 6 months from likely COD. So that when the Generating unit or transmission line are commissioned, tariff is approved and revenue can start.

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6.	**10 (7)**	The difference between the tariff, shall be recovered from or refunded to the beneficiaries, 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	It is suggested that interest should also be paid for the six month period during which discoms make the installment payment for the balance amount.
7.	**13 (2)**	**Truing up of tariff for the period 2019-24:** The generating company or the transmission licensee as the case may be, shall make an application, as per **Annexure-I** to these regulations, for carrying out truing up exercise …….	Please provide the Annexure I
8.	**17 (Draft)**	**Debt – Equity Ratio:** In case of Transmission System or generating station, the accumulated depreciation as on the completion of the useful life less cumulative repayment of loan shall be utilized for reduction of the equity	After the useful life of the asset, if accumulated depreciation claimed above debt repaid is reduced from the equity it will significantly reduce the regulated return on equity and annual fixed cost for Transmission Service provider / Power Generator. Reduction in the regulated return on equity post useful life will not incentivize the equity investors to efficiently operate and maintain the plant/assets for a longer life duration. It is suggested that the referred provision may be deleted.
9.	**17 (Present)**	**Compensation Allowance:** In case of coal-based or lignite-fired thermal generating station or a unit thereof, a separate compensation allowance shall be admissible to meet expenses on new assets of capital nature from the year following the year of completion of 10, 15, or 20 years of useful life.	The additional compensation allowance available to generators in the present regulations at different stages of plant life has been discontinued in the draft regulations. The plant needs capex and higher opex as the plant turns older to maintain the same efficiency and performance parameters. In view of above, it is suggested to retain the additional compensation allowance admissible at different stages of plant life in order to meet the

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			additional capex being incurred at these stages, which would help in maintaining better efficiency of the plant.
10.	30	**Return on Equity** Return on equity in respect of additional capitalization after cut off date within or beyond the original scope shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system;	There are many change in law events or liabilities (paid after cut off date) necessitates the capex after cutoff date. It is unfair to the developer that after incurring additional capex , ROE is not paid on it. It is suggested that existing approach may be continued where the additional capex is approved after prudent checks by the regulator and fixed charges including RoE is paid for the same. For compliance of Environment norms it requires huge capex and lenders may not fund 100% cost. The equity to be infused by the developer should be given normative ROE of 15.5% instead of at average rate of interest
11.	32	**Interest on Loan Capital** The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized	It is submitted this clause may be modified as below: The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio **at the beginning of each year** after providing appropriate accounting adjustment for interest capitalized
12.	34	**Interest on Working Capital:** The working capital shall cover: Coal-based/lignite-fired thermal generating stations – Cost of coal or lignite and limestone towards stock, if applicable, for 15 days for pit-head generating stations and 20 days for non-pit-head generating stations for generation Receivables equivalent to 45 days of capacity charges and energy charges	In the proposed draft, the working capital inventory cost of coal for non-pit head plants have been reduced by 10 days, which is around 33% reduction in the earlier duration for non-pit-head generating stations. Such considerable reduction in the coal stock would lead to Power plants maintaining lower inventory and increasing the risk of plant outages in the event of coal supply disruptions. This also tightens the working capital availability for the generator which are already stressed due to delay in payments from the Discoms from one hand and advance payments to the coal supplier. It is suggested to maintain the present number of days for coal stock so that normative working capital and annual revenue requirement of the generator are not adversely impacted. Further, the reduction of receivables equivalent to 45 days from 60 days is also not correct as the payment from Discoms takes more than 60 days and generators are already loosing on this front. Although draft

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			regulation suggests for late payment surcharge beyond 45 days, most of the discoms do not pay late payment surcharge at all or try to negotiate the amount.
13.	34 (3)	**Rate of interest on working capital:** Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019	In the present circumstances, MCLR is lower than the base rate and a markup of 350 basis points do not fully reflect the cost of funds for the generator/licensee. It is suggested to either increase the spread of 350 basis points to 450 basis points over MCLR or maintain 350 basis spread over Base rate instead of MCLR.
14.	35 (2)	**Hydro Generation Station**	The table does not cover the O&M cost for 1000 MW Karcham hydro project.
15.	42 (A)	**Depreciation on Capital Cost of Integrated Mine:** Depreciation in respect of integrated coal mine shall be computed from the date of commercial operation and value base for the purpose of depreciation shall be the capital cost of the asset. Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.	It is submitted that detail/list of depreciation rate for the assets forming part of capital cost of integrated mine may be provided.
16.	42 (B)	**Operation and Maintenance** The Operation and Maintenance expenses of mine shall be determined based on the original project cost for first year and thereafter, it shall be escalated at the average rate of wholesale price index (WPI) for each financial year.	Rate of O & M Expenses of integrated mine may be provided and it is suggested that it may be linked as a percentage of **approved project cost.**
17.	51 & 59 (Draft)	**Computation and Payment of Capacity Charge and Norms of operation:** Normative Plant Availability Factor (PAF) for Peak and Off-Peak periods shall be equivalent	The draft regulation proposes two major changes - first the Annual normative availability is changed to Quarterly normative availability and again the availability is proposed to be calculated for peak and off peak hours separately.

