TATA POWER-DDL

TPDDL/PMG/CERC/29012019 Dated:- 29th Jan'2019

Mr. Sanoj Kumar Jha,
Secretary,
Central Electricity Regulatory Commission,
3rd & 4th Floor,
Chandrlok Building,
36, Janpath, New Delhi-110001,

Subject: Draft Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for the tariff period from 1.4.2019 to 31.3.2024.

Dear Sir,

We write in reference to the public notice issued by Hon'ble CERC vide notification number L-1/236/2018/CERC dated 07th January 2019, wherein comments / suggestions / objections were invited from the stakeholders and interested persons on the draft regulations regarding the subject matter.

In line with the same please find attached a copy of the Tata Power-DDL Comments/Suggestions on the subject matter for your kind perusal.

Thanking You.

Yours Sincerely,
For Tata Power Delhi Distribution Ltd.

29/1/2019

Sumit Sachdev
HoD (Power Management Group)

Enclosures:

1. Annexure 1- Copy of Tata Power-DDL Comments/Suggestions.

Clause in 2019 -24 (draft)	Comments
3. (7) 'Bank Rate' means the **one year marginal cost of lending rate (MCLR)** of the State Bank of India issued from time to time plus 350 basis points;	There should be a ceiling limit, with Bank Rate being trued up at the end of the Tariff Period, as the borrowing rates have been coming down in the past. The Commission has introduced the sharing of savings in interest cost due to refinancing in chapter 15: However, the margin of 350 bps needs to be reviewed in line with past borrowing margins of such companies with some stringent target to optimise.
3. (31) 'GCV as received' means the GCV of coal or lignite as measured at the unloading point of the thermal generating station through collection, preparation and testing of samples from the loaded wagons, trucks, ropeways, Merry-Go-Round (MGR), belt conveyor and ship in accordance with the IS 436 (Part-1/ Section 1)- 1964: Provided that the measurement of coal or lignite shall be carried out through Third party sampling to be appointed by the generating companies in accordance with the guidelines, if any, issued by Central Government; Provided further that samples of coal or lignite shall be collected either manually or through hydraulic augur or through any other method considered suitable keeping in view the safety of personnel and equipment: Provided also that the generating companies may adopt any advance technology for collection, preparation and testing of samples for measurement of GCV in a fair and transparent manner	1) Standardization of GCV computation is necessary which is not the case currently. LPPF is calculated based on "as billed" GCV whereas ECR is calculated based on "as received GCV". GCV "as billed" is measured using "Air-Dry method" vis-a-vis GCV"as received" is measured using "Total moisture" basis. This leads to unnecessary burdening of the beneficiaries as loss due to moisture is directly passed on to the end consumers. 2) We also mention that the Commission had proposed Normative loss value of GCV and transportation in the Consultation paper dated 24th May' 2018, however the same is not part of the draft Regulations. Accordingly, we would request the Commission to include the same. Allowing, the grade slippage as pass through without any limit adversely affects the beneficiaries and results in inefficiency in the supply chain. 3) No further relaxation to the GCV should be given as the Commission has already proposed a relaxation of 85 kCal/kg in ECR formula. 4) The Commission may clarify the point where third party sampling of coal will be done and the Input price of coal should be as per third party sampling corresponding to the GCV found during third party sampling. For the purpose of ECR computation the Landed Price of Primary Fuel should correspond to GCV measured during third party sampling. Under Regulation 2 (31), GCV on as received basis is now defined. The definition of GCV on as received basis has been considered by the Commission from the order dated in 25.1.2016 in Petition No. 283/GT/2014. Computation of GCV is provided under proposed Regulation 49 and computation of energy charge is to be done as per the formulas mentioned under proposed Regulation 52 on as received basis. This is a welcome step and obligating the generating companies to provide the details in respect of GCV and price of fuel will provide a transparent process in calculation of GCV on as received basis and accordingly, is in favor of beneficiaries. Transparency in providing details, data, information by Generating companies is welcome but the obligation must be made binding through a penal provision to be added after draft regulation 49(2). This penal provision should provide what adverse action will be taken against the Generating companies if they delay or fail to provide information in transparent manner.

