Comments and suggestions on the draft notification of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) (First Amendment) Regulations, 2024

Prayas (Energy Group) *27th September 2024*

Central Electricity Regulatory Commission (CERC or the Commission) notified the draft of the first amendment to the CERC (Terms and Conditions of Tariff) Regulations, 2024, on 2nd August 2024 and invited public comments on the same.

The draft document includes amendments to the consideration of input price of integrated mines and operational norms for part load operations. Towards safeguarding consumer interests and ensuring good governance, Prayas (Energy Group) has the following inputs:

1. Capping of input and interim input price of coal for integrated mines

The generating station is allowed to bill the consumer at CIL notified price for the commensurate grade of coal, till the input price for the integrated mine is determined by the Commission. This is as per provisions in the principal regulations – Regulation 7 (for supply of coal prior to date of commercial operation) and Regulation 37 (2) (for supply of coal after date of commercial operation and before the Commission approves input price). The CIL notified price is the ceiling price in both the considerations discussed above, since the lower of the notified price or the estimated price in the investment approval is to be considered. This ensures accountability in the consideration of input prices for coal of commensurate grade. It also safeguards consumer interests, since the input price from the integrated mines is eventually passed on to consumers.

Para 3.3.1 of the explanatory memorandum to the draft document states that "*There may be cases where the input price of an integrated mine may be lower or higher than Coal India Ltd.'s price due to technical parameters and geographical location, which the Commission can ascertain. Hence, consideration of the price of Coal India Ltd. for the purpose of interim input price may cause huge interest costs later on*". The input price of integrated mines, considered as per Regulation 38 of the principal regulations, is not consistent with the objectives of offering coal mines for captive use to power plants through allotments and auctions under the Coal Mines (Special Provisions) Act, 2015 and related Rules.

If coal from a captive mine were to be more expensive than CIL notified price for the same grade, then it would be better for consumers that the coal is procured from CIL. Thus, the input price of coal for integrated mines should be capped at the CIL notified price for the corresponding grade of coal, to be consistent with the objectives of allotting coal mines for captive consumption. The Maharashtra ERC has adopted this measure in its 2024 MYT Regulations[1]. In line with this, the

[1] Fourth proviso in Regulation 56.1 of MERC MYT Regulations 2024 states "*Provided also that the Input Price of coal or lignite determined above shall be capped to the delivered price of coal at the upper price band notified by Coal India Limited for the same Grade of coal from time to time*".

interim input price of the integrated mine to be considered before the Commission approves the input price, should be capped at the CIL notified price.

The consideration of an interim input price of coal, in excess of CIL's notified prices, also increases the regulatory burden of the Commission. If a higher interim input price is to be considered, it requires additional approval from the Commission. Capping the interim input price for integrated mines at the CIL notified prices does away with such additional process, and simplifies the tariff approval. This is in line with the Commission's objectives for the current tariff regulations.

Capping the input price and interim input price of integrated mines at the CIL notified price for the corresponding grade ensures that objective of allocating captive mines are met, while safeguarding consumers from excessive fuel costs. It also minimises the variation in energy charge on account of fuel price, and regulatory burden.

Thus, we request the Commission to:

- Retain the existing provisions for consideration of interim input prices of coal from integrated mines
- Cap the input price of coal at the CIL notified price for the corresponding grade

2. Recovery of input price of integrated mine subject to beneficiary consultation

As per the first and second provisos of Regulation 50 of the principal regulations, if the energy charge rate (ECR) based on the input price of the integrated mine exceeds 20% of the ECR based on the CIL notified price of coal for the corresponding grade in a month– prior beneficiary consent is required for approval of the same.

This is an important provision towards ensuring accountability from the generator. Coal from captive mines should not result in unduly high impacts on the energy charge. If so, this would be in contravention of the objectives for allocating captive mines, as discussed in section 1 of this submission.

