

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”

Public Hearing

Feb 01, 2019

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Approach and Perspective

- About a third of 220 GW thermal capacity regulated by CERC and CERC MYT regulations act as model regulations for state Commissions
- MYT process is an opportunity to evaluate performance and efficacy of current norms
- Prayas submission objectives:
 - Simplicity of tariff determination
 - Incentive structures to boost efficiency while also ensuring accountability
 - Compliance with environmental norms and regulations
 - Sound planning practices and avoidance of stranded assets

Three part tariff structure

- Specifying normative availability exclusive of scheduled maintenance inappropriate, hence should not be done.
- Specifying hourly / daily peaks may not be relevant for thermal plants and make process more complex than necessary
- Simpler process suggested as follows:
 - RLDCs, in consultation with respective state beneficiaries, to prescribe monthly target availability in three brackets at year beginning
 - For peak load months
 - For off-peak months without scheduled maintenance
 - For off-peak months with scheduled maintenance
 - Naturally, specified availability inclusive of outages
 - Generators to plan and notify outages at beginning of year – should not be during peak months
 - Under-achievement of availability in peak months not to be compensated in other months
 - Under-achievement of availability in non-peak months can be compensated against other non-peak months
 - Uniform incentive (independent of peak or off-peak) of Rs. 0.50 / kWh for over-achieving PLF

Computation of Energy Charge for Thermal Stations

- Clause 52(3) permits usage of alternative fuels as long as the cost increase is less than 30%
 - No need for prior regulatory approval and/or prior consent from the procurers, unless the existing PPA explicitly requires such consent.
- Highly inappropriate in the context of:
 - Amendment to NCDP dated July 2013 has specified that coal suppliers have to supply 65% - 75% of contracted coal beyond which imports are permitted
 - Proposed provision allows cost increase of 30% even if 65% - 75% responsibility not met
 - Particularly relevant when many coal based plants are operating at PLFs well below 75%
 - Dilutes responsibility of CIL
 - Burdens consumers in a context of lack of transparency regarding coal requisitioning, coal supply and distribution of coal shortages among coal consumers

Compliance with environmental norms...1

- Defining the norms notified as per Environment (Protection) Amendment Rules, 2015 as 'Revised Emission Standards' conveys a narrow interpretation as the said rules also include norms for water utilisation and are not restricted or limited to emissions alone. Therefore, calling the same revised environmental regulations / standards / norms, would be more appropriate.
- Serious concern regarding progress to comply with environmental norms notified in 2015, as till date no significant effort seems to have been taken
 - Compliance with statutory requirements cannot be subject to cost recovery considerations
- Capital expenditure for meeting with environmental norms to be approved by the Commission
 - Commission should also track progress of utilising investment to meet norms
- Hence,
 - Commission should mandate that plants submit periodic status reports
 - Commission should hold generators accountable for (lack of) progress, capex approval should be subject to compliance
 - No IDC if delayed beyond scheduled date of commissioning of equipment
 - Regulations should explicitly state that allowance or disallowance of costs not a ground for non-compliance with the environmental rules and regulations

Compliance with environmental norms...2

- Clause 35(6) should allow water charges only to the extent permitted by the environmental norms 2015 or any amendments to it as may be notified by the concerned authority
- Clause 11 should explicitly state that in-principle approval for capital expenditure should not be construed as final approval.
 - Final approval should be subject to prudence check
 - Commission should notify guidelines for approval process and data to be submitted for this purpose
 - Can adopt process similar to MERC, which has a well defined process and data formats

Coal-based plants with a captive coal mine

- Chapter 9 should be consistent with Coal Mines (Special Provisions) Act, 2015
 - Cost-of-mining based recovery of energy charges applicable to only to PSUs
 - Private sector generators' energy charge to be based on bid value
- Regulation 37
 - Coal mines have to be commissioned in a stipulated period – costs arising due to delays should not be passed on to beneficiaries
 - Terms used in clauses 37(b) and 37(c) such as “value of production” and “touching coal and lignite” need to be clarified
- Regulations 39(5), 40(1), 41: Details of expenditure and additional expenditure on coal mines including their justification should be part of the public process of tariff determination
- Regulation 45
 - Since objective of captive coal mine allocation is also to reduce electricity tariffs, input coal cost computation should cap it at corresponding CIL notified price
 - The methodology of computing input price (Rs / MT) from information in Annexure V should be specified
 - Regulations should account for coal from captive mines being used in multiple units / stations

Capital costs and IDC

- Approach paper listed benchmark/reference cost as an option but it was not considered citing lack of sufficient data
 - Peculiar given the amount of operating coal capacity in the country
- Publicly available data states that hard cost of coal-based plants has not changed much but most increase is due to IDC, in other words delays
 - Strangely, costs of sub-critical units often seem to be higher than super-critical
 - Poor project management and execution seem to be main reasons for delays, not others
- Hence
 - Should not condone delays in land acquisition and associated cost-overruns (clause 11)
 - Section 62 PPAs to be new plants should be on the lines of Section 63 whereby beneficiary has a right to invoke force majeure and terminate PPA for delays beyond one year
 - Urgently undertake cost benchmarking exercise and use that as basis for cost approval
 - Costs or penalties paid by generator or transmission company to the other party due to mismatched COD should not be passed on to consumers

Thermal plants completing 25 years

- Welcome proposal to optimally utilize such assets
 - No new capacity addition until such assets are utilized fully
- Existing PPAs will expire at 25 years
 - In case the beneficiary chooses to continue to buy power from the said unit/plant, fresh PPA should be signed and approved by the Commission after considering beneficiary's demand and alternative available sources
 - In case the unit/station opts for undertaking capital expenditure for renovation and modernization, strict time limits for project implementation should be imposed

Data to be published by generators...1

- Regulation 49(2) requiring generators to share all details of fuel procurement with beneficiaries welcome
 - Should also be publicly available for consumers as costs are eventually passed on to consumers
 - Generators to publish such data on their website in easy readable (e.g. spreadsheet) formats
- Costs claimed under change in law (for Section 62 and 63)
 - Need for separate data reporting formats for annual costs claimed under all change in law events
 - Data to be available on generators' websites in easily readable (e.g. spreadsheet) formats

Data to be published by generators...2

- Flexibility in coal use
 - In case of any coal diversion, be it for linkages and/or from captive mines, generator should be required to submit the details of such coal diversion along with cost savings that have resulted on this account
 - In case of case-4 bidding under the flexible coal use policy, the generators should be required to demonstrate cost savings and also report whether their other units/stations faced any coal shortage during the period for which coal was diverted under this provision
 - All data to be available on generators' websites in easily readable (e.g. spreadsheet) formats and should be properly archived

Thank you

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