Clause in 2019 -24 (draft)	Comments
3. (38) 'Input Price' means the price of coal or lignite sourced from the integrated mines at which the coal or lignite is transferred to the generating station for the purpose of computing the energy charges for generation and supply of electricity to the beneficiaries and determined in accordance with Chapter 9 of these regulations	The Commission may clarify the point where third party sampling of coal will be done and the Input price of coal should be as per third party sampling corresponding to the GCV found during third party sampling. For the purpose of ECR computation the Landed Price of Primary Fuel should correspond to GCV measured during third party sampling. No further relaxation to the GCV should be given as the Commission has already proposed a relaxation of 85 kCal/kg in ECR formula. We also mention that the Commission had proposed Normative loss value of GCV and transportation in the Consultation paper dated 24th May' 2018, however the same is not part of the draft Regulations. Accordingly, we would request the Commission to include the same.
3 (48) 'Operation and Maintenance Expenses' or 'O&M expenses' means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares , consumables, insurance and overheads and **fuel other than used for generation of electricity , water charges and security expenses;**	Consultation paper introduced the concept of three part tariff segregation, however the same has not been incorporated in the current draft. It may kindly be noted that Three Part Tariff segregates the O&M cost between fixed and variable component which reflects the actual scenario. Under Two Part Tariff scheme, the Generator receives normative O&M cost based on availability, even though it may not have incurred the same. Accordingly, we request Hon'ble Commission to retain the concept of providing O&M based on actual generation and not mere availability.
3(79)(f) Hydro generating station including pumped Storage hydro generating stations - **40 Years**	The extension of the contracted capacity may reduce the initial fixed cost as the front loading will be reduced. This shall result in optimum utilization of hydro power and help in grid balancing. **Accordingly, it is suggested that the intention to provide benefits to the end consumers by way of increase in plant life shall fructify only when other parameters such as salvage value is kept at 10% and not reduced to 5%.**
Chapter 2	
6.1.(b) Where the associated transmission system has not achieved the commercial operation as on the date of commercial operation of the concerned generating station or unit thereof, the transmission licensee shall make alternate arrangement for the evacuation from the generating station at its own cost, failing which, the transmission licensee shall be liable to pay the transmission charges to the generating company at the rate of the applicable transmission charges of the region as determined in accordance with the Sharing Regulations till the transmission system achieves the commercial operation. Provided that despite making alternative arrangement of evacuation, if the associated transmission system does not achieve the date of commercial operation within the six months of date of commercial operation of the generating station, the transmission licensee shall be liable to pay to the generating company the applicable transmission charges of the region as determined in accordance with the Sharing Regulations in addition to the above.	A clarification may be provided regarding who shall bear the fixed cost of plant in cases where Transmission Licensee is not able to arrange alternate transmission system,

Clause in 2019 -24 (draft)	Comments
6.(2) (b) Where the transmission system has not achieved the commercial operation as on the date of commercial operation of the interconnected transmission system of other transmission licensee, the transmission licensee shall be liable to pay the transmission charges of such interconnected transmission system to the other transmission licensee and in the absence of transmission charges, at the applicable transmission charges of the region as determined in accordance with the Sharing Regulations till the transmission system achieves the commercial operation.	A clarification may be provided regarding who shall bear the fixed cost of plant in cases where Transmission Licensee is not able to arrange alternate transmission system.
Chapter -3	
8. (4) Assets installed for implementation of the revised emission standards shall form part of the existing generation project and tariff thereof shall be determined separately on submission of the completion certificate by the Board of the generating company.	Any plant which is older than 15 years shall take prior approval of Discoms before installation of FGD equipments. Further, details of cost benefit analysis should also be provided by the plant to the beneficiary at the time of filing the application..
Chapter -4	
11. In-principle Approval in Specific circumstances: The generating company or the transmission licensee undertaking any additional capitalization on account of change in law events or force majeure conditions may file petition for in-principle approval for incurring such expenditure after prior notice to the beneficiaries or the long term customers, as the case may be, along with underlying assumptions, estimates and justification for such expenditure if the estimated expenditure exceeds 10% of the admitted capital cost of the project or Rs.100 Crore, whichever is lower.	It is submitted that the said provision shall not be read or interpreted to mean that by mere filing of Petition seeking claim for Force majeure or Change in law events, the Petition shall stand admitted or maintainable. The Hon'ble Commission shall hear the beneficiaries in detail and questions of maintainability of such Petition shall remain open to be adjudicated. This should be clarified by insertion of suitable regulation.
CHAPTER 6 COMPUTATION OF CAPITAL COST	
18.2.(c) Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;	Only hedging cost should be added. All gain should be passed through.
18.4.b Cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyay Gram Jyoti Yojana (DDUGJY) project in the affected area.	The capital cost in case of existing or new hydro generating station shall also include: (a) cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity with National R&R Policy and R&R package as approved; and (b) Cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area. Tata Power-DDL submits that Capital cost of any Hydro Project should be approved in such a manner that Cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area as mentioned in the point (b) above should be borne by the developer only. The same should not be a part of the AFC and should not be loaded on the beneficiaries of the project.
CHAPTER 7 COMPUTATION OF ADDITIONAL CAPITAL EXPENDITURE	