Instead, the draft document proposes comparing the impact on ECR on account of the input price of the integrated mine to the impact on ECR based on alternate coal available to the station in a given month without specifying what the sources of "alternate coal" can be. As per Para 3.4.2 of the explanatory memorandum to the draft document, this change has been introduced to reflect the "*dynamic situations where part of the coal is not available at a given time*". **It is pertinent to note that generators have been allotted captive mines to ensure consistent and reliable supply of coal for generation. Insufficient coal supply from captive mines is something the generators should be held accountable for.**

In addition to diluting the accountability required form the generator, this change also burdens the electricity consumer with unduly high tariffs. Alternate coal can be available to the station from a variety of sources ranging from imported coal to coal procured form e-auctions. **Coal procured from alternate sources are typically much more expensive than linkage coal. With the proposed method, even marginal procurement of fuel from any alternate source provides the generator the avenue to recover much higher input price for coal from the**

integrated mine – without beneficiary consultation (until it results in an impact of over 20% on the ECR).

Given the extent of the impact on the electricity consumer and their ECR, it is crucial that beneficiary consultation be required for the recovery of input price of coal form the integrated mine if it results in an over 20% increase in ECR based on the CIL notified price.

Thus, we request the Commission to:

- Retain the existing provisions requiring beneficiary consultation for increase in ECR on account of input price for coal from integrated mines in excess of 20% of ECR based on the CIL notified price of coal for the corresponding grade in a month
- Clearly define permissible alternate sources of coal, in case the Commission does not consider the above submission

3. Clarity on compensation for operation below NAPAF

Para 10.4 of the draft document introduces clause (7) to Regulation 70 of the principal regulations. This proposed introduction suggests a compensation be provided to the generator for degradation of technical parameters on account of loading below the NAPAF. This compensation is proposed to be borne by "*the entity which has caused the plant to be operated at schedule lower than the corresponding Normative Plant Availability Factor*".

However, the loading of coal-based TPPs are influenced by several operational and technical parameters – including fuel procurement by the generator, the TPP's position on the merit-order list, variations in system demand, and the operation of must-run RE and other plants. It is not clear how the Commission will ascertain which entity has caused a plant to operate at schedule lower than the corresponding NAPAF.

NLDC has been tasked with preparing the mechanism for working out the compensation for degradation due to part load operation and multiple start and stop of units. NLDC should also be asked to consider the complication of identifying the entities that will bear the cost of the compensation. The Commission should also clarify the conditions under which such compensation can be passed through to consumers.

In any case, at least a part of such compensation is likely to be eventually passed through to the consumer, and thus, impact consumer tariffs. Thus, it is critical to ensure clarity and prudence in the mechanism of working out compensation, identifying the entities that will pay the compensation and whether such compensation costs will be passed through to consumers. Any finalisation of a framework for calculating the compensation for part load operations, identifying the related entities, and defining the parameters for passing it on to consumers, should be subject to public consultations.

Thus, we request the Commission to:

- Provide clarity on the process of identifying the entity which has caused the plant to be operated at schedule lower than the corresponding NAPAF
- Provide clarity on when the compensation can be passed through to consumers

- Ensure that the finalisation of the mechanism for compensation calculation on account of part load operations, the process of identifying the related entities, and the criteria for passing the compensation cost on to consumers is carried out subject to public consultation

4. Relaxed NAPAF only after TPPs achieve 30 years from CoD

Para 10.1 and 10.2 of the draft document include amendments to bring clarity to the applicability of relaxed NAPAF and NAPLF norms for plants completing 30 years during the 2024-29 control period.

Towards further ensuring clarity, the Commission must stipulate that the relaxed norm will only apply to the TPP once it has achieved 30 years from its CoD – and not from the beginning of the control period. For instance, a TPP achieving 30 years of CoD in FY29 should not be held to relaxed norms from FY25 onwards.

Thus, we request the Commission to:

- Include a proviso in Regulation 70 (A)(b) and 70(B)(b) to ensure that TPPs are held to relaxed norms only after achieving 30 years from CoD.

We request the Commission to take our submission on record, and allow us to make additional submission on the matter, if required.

Prayas (Energy Group)
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