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		to the Normative Quarterly Plant Availability Factor (NQPAF). PAF less than NQPAF shall result in pro-rata reduction in recovery of Capacity Charge. If the cumulative peak period PAF achieved during the quarter is less than the specified NQPAF for peak period and the cumulative Off-Peak period PAF achieved during the quarter is more than the specified NQPAF for Off-Peak period, the loss in recovery of Capacity Charge for Peak period shall not be off-set against the notional gain on account of over-achievement in Off-Peak period.	This will create lot of complexity and operational issues while calculating the availability. It is proposed that existing norms for recovery of capacity charges may be continued or new norms may be first implemented on trial basis before it is notified so that power plants get sufficient time to equip themselves to comply the same. The maintenance of NQPAF with separation of availability measurement during peak and off-peak periods is a big transformation and should be implemented in a phased manner.
18.	**48 (Draft)**	**Transit and Handling Losses**	Transit loss (equal to that of coal) may be provided to compensate the transit and handling loss during transportation of lime specifically in case of CFBC boilers and in case of power plants with FGD using Lime as it is also required to be transported from a considerable distance.
19.	**Regulation 52 (a) (Draft)**	**Computation of Energy Charges for coal based and lignite fired stations:** *CVPF = (a) Weighted Average Gross calorific value of coal as received, in kCal per kg for coal based stations less 85 Kcal/Kg on account of variation during storage at generating station;*	As per the draft, it appears that 85 Kcal/ kg of variation in GCV due to storage is applicable to Coal based power plants. Lignite is having high volatile material and the GCV loss due to storage of lignite is higher hence it may be clarified that 85 Kcal/ Kg of GCV variation or higher may also be provided for lignite fired Generating Stations using CFBC technology.
20.	**59 (Draft)**	**Norms of operation for thermal generating station:**	The Normative Gross Station Heat Rate of existing Thermal Generating Stations of 200/210/250 MW sets have been reduced from 2450 kCal/ kWH to 2410 kCal/ kWh. It is proposed the lower SHR shall be applied to new thermal power plants getting commissioned after 2018-19 as

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		Gross Station Heat Rate of existing Thermal Generating Station: For generating stations having combination of 200/210/250 MW sets, the normative gross station heat rate shall be 2410 kCal/kWh (weighted average gross station heat rate of the combinations).	the existing machines are having fixed design heat rates based on its technology. There is always a technology gap between a new plant & old plant and it is tougher to achieve the stringent norms by the old generating stations due to ageing/vintage. Further, the PLF of the thermal power plants are presently low due to high penetration of renewable energy and excess generation capacity in the country, the situation is likely to remain the same for next few years. In such scenario, it is suggested that the normative Heat Rate may be not reduced and some relaxation may be provided in the normative SHR for the vintage of the plant.
21.	**69 (Draft)**	**Late payment surcharge:** A late payment surcharge at the rate of 1.25% per month shall be levied by the generating company or the transmission licensee.	The percentage of late payment surcharge has been reduced from 1.5% earlier to 1.25% in the draft regulations. As generators are already suffering from long delays in payment, reducing the interest rate would incentivize more delays in payment from the Discoms. The late payment surcharge should be high enough so that it can act as deterrent for discoms's payment delay.
22.	**70 (Draft)**	**Sharing of gains due to variation in norms:** Financial gains on account of controllable parameters shall be shared between generating company or transmission licensee and the beneficiaries or long term transmission customers, on monthly basis with annual reconciliation and shall be shared in the ratio of 50:50 between the generating stations and beneficiaries.	The generator and/ or transmission company has to put in considerable efforts and capex/opex in order to perform better than normative values of controllable parameters. Further the normative values are being made stringent with each tariff regulation. Under this scenario, it is proposed that instead of reducing the share to 50% it should be increased to 75% to incentivize the Generators/ licensee to outperform stringent normative values.
23.	**72 (Draft)**	**Sharing of Non-Tariff Income Regulation** The non-tariff income in case of generating station and transmission system on account of following shall be shared in the ratio of 50:50 with the beneficiaries and the long term customer on annual basis: a) Income from rent of land or buildings;	Proposed Regulation provides recovery of Income Tax corresponding to Return on Equity on normative grossed up basis. The generating station has also to pay income tax corresponding to non-tariff income earned for a particular year. Thus, the sharing of non-tariff income in the ratio of 50:50 with the beneficiaries and the long term customer on annual basis without offsetting the income tax component

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		b) Income from sale of scrap; c) Income from statutory investments; d) Interest on advances to suppliers or contractors; e) Rental from staff quarters; f) Rental from contractors; g) Income from advertisements; h) Interest on investments and bank balances;	corresponding to non-tariff income is not the actual sharing of the gain arising out from the non-tariff income. In view of above the non-tariff income net of income tax component may be shared in the ratio of 50:50 with the beneficiaries and the long term customer on annual basis.
24.	**75, 76 (1),(2),(3),(4)**	**Deviation from ceiling tariff**	The clauses 76(1),(2),(3),(4) have been substantially modified from 2014 regulations no. 48 related to deviation from ceiling tariff but explanatory memorandum does not cover any justification for the same. Further, 76(1)(2) and (3) restricts lower than ceiling tariff for only 1 year while 2014 regulations 48 (1)(a) allows that the levelised tariff over the useful life of the project on the basis of the norms in deviation does not exceed the levelised tariff calculated on the basis of the norms specified in these regulations. It is suggested that the clause 48 (1) may be retained in this regulation.

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