Clause in 2019 -24 (draft)	Comments
21(2) The "uncontrollable factors" shall include but shall not be limited to the following: a. Force Majeure events; b. Change in law; and c. Time and cost over-runs on account of land acquisition except where the delay is attributable to the generating company or the transmission licensee;	Delay in land acquisition may be kept as a part of Controllable Parameters as the Generators/Transmission Licensees are in the best situation to control the same.
24. Additional Capitalisation within the original scope and after the cut-off date: (2) (b) The replacement of the asset is necessary on account of change in law or Force Majeure conditions; or	There are certain orders, directions issued by Competent authorities, Environmental Tribunals, agencies etc. If the generating company exercises their rights in law to challenge any such orders/directives in appeal or other proceedings, the allowance of such expenditure must be subject to outcome of the said Appeal or proceedings challenging the Change in law events. For instance in case of BTPS directions of DPCC were issued for the closure of the plant temporarily and Generating company challenges the said direction for closure in appeal proceedings, the Hon'ble Commission may make scope for these exceptions in the current Regulations in larger consumer interest and to avoid burden of additional capex on procurer, beneficiaries.
26.1 Provided further that, the generating company or the transmission licensee intending to undertake renovation and modernization (R&M) shall be required to obtain the consent of the beneficiaries or the long term customers, as the case may be, for such R&M and submit the same along with the petition.	Tata Power-DDL would request for addition of the following proviso: *Provide that a beneficiary shall be given exit from the PPA in case it does not wish to provide consent for R&M even though other beneficiaries have provide their consent for R&M.*
Chapter 8 COMPUTATION OF ADDITIONAL EXPENDITURE	
30.2 Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system and run of the river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations	ROE is a return provided to the Generator for the equity invested by it in the project. It should however, reflect the existing market returns. The current ROE of 15.5% to 16.5% is very high if the same is provided even though the plant load factor of generating station is low. A plant should not receive such high returns if it is not serving the desired objective of dispatching power to its beneficiaries. Segregating of ROE in fixed and variable component shall also maintain a balance between the interest of the generator and its beneficiaries.
31. Tax on Return on Equity. (ii) In case of generating company or the transmission licensee paying normal corporate tax including surcharge and cess: (a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1,000 crore; (b) Estimated Advance Tax for the year on above is Rs 240 crore; (c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore/Rs ,1000 Crore = 24%; (d) Rate of return on equity = 15.50/ (1-0.24) = 20.395%	Instead of Advance Tax it should be computed based on actual income tax payable against gross total income. Advance tax is not reflecting the true position for computation of effective rate of income tax.

Clause in 2019 -24 (draft)	Comments
33.(3) The salvage value of the asset shall be considered as 5% and depreciation shall be allowed up to maximum of 95% of the capital cost of the asset: Provided that the salvage value for IT equipment and software shall be considered as NIL and 100% value of the assets shall be considered depreciable.	1) The salvage value may be retained at 10% only. 2)The Depreciation Schedule defines Depreciation rate for Meters and Batteries as 5.28%, accordingly meters and batteries shall achieve depreciation of 95% in 18 years which is much more than the useful life of Meters and batteries. Considering the same, Hon'ble Commission is requested to specify the Deprecation Rate for Meters and Batteries as 15% which shall be inline with the Depreciation rate of IT equipments.
33. (7) The generating company or the transmission license, as the case may be, shall submit the details of proposed capital expenditure **five years** before the completion of useful life of the project along with justification and proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure.	Consent of the Beneficiary should also be taken before claiming additional capitalization at the fag end of life as is the case of R&M
34. Interest on Working Capital: (3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during the tariff period 2019-24 in which the generating station or a unit thereof or the transmission system including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later: Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24;	There should be a ceiling limit, with Bank Rate being trued up at the end of the Tariff Period, as the borrowing rates have been coming down in the past. With so many support initiatives from Government and MoP, refinancing of expensive loans with cheaper loans may be introduced with incentive sharing to promote such optimisation by generation and transmission companies.
34. (3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2014 or as on 1st April of the year during the tariff period 2014-15 to 2018-19 in which the generating station or a unit thereof or the	instead of normative working capital rate it should be actual portfolio or bank rate as specified whichever is lower.

Clause in 2019 -24 (draft)	Comments
42. Debt: Equity Ratio: Debt-Equity Ratio of 70:30 to be considered as on date of Commercial Operation for a particular coal mine. Actual equity in excess of 30% of the capital cost shall be treated as normative loan and in case actually equity deployed is less than 30% the actual equity shall be considered. The Debt: Equity ratio shall be applied to the capital cost of each year arrived after considering the Written Down Value of assets as per the industry practice followed in coal sector which may be as per Income Tax Act, 1961 or as per the Companies Act, 2013.	"The Debt: Equity ratio shall be applied to the capital cost of each year arrived after considering the Written Down Value of assets." The same methodology should be followed for generating stations
47 Components of Landed Cost of Primary Fuel : Input price of fuel corresponding to the grade , transportation cost, unloading and loading charges and handling charges. The GCV shall be measured by third party sampling and the cost of third party sampling shall be reimbursed by the beneficiaries.	The Commission may clarify the point where third party sampling of coal will be done and the Input price of coal should be as per third party sampling corresponding to the GCV found during third party sampling. For the purpose of ECR computation the Landed Price of Primary Fuel should correspond to GCV measured during third party sampling. No further relaxation to the GCV should be given as the Commission has already proposed a relaxation of 85 kCal/kg in ECR formula. We also mention that the Commission had proposed Normative loss value of GCV and transportation in the Consultation paper dated 24th May' 2018, however the same is not part of the draft Regulations. Accordingly, we would request the Commission to include the same.
49 (2) The generating company shall provide to the beneficiaries of the generating station the details in respect of GCV and price of fuel i.e. domestic coal, imported coal, e-auction coal, lignite, natural gas, RLNG, liquid fuel etc. as per the forms prescribed at Annexure-I to these regulations:	Annexure 1 to be provided by CERC as it is not a part of Draft Regulations.
Chapter 11 Computation of Capacity Charges and Energy Charges	
(7) In addition to the capacity charge, an incentive shall be payable to a generating station or unit thereof @ 65 paise / kWh for ex-bus scheduled energy during Peak period and @ 50 paise / kWh for ex-bus scheduled energy during Off-Peak period corresponding to scheduled generation in excess of ex-bus energy corresponding to Normative Quarterly Plant Load Factor (NQPLF) as specified in Regulation 59 (B) of these regulations.	Incentive may be retained at 50 paise per unit only.

Clause in 2019 -24 (draft)	Comments
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;	While the Hon'ble CERC has given a relaxation of 85 kCal/kg on the GCV of coal which is beneficial to the Generating Station, it is understood that same is in line with the CEA recommendations. We however suggest that the CEA recommendation should be considered in totality as it also mentions that there is negligible loss in GCV from "as billed" to "as received". Further, the third party sampling and consequent determination of GCV on as received basis should be used for calculation of LPPF including cost of coal corresponding to this GCV.
54 (2) The capacity charge (inclusive of incentive) payable to a hydro generating station for a calendar month shall be: AFC x 0.5 x NDM / NDY x (PAFM / NAPAF) (in Rupees) Where, AFC = Annual fixed cost specified for the year, in Rupees NAPAF = Normative plant availability factor in percentage NDM = Number of days in the month NDY = Number of days in the year PAFM = Plant availability factor achieved during the month, in percentage	1. The formulae specified in (Draft) Tariff regulation 2019-24 for recovery of fixed charges (as mentioned below) of the hydro generating stations should not contain the incentive component (PAFM/NAPAF). AFC x 0.5 x NDM / NDY x (PAFM / NAPAF) (in Rupees) Incentive should be based on actual generation by any Hydro Generating plants during any given year. In any case, the Recovery of capacity charges and energy charges during a year should not be more that the AFC approved by the Hon'ble CERC for any given year, as being done in case of Thermal Generating stations.
Chapter 12 Norms of Operation	
59.A.(a) Provided that for the purpose of computation of Normative Quarterly Plant Availability Factor, annual scheduled plant maintenance shall not be considered.	The draft proposes the computation of Normative Quarterly Plant Availability Factor without considering annual scheduled plant maintenance. This has been done considering that the thermal generating stations may not get the corresponding availability for the quarter in which the plant planned maintenance falls. Also since the availability figures have to be considered for a quarter, the plant will not recover the shortfall over next quarters which otherwise it was able to do when the availability was considered on an annual basis. We submit that, in such case, the NQPAF should be increased from 83% to 90% for recovery of fixed cost. This should be done as non-consideration of annual scheduled plant maintenance should increase its availability in the remaining period. Hon'ble Commission is also requested to specify the maximum time allowed under Annual scheduled plant maintenance. The period may be fixed on the Capacity of Unit/ fuel type.
Relaxed Availability Norms for Chandrapura TPS at 75%	Relaxed Availability Norms for Chandrapura TPS 07&08 at 75% should be discontinued as its availability has been consistently at 80%
Relaxed NQLF Norms for Chandrapura TPS at 80%	Normative NQLF for Chandrapura TPS 7&8 should be 85% in place of 80%
Chapter 13 Scheduling accounting and Billing	

Clause in 2019 -24 (draft)	Comments
69. Late payment surcharge: In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long term transmission customers as the case may be, beyond a period of **45 days** from the date of billing, a late payment surcharge at the rate of **1.25% per month** shall be levied by the generating company or the transmission licensee, as the case may be.	1) Hon'ble Commission is requested to define Due date also as 45 days from the date of billing. It may be noted that Receivables are allowed for 45 days considering that LPSC shall be applicable only after 45 days. However, there are instances where the due date is 30 days from date of billing even though the generator gets normative Interest on Working capital (equivalent to 45 days). Hon'ble Commission is therefore requested to fix the due date as 45 days from date of billing for all PPAs which governed by these Regulations. 2) In view of the introduction of MCLR, the rate of late payment surcharge may need to be reviewed. One option is to add some premium over and above MCLR. 3) LPSC should not be a source of income to the generators. The current rate of LPSC is very high and is unsustainable, especially considering the financial health of the Discoms. Accordingly, LPSC should be MCLR with a small premium so as to disincentivize the Discoms from defaulting on payments. The Rebate and LPSC clause should be standard
Chapter 14 Sharing of Benefits	
71. Sharing of saving in interest due to re-financing: If re-financing of loan by the generating company or the transmission licensee, as the case may be, results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company or the transmission licensee, as the case may be, in the ratio of 50:50.	as interest on capex is allowed on actual basis then why sharing of benefit for refinancing of loans. Further as working capital is allowed on normative basis in that case no benefit would arise to beneficiaries. Concept of incentive sharing mechanism should also be considered for working capital loans.
72. Sharing of Non-Tariff Income: 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; 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;	Hon'ble Commission is requested to include the following items also in the list of the Non-Tariff income which needs to be shared with the beneficiaries. i) Income from Consulting Business: Hon'ble Commission may appreciate that the consulting business is an outcome of the learnings that the Generators/Transmission Service Providers get while provide services to the long term customers. The services provide by the Generators/Transmission Service Providers are paid for by long term customers and hence any income from the same needs to be shared. j) LPSC: Net Income from late payment charges (after allowing the financing costs) should be also be added under sharing of Non Tariff Income like distribution companies